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TRANSCRIPT OF PROCEEDINGS

O/N H-911843

THE HONOURABLE K. HAYNE AC QC, Commissioner

**IN THE MATTER OF A ROYAL COMMISSION
INTO MISCONDUCT IN THE BANKING, SUPERANNUATION
AND FINANCIAL SERVICES INDUSTRY**

DARWIN

9.46 AM, THURSDAY, 5 JULY 2018

Continued from 4.7.18

DAY 38

MS R. ORR QC appears with MR M. COSTELLO as Counsel Assisting with MR M. HOSKING and MS S. ZELEZNIKOW

MR A. CHESHIRE SC appears for Select AFSL Pty Limited

MR R.J. WEBER SC appears for St Andrews Life Insurance Pty Limited and Bank of Queensland Limited

MS K. WILLIAMS SC appears for Australia and New Zealand Banking Group Limited

<CROSS-EXAMINATION BY MS ORR

5

THE COMMISSIONER: Ms Orr.

10 MS ORR: Mr Howden, yesterday I had put to you three factors as potential contributors to the misconduct by your sales representatives in 2015. The first of those was aggressive sales tactics sanctioned by Select. The second was KPIs and remuneration. And the third was quality assurance and disciplinary framework. Now, can I move from the first of those, which I asked you some questions about late yesterday, to the second, to Select's KPI and remuneration structure. Now, in 2015,
15 Select had a number of KPIs in place for its customer acquisition staff, or sales staff?---That's correct.

So sales staff generally had a target of two policy sales per day?---That's correct.

20 In a total talk time of 4.5 hours?---Correct.

And with a dial time utilisation of 75 per cent?---Correct.

25 What does that mean, a dial time utilisation?---That means that in between breaks that the representatives are making sure they're not idle; they are making phone calls.

30 So 75 per cent of their time needs to be on the phone. Is that what that means?---Yes. That's correct.

And there were also commissions payable for the origination of sales?---That's correct.

35 And was a commission only payable if a sales representative met their KPIs?---That's correct.

40 Okay. Now, in 2015 we see from your statement that a sales representative would get a commission of between four and 10 per cent of the first year's premium for sales that they originated. Is that right?---Correct.

So that meant that adding additional family members under a policy would yield an additional commission?---That's correct.

45 Now, did Select later change that system because of an understanding that that potentially created a conflict of interest between its sale representatives and its policyholders?---We changed the system because previously it was expressed as a

percentage of the premium income. So we wanted to make sure on all cases, regardless of the level of the premium, there was a flat dollar amount paid, as opposed to a variable commission.

5 But why did you want to do that?---That was to stop the potential for policies to have high sums insured.

Can I ask you to look at a document that I showed to you yesterday, which is SAF.0004.0001.0220. This was the internal file note dealing with the investigation
10 of what occurred in 2015. And could I ask you to look at paragraph 10 on page 0221. Could I ask you to look, firstly, at paragraph 9:

*Since 2015, Select has made a number of changes that collectively would
15 reduce the likelihood of the factors that led to the sales spike reoccurring, and/or identifying the emerging trend earlier, including stricter rules around refer a friend. Sales agent remuneration practices have evolved to better align with the interests of customers and Select's commercial interests (refer further details set out below) and the quality assurance and compliance framework has been evolved and strengthened.*

20

And then if we look at what appears below in paragraph 10, we see a reference to remuneration:

*During 2015, sales agents were remunerated on a percentage of the annual
25 premium income of each policy sale. The current sales agent remuneration arrangements are based on a fixed amount per policy. Adding the coverage of additional family members under the policy no longer results in additional commission.*

30 Do you see that?---That's correct.

Now, is this one of the – if we have both paragraph 9 and 10 on the screen, was that one of the changes implemented to better align the remuneration practices with the interests of customers?---That's correct.

35

Because of a potential conflict of interest that that previous remuneration structure created?---But I would like to point out that, certainly with the children, the premium was not a huge component. It's a much smaller component. As a proportion, the commission is a much smaller component.

40

But, nonetheless, you moved - - -?---But nonetheless yes

- - - away out of recognition that those remuneration practices were not well aligned with the interests of your customers?---Correct.

45

Thank you. Now, that move to a different commission structure happened in about August 2016?---That's correct.

And from November 2016 onwards, the model was a fixed commission for every policy sale without any additional commission for additional lives insured?---Correct.

5 So if we come back to the position in 2015, the only basis upon which the commission would be entirely clawed back was if there was a policy cancellation within the first 30 days?---Correct, or it resulted if the agent had breaches on his policy.

10 If the agent had?---A breach on his policy.

A breach on his policy?---An incident or breach on his policy and he lost points to the extent that he didn't qualify for commission. But emphasis here is when the commission is calculated, it's based on compliance sales. So if the sale is not
15 compliant, he wouldn't get commission.

Well, I want to come to how you determine whether sales were compliant and the consequences of a sale not being compliant. We will move to that when we discuss your quality assurance and disciplinary framework. But, sticking with commissions
20 for now, on average commission comprises about 30 per cent of a sales representative's total remuneration?---That's correct.

And the call-based incentives, these commission-based incentives, aren't the only incentives that apply to your sales agents?---The commission would be your prime
25 incentive; indirect incentives might be a Coles gift card of \$20, could be \$50 at the end of the week.

What do your sales agents need to do to get those Coles gift cards?---Again, the emphasis is on compliant sales. So if they reach their targets and it's compliant – it's
30 not a guarantee that they will get a card.

So it's about the volume of compliant sales. Is that right?---That's correct.

Thank you. Now, you referred yesterday to two particular sales incentive programs
35 that were operating in 2015. One was the Vespa sales incentive program, and the other was a cruise sales incentive program?---Correct.

Could I ask you to look at SAF.0005.0001.0125. Now, before we move to the Vespa and the cruise incentive programs, we see from this document that in 2015 BlueInc
40 had quarterly awards for which Select representatives were eligible?---That's correct.

And those awards were offered to sales representatives per product line – we see this from paragraph 4 – who had achieved the highest productivity after allowing for deductions for policy attrition and quality assurance fails?---That's correct.
45

And they would receive a certificate, a trophy, and a \$300 gift card?---Correct.

Thank you. I tender that document, Commissioner.

THE COMMISSIONER: Have we got a date for it, Ms Orr?

5 MS ORR: It is an undated document, but - - -

THE WITNESS: Commissioner, this is the latest version.

10 THE COMMISSIONER: This is the current version, is it?---Yes.

MS ORR: And we understand from your statement, Mr Howden, that it was also applicable in 2015. Is that correct?---Broadly the same structure, yes.

15 Yes.

THE COMMISSIONER: BlueInc quarterly awards 2015 to date, SAF.0005.0001.0125, is exhibit 4.180.

20 **EXHIBIT #4.180 BLUEINC QUARTERLY AWARDS 2015 TO DATE (SAF.0005.0001.0125)**

25 MS ORR: Now could I ask you to look at SAF.0004.0001.0236. So this is an advertisement connected to one of the two sales incentive programs which you say contributed to the spike - - -?---Correct.

30 - - - in sales in 2015. And we see from the top of this page that this was an all sales agents event?---That's correct.

And the first round of the campaign was specified to run from 9 February 2015 to 29 May 2015?---That's correct.

35 And the only rules set out in the advertisement were that the top 10 sales agents with the most points would go through to the final round?---That's correct.

Now, one point was awarded to a sales agent per sale?---That's correct.

40 And there were no restrictions put on the accrual of points, were there?---But there was a deduction of two points for every QA fail.

Where do we see that in this document - - -?---It's not in this document, but it – that was the criteria we had at the time.

45 Where do we see that in any of the material you've provided to the Commission, Mr Howden?---You won't see it, but in our systems you will see – in our computer systems you can see that there was a deduction of two points.

Well, that's not a matter that you referred to when you explained this sales incentive program in your statement, is it?---You asked for the materials. I provided the material.

5 Yes?---But there was a deduction of two points.

And you've not provided any documents to demonstrate that?---It's embedded in the system.

10 And it wasn't something that your sales agents who received this notice were told by this notice?---It's not specifically referred on the notice.

No?---But it was – was a requirement.

15 Well, there's nothing to suggest in this document, which is a two-page document – if we could have both of the pages on the screen at once. There's nothing to suggest that quality assurance would play any role in the way the calculation of points for this competition worked?---Every incentive, Ms Orr, that we have run in the past has always had some form of quality assurance.

20

Well, how - - -?---In this particular case it was built into the system.

How did your employees know that, Mr Howden?---Because it was communicated to them.

25

How was it communicated?---Verbally at a presentation.

At a presentation you say?---When this was launched there was a verbal presentation.

30 A verbal presentation. And do you have any documents that show what was said at that verbal presentation?---I don't know.

We see from the second page that the second round of the campaign was to run from 1 June to 30 June 2015?---That's correct.

35

See that? And Select representatives were authorised to be even more aggressive in that second round, weren't they?---I wouldn't say the terminology aggressive is the correct term.

40 Well, they were - - -?---But they were driven to be more productive in that final month.

45 Driven to be more productive, you say? They were told that points of the top 10 representatives were to be reset at zero for that round?---But it meant that everyone in the final round started on level playing field. It's still subject to the deductions for QA fails.

The deductions that are not referred to in this document. And we will see from the subsequent incentive program documents, the cruise one, that there were qualifications of that nature in the material for that program, but not for this one?---I regret that it wasn't specifically mentioned here, but it was embedded in our system.

5

So we see that the top 10 are going to go head to head accumulating a point for every sale?---That's correct.

And they were told:

10

It's every salesman for themselves.

?---This is a call centre presentation designed to get the activity up in the call centre.

15

Designed to sell more products?---Be more productive, yes.

Which means selling more products, doesn't it, Mr Howden?---Correct.

20

And the winner of this competition is told by this document that they will take home a brand new Vespa?---That's correct.

25

Was this a sensible strategy to implement for your sales representatives, Mr Howden?---The Vespa is another form of incentive. We haven't had another Vespa competition since that one.

You haven't offered a Vespa since?---No.

30

But you continue to have incentive programs with rewards?---If you look through the material provided, we've had two subsequent incentives. Other than that, we've only had commission incentives and indirect small team incentives.

35

And the trophies and \$300 gift cards referred to in the document that I just showed to you before?---But that's in recognition of excellence or service and various other factors that go into it.

Do you see in this document that was given to your sales agents Select put a challenge to the sales agents in the form of questions like:

40

Who will rise to the top?

And:

Do you have what it takes?

45

Do you see that language in the document?---I do.

Okay. And was that – was that an appropriate way to incentivise your sales agents, Mr Howden?---Ms Orr, when you're running a call centre you need to have incentives to keep the staff motivated. The intent was to keep the staff motivated.

5 And you accept that this incentive campaign was a contributing factor - - -?---I do accept that.

- - - to the - - -?---I do accept that.

10 - - - misconduct that led to the spike in funeral insurance sales to Aboriginal and Torres Strait Islander people in 2015?---Correct.

This sales incentive program coincided with the introduction of the refer a friend campaign, didn't it?---We always had a refer a friend campaign. But during this
15 time, that campaign was abused. I did send a correction – correction to the original statement.

I just want to understand that, because – I will tender this document before I turn to another, Commissioner.

20

THE COMMISSIONER: Vespa sales battle rounds 1 and 2, SAF.0004.0001.0236, exhibit 4.181.

25 **EXHIBIT #4.181 VESPA SALES BATTLE ROUNDS 1 AND 2
(SAF.0004.0001.0236)**

MS ORR: Could I ask that you go back to the internal file note about the
30 investigation again, SAF.0004.0001.0220. And I will ask that you be shown 0221 and paragraph 8:

*Select advised that two incentive arrangements, being a boat cruise incentive
35 for the second quarter of 2016 and a Vespa prize that coincided with the introduction of the refer a friend campaign (offering gift vouchers to customers) were contributing factors to the spike.*

Now, is that correct? Were these incentive programs introduced at a time that coincided with the introduction of the refer a friend campaign?---No. The refer a
40 friend campaign we've always had. Yesterday you showed an exhibit - - -

The flyer?---The flyer.

The refer a friend flyer?---Correct. But what happened at this time coincided with
45 these incentives, but certain agents chose to abuse that refer a friend program.

But why is there a reference there to it coinciding with the introduction of the refer a friend campaign?---These matters weren't written by me, Ms Orr.

5 Do you say that's incorrect?---It's not incorrect, but the refer a friend program did exist prior to that.

10 So you don't know what's being referred to here as the refer a friend program, the introduction of which coincided with the sales incentive program I just - - -?---It has been – it has been badly couched. There was a refer a friend program previously ,but it did coincide hand in hand, the refer a friend program, with the incentive.

In what way did it coincide hand in hand with the incentive?---Because we had two agents that saw an opportunity to abuse the system.

15 I see. All right. Well, the second incentive program that you refer to in your statement as contributing to this misconduct was the Sailor sales incentive?---Correct.

20 And if we look at SAF.0004.0001.0238, we see a presentation for this particular sales incentive program which ran from February to June 2015?---Correct.

The Let's Insure Sailors sales incentive. And if we turn to 0241 – perhaps if we could just pass quickly through the subsequent pages, 0239:

25 *Have we got a pearl of an incentive for you.*

240:

30 *Meet Pacific Pearl.*

And, 241, we see the prize that was offered was a four night cruise from Sydney to the Sunshine Coast return on the Pacific Pearl. That's right?---That's correct.

35 And we see from 242 that the cruise was over a long weekend and Select representatives were given two days' paid leave to take the cruise?---Correct.

And accommodation and meals and some drinks vouchers were included?---Correct.

40 If we turn to 248, we see a slide about who qualifies to go. The 10 top achievers qualified to go with every sale they earn earning one point. Is that part of the - - -?---That's correct.

- - - Sailors sale incentive?---That's correct.

45 And at 0249 we see that three spots were offered to wild cards. Do you see that?---Correct.

And the wild cards were selected on a number of bases, including ongoing promotion of the incentive. What was that referable to?---It's to make sure that the incentive is still promoted in the call centre and everyone is aware of the existence of that incentive.

5

Of this particular incentive program - - -?---Correct.

I see. And then at 0250 we see a heading What Can Hinder Your Chances? Points would only be docked for sales in which commission was clawed back due to one of five specified breaches. Is that right?---That's correct.

10

And these breaches were all quite serious breaches, but they by no means covered the field in relation to serious breaches about which Select would be concerned?---They would account for the majority of incidents that you would have on a call.

15

The majority of incidents. So they are - - -?---Analyse the incidents on the calls, these would account for the majority.

The main problems, are they?---When are detected.

20

And the first is not recording the call?---Yes, but - - -

Is that what that is?---That's correct.

The second is not giving the general advice warning?---But often – incidents occur in pairs. So the general advice warning and this call is recorded are both contained in the same statement.

25

Yes?---So invariably you could get two in the same.

30

And omission of any exclusion. So that's a failure to tell the potential customer about an exclusion from the policy?---Or incorrectly describe a feature.

A failure to obtain a clear yes to start the policy?---That's correct. And - - -

35

And a failure to obtain a direct debit authority?---Correct.

And in that instance, if any of those things happened, they would be deducted two points - - -?---That's correct.

40

- - - for every incident. So this is an example of promotional sales incentive material that did refer to some consequences for what you would describe as a non-compliant sale. Is that right?---Correct. But if you see the timing of this, it coincided also with an overlap with the Vespa. So you can see the deduction for two points was articulated in this presentation.

45

Yes?---It did coincide also with the Vespa.

Yes, which didn't articulate - - -?---Correct.

- - - the two point deduction?---But it was in the system.

5 Okay. Now, could I tender this document, Commissioner.

THE COMMISSIONER: Let's Insure Sailors sale incentive February to June '15, SAF.0004.0001.0238, exhibit 4.182.

10

EXHIBIT #4.182 LET'S INSURE SAILORS SALE INCENTIVE FEBRUARY TO JUNE 2015 (SAF.0004.0001.0238)

15 MS ORR: So none of these things would have rendered a sales representative ineligible for the incentive, ineligible for the cruise?---Well, if every – if you make one sale and you have one sale that has one of these things on it, you would – you would go into minus. So you could have one and you would go into minus, because you get minus two.

20

So you would have one and you would go into - - -?---For every sale that you make that's compliant, you would get one point. If you made a sale which had one of these incidents on it, you would lose two points.

25 Why not be disqualified from the cruise altogether if you engaged in any of this serious conduct?---Because sometimes these are isolated and they're not intentional.

30 Wouldn't that have sent a message if you render people - - -?---I think if you getting the penalty deduction of two – minus two points, so that means one sale that you made is compliant, the next one you make is not compliant, straightaway you get a penalty, because you go into minus.

35 So are these – is the satisfaction of these five matters, recording the call, giving the general advice warning, explaining exclusions properly, getting a clear "yes" to start the policy, and getting a direct debit authority, is that what makes a call a compliant call?---No, it doesn't.

40 So these are just some of the criteria for a compliant call?---These were the criteria for this particular incentive.

Okay. Now, there were other breaches that Select was – other potential breaches that Select was concerned about at this time, weren't there?---What do you mean by that, Ms Orr?

45 Well, can I show you your 2015 compliance manual, which is SAF.0009.0001.0057. This is your 2015 compliance training manual?---That's correct.

And if we turn to 0072 within that document, we see that Select was concerned about its representatives not engaging in misleading and deceptive conduct. That was something you were aware of and trying to guard against?---As part of the compliance manual, yes, it is.

5

Is it something you were aware of as a risk and which you were trying to guard against?---As a business we always try and guard against risk like that.

Risk like your sales agents misleading or deceiving people?---Correct.

10

All right. And we see on this page a breakdown of things that could amount to misleading and deceptive conduct, a breakdown into acts, omissions, and silence. Do you see that?---That's correct.

15 And your sales agents were told that acts were:

Actively doing something that is misleading. This is the most common, such as telling someone the wrong benefit.

20 ?---I think, to take context, this is a statement about the industry which was embedded in our compliance manual.

25 Yes. All I'm trying to demonstrate, Mr Howden, is that you were aware of the risks of your sales agents engaging in misleading and deceptive conduct and your compliance materials reflected that?---There was an expectation that they would adhere to it, yes.

30 Yes. And, on the following page at 0073, you were also aware of the risk that your sales agents would engage in unconscionable conduct. Do you see that there?---Yes, I do.

You told them about what unconscionable conduct was?---Correct.

35 And we see there that there's a particular reference to potential unconscionable conduct in relation to indigenous people?---That's correct.

40 Yes. So these were your expectations, that people didn't engage in misleading and deceptive conduct or unconscionable conduct, particularly towards vulnerable people and indigenous people?---That's correct.

45 So why not include in any of your sales incentive criteria an element which required your sales agents not to engage in misleading or deceptive conduct or unconscionable conduct?---With the benefit of hindsight, we would have added more criteria to that.

But it didn't end up – if you found that your sales agents had engaged in misleading or deceptive conduct or unconscionable conduct, that wasn't one of the factors that

would lead to a docking of their points for the incentive?---Not directly on this presentation, but indirectly it would do. I need to stress that – whilst it’s not in this document, if any agent engaged in misleading conduct and it was severe, we would dismiss the person.

5

Weren’t these incentive programs a good opportunity to remind people of their obligation not to engage in misleading or deceptive conduct or unconscionable conduct, while at the same time you were whipping them up to sell more and more of the policies?---I personally wasn’t whipping them up, to use your words. I think the sales manager was doing that job.

10

Well, the language on those - - -?---I agree with you on the language. In hindsight, we should have been more specific.

15

You were pitting your sales agents against each other in battle to effect - - -?---That’s sales jargon, Ms Orr.

And it has an impact, doesn’t it, Mr Howden? It has an impact - - -?---In hindsight, I agree with you. We should have

20

Yes. Now I tender that document, Commissioner.

THE COMMISSIONER: Select AFSL compliance training manual 2015, SAF.0009.0001.0057, exhibit 4.183.

25

EXHIBIT #4.183 SELECT AFSL COMPLIANCE TRAINING MANUAL 2015 (SAF.0009.0001.0057)

30

MS ORR: Now, there was a similar campaign in the first quarter of 2016 relating to a trip to Las Vegas. Is that right?---That’s correct.

35

And if we turn to SAF.0005.0001.0109, we see a slide pack for the Las Vegas incentive program from January to March 2016?---That’s correct.

And if we turn to page 0113, we see that the prize in this incentive program was:

40

A paid holiday to buzzing Las Vegas, Nevada, USA, 24 hour casinos and endless entertainment options.

Now, this was a seven day holiday to Las Vegas?---It was actually four days and two days in travelling.

45

Yes, I see, with four days of paid leave?---Correct.

And flights were included?---Flights were included.

And bed and breakfast in a glitzy hotel was included?---Yes, but I can specify that the total cost per head was 1900.

You gave the winner a \$500 cash card?---Correct.

5

Okay. And it was for top sellers, this incentive program, wasn't it?---There were also some invitees from service departments, if you look at the list.

10 Yes. Well, if we look at 119, we see the best agent from each team, the top five?---That's correct.

The top two team leaders?---Correct.

And two wild cards?---That's correct.

15

And the qualifying criteria are at 0120. For sales agents, it was the top three per team based on the number of sales. They went through to a final of 15 finalists?---Correct.

20 And, again, as we saw with the Vespa program, there's a resetting to make the competition even harder at the second stage. All finalist points reset to zero at beginning of March and race begins.

?---Correct.

25

Continuing:

Person with the highest sales per team wins.

30 ?---That's correct.

And at 0121, we see the qualifying criteria for team leaders: the top two team leaders based on number of sales at the end of March. You see that?---Correct. Yes.

35 And in this one, at 123, we see the terms and conditions showed deductions for quality assurance fails and behavioural issues. What were the behavioural issues that would lead to a deduction, Mr Howden?---Behavioural issues relate to staff that arrive late at work.

40 I see?--- - - - or take excessive sick days.

So that was about punctuality and sick leave?---Correct.

All right. I tender that document, Commissioner.

45

THE COMMISSIONER: Let's Insure first quarter 2016 incentives, SAF.0005.0001.0109, exhibit 4.184.

**EXHIBIT #4.184 LET'S INSURE FIRST QUARTER 2016 INCENTIVES
(SAF.0005.0001.0109)**

5 MS ORR: Now, I want to move on from KPIs and incentive programs, Mr Howden,
to the third matter that I put to you yesterday, which was an inadequate quality
assurance system and disciplinary processes. Now, having gone through the
materials I put to you in relation to the sales tactics that were sanctioned by Select
and the incentives that were made available to sales agents at this time, do you think
10 that your quality assurance program in 2015 was sufficiently robust to deter Select
sales agents from making inappropriate sales?---At the time we did believe that the
procedures we had in place were sufficient.

15 But they weren't, were they?---Well, the two agents that you refer to – that I refer to
were responsible for the abuse of the referrals – if you look at the – the other calls
that they made, there were no issues with those. They weren't people that were
regularly failing; they were senior agents. So there was nothing to suspect that they
would have abused the system.

20 That's the point I want to come back to. They were senior sales agents, weren't they,
Mr Howden?---Correct.

25 Now, can I ask you what you would describe as the key features in relation to
deterrence of your quality assurance regime at this time?---Well, depending on the
severity of what has happened, it could result in a loss of points, it could result in a
loss of commission, or dismissal.

30 I'm sorry. I want to move to consequences. I would like you to firstly consider how
your quality assurance program deterred people, stopped them, prevented them, from
engaging in the sort of misconduct that we see?---Well, the intent was, therefore, the
agents not to engage in misconduct. And if they do engage in misconduct, there will
be consequences, either loss of commissions or disciplinary actions.

35 So the intent was that they not engage in misconduct. What I'm trying to get to is
what you did to ensure that they did not engage in misconduct?---Well, we did
regular listening of calls, we took a sample, depending on the agent's tenure. The
more junior agents had a higher percentage of sales listened to. The moment we
detected an incident, we straightaway investigated that, we discussed it with the staff
member, we listened to additional calls for that staff member to see if there was a
40 pattern there.

So you listened to a random selection of calls. Is that right?---That's correct.

45 And you focused primarily on the calls conducted by junior sales agents?---We had
more calls with respect to junior agents versus senior agents.

Yes?---But if we picked up a problem with the senior agent we would naturally extend the sample for that senior agent.

But your sampling tended not to include calls from your senior agents?---It does.

5

As much as the junior agents?---There's a higher – the initial assumption is the junior agent, because of training, getting familiar with the product, the more experience you have the less likely you are to make silly mistakes. So it makes sense for a junior agent that you would have a higher proportion of their calls listened to.

10

I see. So your compliance manual that I took you to before, the 2015 compliance manual, it was amended in February of 2015 to include an example quality assurance marking sheet. Is that right?---That's correct.

15

And so prior to that time, your compliance manual didn't have a quality assurance marking sheet?---It wasn't in the manual, but there was a separate scorecard, which we have provided to you

Okay. So outside of the manual?---Correct, but there was a scorecard.

20

Can we look at the one in the manual from February 2015, which is SAF.0009.0001.0057. And if we turn to 0081, we see the quality assurance marking sheet. We might just need to blow this up a little bit. So this was the marking sheet for the calls that you were listening to. Is that right?---That's correct.

25

And this was applicable to sales from 19 February onwards. Is that right? Do you see that date up the top in the right-hand corner?---That's correct.

30

And the quality assurance marking sheet doesn't specify any points attributable to any of these categories?---There are points behind this, but I don't have those with me.

Well, what we see is the word "fail" appearing at several points for things like:

35

Is the call recorded? Has a general advice warning been given? Was a record product disclosure statement made? Did the customer give a yes to the policy?

So these were all things that were binary, weren't they; they were pass or fail?---That's correct.

40

So if a sales representative failed for one of the binary categories, what was the consequence?---We would listen to that call. As I said, often incidents do appear in – occur in pairs. We find out why the agent hadn't admitted it. Sometimes what would happen is, you know, they might mention the cover, but they would forget to mention in the first 12 months there's an accident only period, stand down period. So, depending on what it was, we would provide the agent with coaching and feedback on that call.

45

So you would talk to them to find out why they had failed, and you would give them feedback and coaching?---That's correct.

5 Okay. Then, in January 2016, the quality assurance framework was amended to introduce something that's referred to as a phone licence. Is that right?---That's correct.

10 And that was a system for recording points against a sales agent for particular offences, referred to as offences in the document. And each offence carried a particular weighting depending on the severity of the offence?---Correct.

Okay. And that phone licence system became a part of this compliance manual in May 2016?---Embedded in the manual, yes.

15 Yes?---But prior to that it was outside the manual.

20 Well, that phone licence system wasn't outside the manual, was it? The phone licence system with these points came in in May 2016?---I'm not sure of the exact introduction.

25 So can I take you to the compliance training manual that you've annexed to one of your statements. It's exhibit 9 to your statement in response to rubric 4-31, SAF.0003.0001.0247. So this is a later version of the compliance training manual?---Yes, it is, because it's version 2.

That operated from May 2016. We see that, if it assists, Mr Howden, on the second page, 0248. See there that this is - - -?---The first was launched on 26 February.

30 I see. 26 February 2015 - - -?---'15, yes.

- - - there was a previous version, which is the one I've taken you to earlier?---2.1 on 18 May.

35 18 May 2016 is this version. And we see at 0272 the revised quality assurance marking sheet?---Yes.

40 And over the page, at 273 to 274, we see an explanation of Select's new compliance disciplinary framework. And we see at the top of that page that the framework or phone licence will record points against agents for corresponding offences, and each offence will carry a weighting dependent on severity?---Correct.

45 Now, there were a few key features of this disciplinary framework. The first was that the breaches for each call weren't cumulative, so that agents would only be penalised for the most significant of the breaches on a particular call?---That's correct.

And agents were allocated a maximum of 30 points?---Correct.

And points were deducted at the time of the offence?---Correct.

And they would return back on to the phone licence after a period of six weeks?---They could regain those points, yes.

5

After six weeks they went back on, didn't they? And that was said, we see from this document, to ensure that agents would continue to exhibit good behaviour moving forward?---Correct.

10 And new representatives had a grace period of two weeks before any points would be deducted?---Correct.

So that was the system?---That was the system, yes.

15 Was it adequate to only take the worst breach from a sales agent's calls?---So you could – you could have various minor incidents on a call, incorrect spelling, incorrect recording of address. All of those would – would count. So you could have multiple offences on the same policy, but if it – the severity of the – the biggest event was the most important. So that's why there was a maximum of 10 points per call.

20

Why was there a maximum of 10 points per call? What if there were multiple very serious breaches on a single call?---If that was severe enough, we would take disciplinary action against that agent.

25 Well, you wouldn't know, would you, because you had only assigned 10 points to the agent for the misconduct during that call and they had - - -?---We most definitely would know, Ms Orr, because there's a QA agent listening to that call.

30 And assigning points for the purposes - - -?---... if that call was not of a standard that it should be, we would investigate it straightaway.

Well, where do we see that in your compliance disciplinary framework, some additional layer of investigation?---It's – it's a matter of business practice.

35 I see. So for the purpose of the points under the phone licence, you chose the most serious breach?---Correct.

40 And allocated points for that, only to a maximum of 10 points. And then six weeks later all points were returned?---That's assuming you still had points six weeks later, yes.

Yes. Well, if you did, they were returned?---Correct.

45 The residue were returned. Now, if we look at the table under the heading Action to Be Taken on this page, we see the consequences of losing particular numbers of points. So if you got seven points in six weeks, a file note was written. Do you see that?---As soon as you got to seven points, you would get a file note, yes.

You would get a file note?---Correct.

And if you got 10 points in six weeks, you got a formal warning?---Correct.

5 And if you got 20 points in six weeks, you would get a second formal warning?---Correct.

And if you got 30 points in six weeks, you would be dismissed?---You have lost your licence, yes.

10 And does that result in dismissal - - -?---Once you lost your licence you're dismissed.

So if we look also at the compliance disciplinary table under that, we see how points were attributed to certain offences. Do you see that?---Yes, I do.

15 And perhaps if we could – that's a table that continues onto the second page. So perhaps if we could have blown up both parts of that table. We see that prompting a customer to say "yes" – do you see that in the lighter grey portion, third from the bottom. Prompting a customer to say "yes" - - -

20 ?---Yes.

Attracted three points?---I see that, yes.

25 And customers not give a clear yes to a start a policy attracted five points?---Correct.

And failing to explain key exclusions also attracted five points?---Correct.

30 And applying pressure selling tactics attracted seven points?---I see that.

And if you made misrepresentations or provided misleading information, that was 10 points?---Correct.

35 If you completed an unethical sale, that was also 10 points?---Correct.

And if you provided personal advice, which would be a contravention of the Corporations Act, wouldn't it?---Yes, it would be.

40 Yes. So if you did that, you also got 10 points?---Correct.

45 So you had another 20 points to live with until you made it through for the rest of the six weeks when all of your points would be returned?---But you're taking it out of context. You're taking one example. But it doesn't mean we don't listen to further calls for that agent. So it doesn't take six weeks for us to realise that there's a problem. We would automatically give feedback to that agent and we would listen to all calls for that agent. So if we listen to additional calls and we found more repeats

of 10 points – they all could have occurred that same day. And if they all occurred the same day, we would dismiss that agent.

5 But under your system one of your sales representatives could complete two unethical sales every six weeks without being terminated?---If you look through our register, we didn't have that many unethical sales.

10 Well, but your system that you had in place to provide consequences for misconduct permitted your sales representatives to engage in two unethical sales every six weeks without being terminated?---But if you engage in unethical sales, it wouldn't take you six weeks to get dismissed.

15 Well, that's a rather big assumption, isn't it?---I have got to remind you of – well, go back to that point. If you get a breach of 10 points, we would automatically listen to all calls. So it doesn't take six weeks for you to lose all your points. But if it was just isolated to that one call and other calls we listened to didn't have the same behaviour, yes, it may take six weeks and then you will get back those points.

20 Yes. So one unethical sale is okay. And, in fact, two unethical sales in six weeks - - -?---No. No unethical sale is okay, but we have to allow the agent some room to move. If we had to fire everyone for every infringement - - -

25 For every unethical sale?---We don't have many unethical sales, but if we had to dismiss someone for every case where we thought it was an unethical sale without giving a chance to explain why they did it or listen to further calls, it would be an unfair system to the agent.

30 So under this system your sales agent could engage in two sales that involve misrepresentations ever six weeks, and two sales involving the provision of personal advice?---That's what the scorecard says, but if a, agent – I have got to reemphasise that point. If an agent was doing something that he shouldn't be, we would automatically listen to an extended sample. And if that behaviour was – manifested itself in other sales, we wouldn't wait for the six weeks.

35 Why was it appropriate to wipe the slate clean every six weeks?---I suppose similar to a driver's licence. You know, if you never got back the points that you lost on driver's licence, there would be no incentive. You've got to get the balance right in ensuring that we do take appropriate action, but if the agent realises he's got no very likely – it's unlikely that he's going to get his points back in the future, it could drive
40 conversely bad behaviours, because he could be driven to write a sale that he shouldn't and then subsequently leave us.

45 I tender this document – I'm sorry. I don't need to tender this document, Commissioner, because this is attached to your statement. What I want to ask you, having now gone through this document, Mr Howden, is whether you consider that your quality assurance regime in 2015, which is prior to this regime we've been looking at, prior to the phone licence system with the allocation of points, was your

quality assurance regime in 2015 sufficiently robust to deter your sales agents from misconduct?---At the time we did believe that the system we had in place was sufficient. Like all other systems, they have evolved over time.

5 Do you believe that now, Mr Howden?---I believe on – on the calls that we have listened to in 2015 and the programs that we had in place, they were adequate at the time, based on the samples that we took.

They were adequate at the time?---Correct.

10

Even though they did not prevent the misconduct which we've been discussing?---Again, I've got to draw back to those two agents that – for those two agents, regrettably, we didn't pick up that pattern.

15 And, therefore, your systems were not sufficiently robust to deter the conduct?---For that portion, yes. They didn't pick it up, yes.

I want to turn to how - - -

20 THE COMMISSIONER: Before you do, Ms Orr, can I just understand this. Does it follow from the evidence that you have given that giving personal advice, which is a breach of law, was not treated by your organisation as grounds for dismissal?---We would listen to what that breach of personal advice was. Sometimes an agent might mistakenly offer opinion, which stray into become personal advice. It was not
25 the agent taking into account the client's needs and giving them personal advice in the truest sense.

Does it also follow from your evidence that an agent making an unethical sale was not treated by your organisation as ground for dismissal?---Depending on the nature
30 of that call, it could be treated as grounds for dismissal.

Well, that suggests there are grades of unethical. You will need to explain that to me, I think, Mr Howden? Either the sale is unethical or it's not, isn't it?---When we classify something, Commissioner, as unethical, Mrs Marika, an example yesterday,
35 was just not a good example full stop. That's why we dismissed the agent. Sometimes a call will start, initially it will be marked as potentially being unethical, but as the call progresses, it becomes to the client that the client actually says yes, I do want this policy. We would then follow up with a follow-up call to make sure that the client is happy. If the client was not happy or there was – that call wasn't –
40 didn't get any better, we would dismiss the agent.

Yes.

45 MS ORR: I want to ask you some questions about how you administered this regime back in 2015. We see from documents provided to the Commission that your target – Select's target at that time was to monitor approximately four calls every

week for representatives who had worked with Select for less than six months?---Correct.

Is that right?---Yes.

5

And about two calls a week for more experienced representatives?---That's correct.

And that resulted, we see from the documents, in a bit over 10 per cent of all calls being monitored?---For funeral insurance, yes.

10

Yes, only one in 10 was listened to?---Correct.

And we see that throughout 2015 that differential standard for how many calls would be listened to for junior and senior representatives continued?---Correct.

15

And that lack of quality assurance for the more senior representatives was part of the reason that it took so long to identify the misconduct of the two sales representatives, wasn't it?---That's correct.

20

Because they were senior sales agents, the two who were responsible for generating the largest proportion of the referral leads that we've discussed?---Correct.

And their misselling is described in a number of Select documents as the root cause of the spike in sales of funeral insurance to Aboriginal and Torres Strait Islander people in 2015?---Correct.

25

But we saw that by February 2017 your organisation still hadn't worked out an adequate approach to quality assurance frequency for listening to calls of experienced sales agents?---I'm not sure why you make that assumption.

30

Well, can I show you a document, which is SAF.0004.0001.0220. Now, this is back to the file note dealing with the investigation. And could I ask you to look at paragraph 14 at 0222. So this document is from February 2017?---Correct.

35

And we see that at that point the parties are discussing establishing regular periodic reporting of the points status of sales agents and termination statistics and the broader quality assurance process findings and effectiveness, and that an appropriate approach is to be discussed and agreed:

40

An outstanding question will be working out an adequate approach to quality assurance frequency for the experienced sales agents, given the root cause of the spike.

?---Correct.

45

So you still didn't have an adequate approach to monitoring the activities of your more senior sales agents by February 2017?---I think the introduction of the – the

licence system certainly helped us to establish trends, because that was all available on the system. And if we're able to establish trends we're able to, where appropriate, listen to more calls for senior representatives.

5 Well, it helped. But it wasn't enough, was it, because you still hadn't worked out an adequate approach to the frequency of calls that you should listen to for your more senior sales agents?---I agree that's what that document says.

10 All right. And you agree that was the case?---I don't -- I agree that we've got limited resources. We do make every attempt to make sure we pick up behaviours.

15 And you agree that this document records that you had not made sufficient attempts by February 2017?---I would say sufficient attempts. We have been consistent, if you look at our compliance methodology, and we have made constant evolvments to all of those processes over the years.

20 Well, before I leave the topic of your sales processes in 2015, I want to ask you a few questions about the ways in which you ensured that your sales agents complied with section 992A of the Corporations Act, which is referred to often as the anti-hawking provision?---Yes.

You're familiar with that provision?---Yes, I am.

25 You refer to it in some detail in your statements. Is that right, Mr Howden?---That's correct.

And you tell us at paragraph 24.1.6 subparagraph (g) of your first statement - - ?---Sorry. Which rubric was this?

30 That's Rubric 4-23?---Which point are you going to there?

24.1.6 subparagraph (g)?---Yes.

35 You tell us there that:

Section 992A(3)(e) of the Act, read with regulation 7.8.22A of the Corporations Regulations, means that Select representatives were required to satisfy themselves that the customer had agreed to receive a product disclosure statement over the phone.

40

?---Yes.

Yes. And Select received legal advice to that effect in July 2013?---That's correct.

45 And you've seen a document that records that you were advised that:

If the person agrees that you can provide the PDS over the telephone, and if you are satisfied on reasonable grounds that they have received the statement, you can do it. This must occur before they become bound to purchasing the product.

5

?---Yes.

That was the nature of the legal advice that you received in July 2013?---We did receive subsequent advice to that.

10

What was the subsequent advice to that, Mr Howden?---That's under legal privilege.

I see. So you've waived legal professional privilege over the earlier advice, but not - - -?--- the document that – initial opinion that we got.

15

Yes?---And then we got legal advice subsequent to that.

Yes. And you maintain legal professional privilege over the second advice that you received?---Correct.

20

And when was that second advice received, Mr Howden?---It was received shortly after that.

Well, how long after that?---I'm not sure of the exact date.

25

In 2013?---Correct.

So in July 2013, as a result of the first legal advice, you understood that it was a requirement of providing an oral product disclosure statement to potential new policyholders that you obtained their consent to providing the product disclosure statement in that way?---We had – the opinion on that was it an acceptable way of delivering a verbal PDS during the call, but at the end of each call the client would get the PDS and the FSG. So there was a pre-recorded section in the call where an oral PDS and financial services guide was played to the client.

35

Well - - -?---That was similar to what other operators in the market were doing at the time.

I see. Well, could I show you your scripts from that time. ASIC.0025.0003.1212. So this is a script used by Select in 2015?---That's correct.

40

We see that it's effective from 25 August 2015 to 23 September 2015?---Correct.

And we see, if we move through the script, to 1214, in the section Payment Details:

45

Before I continue, I need to give you a product disclosure statement. I will play it to you now and it will take about two minutes.

?---That's correct.

That was what – that was the guidance that your representatives were given at this time about playing the product disclosure statement?---That's correct.

5

So there's nothing in this script, is there, that suggests that a potential new policy holder was asked for their consent to receive the product disclosure statement in that way?---The legal advice that we got was the statement there telling the client that we would be playing that, and it's recorded in the script.

10

Yes. But my question to you was whether there's anything in this script that shows that a potential new policy holder was to be asked for their consent to receive the product disclosure statement in that way. I just want to make sure you understand the different issues here, one being the permissibility of delivering the product disclosure statement orally, and the second being the obligation to receive the consent of the potential customer to receiving it orally?---I think – I don't have the script in front of me of that recorded message.

15

Look, this is the script, and I'm happy to show you each page. I believe it's a document that was shown to you, or perhaps it may not have been, it was a - - -?--- the verbal PDS, is that shown in the script?

20

Yes. We can – it isn't part of your script, the product disclosure statement, but we might be able to, nonetheless, find the document containing it and bring that up on the screen for you. But the only reference to the product disclosure statement in the script is the reference on this page under the section Payment Details?---No. The reason why I ask, there could be a wording in that script which gives you the satisfaction that you – you're after.

25

Well, can – can we just come back to what you say about your – about this in your statement as well, Mr Howden. I will tender this document first, Commissioner.

30

THE COMMISSIONER: Let's Insure product script, 25 August '15 to 25 September '15, ASIC.0025.0003.1212, exhibit 4.185.

35

EXHIBIT #4.185 LET'S INSURE PRODUCT SCRIPT 25/08/2015 TO 25/09/2015 (ASIC.0025.0003.1212)

40

MS ORR: And just before we move away from this document, can I show you 1215, which is headed recorded PDS and FSG. Do you see the red text there?---Yes, I do.

45

Now, is that the text of the product disclosure statement?---That's the product disclosure statement which we received legal advice was at the time - - -

You received legal advice was?---That that would be sufficient to play the abridged verbal PDS.

5 I see. So that's about the content of the product disclosure statement that can be delivered orally over the phone. You accept, don't you, that a customer needed to consent to receiving the product disclosure statement in that way?---I think at the very bottom it says:

10 *Please can you confirm that you have received and heard this message.*

Well, that's not asking the consent of the customer to receive the product disclosure statement in that way, is it?---Again, Ms Orr, at the time – we received a legal opinion at the time and we acted on that opinion.

15 Well, I just want to come back to what you say in your statement about this, Mr Howden. If we could go to 24.1.6 subparagraph (g) within your statement in response to Rubric 4-23. You have that there? I will read it to you again. You said:

20 *In accordance with section 992A(3)(e), as modified by regulation 7.8.22A, the caller was required to satisfy himself or herself that the customer had agreed to receive the PDS over the phone, and to be satisfied on reasonable grounds that the customer had received the PDS.*

25 There's two different elements to that, aren't there?---Yes. I think – and, again, I'm not sure of the exact details, but this could be we that got that consent at the time that the lead was generated.

You think you might have got the consent from the customer at the - - -?---Potentially.

30 But do you have any - - -?---I can't say definitively.

35 Do you have any basis for thinking that that had occurred?---Well, the author that wrote – that wrote this responded to detail in point. He responded to all these sections. It is part of my statement, I accept that, but the person that compiled this - - -

I am sorry, the person who compiled what?---The person that compiled all these responses here to these sections - - -

40 Do you mean the person who compiled this part of your statement, is that - - -?---Correct. Well, I accept it's my statement, but the responsible manager that we had that looked through each of these points and responded to each of these sections would have taken into account all the requirements of the various Acts.

45

So did you satisfy yourself of these matters or did you rely on the responsible manager?---I have no reason to believe – I had no reasonable to believe, at the time, they were deficient.

5 Right. But did you satisfy yourself – this is your statement, not your responsible manager's - - -?---I accept that.

- - - statement?---I accept that.

10 Is paragraph 24.1.6(g) correct?---It is correctly recorded, yes.

Okay. So you accept that there was an obligation on the part of Select to have your sales agents satisfy themselves of two things: that the customer had consented to receive the product disclosure statement over the phone, and that they had in fact
15 heard the product disclosure statement that was delivered over the phone?---Well, there's – definitely the second component is there at the end of that script.

Yes. But not the first, is it, Mr Howden?---I'm not sure if it's at the very start of the script or - - -

20

Well, I'm happy for you to look through that document in detail, the script - - -?---Yes.

- - - and see if you can identify a part of it where there is a requirement for the sales agent to satisfy himself or herself that the customer had agreed to receive the PDS over the phone. Would you like the opportunity to look at that document?---If you
25 could bring it up on the screen, yes.

Yes. ASIC.0025.0003.1212. Do you see anything - - -?---Could you go over the next page, please?
30

Yes, 1213. We have a hardcopy that we could also provide to assist the witness with this, Commissioner. I will hand that to you, Mr Howden?---Could you go over the next page - - -
35

1214?---Yes, Ms Orr, so there's two parts here just before the payment detail.

Yes?---Referring to the fact that we will be playing it.

40 "We will be playing it"?---The verbal PDS.

Yes, that's the section on the screen at the moment:

45 *I will play it to you now and it will take about two minutes.*

?---And at the bottom of that script you will see there's a section in green, which is further reference to the PDS.

1215:

The PDS you will receive contains details of our privacy statements and how we deal with your personal - - -

5

?---Correct.

Continuing:

10 - - - *information... are you happy to read those privacy statements yourself?*

?---I think there's an assumptive statement in there.

15 What's the assumptive statement, Mr Howden?---Saying to the client we will be playing you the PDS and then you will receive a PDS after this. Again, the script at the time would have been approved and signed off. I don't have all the material in front of me now to answer specific questions.

20 Well, I want to put to you that your sales agents who complied with this script were acting in contravention of section 992A of the Corporations Act, because they were not being directed to satisfy themselves that the customer had consented to receiving a PDS in oral form in the telephone call?---Again, Ms Orr, at the time we received legal opinion, and we acted with the intent of - - -

25 And you're talking about the second legal opinion, the one that you maintain legal professional privilege over?---Correct.

30 Not the first legal opinion?---The first one led to the second one, and we got additional legal opinion.

I see. I tender this document, Commissioner.

THE COMMISSIONER: Have we – marked it as exhibit 4.185, I think.

35 MS ORR: I'm sorry, Commissioner, we have.

THE COMMISSIONER: Yes.

40 MS ORR: Now, can I move to the detection, Mr Howden, of the misconduct by the sales agents in 2015. You investigated the spike once it had been identified by St Andrews?---That's correct.

45 Did your investigation adequately identify all misselling to Aboriginal and Torres Strait Islander people?---We did – as a result of that, we did a review, extended that to all the referrals in those postcodes, and we picked up – there were, in total, I think – initial number was 622 and then on further review the final number was 641 in those postcodes.

641 what?---Referral sales were made, and we listened to all of those calls to make sure they were compliant calls.

5 So did your investigation adequately identify all Aboriginal and Torres Strait Islander people affected by this sort of misconduct in this period?---Again, we don't have records of who Aboriginal or Torres Strait Islanders are. We were guided by the postcodes that were referred to us, and we assumed that everyone in those postcodes were Aboriginal and Torres Strait Islanders.

10 So you didn't identify the misselling to Ms Marika?---Because she wasn't in that postcode.

15 And after your first investigation there was an internal review, that you've referred to, of the sales practices of the two particular representatives?---That's correct.

And when did that review conclude?---I think that we were notified in October, and I think that it was towards the end of that year that we picked up – we had the analysis of those agents.

20 So your internal review went on till June 2017, didn't it?---No, we had to listen to all the calls first.

Yes?---So the first part was to identify - - -

25 Yes?--- - - - statistically who we should be listening to.

Yes?---So that we completed first.

30 And then - - -?---And then we had to listen to all of those calls.

And that took till June 2017?---As well as agreeing on the format of the – and extent of the remediation.

35 Well, after your internal review, you terminated the employment of the two sales representatives of which we've been speaking?---Sorry, what is that question again?

After the review, did you terminate the employment of the two sales representatives?---We had to listen to the calls first.

40 Yes, I understand that. So after the review which involved - - -?---Correct.

- - - listening to the calls - - -?---Yes.

45 - - - in June 2017 did you terminate the employment of the two - - -?---Yes, we did.

- - - sales representatives. And you sent them termination letters?---We had to call them and had a disciplinary hearing and, yes, we gave them a termination letter.

You gave them a termination letter. And in that termination letter you told them that there was no doubt in the company's mind that they had failed to act in the utmost good faith by taking advantage of people in the postcodes with high proportions of indigenous clients; you recall that?---Yes, I do.

5

Now, was it your view that having terminated those two representatives, you had effectively dealt with the mis-selling issues?---We knew that we had to certainly look at the referral program, and we stopped that referral program.

10 Yes?---And we had active monitoring of those postcodes going forward, to the extent that we actively try and carve-out those postcodes.

In what way do you carve them out?---In terms of lead generation activities, if it was online we would say that we don't – to the extent that online survey requires a
15 postcode, if certain postcodes fall within that band, we don't want any leads from that postcode. If we get data and we know the data – and we've also got postcodes we will wash the data through the postcodes to exclude those postcodes from the data that we may dial or get to our lead provider to dial on our behalf.

20 So you made a decision to stop selling your policies to people who lived in those postcodes. Is that what you're saying?---Yes, we did.

I see. Now, throughout the investigation of this misconduct - - -?---Can I just – it was not to not sell to the people in those postcodes, but we wouldn't actively target
25 those postcodes.

But your sales model involves identifying a person as a potential customer, doesn't it?---Yes. But we don't always know at the time of the call which postcode they're from. And we don't know at the time of the call, in all cases, whether the person is
30 Aboriginal or Torres Strait Islander.

So do I understand where the information you received about a potential customer identified that they lived in one of those postcodes, you did not proceed to attempt to sell them a product thereafter?---No. If the client – if we – if the person has come
35 through as a lead, notwithstanding those filters that we do have, we will go through that product – we won't discriminate against that person.

I see. If the customer approaches you, you would proceed with the sale?---Or if a customer said, "Please give me a call back."

40

Yes?---Because they have been provided - - -

Yes. But you wouldn't seek out otherwise?---We wouldn't actively target them.

45 Yes, I see. Now, throughout the investigation of this misconduct, Select had been talking to St Andrews and talking to – and talking ASIC; is that right?---Correct.

And your investigation concluded on 2 January 2017. Do you recall that? You have the review that finishes in June 2017 which involves listening to the calls, but the first part, the investigation to identify the cause of the spike, concludes in January 2017?---The first results were – were available in – in January 2017.

5

Yes. You tell us in your statement that they were available on 2 January 2017?---Correct.

10 And on 17 January 2017 St Andrews made a voluntary disclosure to ASIC about the mis-selling?---Correct.

15 And just prior to this, ASIC and Select had been corresponding about ASICs concerns that Select's telephone sales processes contravened the anti-hawking provision. Do you recall that?---Yes. But that was in relation to a different brand and we responded to that.

But ASIC had been communicating with you about those concerns, concerns - - -?---Correct.

20 - - - about breach of the anti-hawking provision?---Correct.

25 Now, you tell us in your statement that when St Andrews made the disclosure to ASIC on 17 January 2017, it did so with Select's knowledge and cooperation?---They – they informed us that they would be having a meeting with ASIC, and we acknowledged that.

30 That was what you meant when you referred to your knowledge and cooperation, but your opinion – Select's opinion at the time was that the matters that were raised by St Andrews didn't indicate a likely significant breach of your obligations under the Corporations Act?---We hadn't listened to the calls yet, so we couldn't determine the extent of – of – of the – of the misselling. It was only after we listened to the 641 that we concluded that there were 240 sales that shouldn't have been made.

35 I see?---But the other sales that – whilst they had been made to those postcodes – were compliant sales.

So that's why, five months after the disclosure by St Andrews in January 2017, your disclosure to ASIC happened in June 2017?---Yes, it did.

40 And the letter by which you made that disclosure to ASIC is exhibit RH15 to your first statement, SAF.0002.0001.0222. And we see there from paragraph 5 that Select maintained its position that there had been no significant breach of its obligations under the Corporations Act?---In terms of the significant test, yes.

45 But you said that:

For an abundance of caution and to assist ASIC in its consideration of St Andrews' disclosure, Select provides this letter to complement the report by St Andrews to ASIC in relation to its investigation into the spike.

5 ?---That's correct.

10 So having maintained the position that the mis-selling issue was principally due to the two – the conduct of the two sales representatives, we see from this letter at pages 0225 and 0226 that you went into some detail in the letter to identify why you thought there had been no breach of your obligations under section 912A or, if there had been a breach, why the breach wasn't significant; you see that?---Yes, I do.

15 So we see there that your investigation in paragraph 23 is described as having shown that the referral practices was the main cause and no evidence was uncovered to suggest that the sales of the products were made dishonestly or unfairly. Then we see a reference to the two representatives responsible for the bulk of the affected sales in paragraph 24?---Correct.

20 And then at 26 we see that for those reasons, you conveyed to ASIC that you considered that:

25 *If any breach occurred as a result of the increased sales of funeral products in irrelevant postcodes, it was not significant. Nonetheless, we have reviewed and will take remediation action in accordance with the guidelines set out in RG256.*

?---But you haven't read out point 25.

30 Yes?---Point 25(1) says:

We have not had a large number of frequent experience of similar issues with other of our representatives

35 Yes?---So they were isolated to two.

But this was your reasoning as to why this wasn't a significant breach?---Overall, yes.

40 But we see that you told ASIC that you were going to undertake remediation action nonetheless?---Correct.

And shortly after this, you met with – you met with ASIC?---That's correct.

45 And we see from exhibit 16 to your statement, SAF.0002.0001.0227 that, after that meeting, ASIC corresponded with Select. And we see from paragraph 3 that ASIC expressed concerns that, regardless of your characterisation of the issues, Select had

in fact breached the general licence obligations set out in section 912A and the consumer protection provisions of the ASIC Act; you see that?---Yes, I do.

5 And at paragraphs 7 to 9 over the page, at 0228, we see that ASIC requested both further details of your proposed remediation program and asked you to engage an independent advisory firm to review the remediation program; you see that?---Yes, I do.

10 And in mid-September 2017 – so a couple of weeks after this letter – Select responded to ASIC and provided the information was sought – that was sought and confirmed that it would appoint KPMG to provide the independent report sought by ASIC?---That’s correct.

15 But before matters could be taken much further in relation to the engagement of KPMG to do the independent report there was another issue that intervened, wasn’t there?---That’s correct.

20 So if we look at ASIC.0025.0003.3248, we see that on 9 January this year, ASIC sent Select an email. And we see from that email that was sent to Select from the first paragraph:

25 *Apologies for the delay in responding to KPMGs draft terms of reference provided below. There are several reasons that have delayed our response, most notably due to information received from the project team who have been reviewing more recent Select AFSL calls for the direct life insurance review project. I have been advised that the team reviewing these calls, which were from this financial year, have identified concerns not dissimilar to the concerns identified for the period January to September 2015. Specifically, the review team have identified concerns including pressure to close sales, even where the consumer raises a concern, use of the cooling off period, and delayed payment to close sales, indexation or stepped cover not explained.*

35 *Noting the ongoing concerns over the practices of Select AFSL in its direct sale of life insurance, ASIC is not able to settle its concerns based on a backwards looking review by KPMG as previously discussed. We would like to meet with Select and KPMG to discuss ASICs concerns that Select may not have the necessary policies and procedures and oversight to ensure compliance with the financial services law.*

40 That was the email received by Select in January this year?---This is the email that was sent to Peter and Cecelia, isn’t it?

Yes?---Yes, it is.

45 And ASICs concerns in a nutshell were that Select’s current conduct in respect of the sale of direct life insurance looked a lot like the misconduct that had been observed during the spike in the funeral insurance sales in 2015?---At the time they conducted

a review of the life insurance sector, and they listened to some calls and they felt that the calls – there were too many objections in those calls.

5 Well, their concerns about those calls are summarised in this email, aren't they?---Yes.

I tender that email, Commissioner.

10 THE COMMISSIONER: Email ASIC to Select 9 January '18, ASIC.0025.0003.3248, exhibit 4.186.

**EXHIBIT #4.186 EMAIL ASIC TO SELECT DATED 09/01/2018
(ASIC.0025.0003.3248)**

15

MS ORR: And ASICs concerns were further fleshed out in a meeting on 19 January this year and in a letter sent to you on 2 February this year?---Sounds correct, yes.

20 Yes. And if we go to that letter, it's exhibit 18 to your first statement - - -

25 THE COMMISSIONER: Just a moment, Ms Orr. The document we've just got up apparently has got Mr Howden's direct phone number and email. That should have been redacted out of it, and can I just draw attention to the fact that the direct email and phone number are subject to an NPD, non-publication direction.

MS ORR: Thank you, Commissioner.

30 THE COMMISSIONER: Yes. Sorry, I interrupted you, Ms Orr.

MS ORR: No, not at all.

THE COMMISSIONER: Can you start again, because I lost the thread.

35 MS ORR: I was directing Mr Howden to the further fleshing out of the concerns held by ASIC in a meeting on 19 January and a letter on 2 February. I was going to ask you to look at that letter, Mr Howden, which is exhibited to your statement as exhibit 18, SAF.0002.0001.0239. Now, this was a lengthy letter sent by ASIC to Select, we see on 2 February 2018, and if we look to 0240 we see that ASIC
40 expressed three principal concerns about what it was seeing in the more recent phone calls. We see them towards the bottom of the page:

45 *Our review of these materials gives rise to the following three main areas of concern about Select AFSLs sales model: (1) poor sales practices with Select AFSL presenting as an outlier out of all firms in the review; (2) very high cancellation rates within the cooling off period and lapses within the first 12 months, which is an indicator of poor consumer outcomes, and (3) deficiencies*

in some of Select AFSLs processes and procedures that contribute to or drive poor behaviour, and concerns around a very sales driven culture that fails to focus on the consumer.

5 Those were the three principal concerns of ASIC?---That's correct.

And those concerns took a number of forms, as we see from the rest of this letter. If we turn to 0241, we see that some of the issues in relation to poor sales practices were associated with sales staff providing inadequate explanations of important
10 concepts, or failing to provide the appropriate level of clarity about what consumers were being offered; you see that?---Yes, I do.

And, for example, we see in the third dot point there that ASIC expressed concerns about Select:

15 *Down-selling consumers a form of more limited cover than what they thought they were buying.*

And ASIC noted that that could be devastating at claim time?---That was only in respect of a client who applied for underwritten life insurance and didn't qualify because of medical issues. The down-selling they're referring to there is offering an alternative product which is accidental death.

Well, there were many other issues identified by ASIC, weren't there, Mr Howden?
25 There were other poor sales practices issues that were associated with closing a sale. Do you see that on this page?---Yes, I do.

And ASIC was particularly concerned that the consistent use of deferred premium payments as a way of overcoming a consumer's objections, meaning that customers
30 – consumers who want to consider the policy further or who raise concerns over affordability are persuaded to buy the policy now. That was another concern of ASIC?

MR CHESHIRE: Commissioner, may I raise an issue. As I understand this part of
35 the letter, this relates to the sale of life insurance. There was a rubric that was sent to Select concerning life insurance which was Rubric 4-22 which Mr Howden provided a draft response to as requested. He was never requested to finalise that matter, and our understanding was the issue of life insurance criticisms was not to be within the scope of the questions that are being asked. So in my submission this is an area that
40 should not be traversed.

MS ORR: Well, I'm seeking to traverse this territory, Commissioner, because of the similarity in the issues identified in connection with life insurance sales very recently and the issues in connection with the sale of funeral insurance in 2015.

45

THE COMMISSIONER: Mr Cheshire, given the recency of the communications with ASIC and the nature of the matters raised, why should I not allow exploration of these matters with Mr Howden given the position he holds in the company?

5 MR CHESHIRE: Well, Commissioner, I have no objection to it being shown to him
in the sense of this is what ASIC have said but if, Commissioner, you are considering
and it's being put to you that you should make some determination about the conduct
of the sale of life insurance, which is what this now appears to be moving into, that
was precisely what we responded to in Rubric 4-22 and were requested not to
10 finalise. So we have proceeded on the basis of not having to address that. If it we do
then, Commissioner, we would seek time to go away and to put before you a
finalised version of 4-22 and, if necessary, all of the material that goes to make up
these criticisms.

15 THE COMMISSIONER: As you know, round 6 of the hearings will – I think it's
round 6 – will focus on questions of insurance. No doubt if there is some question
arising about the adequacy of opportunity to deal with matters raised in final address
in relation to this round of hearings, that is a matter that can be dealt with then. In
the meantime, I'm not minded to cut off the examination that is occurring.

20 MR CHESHIRE: May I just make one point in response, Commissioner, to what
you say to me. I understand the opportunity to, as it were, address in closing. But,
Commissioner, my submission is that it's a matter of procedural fairness - - -

25 THE COMMISSIONER: Exactly the point I was seeking to make was that if you
consider that you have not had an opportunity sufficient to meet a particular finding
which Counsel Assisting contend is open that, no doubt, is a point that you will make
to me. If you make it to me, I will consider it then.

30 MR CHESHIRE: I make it at this point, which is this witness is now being taken by
surprise, being asked to address on the run these issues that he – that ordinarily the
witnesses are entitled to have notice, hence the rubrics being sent out to the witnesses
indicating the areas on which they will be asked questions.

35 MS ORR: I hesitate to interrupt, but I feel I need to, Commissioner, because I am
taking this witness to a document which is annexed to his statement responsive to the
funeral insurance rubric. This is an exhibit to Mr Howden's statement in response to
Rubric 4-23, which is a rubric prepared for the purposes of these hearings. I don't
accept the assertion that this witness is being taken by surprise in those
40 circumstances where he has exhibited the document to his statement.

THE COMMISSIONER: Yes. I will not interrupt the cross-examination at this
point, Ms Orr. You may proceed.

45 MS ORR: Thank you, Commissioner.

Now, also on this page at 0241, Mr Howden, we see that ASIC was concerned about Select sales representatives refusing to send out documentation requested by consumers to help them make a decision and telling those consumers that that was not Select's practice?---Unfortunately, at the time we didn't have the functionality to automatically generate a quote to email to the client. We now do have that functionality and it is provided to the client.

You see at 0242, that:

10 *ASIC observed excessively pushy or aggressive sales techniques that we think are inappropriate and undermine informed decision-making.*

?---Yes, I see that.

15 And amongst other things we see there that ASIC expressed concerns about:

20 *...persistence in overcoming consumer objections, the speed with which calls were conducted, combined with the use of questions presented as statements that the consumer simply needs to agree to for the conversation to move on, and the use of inappropriate and pushy sales tactics such as staff firmly directing consumers to log on to their mobile phone banking apps while on the call to confirm their banking payment details.*

?---I see that.

25

Now, this was a broader manifestation of the issues that you wanted to attribute to the two sales representatives back in 2015?---I was asked to – in the context of those two representatives, it was sales to the Aboriginal communities, and the spike in sales in 2015.

30

Yes. Well, what I want to put to you squarely, Mr Howden, is that this was an issue with the culture at Select?---Ms Orr, I must agree with my own counsel, this is a bit of a surprise, but I will respond - - -

35 It is an exhibit to your statement, Mr Howden?---As you asked for all the dealings that we had with ASIC and we gave you all the dealings that we had with ASIC.

40 Yes?---But anyway, we were accused of – as an organisation of being very sales orientated, because our ads included a reference to uncapped commission, but all the call centres have references to uncapped commissions as a feature in terms of recruiting staff.

I haven't referred to uncapped commissions?---No, but you're talking about the sales culture - - -

45

Yes, I am?--- - - - of the business.

Well, I'm asking you about the culture that permits the concerns that ASIC has raised in this letter to occur?---Again – and we had a meeting with ASIC, and we did address each one of those concerns – we've entered into a voluntary program with them and we're still trying to work out the exact details of that, and we said we're
5 happy to listen to calls independent, we have engaged an independent mediator. We have changed our recruitment and removed uncapped commissions, so we're actively working with ASIC to try and overcome some of those concerns they've got.

Well, we see from this letter that ASIC identified that 30 per cent of the calls that it
10 reviewed involved inappropriate sales tactics?---Well, originally the sample – yes, they – they identified 19 sales out of 55 sales, yes.

And the next worst offender in their review across other life insurance sales entities had less than 10 per cent of their calls indicating such practices?---But we did point
15 out to ASIC, and they did note that – that when they reviewed the life insurance sector, most of the – the players who provided information were selling underwritten life insurance, whereas the bulk of our sales were guaranteed acceptance life insurance.

Well, the second major area of concern to ASIC was the very high cancellation rates within the cooling off period, and lapses within the first 12 months, which it regarded as an indicator of poor consumer outcomes?---And again we did point out to ASIC, using a benchmark of strategic insight 2016 report where they excluded cancellations occurring in month 1, and they said that the average for outbound in the first year
20 cancellations is 45 per cent. Our cancellation is 22 per cent excluding CFIs.
25

Where do we see that in this letter, Mr Howden?---You won't see that in the letter.

No. And the third area of primary concern to ASIC related to deficiencies in your processes and procedures that contributed to or drive poor behaviour and concerns around a very sales driven culture that failed to focus on the customer. And ASIC had five subareas of concern on that topic. And the first was that your sales training was unclear on what is acceptable and unacceptable conduct in the context of objection handling?---And we have, as a result of that, changed our objections to a
30 maximum of two objections per call, where previously you were allowed maximum of two objections per objection.
35

And in respect of your quality assurance framework, ASIC expressed the concern that it didn't appear to be effective in appropriately managing the boundary between acceptable and unacceptable sales practices.?---We have said to ASIC that we're
40 happy to provide ongoing reviews to that.

And ASIC was worried, as well, about your recruitment processes, because you sought to target money-driven individuals, and you emphasise the fun and the availability of perks and uncapped commission and made no mention of consumer outcomes?---That's correct. We're competing with other call centres and we use
45 similar recruitment terminology to those other call centres.

And ASIC thought that your incentive schemes were likely to create a risk of sales at all costs?---.... you can see our current remuneration and the procedures do not have any commission attached to them at all. It's all quality assurance.

5 ASIC was also concerned with your performance management framework. And we see at 0245 that, having gone through all of these matters, ASIC expressed a concern – ASIC said that these issues were particularly concerning when viewed in the context of the problems relating to funeral insurance. Do you see that?---Yes, I do.

10 And ASIC reached the conclusion that it had observed a pattern of poor conduct at the point of sale that is persisting and a failure on the part of your management to effectively address the problems that have been identified by ASIC over a significant period. You see that?---Yes. I agree that's written there, yes.

15 And ASIC asked you to expand the scope of the independent review to satisfy ASIC that you were able to sell funeral and life insurance products in a way that met your ongoing licensing obligations, including the duty to act honestly, efficiently and fairly?---I see that, yes.

20 And we see from 0247 that ASIC concluded by saying that it considered:

25 *Urgent action was necessary and that you should immediately cease to engage in the poor sales practices set out above, in particular, using deferred payment periods to overcome objections, persisting in objection handling beyond what is reasonable, and actively directing consumers to log into their banking apps while on a call in order to complete a sale.*

?---Yes.

30 Now, just under three weeks after receipt of this letter, we see from your statement that Select responded to it?---Correct.

And Select told ASIC that it intended to fully comply with those requests?---That's correct.

35

And it explained some revisions to its remediation program?---Correct.

And indicated that it would put the wheels in motion for the broader independent review?---Correct.

40

And there was further correspondence between Select and ASIC throughout March and April which focused on the remediation program and the independent review?---Correct.

45 And throughout that period ASIC continued to emphasise its concerns about the brand of sales tactics used by Select, which it characterised as:

Persistence and not acknowledging customers' wishes not to proceed.

?---Correct.

5 And as at 11 April this year, which is the date of the most recent ASIC letter exhibited to your statement, ASIC remained concerned about the scope of your remediation program in relation to the 2015 spike in funeral insurance sales?---I'm not sure what that exact letter says. Does it just refer to the funeral sales or to all sales?

10

So it concerned about the scope of your remediation program across both, you say?---Yes, it's across both.

15 Okay. Now, ASIC also in that letter on 11 April raised concerns with you about the number of customers who were expressing affordability concerns but were persuaded to take out cover regardless and the number of your customers who are reliant on Centrelink payments as their sole or main source of income?---I recall that statement.

20 Do you recall ASICs concerns that you don't have adequate processes in place to safeguard the interests of vulnerable customers as part of the acquisition, sales and retention process?---As part of the sales script, at more than one point on the sales script we do ask the client if it's affordable. And we keep come – and finally, before we proceed, we ask the client, again, is this an affordable product for you?

25 What about having adequate processes in place to safeguard the interests of vulnerable customers? ASIC doesn't think you do?---We've made several revisions over the month to our processes to try and identify – in terms of one of the processes introduced, if we become aware that a person is from an indigenous or Torres Strait Islander, once we identify that, we request to the client that we will send off a product disclosure statement to them and request that they give us a call back. And it's included in one of my annexures, in terms of the confirmation process.

30

35 So that's now your procedure where a customer identifies themselves to you as Aboriginal or Torres Strait Islander person?---We will request – we will suggest to the client that we will send them our product disclosure statements.

I'm sorry, I just want to make sure I understand what triggers that. Is it where a potential customer identifies themselves to you as an Aboriginal or Torres Strait Islander person?---Correct. Correct.

40

And do you ask your customers?---We don't ask them.

45 Now, was this independent review that you were talking to ASIC about ever undertaken?---The scope is still being determined with ASIC. I don't know how broad you want the response, but ASIC suggested we adopt a formula-based approach to potential remediation. We agreed with most components, but we haven't finalised the scope of that remediation exercise.

I see. Now, Mr Howden, do you agree that there are clear parallels between the concerns that ASIC has been expressing very recently about your sales practices in relation to life insurance and the practices that led to the mis-selling issue in 2015?---I do believe the 2015 issues were not related.

5

Not related?---They were driven by two agents and two incentives.

They were driven by much more than that, weren't they, Mr Howden? They were driven by the sales structure sanctioned by your company, by the KPIs and remuneration structure, by which you rewarded your sales agents, and by an inadequate quality assurance and disciplinary framework?---I cannot agree that rewarding agents for productivity is necessarily a bad outcome.

10

There are clear parallels in relation to your treatment of vulnerable consumer groups for both sets of events, aren't there?---Could you repeat that statement, please.

15

There are clear parallels between your treatment of vulnerable parts of the consumers in relation to the conduct that ASIC has been looking at recently and the conduct that occurred in relation to funeral insurance in 2015?---There is some overlap. I will accept that.

20

Has Select given a section 912D notification to ASIC in relation to the 2015 misconduct yet?---Sorry. I am not familiar with the – that section.

I'm sorry. A notification of a breach – a significant breach under section 912A of the Corporations Act. Have you ever given ASIC that notification in respect of the 2015 issues?---We got legal advice. We had a discussion with ASIC and we told them the remediation program that we were carrying out.

25

So do I understand that to be an answer of no to my question - - -?---No.

30

- - - Mr Howden. And have you given a notification of a significant breach of 912A to ASIC in respect of the life insurance mis-selling issues that have been identified recently?---No.

35

Why not, Mr Howden?---Because, as we set out in the response to that letter, one of the conclusions that ASIC arrived at for the life insurance – first year lapses were higher than the other people – other companies in that sample. And all the products – well, predominately the products that we were selling were the guaranteed acceptance products, life insurance products, which always do have a higher lapse rate than underwritten life products. So we did explain to them the difference between the two products. An underwritten life product will have a higher first year persistency versus a guaranteed life product. Because it's a less detailed process, it tends to have a higher lapse rate.

40
45

So you've referred there to one narrow aspect of the many concerns identified by ASIC in the recent months?---And we did say to ASIC that we're happy to review calls.

5 You told us yesterday that since 19 March this year Select no longer promotes and distributes St Andrews funeral insurance products?---That's correct.

Why did Select stop promoting and distributing those products?---Well, as set out in my response in my statement, changes to the remuneration and the life insurance remuneration arrangements means as a distributor we're no longer able to get upfront allowance of 100 per cent or more to cover the policy acquisition costs. Essentially, from 1 January we are what we call a level commission option. Commercially, we just don't have sufficient funding, if you want to call it, to support our policy acquisition process.

15 You say in your statement it's no longer commercially viable for you to do this under the life insurance framework reforms?---Correct.

20 And when you're talking about the life insurance framework, are you referring to the changes to the Corporations Act that provide for caps on the amount of commissions that may now be received for life insurance products?---Yes. Yes.

And they created new arrangements for clawing back commissions that had been paid?---Correct.

25 And those changes came into effect on 1 January this year?---Correct.

But they were announced well before then, weren't they?---That's correct.

30 They were announced on 6 November 2015?---Correct.

And they were enacted on 22 February 2017?---Correct.

35 And ASIC announced what the commission caps and clawback amounts would be on 5 June last year?---Correct.

40 So you knew by June last year the effect that the life insurance framework would have on the commercial viability of your distribution arrangement with St Andrews?---Well, that was why we were in discussions with St Andrews, as well as other insurers, to see if there was an alternative model. An alternative model would be for the insurer to pay for the lead acquisition costs, because ultimately it is an expense to the insurance company. But we weren't able to negotiate an alternative arrangement to the funding, so we had to self-fund for the first two months.

45 When did you work out you weren't able to negotiate an alternative arrangement?---Within two months.

Within two months from?---The end of February.

End of February which year?---2018.

5 So within two months of the end of February this year - - -?---No. No. Sorry. At the end of February 2018, it became apparent that there was no alternative model.

10 How did it become apparent?---Because we consulted with other operators in the industry, and pretty much there's two models. Either you're an insurer, and there's really no caps in terms of the structures there because you're an insurance company. And then we consulted with other distributors, and they weren't able to negotiate other arrangements.

15 So when did you last enter into a new distribution arrangement with St Andrews?---1 January 2018.

So you entered into that agreement in December last year?---Correct.

20 With effect from 1 January?---Correct.

So at that point you had every intention of continuing to distribute St Andrews funeral insurance products?---That's correct.

25 Then in December 2017, St Andrews came and conducted an onsite compliance visit at your premises, didn't they?---They did.

And as a result of that visit, they developed a series of recommendations that you were required to implement in 2018?---Correct.

30 And could I show you BOQ.0001.0112.0092. So this is a meeting agenda for a St Andrews divisional Risk Management Committee Meeting on 28 March this year. And if we turn to 0093, we see that one of the agenda items for that meeting was a Select AFSL on site visit actions update.

35 And we can see that a paper, paper 3.3, was prepared for that agenda item. Do you see that?---That's the first time I've seen this.

40 Right. Well, let's turn to 0140 in this document, which is the paper. We see from this that the paper prepared by St Andrews Divisional Risk Management Committee shows at 4.1 that:

As a result of the onsite visit, a number of draft recommendations were made to Select, resulting in the parties agreeing to an action to be implemented over the course of 2018.

45 And we see that the agreed actions, timeframes and updates are set out in an appendix, which is at 0144. 43 is the first page. So if we could turn this around, we

can see that this sets out the recommendations made by St Andrews for Select. And the first recommendation was that Select:

Increase the resources that it devoted to compliance.

5

Do you see that?---I see it now, yes.

And, in response, Select said that it had no current plans to expand compliance resourcing?---I see it in this document.

10

And at 0144 we see that the second recommendation related to the first; it was for Select to create an independent compliance function, for example by appointing a dedicated compliance manager. See that?---Ms Orr, I see this for the first time.

15

Yes, I understand that. I'm just asking you to read it on the screen, Mr Howden?---I can see it on the screen, yes.

And you see the entry there reflecting that Select said it would not do this?---I see an entry there, yes.

20

And then we see from following pages, which I will ask you to be shown, 0145 and 0146, that there are other recommendations, all with target dates for periods from February to May 2018. So Select agreed to make some changes as a result of these recommendations?---I've never seen this report before.

25

But you're aware of these recommendations, aren't you, Mr Howden?---I'm not aware of all these recommendations, no.

These were recommendations made to Select by St Andrews?---Ms Orr, this is the first time I've seen this report – this document.

30

I understand that, Mr Howden, but you're here on behalf of Select. Are you saying that you are unaware of recommendations made by St Andrews - - -?---I'm aware that - - -

35

- - - to Select as a result of the onsite compliance visit?---I'm aware that St Andrews paid us a visit in December.

Yes?---They made some recommendations.

40

Yes?---By and large, they said they were happy with most aspects of the business. They also provided us a report that said culturally, they were happy with the culture of the business, and they suggested that we increase certain calls and retention. The facts you're tabling here, I haven't seen this report before.

45

I understand that, Mr Howden. I'm asking you to read it. And I'm asking you to consider what's in this document which suggests that you were asked to make

significant compliance changes and you indicated that you would not do so?---We never said we would not do so. That I can categorically say is correct.

5 So the contents of this document is inaccurate. Is that your evidence, Mr Howden?---I would say they are inaccurate, yes.

I see. I tender that document, Commissioner.

10 THE COMMISSIONER: St Andrews risk management committee meeting papers, 28 March '18, BOQ.0001.0112.0092, exhibit 4.187.

EXHIBIT #4.187 ST ANDREWS RISK MANAGEMENT COMMITTEE MEETING PAPERS DATED 28/03/2018 (BOQ.0001.0112.0092)

15

MS ORR: So around the same time as these events, the correspondence with ASIC is occurring, you received the letter that I took you to earlier from ASIC on 2 February this year raising all the concerns I took you to. And you responded to that letter on 23 February - - -?---Correct.

- - - 2018. And you provided copies of that correspondence to and from ASIC to St Andrews, didn't you?---Correct.

25 And in early March this year, on the basis of the concerns that had been raised by ASIC in its correspondence, St Andrews conducted another onsite compliance visit at your premises. This time it went for over two days, didn't it?---That's correct.

30 And the purpose of that visit was to assess the effectiveness of the changes that you were to make to your sales practices as a result of the concerns raised by ASIC?---Can I preface that all the scripts were approved by St Andrews. And that visit was to ensure that we were following the scripts that St Andrews had approved.

35 What letter was to ensure that?---The – the visit in March by St Andrews was substantially to ensure that the representatives were following the scripts that had been approved by St Andrews.

40 So you agree it was to - - -?---And all the changes that St Andrews requested we made to those scripts – we made to those scripts.

You agree with me it was to assess the effectiveness of changes that you needed to make to your sales practices as a result of the concerns raised by ASIC?---There may have been some of those concerns, yes.

45 And on 14 March this year, St Andrews sent Select a letter?---Which letter was that?

That's a letter which is ASIC.0025.0003.0790. This is a letter directed to you, Mr Howden, on 14 March 2018 from St Andrews:

5 *Thank you for on sending the letter from ASIC dated 2 February 2018 and your
response to that letter dated 23 February 2018. St Andrews has now
considered the issues raised by ASIC in light of the distribution agreement
between St Andrews and Select dated 1 January 2018. Customer outcomes are
of the highest importance to St Andrews, and Select's sales conduct falls
10 considerably below St Andrews's expectations, community expectations, and
(in our view) corporate standards imposed by applicable financial services
laws. St Andrews' strong position is that Select immediately cease the sales
activities identified by ASIC, undertake all actions necessary to fully rectify the
issues raised by ASIC, and remediate affected customers fairly and in
15 accordance with the guidance provided by ASIC. In light of the concerns
regarding sales practices and the significant changes in sales process and
practices proposed by Select, as you are aware, St Andrews conducted an
onsite visit last week to understand and assess the compliance with, and
effectiveness of, the changes implemented by Select. St Andrews is currently
20 collating and considering the results of this visit, but expects the increased
frequency of its monitoring and oversight to continue to ensure customer and
community expectations with respect of Select's sales activities are met and
maintained. We expect Select's full support and assistance in this respect,
including appropriate on site access (as required). These measures are over
25 and above the changes in St Andrews' monitoring and oversight introduced in
recent months as set out in the current distribution agreement.*

And over the page at 0791 we see that St Andrews asked you to note that it was:

30 *Reserving its decision with respect to the future renewal or extension of the
distribution agreement in light of the ASIC ongoing investigation and the
significant work involved in customer remediation and rectification of your
sales model and practices.*

And it was:

35 *...considering whether the conduct of Select amounts to a breach of applicable
laws.*

Can you see that?---I do see that.

40 So at this stage, in March of this year, St Andrews has indicated to you that it may
not continue its relationship with you, because of its concerns about your compliance
with the law?---That's actually quite surprising, because St Andrews requested we
renew the agreement in November of last year for a further four years and I requested
45 a six-month extension, primarily to look at whether we could come up with an
alternative funding model. And that's well documented.

Well, that was before St Andrews saw the letter directed to you from ASIC on 2 February this year outlining the litany of concerns that ASIC had with your sales model?---Then they came back and they did an audit. And if you ask them for the results of their audit, they will say that the agents didn't follow the script on the screen, because some of the agents had a handout which, essentially, had the same messaging on it, and they said they weren't reading directly from the computer screen, but they were looking at the handout.

10 I tender this letter, Commissioner.

THE COMMISSIONER: Letter St Andrews to Howden 14 March '18, ASIC.0025.0003.0790, exhibit 4.188.

15 **EXHIBIT #4.188 LETTER ST ANDREWS TO HOWDEN DATED 14/03/2018 (ASIC.0025.0003.0790)**

20 MS ORR: And in the days after this letter, Mr Howden, St Andrews management told Select of its findings as a result of its onsite visit?---After this letter, yes, they told me this. Yes.

After this letter?---Yes.

25 You recall in this letter they said they were still considering and collating the results of their onsite visit?---Correct.

30 And in the following days they told you of their findings. And, as a result of those findings, it was agreed that all sales activity by Select would cease until the concerns raised by St Andrews had been resolved to the satisfaction of all parties?---No. That's factually incorrect. We never, ever stopped selling – or they never told us to stop selling. We elected, Select AFSL, and, again, for commercial reasons, to stop selling.

35 Well, could I take you back to BOQ.0001.0112.0092, the meeting agenda for the St Andrews Divisional Risk Management Committee on 28 March and ask you to look at 0141. You see on that page when it comes on to the screen, a Select AFSL General Update, which refers to the two day onsite visit?---What point is this?

40 5.1. 5.2:

45 *Management submitted their high level findings to Select on 16 March where a number of next steps were made as a result of the visit, including that sales activity be ceased until such time as the concerns raised in the findings and recommendations have been resolved to the satisfaction of all parties. Select advised on 19 March that all sales activities had been ceased.*

So three days after the communication from St Andrews requiring that course?---Ms Orr, I never received this communication from St Andrews.

5 This is another inaccurate statement in this document, is it, Mr Howden?---Well, I would request if St Andrews can show me a statement saying that we should stop all sales addressed to myself or any other member of our company.

10 Well, a few weeks after this, on 4 April, Select sent two letters to St Andrews, one of them responded to the letter that I have just shown you from 14 March, and there was a separate letter, which is BOQ.0001.0106.0104. We see there a letter from you to St Andrews on 4 April:

15 *We refer to the distribution agreement. Given that Select has already suspended all sales activities under the distribution agreement and does not intend to extend the distribution agreement beyond 30 June, Select proposes that the distribution agreement be terminated by agreement, effective immediately.*

20 Do you see that?---Yes, I do.

MR CHESHIRE: And, Commissioner, I note the telephone number on the bottom of that document, as well.

25 THE COMMISSIONER: Yes. The phone number is subject to a non-publication direction.

MS ORR: Now, that was a letter explaining why you were ceasing funeral insurance sales?---That was the notification to St Andrews that we would be ceasing.
30 You weren't ceasing funeral insurance sales because of the life insurance framework changes, were you, Mr Howden?---We sent a letter to St Andrews telling them that we would – we stopped selling.

35 I want to be clear - - -?---I need to put some context to it. We had already reduced the number of sales agents, effective 1 March, to four agents. Four agents, from a team of 25, because of the commercial constraints that we had in terms of financing.

40 I want to put to you, Mr Howden, that you weren't entirely frank with the Commission in paragraph 2.1 of your statement when you explained your – the cessation of your funeral insurance business by reference to the life insurance framework?---How can you say that, Ms Orr?

45 Based on all of the documents I have just shown you, Mr Howden?---Do you not think I want to continue to sell insurance?

I'm asking you whether you were frank with the Commission - - -?---I was frank.

And you didn't refer to any of these matters, did you, Mr Howden?---No. But the commercial reality is that we could not fund the distribution.

5 The fact is that ASIC raised concerns about your sales practices, St Andrews became aware of those concerns?---And we changed our sales scripts in accordance with requests by St Andrews and we implemented those changes.

10 After a site visit at your premises, St Andrews required you to change your practices, particularly your compliance and sales practices, and required you to cease all sales until you had made those changes?---They never, ever told us to cease selling. We never received a directive, and I would request that St Andrews provides us with a copy of that directive.

15 I see. I tender this statement, Commissioner.

THE COMMISSIONER: Yes. The letter from Howden of Select to Way of St Andrews, 4 April '18, BOQ.0001.0106.0104 exhibit 4.189.

20 **EXHIBIT #4.189 LETTER FROM HOWDEN OF SELECT TO WAY OF ST ANDREWS DATED 04/04/2018 (BOQ.0001.0106.0104)**

25 MS ORR: And, Mr Howden, throughout the period that Select, St Andrews and Bank of Queensland were corresponding about this distribution agreement you were all also discussing how to manage your relationship with the Royal Commission, weren't you?---What do you mean, we were trying to – I wasn't aware that we were coming to the Royal Commission.

30 Well, let me show you some documents, Mr Howden. We will start with ASIC.0025.0003.1015. This is an email from Select to ASIC dated 4 April 2018 annexing various documents. I want to take you to one of the annexed documents, which is ASIC.0025.0003.1133. You see this document records that on 19 February this year the Bank of Queensland requested Select's formal consent – I am sorry, we
35 will need the following page on the screen as well. I'm reading from the email that starts at the bottom of that page. An email to you. We see that the Bank of Queensland requested Select's formal consent to voluntarily disclose the issues relating to Select sales of funeral and life insurance to the Royal Commission.

40 You see that?---Yes, I do.

45 And the Bank of Queensland raised the concern that ASIC was aware of those issues. You see that?---Yes. So just to clarify – and I'm not sure what the due process is here – we did get legal opinion on this and we said we would always cooperate with the Royal Commission.

Well, let's - - -?---But we didn't give them – we didn't want to agree to give a blanket waiver of everything that was private in terms of our agreements with St Andrews. We said to the extent that it relates to the Royal Commission, we will cooperate with the Royal Commission.

5

Well, let's come to what you said in response to this request, but before I leave it, we see that Bank of Queensland said to you:

10 *ASIC is aware of these issues and ASIC is providing information to the Royal Commission which will be used to cross-check the responses from industry.*

Do you see that?---Which point is that?

15 This is all on 1134, on the right-hand side of the screen. See that the Bank of Queensland said:

20 *We assume ASIC would have disclosed any matters relating to actual or suspected licensee misconduct or behaviour falling below community standards and expectations to the Royal Commission, and this may have included information relating to the issues with funeral and life insurance.*

?---And again, I've got to come back to what I said earlier. We didn't say we would not cooperate with the Royal Commission - - -

25 Well, I want to take you to how you responded to this email, Mr Howden, but this is an email that you received from a representative of Bank of Queensland, the owner of St Andrews, on 19 February 2018. Do you agree?---Yes, I do.

Thank you. I tender that document, Commissioner.

30

THE COMMISSIONER: Now, is it simply the email or the whole - - -

MS ORR: I think it's - - -

35 THE COMMISSIONER: - - - attachment?

MS ORR: It's sufficient for me to tender annexure B, Commissioner, which starts at ASIC.0025.0003.1133, and it's annexure B which is one of the annexures to an email from Mr Howden to Barbara Buettner of ASIC on 4 April 2018.

40

THE COMMISSIONER: Annexure B to the email Howden to ASIC, 4 April '18, ASIC.0025.0003.1133 is exhibit 4.190.

45 **EXHIBIT #4.190 ANNEXURE B TO EMAIL HOWDEN TO ASIC DATED 04/04/2018 (ASIC.0025.0003.1133)**

MS ORR: Now, your response to that email is within this document, do you see that, Mr Howden?---I do.

5 Two days later you responded to the request from Bank of Queensland on 21 February. You said:

10 *Thank you for your email. We do not consent to the request to voluntarily disclose confidential information of Select about the issues as defined by you. In particular, we do not consider there to have been any misconduct or falling short of community standards or expectations arising out of any matter which would bring it within the scope of the banking Royal Commission.*

That was your response?---Correct.

15 Now could I ask you to look at ASIC.0025.0003.0790. So this is a letter from St Andrews to Select dated 14 March 2008, so a few weeks after the emails we just saw. And do we see there on 14 March that St Andrews expressed its disappointment with your response to its request about disclosure to the Royal Commission?---Yes.

20

And we see at 0793 – that’s the page you ought to have had on the screen when I put that question to you, Mr Howden. Do you see the large paragraph under the heading Voluntary Disclosure to Royal Commission:

25 *Bank of Queensland is disappointed with this response. As we outlined, it is highly likely that the Commission has received or will receive information on both matters from ASIC, and will be aware of our relationship. We, therefore, view voluntary disclosure as a gesture of cooperation with the Commission, and one that signals our willingness to be open and transparent in respect of*
30 *matters that may fall within the Commission’s terms of reference. The Commissioner has publicly confirmed that notices to produce have been issued and will continue to be issued.*

35 *If the Commissioner becomes aware of the matters relating to Select’s distribution of St Andrews funeral insurance and life insurance policies, he may be minded to issue Bank of Queensland with a notice to produce materials relating to these issues. At this point, Bank of Queensland will have no option but to produce the material requested by the notice irrespective of your position on consent. We, therefore, ask that you reconsider your position and provide*
40 *Select’s consent to disclose those issues.*

That was the communication you received, Mr Howden, from St Andrews insurance on 14 March 2018?---That’s correct.

45 And in response to this Select again refused consent to disclose the information?---I don’t have it in front of me, but we did clarify with - - -

ASIC.0025 - - -

THE COMMISSIONER: Just a moment, we should - - -

5 MS ORR: - - -

THE COMMISSIONER: The letter Way of St Andrews to Howden of Select, 4 March '18, ASIC.0025.0003.0790 exhibit 4.191.

10 MS ORR: I'm sorry, Commissioner, I had already tendered that letter.

THE COMMISSIONER: That's in?

MS ORR: Yes, I had referred to an earlier part of the letter.

15

THE COMMISSIONER: Then we needn't mark it again.

MS ORR: 4.188. ASIC.0025.0003.1020, a letter from Select to St Andrews dated 4 April 2018. Now, if we could turn to the attached letter to this email, we he see that it's an email from you to representative of St Andrews – I will just make sure I've got the right document.

20

THE WITNESS: From St Andrews to myself, if that's what you're saying.

MS ORR: I'm sorry. The numbers have been transposed. I will read the whole number again. ASIC.0025.0003.1020. This is your letter to St Andrews from 4 April 2018. I will have the second – I am sorry, I will have the third page brought on the screen so you can see it's a letter authored by you, Mr Howden; you see that?---Yes, I do.

30

And in this email – I'm sorry, in this letter at 1022, under the heading Voluntary Disclosure to the Royal Commission, you reiterated your previous position in response to the request from St Andrews to provide consent for disclosure of these issues to the Royal Commission?---And the first paragraph does say we will provide the information.

35

Continuing:

Should Select be requested to provide such documents to the Royal Commission, it will do so.

40

?---Correct.

So should the Royal Commission ask you for those documents, you would give them?---Correct. If requested by - - -

45

Yes. But you had not disclosed and you had not given St Andrews permission to disclose - - -?---Legal advice - - -

5 - - - declaring misconduct, had you?---Legal advice, Ms Orr, that we got was not to agree to a blanket waiver of all confidential information.

I see?---But if specific information was requested, we should provide that, and it was intended to do so.

10 In this letter you reiterated that you:

...do not consider there to be any misconduct or conduct falling short of community standards or expectations arising out of any matter that would bring it within the scope of the banking Royal Commission.

15

?---That's correct; that was our belief.

Now, you heard Ms Marika's evidence yesterday, Mr Howden?---I did.

20 And you've given a series of answers to questions from me throughout the course of this morning and yesterday afternoon and, in light of all of those matters, do you maintain that there has been no misconduct or conduct falling short of community standards or expectations on the part of Select?---I – I can agree with you that there have been incidents, but I cannot agree with you that the – the whole business can be
25 classified as such.

But there have been incidents of misconduct and conduct falling below community standards and expectations that required disclosure to the Royal Commission, haven't there, Mr Howden?---We have responded with our reasons to those.

30

Yes. After the Royal Commission issued you with rubrics for statements and compulsory notices to produce documents?---And we had previously provided information to ASIC as well.

35 But not to the Royal Commission?---When requested by the Royal Commission, obviously we did provide - - -

40 You did not voluntarily disclose anything to the Royal Commission, and you did not provide consent to St Andrews to voluntary disclose?---We did agree that if St Andrews was required, we would cooperate with St Andrews.

Yes. But you did not permit them to voluntarily disclose the misconduct, nor did you voluntarily disclose it yourself?---Correct.

45 Now, I tender that letter, Commissioner.

THE COMMISSIONER: Letter Howden of Select to Way of St Andrews, 4 April '18, ASIC.0025.0003.1020, is exhibit 4.191.

5 **EXHIBIT #4.191 LETTER HOWDEN OF SELECT TO WAY OF ST ANDREWS DATED 04/04/2018 (ASIC.0025.0003.1020)**

10 MS ORR: Now, I want to deal finally, Mr Howden, with the evidence of Ms Marika yesterday in court. You heard that evidence?---Yes, I did.

You heard that Ms Marika was first contacted in August 2015 by an external lead provider?---Correct.

15 And you say in your statement that, on that occasion, Ms Marika confirmed her acceptance to receiving a call in regard to funeral insurance?---Correct.

20 Now, having heard Ms Marika's evidence yesterday, do you consider that Ms Marika wanted to receive a follow-up call about funeral insurance from Select?---She did participate in the phone survey where she did agree to get a call back.

25 Having heard Ms Marika's evidence yesterday, do you consider that Ms Marika wanted to receive a follow-up phone call about funeral insurance from Select?---I heard it from Ms Marika yesterday. I agree that she didn't want to get that call.

But Select made a call to Ms Marika for the first time on 25 August 2015?---Correct.

30 And in your statement you say that that call was interrupted due to the phone connection being cut?---Yes.

But just prior to that call being cut, Ms Marika had clearly indicated that she did not have any interest in taking out a policy with Select, hadn't she?---Correct.

35 She indicated that she "can't have two, both mine", referring to two funeral insurance policies. Do you recall that?---Yes, I do.

And when the Select representative tried again to offer a policy to Ms Marika, she said:

40 *No. I – I – I'm happy with the other one.*

Do you recall that?---Yes, I do.

45 And the Select representative persisted after that?---And he shouldn't have done so.

He was handling an objection, wasn't he, Mr Howden?---Well, once he realised that she already had insurance and he wasn't sure what insurance she had, he should have arranged for a call back.

5 Well, he knew she had insurance right from the start. She made that clear at the outset, didn't she?---He wasn't sure what the policy was and she wasn't sure what the policy was.

10 They - - -?--- only do a comparison quote when you know what the policy is.
They were both clear that she had another funeral insurance policy, weren't they?---Correct.

15 And after Ms Marika said, "No, I – I – I'm happy with the other one", the Select representative had another go, to which Ms Marika responded:

Oh, no, no.

20 Do you recall that?---Yes.

25 Now, having heard Ms Marika's evidence and having reviewed the transcripts and listened to the recordings of those calls, are you in any doubt as to whether Ms Marika was interested in taking out a funeral insurance policy with Let's Insure?---I agree that the sale shouldn't have been made, and I agree that the – the agent should have followed up with a follow-up call, requested Ms Marika phone her back. It appears, listening to the full recording, that Ms Marika knew that – what the insurance was about, but I agree that it shouldn't have been made, that sale.

30 You say she knew what the insurance was about?---She knew it was about a funeral insurance policy.

Do you think she understood the funeral insurance product that was being sold to her?---Not in its entirety, no.

35 Not in its entirety?---Yes.

40 What do you mean by that, Mr Howden?---He probably didn't explain – understand all the features like accidental serious injury, accidental death. She knew that it was funeral insurance. She agreed initially to do a call about funeral insurance. She didn't know all the inner workings of the product.

45 You have come back to her agreeing initially to receive a phone call about funeral insurance. I thought you accepted that the evidence established that she didn't want to receive a follow-up call from funeral - - -?---Once I heard the discussion with her, yes, I came very firmly to that conclusion.

And it would have been very clear to the other person on that call, wouldn't it?---And I agree, Ms Orr, he should have ended that call.

5 The next Select call to Ms Marika happened on 9 September 2015. And early on in that call we heard the representative say that he was giving Ms Marika "that call back from Let's Insure". Do you remember that?---Yes.

10 Now, that made it sound as though Ms Marika had requested a call back from Let's Insure, didn't it?---Yes. It was wrong, the way he – he – he positioned it.

I'm sorry?---It was the way he said it's a call back.

Yes. It wasn't a call back, was it, Mr Howden?---I agree.

15 And that was confusing to Ms Marika?---Yes, it was confusing.

The representative then said to her:

20 *Oh, you've done the survey online about the Let's Insure funeral cover, and I'm just here to give you your free quote. Okay?*

You recall that?---Yes, I do.

25 No online survey had been done by Ms Marika, had it, Mr Howden?---The agent got confused with the – the lead provider says, "I'm doing a survey," and the agent got confused and referred to an online survey when he should have referred to a voice lead.

30 No online survey had been done by Ms Marika, had it, Mr Howden?---Hadn't been done.

35 And during that call, which you accept Ms Marika didn't want to receive, Ms Marika agreed to acquire funeral insurance cover for herself, her children, and her five grandchildren?---Correct.

And Select set up two policies for Ms Marika because at that time you've capped the maximum number of people on one policy as five people, didn't you?---Correct.

40 Now, you accept, don't you Mr Howden, that there were a number of very serious defects in the processes used by the Select representative in this call?---Yes, I do.

You accept that the Select representative told Ms Marika that it was common for people to have two funeral insurance policies?---Yes.

45 And he also said to her that her work policy would stop if she stopped working, but that the Let's Insure policy would continue to be in place and provide cover?---And he shouldn't have made that statement.

So both of those statements shouldn't have been made, should they, Mr Howden? This sales representative had no details of the work policy that Ms Marika had, did he?---I agree.

5 Do you accept that the representative was giving personal advice when he made that comment?---He shouldn't have made that comment, yes.

Well, he was giving personal advice, wasn't he, Mr Howden?---Yes. He was giving personal advice.

10 And you're aware of the statutory restrictions on the offer of personal financial advice under the Corporations Act?---Yes, I am.

15 And in your training material, you warn staff against providing personal advice?---Correct.

But that was precisely what this representative did?---The whole call was terrible, I accept that. It failed. I can't defend that call.

20 He wasn't authorised or licensed to provide personal advice, was he?---Correct.

And he didn't provide any disclosure statement or document?---No.

25 And he therefore contravened section 952C of the Corporations Act?---If you – if you say he has, he probably has contravened that.

30 Are you aware that that's an offence provision? That it is an offence to provide personal advice other than in the circumstances prescribed by the Act?---Yes. I'm aware it's an offence to provide personal advice, yes.

Now, Ms Marika was never asked for her consent to receive a product disclosure statement orally, was she?---No, she wasn't.

35 That was another statutory breach?---Yes.

And we heard that the representative said to Ms Marika:

40 *Perfect. Well, what I will do for you, Kathy, so we can get you all covered, I just need to play you a recording. It's only 60 seconds long. So you make sure you listen to this. You will come straight back to me and we will get you and all the kids sorted. Okay?*

And Ms Marika responded:

45 *Okay.*

And the agent said:

No worries.

And following that, the PDS recording was played; is that right?---Yes, that's right.

5 So that was the conduct that breached section 992A(3)(e) of the Corporations Act?---I agree with you that the call was a failed call.

10 And do you agree that there was a breach of the provision requiring the obtaining of consent to receive the PDS in the call?---Again, without looking at the – the full script and as we referred to earlier, I'm not sure if it was an assumed request, playing the PDS.

15 Well, she wasn't asked for her consent to receive the product disclosure - - -?---She wasn't asked

- - - statement in that way, was she, and therefore there was a breach of that provision?---I'm not qualified to comment on that.

20 All right. You accept that there were multiple occasions in this call in which Ms Marika appeared confused?---Yes, I do.

25 And you say in your statement that on listening to the calls you formed the view that Ms Marika's language skills and general comprehension were not obviously impaired such that she was not aware that she was purchasing funeral insurance for herself, her children and grandchildren. Now, having listened to Ms Marika's evidence, do you maintain that position?---At the time we listened to the call it appeared that she, at various stages comprehended, what was being put to her.

30 And having heard - - -?---When I heard it in person from her yesterday, I have no reason to dispute what she's saying.

But you say in your statement that your review of the call recording caused you to form the view that, while it suggested that she consciously provide:

35 *While the call recording suggests Ms Marika consciously provide her bank details for purposes of paying for these policies and agreed to the direct debit arrangement, there were sufficient signals during the call that suggests that she may not have fully understood the product she was purchasing, and the consequences of the purchase.*

40

?---Correct.

So that was your position even prior - - -?---Correct.

45 - - - to seeing Ms Marika's evidence. And you said in your statement that you considered that those signals should have been obvious to the sales agent on the call?---Correct.

In all of those circumstances was it unconscionable to sell the funeral insurance policy to Ms Marika, Mr Howden?---Yes, it was.

5 Thank you. And then on 10 September there were two further calls between Ms Marika and Select. Do you recall that?---Yes.

And in the second call the representative requested from Ms Marika details of family members and friends for the purposes of trying to make more sales?---Correct.

10 And you say in your statement that that was unreasonable?---Correct.

And you say it was a gross abuse of Select's referral program?---Correct.

15 Now, by virtue of your sales training, your KPIs, your incentive schemes, your quality assurance scheme and your disciplinary framework, I will put to you directly that you had created a situation in which this type of gross abuse was unsurprising?---The call – again, going back to the earlier statement I made, unfortunately this agent was driven by an incentive which happened to be one of those incentives. If you look at previous minutes, compliance minutes, he was not
20 flagged as – as an agent with lots of breaches. He did the wrong thing, and – and he accepts that. He did the wrong thing.

25 Now Select, you tell us in your statement, became aware of this gross abuse of its referral program on 1 June this year?---That's correct.

And that was the day after Select received a request - - -?---Not Select, but Russell Howden, the first time I - - -

30 That was the first time you became aware of it?---Personally, yes.

Is there a difference there, Mr Howden? Were others already aware of it?---No. Because the original call when the letters came through, the call was listened to and they agreed it wasn't a good call, and they agreed to refund the – the premiums.

35 I see. Are you referring to when New South Wales Legal Aid - - -?---Correct.

- - - contacted Select about that call?---Correct.

40 The call was listened to at that time?---By the quality assurance department, yes.

And it was agreed that it was - - -?---It didn't meet the company standards, and it was a failed call, and for that reason they should refund the premium.

45 You were not aware of that at that time?---No, I wasn't.

It wasn't a bad enough call to be drawn to your attention?---It didn't come to my attention, unfortunately.

Should it have come to your attention, Mr Howden?---Yes it should. It should have.

Okay. But you became aware of it on 1 June this year?---Correct.

5 And is that because you received a request from the Royal Commission for a witness statement in relation to Ms Marika's - - -?---Yes.

- - - experience? So had we not looked into Ms Marika's matter there might have been no appreciation at your level of the business of what had occurred?---I think we
10 have previously advised that we are working in conjunction with ASIC as part of a broader review. We will be contacting people in various postcodes and we will be carrying out a remediation process.

You understand, don't you, that Ms Marika was not from one of your identified
15 postcodes. So that will not be an adequate way of ensuring that situations like this are not repeated?---We have changed our processes going forward and I hope our process – an incident like this never occurs in the future.

And after you became aware of the issue on 1 June 2018, you tell us in your
20 statement that you immediately summoned the representative who had conducted the sale to a disciplinary meeting on 5 June?---Correct.

So after the call had earlier been identified as a failed call when New South Wales
25 Legal Aid had got in touch, no one had taken any disciplinary action in relation to the sales representative?

MR CHESHIRE: Commissioner, sorry to interrupt my learned friend. She refers to
"the call". There's several separate calls. And I'm not being pedantic: there is a
30 substantive difference between the first call and the second call, if I call them that. There's the sales call and then the follow-up for the referrals and there is, I think, a distinction in the evidence between the two.

THE COMMISSIONER: Yes.

35 MS ORR: I'm not sure I am clear on that. We had understood that the 9th and the 10 September calls were conducted by the same sales representative.

MR CHESHIRE: As I understand the position, the first call which is, if I call it, the
40 call during which the sales was made, that's the one that was picked up when Legal Aid made their complaint. I don't think anybody in Select had listened to the follow-up call where the referrals were at any stage, and then Mr Howden became aware of both calls at the same time. That's – I think that's the position.

45 MS ORR: I see. So to make sure I'm clear, the call that you say was listened to after the New South Wales Legal Aid correspondence was the sales call?---Only the sales call.

Only the sales call on 9 September. And that was determined to be a failed call?---Correct.

5 And was any disciplinary action taken against the sales rep - - -?---I would – I would assume that the – the QA would have brought that to the attention of the team leader.

10 Well, have you looked into this, Mr Howden? Do you know whether any action was taken against the sales representative?---I can't see any written evidence of that, but would I assume that would have happened

15 Why do you assume that would have happened, Mr Howden?---Because that was the process. If there was a failed call the QA would bring it to the attention of the team leader and the team leader would also listen to that call.

15 Have you seen any documents to suggest that that occurred?---No.

But when you became aware of the issue on 1 June you summoned the representative to a meeting, a disciplinary meeting?---That's correct.

20 And you asked him – you gave him a letter before that meeting in which you asked him to provide – asked him to attend to enable a full and detailed investigation of the matter?---Correct.

25 And you let the representative know in your letter that you, Mr Howden, had sole responsibility for the conduct of the meeting, together with any resulting decision which was to be made after the meeting?---Correct.

30 And you held that meeting with the sales representative on 5 June this year?---Together with the head of human resources.

I see. And that was on 5 June?---Correct.

35 And then at SAF.0005.0001.0003 we see a letter that you wrote to the sales representative on 5 June, the same day as the meeting?---Correct.

Advising the sales representative that his employment had been:

40 *...terminated effective immediately due to a gross abuse of the customer referral process in the sale of funeral insurance to Ms Marika in 2015.*

?---Correct.

So you had become aware of this matter on 1 June. That's right?---Correct.

45 So your full and detailed investigation of the matter occurred between 1 and 5 June?---That's correct, because we listened to all the – the calls.

I tender that letter, Commissioner.

THE COMMISSIONER: Dismissal letter 5 June '18, SAF.0005.0001.0003, exhibit 4.192.

5

**EXHIBIT #4.192 DISMISSAL LETTER DATED 05/06/2018
(SAF.0005.0001.0003)**

10

MS ORR: And if we go back to the events involving Ms Marika at the time, on 16 September 2015, a week after being sold the poll policies, Ms Marika had another two calls with Select?---Which calls were those?

15

Well, these were calls that were handled by different sales representative to the first sale representative in which Ms Marika attempted to cancel her policies?---That's correct. And I think the one agent offered a month free.

Yes?---That's the one you are referring to?

20

Yes?---Yes.

So Ms Marika was talked out of cancelling the policies by the offer to have a month for free?---She said it would help her, because she was starting work again in October, and she said, "Thank you for that."

25

Do you accept that she was talked out of cancelling her policy by the offer of one month's free payments?---I accept that she was convinced to keep her policy.

30

I see?---

You know, don't you, Mr Howden, that Ms Marika had a right to cancel her policy for at least 14 days after the policy had been entered into?---She's got a right to cancel a policy at any time.

35

Well, she had a statutory right under the Corporations Act for 14 days, didn't she?---And ours goes right up to 30 days and she has that right. Yes.

Well, that's right, the statutory entitlement is for 14 days, but under your product disclosure statement that was applicable to her policy she had 30 days - - -?---Correct.

40

- - - as a cooling off period to cancel the policy and any premiums paid in that time would be refunded?---Correct.

45

Now, do you think that the way your representative handled that call and the request to cancel the policy in that period was fair to Ms Marika?---It appears again, listening

to the recording, Ms Marika appeared to be happy with the offer of one month to keep her policy going.

5 Do you think it was fair, the way that call was conducted, Mr Howden?---In what sense?

10 Do you think it was fair, the way the call was conducted, fair to Ms Marika in circumstances where she was calling to cancel her policy because she could not afford it?---That was an affordability issue she raised, and she said she was starting work the next month, and the agent offered her one month free to get her back on her feet once she had her job. And she still said at the end of the call, "You can always phone me back if your circumstances change."

15 So you think - - -?---So she did leave the door open for Ms Marika.

Do I take it from that that you think that was a fair way to conduct that call?---Are you suggesting that we should cancel the call each time - - -

20 I am just asking you to respond to my question, Mr Howden. Was it a fair way to conduct the call?---I think she gave a fair solution to the problem.

25 And in Select's subsequent correspondence with Legal Aid, after these matters were drawn to its attention by Legal Aid, Select indicated that it was prepared to refund the premiums that had been paid?---Correct.

30 And it did that as an act of good will. That's how it was described in the correspondence. Now, knowing what you know now, should that payment more appropriately been characterised as a recognition that Ms Marika had been paying for a policy that she did not need, that she did not want, and that she did not understand?---Agreed.

Thank you. I have no further questions, Commissioner.

35 THE COMMISSIONER: Yes. Mr Cheshire.

MR CHESHIRE: Commissioner, I have no questions for Mr Howden. I did raise the issue of tender of some documents which I've discussed with Ms Orr. I've drawn up a list which, Commissioner - - -

40 THE COMMISSIONER: Yes, just before we come to that. Mr Weber, have you anything you wish to raise?

MR WEBER: No, no questions.

45 THE COMMISSIONER: Thank you. Yes, Mr Cheshire.

MR CHESHIRE: If I hand up the list to you, Commissioner – I will just show my learned friend. They're just

THE COMMISSIONER: Yes, thank you.

5

MR CHESHIRE: These are the four responses to various notices to produce, in which Mr Howden has given some further explanations, and they now have references.

10 THE COMMISSIONER: Exhibit 4.193 will be RCD.9999.0057.0001, Select response to NP 475, 14 June '18.

15 **EXHIBIT #4.193 SELECT RESPONSE TO NP 475 DATED 14/06/2018
(RCD.9999.0057.0001)**

THE COMMISSIONER: Exhibit 4.194 will be RCD.9999.0060.0001, Select response to NP 495 of 13 June '18.

20

**EXHIBIT #4.194 SELECT RESPONSE TO NP 495 DATED 13/06/2018
(RCD.9999.0060.0001)**

25

THE COMMISSIONER: Exhibit 4.195, RCD.9999.0057.0005, Select response to NP 497, 13 June 2018.

30 **EXHIBIT #4.195 SELECT RESPONSE TO NP 497 DATED 13/06/2018
(RCD.9999.0057.0005)**

35 THE COMMISSIONER: Exhibit 4.196, SAF.0006.0001.0001, Select response to NP 654, 13 June '18.

40 **EXHIBIT #4.194 SELECT RESPONSE TO NP 654 DATED 13/06/2018
(SAF.0006.0001.0001)**

MR CHESHIRE: Thank you, Commissioner.

45 THE COMMISSIONER: Yes. Thank you, Mr Howden. You may step down and you are excused.

<THE WITNESS WITHDREW

[12.39 pm]

MS ORR: Commissioner, that concludes the case study in relation to Select AFSL.
5 We turn now to case studies involving ANZ. Would it be possible for us to have a short break to rearrange - - -

THE COMMISSIONER: If I come back at quarter to one.

10 MS ORR: Thank you, Commissioner.

ADJOURNED

[12.39 pm]

15

RESUMED

[12.45 pm]

THE COMMISSIONER: Yes, Ms Orr.
20

MS ORR: Commissioner, our next witness is Thy Do.

<THY DO, AFFIRMED

[12.45 pm]

25

<EXAMINATION-IN-CHIEF BY MS ORR

30 THE COMMISSIONER: Thank you very much. Do sit down. Yes, Ms Orr.

MS ORR: Ms Do, your full name is Thy Do?---Yes.

35 And your professional address is 18 Katherine Terrace in Katherine, in the Northern Territory?---Yes.

And you are a senior family support worker?---Yes, I am.

40 And did you receive a summons to attend and give evidence today, Ms Do?---Yes, I did.

Do you have that summons there?---Yes, I do.

45 I tender that summons.

THE COMMISSIONER: Exhibit 4.197 is the summons to Ms Do.

EXHIBIT #4.197 SUMMONS TO MS DO

MS ORR: Ms Do, did you make a statement to the Royal Commission dated 30
5 June this year?---Yes, I did.

Do you have that statement there?---Yes, I do.

10 Are the contents of that statement true and correct?---Yes, they are.

I tender that statement, Commissioner.

15 THE COMMISSIONER: Exhibit 4.198, the statement of Ms Do, 30 June '18.

EXHIBIT #4.198 STATEMENT OF MS DO DATED 30/06/2018

MS ORR: Ms Do, you are a senior family support worker in Katherine?---I am.
20

Which organisation do you work for?---Save The Children.

25 And what does your position at Save The Children involve?---I work in a program called the intensive family support service. It services the Katherine town and a number of remote indigenous communities around Katherine. My role as senior family support worker involves providing intensive case management and family-focused case management to families whose children may have previous or current involvement with the child protection system. So it's my role to provide education and support to build parental and carer capacity with a view to support families to
30 enhance the safety and wellbeing of their children.

35 And where did you work prior to Save The Children, Ms Do?---Prior to Save The Children, I was a family support worker with an organisation called Good Shepherd Australia and New Zealand and I was based in Melbourne then.

If you don't mind, I might ask you to keep your voice up a little. Now, do you have qualifications, Ms Do?

40 THE COMMISSIONER: That's usually my line, Ms Orr.

THE WITNESS: Yes, I do. I have a bachelor of social work from RMIT University.

45 MS ORR: Now, in the statement you've provided to the Commission Ms Do, you provide evidence about one of your clients at Save The Children?---Yes.

And could you tell us a bit about that client?---Yes. My client is a Dalabon woman. She lives in a remote community approximately an hour and a half away from Katherine. She is in her 30s, she's a single mother of three school aged children. She speaks two Aboriginal languages, she also speaks English, but English is not her
5 first language.

Now, can I ask you a bit about the community in which your client lives. You said it was an hour and a half away from Katherine; is that right?---Yes.

10 Can you tell us a bit about the community, the size of the community, and how it operates?---Sure. The community is about 100 kilometres or so away from Katherine. My understanding is that the population is around four to five hundred people. The majority if not all of the residents in that community would, I imagine, identify as Aboriginal and Torres Strait Islander. And my work involves driving out
15 to that community a few times a week, depending on the needs of the client, or the needs of the family, and – yes.

Are there times when the community is difficult to access from Katherine?---Yes. The drive to and from the community would really depend on the weather conditions and the season throughout the year. So during the wet season, for example, the
20 conditions of the road might be such that it might take us longer to drive out there, or it might be unsafe for workers to drive on the conditions of that road, in which case we won't be able to go out to see the family. And very occasionally throughout the wet season there might be flooding that occurs as well, which prevents us from going
25 into the community, but also people leaving the community as well.

Is there any bank presence in the community, Ms Do?---I don't believe there's a bank branch in the community. I believe there is one ATM in the community.

30 And what do you know about that ATM, Ms Do?---My understanding is that ATM is privately operated, which means that each time my client would check her balance at that ATM or try to withdraw money, she will be charged a fee.

And do the residents of this community have the ability to access the internet?---I
35 believe there is mobile phone coverage and there is internet coverage, yes.

Do you know how, other than mobile phone coverage, internet access is– there is internet access in the community? How does it operate?---I believe there is a communal computer available at the local council office that people might be able to
40 access if they need to.

Can I come back to your client, Ms Do. Do you know what your client's source of income is?---Her main source of income is Centrelink payments.

45 And does your client have a basic card?---I believe she does.

And can you explain what – we’ve heard a bit about basic accounts and I’m going to ask you some questions about those later. That’s different to a basic card; is that right?---Sorry, what – what’s different from a basic card?

5 Is a basic account something different to a basic card?---My understanding is a basic card is associated with her Centrelink payments, so I would be able to speak to the basic card.

10 Is the basic card a form of income management?---Yes, it is.

Is that how that works?---I believe it is, yes.

15 So how does it operate? Do you know that?---My understanding is that my client’s – 50 per cent of my client’s Centrelink payments are allocated towards her basic card, which means that there are particular transactions or goods and services that she would not be able to access with the money on that basic card.

20 Okay. So 50 per cent of her benefits are put on to the basic card and only certain essential goods and services can be acquired with money on that card; is that right?---That’s my understanding, yes.

And then 50 per cent remains in your client’s account for her to access as she wishes?---Yes.

25 Okay. Now, did your client – I’m going to ask you about some engagement that you had with your client from November last year. But to your knowledge, at the time you started engaging with your client, did she have direct debits in the bank account that she operated at that time?---I believe she did, yes.

30 And do you know what the direct debits were for?---My understanding was that she had direct debit arrangements for a photography package that she had unknowingly been signed up for, and she – I believe she also had direct debit arrangements for a clothing retailer. She was paying off clothes that she had purchased.

35 Was that clothing retailer located in your area?---I believe it was located in Katherine.

Now, you first met your client in about November last year; is that right?---Yes.

40 And how did you come to meet her?---I met her – at the time my colleague Penny was her principal case manager, and my colleague Penny had planned to go on annual leave, and so I was brought out to the community to meet my client as the plan was for me to take over some of the support tasks while my colleague was on leave.

45 And what sort of work had Penny been doing with your client?---At the time Penny had been supporting my client to review her household budget. This was because my

client had expressed some worries about being able to meet some of the essential needs that she had at the time, and so as a result of that conversation Penny had supported my client to review her bank statement, and it became apparent to Penny at the time that my client was being charged a significant amount in ATM fees, and so one of the tasks that was assigned to me while Penny was on leave was to have a discussion with the client about seeking a fee-free bank account in order to avoid similar fees in the future.

10 The ATM that's in the community, do you know if that's a fee-free ATM?---I don't believe it is, and the reason for that is my understanding was that each time my client was checking her bank balance or withdrawing money from that ATM she was charged a fee.

15 And that was apparent from the bank statements?---Yes.

And did Penny notice any other sorts of fees coming out of your client's account?---Yes, she also noticed dishonour and overdrawn fees being charged on that statement.

20 And what did the dishonour fees appear to be connected with?---I believe those dishonour fees were connected with my client's – at the time, she was unable to meet some of those direct debit arrangements. I think it was in relation to the photography package that she had been signed up for, and so when she didn't have sufficient funds in her account to meet that direct debit arrangement she was then charged a dishonour fee subsequently.

30 And do you know if Penny reached any views about the approximate proportion of your client's income was going towards the bank fees?---I believe we reviewed it over a period of three months and, from memory, on average it was about \$200 per month in fees.

And did Penny discuss with your client the possibility of switching her to a different form of bank account that didn't have those fees?---Yes, she did.

35 Excuse me. And this was around the time that you took over temporarily from Penny in looking after this client when she went on leave?---Yes, it was.

40 And around this time did you also have contact with your client's sister?---Yes, I did. We were also supporting my client's sister in relation to similar matters, because we also reviewed my client's sister's statement and found that she was experiencing or she was being charged similar fees at the time.

45 Okay. So did you start looking after both your client and your client's sister after Penny went on leave?---Yes.

And when you first started having dealings with your client, did you start making notes of your interactions with her?---Yes, I did. This was – this is a standard

practice for somebody in my role, to take case notes about interactions that I would have with both of my clients, and any other relevant service providers in the course of my work with the family.

5 And have you exhibited those notes to your statement as exhibit 1?---Yes, I have.

Now, having taken over as your client's case worker on a temporary basis while Penny was away, did you start looking into potentially appropriate bank accounts for your client and her sister?---Yes, I did. I recall Penny telling me that she had had a
10 conversation with the client about alternative banking institutions, and during that conversation my client had identified ANZ as a bank that she was familiar with, or that she had heard of, because she had relatives who also banked with ANZ. So Penny and I together decided that we might do some research into ANZ to see if ANZ had a particular product that would be suitable for my client's banking needs.

15 And what were the results of that research?---I – I conducted online research by going to the ANZ website, and having a look at the transactional accounts that they had available, and after viewing the ANZ website I could see that there were three transactional accounts that seemed to be available. One was the Access Advantage
20 account which to me appeared to be a standard transactional account with standard fees attached to it, but I also found two accounts that seemed to be specifically designed for eligible concession cardholders, and those accounts were the Pensioner Advantage Account and the Access Basic Account.

25 And were there features of the Access Basic Account that you thought rendered it a suitable product for your client and her sister?---Yes. I – I went on to review the – I think it was the fees and charges booklet, so information booklet available through the website, and I was trying to do a comparison between those two accounts. And I could see that the Access Basic doesn't have a monthly service fee but, more
30 importantly, it didn't seem to incur dishonour – or account holders would not incur a dishonour or overdrawn fee. So based on the reading of that information booklet or my reading of that information booklet, I deemed that the Access Basic account would be the most suitable product for my client.

35 And prior to Penny going on leave, did Penny go into the ANZ Bank branch in Katherine to discuss the possibility of your client and her sister opening a basic – Access Basic Account?---Yes. I believe she did in about early December 2017, just before she went on leave. She went into the ANZ Katherine branch to ask about the access basic account, and – yes.

40 And did she discuss with the banker that she had particular clients who she was making those inquiries on behalf of?---Yes. I believe she told the banker that she spoke to on that day that she had clients who didn't live in Katherine, lived in a community near Katherine, and were looking to open the Access Basic Account.

45 Now, did Penny discuss her interaction with the banker at the bank branch with you?---Yes. After Penny returned to our office, she told me that she had gone into

the Katherine ANZ branch and asked a banker there about opening an Access Basic Account with a client. Penny told me that the banker on that day had told Penny that the access basic account was no longer available to new customers, and Penny told me that the banker recommended the Pensioner – I'm sorry – yes, the Pensioner
5 Advantage account as – as a suitable alternative for customers who are on an eligible government pension.

And after this did you contact or attempt to contact your client to discuss these possibilities with her?---Before – I did, but before I did that I called up the ANZ call
10 centre first, just to confirm or clarify the information that Penny had received at the Katherine branch, because at this stage I wasn't sure whether or not that information that had been provided to Penny on that day was correct. So I recall calling the ANZ call centre on that day after my conversation with Penny to ask them whether the
15 Access Basic Account was, indeed, an available product, and on that day I was told by the phone operator that it was available, and it was available to both new and existing ANZ customers.

And after receiving that information, did you attempt to contact your client to discuss that with her?---Yes, I attempted to contact my client. I couldn't get through to my
20 client, but on that day I spoke to my client's sister and I advised her that we had found a suitable product based on the discussions that we had had about what bank account they were looking for, and that we would be able to – or I would be able to support my client and her sister to come into Katherine to open that bank account.

25 And what was the suitable product that you were referring to - - -?---The Access Basic account.

Thank you. And on 19 December last year did you drive from Katherine to the community to pick up your client's sister to take her to Katherine to open an ANZ
30 access bank – Access Basic Account?---Yes, I did.

And can you remind us how long is the drive from Katherine to the community?---On average it's about an hour and a half, so 90 minutes. One way.

35 Thank you. And was your client able to go with you that day?---My client wasn't available on that day, but my client's sister was available, so I was able to take her into Katherine with me.

And what sort of arrangements did your client or your client's sister have to make
40 before they could leave the community to travel to Katherine?---Each time my client or my client's sister would need to come into Katherine, she would – or they would need to make babysitting arrangements to ensure that their younger children were being well looked after, and this is not always an easy task because it's not always possible to make prior arrangements. It would really – it would normally depend on
45 whether there are suitable relatives in – in the community on that day and whether they are available to look after the children. The other thing was if – with children who were at school, if they were – if it wasn't during school holidays, for example,

and the children were at school while we go into Katherine, that would also set a time limit on how much time we can spend in Katherine before we need to start driving back to the community.

5 So on this day, on 19 December, you drove to Katherine and picked up your client's sister; is that right?---Yes.

And drove her to Katherine?---Yes.

10 And when you got to Katherine, did you take your client's sister to the courthouse?---Yes, I did.

Why did you take her there?---My client's sister didn't have an original copy of her birth certificate, so the first thing we did when we got to Katherine was to go to the
15 Katherine courthouse to obtain an original copy of her birth certificate.

And having obtained that birth certificate for your client's sister, did you and your client's sister then attend at the ANZ branch in Katherine?---Yes, we did.

20 Now, I want to ask you about what happened at the branch that day but perhaps, before I commence that piece of evidence, now might be a convenient time to break, Commissioner.

25 THE COMMISSIONER: Yes, if we come back at 2.

MS ORR: Thank you, Commissioner.

30 **ADJOURNED** [1.04 pm]

RESUMED [2.01 pm]

35 THE COMMISSIONER: Yes, Ms Orr.

MS ORR: Ms Do, I had been asking you questions about the events of 19 December last year?---Yes.

40 You had explained that you travelled to the community to which you've referred and collected your client's sister and brought her to Katherine?---Yes.

And that you attended the courthouse, obtained a copy of her birth certificate, and then attended on the ANZ branch at Katherine?---Yes.

45 Is that right?---Yes.

Now, what can you tell us about what happened when you went to the ANZ branch in Katherine that day?---I went – on that day, I went with my client’s sister to the Katherine ANZ branch. When we got to the branch we were greeted by the banker. At that point I told the banker that I was here – I was there with my client’s sister to support her to open an Access Basic account. At that point the banker told me – or
5 advised me to make an appointment for my client and her sister, as it was not possible for her to open an Access Basic account without a prior appointment.

10 And did the bank branch appear to you to be busy at that time?---Not that I recall. I don’t remember leaving the branch thinking that I had come to the branch on a particularly busy day or during a particularly busy period.

15 And what was your reaction when you were told that you would need to return with your client on another occasion for an appointment?---I was surprised. In my own experience, I had never had to make an appointment in order to open a bank account, and it didn’t cross my mind that that would be required in order for a new customer to open a bank account at the bank branch.

20 Did you, as a result of that, schedule an appointment for your client and your client’s sister to return to open their bank accounts?---Yes, I did. An appointment was scheduled for my client and her sister for two days later, on 21 December 2017.

25 And following that engagement with the banker at the branch on that day, did you then drive your client’s sister back to the community an hour and a half away from Katherine?---Yes.

Now, on 21 December, the date of the scheduled appointments, did you again drive out to the community to collect your client and her sister?---Yes, I did.

30 And when you got to the community, did you make a phone call to ANZ?---Yes, I did. When I got to the community and saw my client and her sister, I had a discussion with my client and her sister about the identification documents and supporting documentation that they had with them. My client was unable to obtain her Medicare card, and so at that stage my client and her sister – each of them had a
35 copy of their birth certificate and their Centrelink income statement. At this point, I decided to call the Katherine ANZ branch from the community in order to confirm that my client and her sister had sufficient supporting documentation in order to open a new bank account that day.

40 And what were you told in that call?---During that call, I spoke to the banker and the banker – I advised the banker that – of the documentation that my client and her sister had on that day and I was advised by the banker that those documents would be sufficient to open a new bank account.

45 And then did you drive your client and your client’s sister to Katherine?---Yes, I did.

And during that drive, did your client or your client's sister ask for your assistance at the meeting that was to happen at ANZ that day?---Yes, they did. We had a discussion during the drive about what that appointment was about, which was to open a new bank account for my client and her sister. I asked my client and her
5 sister what kind of support they were wanting from me during that appointment and my client and her sister asked if I could sit in on that appointment and support them to understand the conversation that would take place. And I believe this was because English was not – is not my client or her sister's first language.

10 Now, did you attend the appointment at the bank that day with your client and her sister?---Yes.

And what do you recall about that meeting at the bank that day, Ms Do?---When we arrived at the branch, we were greeted by the banker for our scheduled appointment.
15 When we sat down, I said to the banker on behalf of my client and her sister that my client and her sister were there to open an Access Basic account.

Did you explain to the banker why your client and her sister wanted to open an Access Basic account?---Yes, I did. I explained to the banker that the reason why
20 my client and her sister were looking for the Access – to open the Access Basic account was that they were looking for a free – fee-free account and a fee-free account particularly one that doesn't attract dishonour or overdrawn fees.

And did your client and her sister provide the banker with their identification
25 documentation?---Yes, they did. From what I recall, my client provided her original birth certificate and a copy of her Centrelink income statement, and, from memory, I believe my client's sister provided her birth certificate, her Centrelink income statement and her Centrelink healthcare card.

30 Now, did you also tell the banker that your client and her sister wanted to open a savings account?---Yes, I did. I told the banker that my client and her sister were looking to open a savings account, and the banker advised that the Progress Saver savings account would be the most suitable option for them.

35 Now, did the banker ask your client and her sister some questions in this meeting?---Yes, she did. I believe these questions were in relation to the Progress Saver account, and these questions, from memory, were in relation to their household budget and in relation to their regular expenditures.

40 And how did your clients go – your client and your client's sister go with answering those questions?---I recall some of the questions that were being asked were what are you saving for, what amount would you like to save, how quickly would you like to save that amount, and, from memory, my client appeared to be – she was giving what
45 seemed to me to be quite vague and brief responses to those questions.

Did you form any view about her understanding of those questions?---At this point, I wasn't sure whether she understood the purposes or the implications of the questions

that she was trying to answer. Because she was giving quite brief and vague responses, I was concerned that she was, perhaps, answering those questions to be polite, because a question was being posed, and I wasn't sure whether those answers were then in turn being taken literally by the banker. And I wasn't sure whether my client was meaning them to be literal responses to those questions, as I wasn't sure whether she understood what the questions were referring to.

Do you remember any of the sorts of answers that your client or her sister were giving to those questions?---I remember when the banker asked what are you saving for, I remember my client pausing. And I think her response was something like maybe furniture. I remember then the banker responded by asking how much would you like to save for furniture? I remember my client pausing and then saying something like maybe a few thousand. I then recall the banker responding to that answer by saying something along the lines of so let's say 5000.

Now, what was the banker doing during the period where these questions were being asked and the answers were being given?---The banker was typing. So I assumed that she may have been inputting those responses into her computer.

And did the banker suggest that a direct debit arrangement be set up?---Yes. At the end of those questions and after my client had provided some responses to those questions, the banker seemed to type into – I couldn't see clearly what was on the screen. I made an assumption that maybe it was some sort of calculator that was on the screen, because it – it appeared to me that the banker was perhaps following some prompts on that screen. And at the end of the questions the banker said to my client that – there was a suggestion made by the banker that perhaps my client should save approximately \$100 per fortnight, and that the banker then suggested that she could set up a direct debit arrangement for my client, which I understood to mean that \$100 per fortnight would be directly – would go directly from her Centrelink payments into her Progress Saver account.

What did you think of that suggestion of the banker's?---At this point, I was – I was quite concerned, because, firstly, the whole reason why we were supporting my client and her sister to seek a fee-free account was that direct debit arrangements had caused a lot of strife for my client and her sister in the past, and we were trying to avoid putting in place direct debit arrangements that my client and her sister didn't fully understand the implications of.

Did you raise any of that with the banker?---Yes, I did. I, at this point, suggested to the banker that, perhaps, I wasn't sure whether my client understood what was happening in that conversation and the implications of that direct debit arrangement. I suggested to the banker that perhaps that particular meeting wasn't the time for my client to be making that decision. And I asked her whether it was possible for my client to have some time to think about it and return to that idea later on, if that's in fact what she wanted to put in place.

And how were things left about the direct debit proposal?---The banker then said that that was fine and that it was okay for my client to not put a direct debit arrangement in place on that day and that she could return to it later on if she wished to.

5 And during the meeting, did the banking set – sorry – did the banker set up internet banking for your client?---Yes, she did.

10 And what do you recall about how that process was undertaken?---My understanding was, in order to set up online banking for my client and her sister, we had to go through a process of setting security questions and answers. So through that process there were a series of, I believe, preset questions that were posed as options for my client to choose from, and then to then nominate an appropriate answer to that question.

15 And do you recall any of the preset questions that were suggested to your client by the banker?---Yes, I do. From memory, some of the questions were who was your childhood hero, who was your best friend in primary school, and I believe another one was in which town or city was your first job.

20 And did your client and her sister appear to understand and engage with those forms of questions?---From what I could see, my client seemed a little bit confused. She didn't immediately answer the question. It appeared to me that she was processing what was being asked of her. At one stage, she also – she turned to me and said to me is it okay if I just give my mum's name or if I just give my children's names?

25 So were preset questions set into the internet banking access?---Yes, they were.

30 Yes. In line with what your client had suggested the questions should be?---Yes, there were, I believe, three questions set for each – each person. So for my client and for her sister.

35 Now, were there discussions in this appointment about whether your clients did any online shopping?---From – from memory, I believe there may have been a question along the lines of do you do any online shopping? And, from memory, my client's response to that question was no.

40 Do you recall any discussion of any credit card being made available to your client or your client's sister?---No, I don't recall the words credit card being used in that meeting.

45 Do you recall any discussion about any other type of card being made available?---No. I was – for the duration of that meeting, I was under the impression that an Access Basic account was being opened for my client and her sister. And that was because that was the account that we had requested at the beginning of the appointment.

Did you understand that there would be a keycard associated with that account once it was set up?---Yes.

5 And do you recall any discussion about the colour of that keycard?---I recall towards the end of the appointment the banker turned her screen towards my client and her sister. And I believe there was a – a question as to which – what colour she wanted her keycard to be, and I believe my client chose pink.

10 You've mentioned a point when the banker turned the computer monitor to you. Was there an earlier point in the meeting where that happened, as well?---That was the first point that the monitor was turned around, from memory. And then there was another point at the end of the appointment where the monitor was turned around again for me and my client and her sister to review what was on the screen.

15 And what did you see when you were given the opportunity to review what was on the screen?---I could see two accounts listed on that screen. And it was my understanding that those were the two accounts that had been opened during that appointment. The first account was the Progress Saver account, and the second account listed on the screen was an Access Advantage account.

20 An Access Advantage account?---Yes.

25 And did you say anything to the banker when you realised that there was a Progress Saver account and an Access Advantage account but no Access Basic account?---Yes, I did. I asked the banker why – well, I asked the banker that I had noticed there was an Access Advantage account on the screen. Is that the account that has been opened for my client and her sister? And the banker said yes. At that point I recall asking her – or expressing confusion about why that was the account that was opened, because we hadn't discussed that account during that meeting.

30 And, again, we had explicitly requested that the Access Basic account be opened at the beginning of the appointment.

35 Did the banker say anything to you about why that form of account had been opened?---From memory, she – when I asked her why it wasn't an Access Basic account that was opened, the banker told me that it was not possible to open that bank account type, being the Access Basic account, from the branch.

40 From the branch. And was that consistent with the information that you had obtained previously online and on the phone about this form of account?---No, it was not. And I pointed that out to the banker. I said to her that I had spoken to – I had called the ANZ call centre and I had also reviewed the web page for the Access Basic account on the ANZ website, and I remember telling her that that's not what – that's not the information that I gathered from both the website and through the call centre.

45 Did they say anything to you about whether you needed to be a new or existing customer to open that form of account?---No, not from memory. All that I can remember – recall the banker saying was that it's not possible for me to open that

bank account from the branch or that the computer system doesn't allow me to do that from the branch.

5 And what was the response of the banker when you explained what you had been told over the phone and what you had seen online?---I don't recall any other response beyond the banker saying that it's not possible for me to open this bank account from the branch.

10 Did you ask for some more information about the Access Advantage account?---Yes, I did. I remember reading about the Access Advantage account when I was reviewing the information booklet when I did online research about the ANZ products. So I remember asking the banker whether the Access Advantage account attracts a monthly service fee. And the banker told me that it does, but that she could waive them.

15 And did you ask about whether any dishonour or overdrawn fees applied to that form of account?---Yes, I did.

20 And what did the banker say to that?---The banker said to me that the account does attract dishonour and overdrawn fees, but that they shouldn't be an issue so long as the customer doesn't overdraw her account.

25 So how long had the meeting been going at this point, do you think, Ms Do?---By this point, I believe the meeting had gone on for about 60 to 90 minutes.

30 And how were your client and her sister coping with the meeting by this point?---I think by this point they appeared to me to be quite tired, and I wasn't sure, towards the end of the appointment, whether my client and her sister really understood the content of the exchange between me and the banker. And I wondered whether this was because my client and her sister and myself were under the impression that it would be a fairly quick appointment, because we were there to do what I thought was a fairly basic task, which was to open a bank account. So at this point I believe my client and her sister seemed quite tired and confused.

35 And did you try to clarify further with the banker the forms of account that had been opened?---Yes, I did. I tried – again, I think all I could really think to ask was can we open an Access Basic account, but at that point I believe the banker couldn't assist me further, because her next appointment had arrived or – yes, had seemed to arrive at the bank.

40 So how was the meeting concluded?---At that point, we knew – or we knew that the Progress Saver account was opened and an Access Advantage account had been opened. I was very confused as to why this was the case, but we just had to leave the branch, because it didn't seem like the banker was able to assist us further on that day. But, also, my client and her sister had to do a few other things in Katherine before I drove them back to the community.

And did your client and her sister give consent to the banker for an email to be sent to your work email address to confirm the new accounts?---Yes, they did. And this was because my client and her sister do not have email accounts, and it was a – an email account was required through the process of opening that bank account – or
5 those bank accounts. And the banker then asked for my email account – email address – sorry – when my client and her sister gave permission for me to provide that to the bank.

10 And after the meeting you said that your client had some other things to do in Katherine. Is that right?---Yes.

And while your client was doing that, did you telephone ANZ?---Yes, I did. I called up the call centre again, and I explained, without identifying my client or her sister, what had just happened at the ANZ Katherine branch, and I, again, asked whether it
15 was true that the Access Basic account is available both to new and existing customers. And the ANZ operator or representative told me that it is an available product and it's available to both new and existing customers, as long as the customer can provide suitable identification and supporting documentation at a local branch.

20 And after this call, did you go back to the ANZ branch?---Yes, I did.

And why did you do that?---I went back into the branch to ensure that the branch had kept photocopies of my clients' identification documents, just to ensure that that
25 wouldn't be a barrier to – to my client and her sister being able to access the Access Basic account. During my phone call with – during my phone call with the ANZ representative, I also asked whether it was possible for my client and her sister to now change their account type over the phone, and the operator told me that it is possible, now that they've already provided sufficient documentation to a local
30 branch. And that's why after that phone call ended I went back to the branch to ensure that the branch had in fact kept photocopies of those documents.

And after this, did you drive your client and her sister the one and a half hours back to their community outside of Katherine?---Yes, I did.

35 So those events were on 21 December last year?---Yes.

And in the new year, on 4 January, did you go back out to the community?---Yes, I did.

40 And did you meet with your client?---Yes.

And did you show your client how to use the ANZ online banking system?---Yes, I did.

45 And up until that point, how had your client normally got information about her bank account?---My client told me that she would call the bank to check her balance.

And at this point had your client received the keycard for the - - -?---I don't believe so.

5 - - - new accounts? Had she been able to access her new accounts?---I don't believe so.

Was she still using her pre-existing bank account with a different bank for the receipt of her Centrelink benefits?---Yes.

10 And at some later point did your client receive the keycard that would allow her to access the new ANZ accounts?---Yes.

15 Now, on that day, on 4 January when you were in the community with your client, did you log on with your client to the internet banking service?---Yes, I did. My client happened to have some data on her mobile phone on that day, so I thought it might be a good time to show her how to access her online banking account, should she wish to do that herself at a later time.

20 And when you logged on to her online banking, what did you see about the sorts of accounts that had been set up?---When we logged in on that day I recall seeing two accounts in – in her online banking account. There was the Progress Saver account, and then there was a Pensioner Advantage account that was listed.

25 A Pensioner Advantage account?---Yes.

30 Did you comment to your client about seeing that there was a different form of account, a Pensioner Advantage account?---Yes. At that point I thought I – I was surprised, because I wasn't sure why it was listed – or that there was an account that was listed as a Pensioner Advantage account, because I don't recall supporting my client to open that type of account. So I recall asking my client whether she had made contact with ANZ to change her account type, and she told me that she hadn't.

35 And what did you think when you saw that there was a different type of account, but still not an Access Basic account there for your client?---I think by that point I was – I was just very confused, because I couldn't think of an explanation as to why that account would appear on my – on my client's account. Yes.

40 So a bit over a month after that, on 15 February this year, did your colleague, Penny, having come back from leave, go out to the community to pick up your client for some other appointments?---Yes.

And those other appointments were in Katherine?---Yes.

45 And while your client was in Katherine, did you meet up with her and call ANZ?---Yes.

And what do you recall about that call?---My client and I had called ANZ with the intention of changing her account type over the phone. On that day, we called ANZ twice. The first time I supported my client to call the ANZ call centre. I explained to the operator that we had called to – for my client to change her account type from
5 the now Pensioner Advantage account to the Access Basic account. During that first phone call, the operator advised that it was not possible for us to do this over the phone and that we needed to attend a bank branch.

Did you then call ANZ a second time that day?---Yes, I did. During that first – first
10 phone call, we – I don't remember entering any – following any prompts at the beginning of the call to enter my client's specific account details, and so I decided to call ANZ back a second time. And this time my client entered her account details. And I believe we were then directed to the personal banking team.

And when you were directed to a personal banking team, did you again ask to change the Pensioner Advantage account to an Access Basic account?---Yes. The second time we called when we got through to the personal banking team, I spoke with a representative named Jenny. I explained to Jenny that my client was calling to
15 change her account type from the Pensioner Advantage account to the Access Basic account. Jenny told me this would be possible and she then proceeded to talk with
20 my client in order to verify her identity over the phone.

And what happened after that?---At that point, Jenny told my client and me that it was not possible to change her account type over the phone on that day, and this was
25 because my client had failed to verify her identity using a verbal password on a previous occasion.

And did she tell you that there was some other way that you could try and change your client's account from the Pensioner Advantage account to the Access Basic
30 account?---Jenny suggested, because my client had reportedly failed to verify her identity over the phone on a previous occasion, we were told that my client needed to verify her identity again at a branch before she could have her account type changed.

And could your client go to the branch that day in Katherine?---We were planning to, and so Jenny suggested to us that we go to the branch and supply her documents again and have her identity re-verified. And so at that point I recall asking Jenny to
35 place me on hold and call the Katherine branch to let them know that we were coming. So she did that. She placed me on hold. And then when she came back to the call she told me that the Katherine ANZ branch was closed on that day due to an
40 unexpected plumbing issue.

How were you and your client feeling by this point about your experiences in trying to open this account?---I think by this point we were both quite frustrated and very confused, because, again, it never crossed my mind that it would take that much time
45 to open a bank account. And so at this point we decided that we needed to provide formal feedback about the experience that my client had had so far.

So did you and your client in that second phone call to ANZ on that day make a formal complaint?---Yes. I provided – or I made a formal – Jenny – I requested that Jenny transfer me to the complaints department, and Jenny did so. I then spoke to an operator – I believe his name was Josh – and on behalf of my client I provided a
5 formal complaint about the experience.

And what were you told about what would happen with that complaint?---I remember Josh taking down – I believe he was taking down my feedback. At the end of that, I asked him what the follow-up process would be. Josh told me that it
10 would be an internal process and that an email would be sent to the Katherine branch. I believe I then asked Josh whether my client could expect to have a follow-up phone call or any follow-up in relation to her feedback. I believe Josh said that he could have a letter sent out to my client to confirm that ANZ had received her
15 feedback.

Now, that was 15 February. On 1 March this year, now some three months after the decision was made to attempt to open an ANZ access basic account, did you and your client again go to the Katherine ANZ branch together?---Yes, we did. My – my client was transported into Katherine by another service provider, and when I met
20 with her we decided this was a good opportunity for us to go to the Katherine branch in order for my client to have her identity reverified, and so that she could then create a new verbal password. So that’s what we did on that day.

Did you see the same banker that day?---Yes, we did. When we got to the branch, I
25 explained to the banker that my client had – needed to create a new verbal password and she needed to have her identity reverified, and the banker did that and the banker supported my client to create a new verbal password.

So having reverified your client’s identity, did you then attempt again to change your
30 client’s account to the ANZ access basic account?---Yes, I did. I recall during my phone conversation on 15 February with Jenny, I recall Jenny saying that, “Once your client reverifies her identity, she will – she should be able to change her bank account type at the branch.” So on 1 March, when we had had a new verbal password created and had her identity reverified, I then thought, “We’re already at
35 the branch, I will ask the banker whether she can change my client’s account type from the Pensioner Advantage account to the access basic account.”

And were you able to do that?---No.

Why not? What was said to you about why you couldn’t do that?---I recall the
40 banker – she – she was typing as I was – when I asked her to change – if it was possible to change the account type, and after the banker seemed to type into her computer, she again said, “The system is not allowing me to change her account type from the branch.”
45

During this meeting was there also a discussion about dishonour fees?---Yes. After the banker told my client and me that it was not possible for her to change the

account type at the branch, she then told my client that my client was doing very well, or doing well, because it does not appear that my client has been charged any dishonour or overdrawn fees.

5 How did you feel about that statement from the banker to your client?---I – I think I took it as a – as a dismissive response from the banker to my client’s request to change her account type, because to me that seemed to suggest that, because my client was seemingly doing well according to the banker, that it was not necessary to then respond to her request to change her account type to an Access Basic account.

10 Now, having reverified your client’s identity, after you left the bank that day did you try and deal with this by telephone with ANZ again?---Yes, I did. I recall Jenny – the ANZ Bank representative telling me that, if there were any issues, that I could call the personal banking team back on a particular phone number. So after we left
15 the Katherine branch, that’s what I did.

And what do you recall of that call?---I recall speaking to a male operator. I can’t recall his name, but I remember telling him – explaining the situation again, that my client has now reverified her identity, and that she wishes to change her account type
20 from the Pensioner Advantage account to the Access Basic account.

And were you able to change your client’s account to the access basic account in this telephone call, Ms Do?---No, we were not. The representative told me that it was not possible for my client to change from a Pensioner Advantage account to an Access
25 Basic account. The operator told me that it was possible to change from a Access Basic account to the Pensioner Advantage account, but not the other way around.

Was the operator able to create an additional account for your client, a new Access Basic account?---Yes, he was. I recall on that occasion, by this point I was getting quite frustrated, and so I explained to the operator that my client simply wants to
30 access – an Access Basic account so, “Is there anything that you can do to support my client to access that account?” And so the operator – I recall him saying that because my client had already supplied her documentation to a local branch, that he could simply create a third account or an additional account, being the access basic
35 account, for her on that day.

And what did the operator say your client needed to do after this call in relation to that new account?---After he created the Access Basic account for my client, the operator told me that in order for my client to have her access card or a keycard sent
40 out to her, she needed to send a text message to a number, and that text – text message needed to come from her phone, and that text message was to include a message along the lines of, “I request a new keycard for my access basic account.”

Now, after that call, did your client send a text message along those lines to the
45 bank?---No. She wasn’t able to on that occasion because she didn’t have phone credit on that day.

Have you experienced other situations with other clients, Ms Do, in which a bank has asked your client to send a text message to facilitate the opening of or access to an account?---No. In my experience I've never had a client who has been requested to communicate with a bank via text message. I have had experiences where the bank
5 might send a security code or a pass code to a phone number, but in my experience I've never had a client be asked to send a text message to the bank.

So what was the situation by the end of this call in terms of the accounts that your client now had?---By the end of that phone conversation, my client had a Progress
10 Saver account, she had a Pensioner Advantage account which carried with it a very high risk of attracting dishonour and overdrawn fees, and she also had an Access Basic account, which she couldn't access because she wasn't able to officially request a new keycard for it in the way that had been suggested by the bank operator on that day.

15 Around this time, did you decide to try and seek some external assistance?---Yes, I did. At this point, because it was taking so long to complete what I thought would be a very simple task, I began to do some online research, specifically on the ASIC website, just to see if there was someone that we could speak to, to seek some advice
20 from or some guidance from.

And as a result of that research did you contact ASICs indigenous outreach program?---Yes, I did. I believe I called them in early March. I wasn't able to get
25 through to anyone on that day, but I did leave a voicemail for someone to call me back.

And did you subsequently speak to someone from the program?---Yes, I did. On 20
30 March a representative from that program called me back, and I gave a verbal outline of my client's experience in trying to open an Access Basic account with ANZ, and the worker from ASIC then asked me if it was possible for me to provide that feedback in writing.

And did you provide the indigenous outreach program at ASIC with the document that you've annexed to your statement?---Yes, I did.
35

Now, a few – a few weeks ago were you contacted by someone from ANZ?---Yes. A few weeks ago, a woman named Emma from ANZs complaints department gave me a call and said that she was calling me to follow up with my client and in relation
40 to some feedback that I had provided about my client's experience.

And did you discuss with Emma whether your client could get a keycard for the Access Basic account that had been set up in that last call?---Yes, I did. We were trying to work out what would be the best solution for my client at this point, and I believe through that conversation there were two options that we were exploring. (1)
45 was to have her Pension Advantage account simply changed to an access basic account, or (2) was to have an access card sent out to my client so she could access

her Access Basic account, and have her pensioner account – Pensioner Advantage account, sorry, closed.

5 Now, were you told in this discussion with Emma that you would need a written authority from your client in order to represent her further in these conversations?---Yes.

10 And did it take some time for you to be able to obtain that written authority from your client?---Yes. I believe it took a week or possibly more than that, mainly because it will – it often takes time for us to work out how – when we can get out to the community, but also my client and her sister had a number of other issues that they had to deal with more urgently during that period.

15 And on 27 June were you able to obtain from your client a signed written authority for you to communicate with ANZ on her behalf?---Yes, I was.

And did you email that to ANZ?---Yes, I did.

20 And have you received further correspondence from ANZ in relation to the delivery of a keycard to your client?---Yes, I have. I recall the – Emma had sent – replied to my email with a letter from ANZ, and that letter requested some more information from my client as to whether she would like to pick up the card from the Katherine branch, I believe, or whether she would like that card to be mailed out to her.

25 Do you understand that that card has now very recently been mailed out to your client?---Yes. I last spoke to Emma on Tuesday, and my understanding is that that card is being couriered out to my client, and that Emma was hoping that the card would arrive at my client’s house by Wednesday, so yesterday, but I haven’t had contact with my client so I can’t confirm whether she has received her card.

30 Are you aware of whether your client will need to activate the keycard once she receives it?---Yes. Emma advised me during our – during our phone conversation that my client would then need to call ANZ, and that all calls in relation to my client’s accounts would then be forwarded to her or directed to her, and that then
35 Emma would then have to ask my client a series of questions in order to verify her identity in order to then have her card activated.

40 To the best of your knowledge, has your client been able to access the Access Basic account yet?---No.

45 So from what you’ve outlined, Ms Do, it appears that it took about four months for you to assist your client to open a fee free account with ANZ, despite eligibility from the outset. What can you say about your experience in trying to open that account over that period of time for your client?---I think it has been a very long, confusing, frustrating process. Like I’ve said before, it never crossed my mind that it would be this difficult to open a bank account. The last time I opened a bank account for myself it took me two minutes, and I did it on my laptop. And so I think through this

experience – this experience suggests to me that there are particular cultural, language, geographical barriers that are experienced by indigenous consumers in and around Katherine that, perhaps, weren't taken into consideration by ANZ staff members.

5

And how do you think your client would have fared in setting up a bank account without your assistance?---Well, given that she hasn't had much success with my assistance, I'm not sure.

10 Thank you, Ms Do. I have no further questions.

THE COMMISSIONER: Ms Williams.

15 <CROSS-EXAMINATION BY MS WILLIAMS [2.42 pm]

MS WILLIAMS: Thank you, Commissioner. Ms Do, my name is Williams and I represent ANZ. Now, you say in paragraph 7 of your statement that you first came into contact with your client because your colleague Penny was going on leave and so handed over a number of her clients to you temporarily. And was it still the case at the time of your appointment with ANZ on 21 December that you were looking after a number of Penny's clients?---Yes.

25 Including the client to whom you refer in this statement?---Yes.

And so you had a heavier workload than usual, obviously, as a result of that?---No, I actually didn't. At that point there were kind of external factors that were affecting the referral pathways into our program, so at that point I was looking after two families.

30

I see. And for those families you were looking after, were you not just financial matters but providing the kind of support you referred to earlier in your evidence? Parental capability and those sort of matters?---Yes.

35

Yes. And this appointment on 21 December was just one interaction that you had in the context of doing that other work for those two families?---Yes.

And it's difficult, after the event, isn't it, to recall precisely what was said during that appointment, which you've told us went for an hour and a half, approximately?---Well, I – I don't have a transcript of – of the interaction that I had on that day, but I would have been – I did take notes – some notes during the meeting and then I would have written a more expanded of my notes after the meeting. So to the best of my recollection I would be referring to the notes that I've made, which is what I've done throughout this – for the statement that I provided to the Commission today.

45

Yes, I see. But despite having – having made notes, it’s difficult to recall, isn’t it, all of the details relating to the meeting and your representation of your client at this time?---I think I would say it would be difficult to recall every single word that was said throughout the 90 minutes, but I would recall the important details that would
5 pertain to the support that I was seeking to provide to my client on that day.

I see. And, Ms Do, you say in paragraph 5 of your statement that your client was not employed at the time of the events in question?---Yes.

10 Do you – in your feedback document that you provided to ASIC, which is exhibit 1 to your statement, you say on the final page of that document that – and in fact perhaps I should take you to the very bottom of the page before that under the heading Summary. You see there a reference to the time at which your client and her sister were first transported from the community to Katherine?---Yes.

15 And you say there that each trip involved three hours of driving time as well as the need for your client and her sister to find babysitters, and also to take time off from their casual employment?---Yes. At the time my client’s sister was engaged in casual employment in the community, and I believe my – my client, there was the
20 possibility of her obtaining casual employment at the time.

I - - -?---But she wasn’t officially working at the time.

I see. So although this statement here gives the impression that both your client and
25 her sister were working, in fact your client wasn’t working; is that your evidence?---I think when I was writing that feedback document, I hadn’t broken down individual circumstances relation to my client or her sister. So when I say that they had to take time off from their casual employment, I was referring to my client’s sister who was in fact engaged in casual employment, but also my client who had the
30 possibility of obtaining some casual employment at the time.

I see. You do refer though, don’t you, to both ladies having to take time off their casual employment?---I can see that that’s how it reads in that document, yes.

35 Was there not some confusion in your mind at the time you wrote that document or now as to what your client’s employment status was at the time?---No. I wouldn’t characterise it as confusion. I think when I had written that feedback document under summary, I was trying to illustrate some of the barriers that were relevant for my client and her sister, and I think at this point it’s also important for me to note
40 that my client and her sister depended on each other for support, so if my client’s sister had to take off time from her casual employment the effects of that would then also flow on to my client.

I see. And can I ask you to turn please to paragraph 30 of your statement, Ms Do, if
45 you would. If you could look, please, at the part of paragraph 30 which commences at the top of page 8 of your statement. Now, you’ve given evidence today that, from memory, the banker said that it was not possible to open an Access Basic account

from the branch and you have no memory of the banker saying that an Access Basic account couldn't be opened for new customers. You recall giving that evidence?---Sorry, could you repeat that?

5 You've given evidence just now in answer to a question from Ms Orr that the banker told you in the meeting on 21 December, you said from memory, the banker told you that it was not possible to open an access basic account from the branch?---Yes.

10 And you said you had no memory of the banker saying that an access basic account could not be opened for new customers. Do you recall giving that evidence?---I recall saying that the banker had told my client that the access basic account couldn't be opened from the branch. I'm sorry, I don't understand the second part of your question.

15 You also said in answer to a question from Senior Counsel Assisting that you had no memory of the banker saying that an Access Basic account could not be opened for new customers?---That's correct.

20 Yes. And the statement at the very top of page 8 of paragraph 30 of your statement, that first sentence there, you would accept in light of your evidence, that's incorrect. Is that so?---Sorry, could you point me to that line again?

25 The very first sentence at the top of page 8 of your statement – it's part of paragraph 30?---I see. So my statement is saying that the banker had told me that the Access Basic account was not available to new customers. And - - -

30 But in fact your evidence earlier this afternoon is that you have no memory of the banker having made a statement to that effect. What I'm putting to you, Ms Do, is that the statement – the statement in the first line of page 8 is incorrect. You've made a mistake there?---I can see that that's what I've written on the statement. And if I – I don't recall exactly what I just said to Ms Orr, so if you're saying that I had said that I don't recall that the banker had told me it was not available to new customers, then that would suggest that that particular line is incorrect. That's what you're saying?

35 Yes, that's what I'm putting to you, Ms Do.

40 THE COMMISSIONER: Has your junior got a transcript reference, Ms Williams? It would help me, if you're putting something as precise as this to the witness, if you had a transcript reference for my - - -

MS WILLIAMS: Yes, Commissioner, we're just locating that.

45 THE COMMISSIONER: Or perhaps if your junior finds that.

MS WILLIAMS: Yes, Commissioner.

THE COMMISSIONER: Unless it's going to disrupt the order of your cross-examination, we might move on.

MS WILLIAMS: Certainly, Commissioner.

5

Ms Do, you also say in paragraph 30 that the banker said that she was unable to open an access account from the – I beg your pardon, an Access Basic account from the branch. I suggest that you're mistaken about that and that the banker in fact said something to the effect that your client had said that she wanted a visa debit card and the Access Basic account did not come with a visa debit card?--I don't recall a conversation about debit cards taking place during that meeting. I don't recall the banker saying anything about a debit card. All I recall in terms of account types that were spoken about was when we had first gotten to the branch and I had told the banker, on behalf of my client and her sister, that we were there to open an access basic account. At no other point was another account type discussed with us, apart from when the banker suggested a Progress Saver account in response to my client and her sister's request to have a savings account opened for them.

20 Although you have no recollection of the statement that I'm putting to you, Ms Do, I'm suggesting that in fact the banker did say to you that your client had said she wanted a visa debit card, and that an Access Basic account did not come with a visa debit card, although you don't now recall that?--I believe if that – if that did take place on the day, I would have included that in my notes. Again, I was under the impression for the entire meeting with the banker that an Access Basic account and a Progress Saver account was being opened. Had another account type been brought up, I would recall that conversation taking place.

25 So your evidence is that, had another account type been discussed, you would have recalled that?--Yes.

30

But Ms Do, all I'm putting to you is that the banker did not say to you that she was unable to open an Access Basic account from the branch, but rather said that because your client had said she wanted a visa debit card, an access basic account did not come with a visa debit card?--I don't believe that that's the conversation that took place, and in any case the account that was opened for my client and her sister was an Access Advantage account and that account was not discussed explicitly with my client or her sister or me on that day.

40 Now, Ms Do, I will just pause there for a moment, Commissioner. The transcript reference is 3999 at lines 26 to 30.

THE COMMISSIONER: Just a moment. 3999 at?

45 MS WILLIAMS: I'm sorry, lines 26 to 30, Commissioner.

THE COMMISSIONER: Yes. Thank you.

MS WILLIAMS: And, Ms Do, you also say in paragraph 30 that the banker said to you something along the lines of, "The system doesn't allow me to open that account." And I suggest to you that your memory in that respect is also mistaken and the banker did not say that to you?---From my memory, that's what she said to me,
5 because I recall her saying that to me more than once, and I recall thinking at the time that that didn't make any sense to me.

Ms Do, could you turn please to paragraph 45 of your statement where you give an account of what you say occurred at the meeting on 1 March 2018. Ms Do, I suggest
10 to you that you are mistaken in your evidence that the banker told you on that occasion that the computer would not let her open an access basic account from – I withdraw that – change the account type from the branch?---From my recollection of that interaction, the banker told me two things: (1) – well, she did three things: (1) she supported my client to obtain a new verbal password, (2) she said the computer
15 system doesn't allow her to change the account type from the branch, and (3) she told my client that my client was doing very – was doing well, by not incurring any overdrawn or dishonour fees.

And in relation to those – the second of those things you've mentioned, Ms Do, I'm
20 suggesting that your recollection is mistaken?---I don't believe my recollection is mistaken, because I recall the banker typing as I was asking her to change my account – my client's account type and the banker typed some things into her computer and then she said to me, "The computer is not allowing me to change it from the branch."

25 No further questions. Thank you, Ms Do.

THE COMMISSIONER: Yes, thank you, Ms Williams. Yes, Ms Orr.

30 MS ORR: Nothing further, Commissioner.

THE COMMISSIONER: Yes, thank you very much, Ms Do, you may step down. You're excused.

35 **<THE WITNESS WITHDREW** **[2.56 pm]**

MS ORR: Now, the next witness, Commissioner, is Mr Bowden. Could we have a
40 brief adjournment before Mr Bowden comes into the witness box.

THE COMMISSIONER: Yes, if I come back at 3?

MS ORR: Thank you, Commissioner.
45

ADJOURNED **[2.56 pm]**

RESUMED

[3.00 pm]

5 THE COMMISSIONER: Yes, Mr Hosking.

MR HOSKING: Commissioner, the next witness is Philip Bowden.

10 <**PHILIP STEWART BOWDEN, SWORN**

[3.01 pm]

<**EXAMINATION-IN-CHIEF BY MR COSTELLO**

15 THE COMMISSIONER: Thank you very much, Mr Bowden. Do sit down. Yes, Mr Hosking – Mr Costello one of you is insulted.

20 MR COSTELLO: I am not going to comment. Your full name is Philip Stewart Bowden?---That's correct.

And your business address is lot 6, 93 Chesterfield Circuit, Nhulunbuy?---That's correct.

25 And that's spelt N-h-u-l-u-n-b-u-y. And you're a financial counsellor?---That's correct.

And you attend today in answer to a summons served on you by the Commission?---That's correct.

30 Do you have that summons with you?---Yes, I do.

I tender that summons.

35 THE COMMISSIONER: Exhibit 4.199, summons to Mr Bowden.

EXHIBIT #4.199 SUMMONS TO MR BOWDEN

40 MR COSTELLO: Mr Bowden, have you made a statement in answer to a request from the Commission?---Yes, I have.

45 And are the contents of that statement true and correct?---They are. There just needs to be one correction.

What's that correction?---Just the date.

This is on the first page?---Yes, it is.

There's no date in front of July. When did you sign that statement?---Two days ago.

5 Can I give you a hint and say yesterday?---It was yesterday, sorry. Yesterday.

Could you mark it with a 4 in front of July and initial that change, please. I will ask you again just to be certain. With that amendment, are the contents of that statement true and correct?---Yes, it is.

10

I tender that statement.

THE COMMISSIONER: Exhibit 4.200 will be the statement of Mr Bowden.

15

EXHIBIT #4.200 STATEMENT OF MR BOWDEN

20 MR COSTELLO: Mr Bowden, could you give the Commissioner some information about your work in community development before you came into your current role?---Yes. I lived overseas in Cambodia. I did development work over there for quite a long period of time, but in that time where I did community development work and I was also a CEO of International Cooperation Cambodia, which was a conglomerate of a few agencies that had come together. I had also done a lot of
25 voluntary work and help start some small NGOs there.

What have you done since you returned to Australia before your current role?---I've returned back to Sydney, Australia and for two and a half years I worked for Salvation Army and I was trained as a financial counsellor.

30

Are you a qualified financial counsellor?---Yes, I am.

And when did you start working for Anglicare NT?---2016.

35 You live and work in East Arnhem Land?---Yes, I do.

What work does Anglicare NT do in East Arnhem Land?---We have a hub of people that – I'm the only financial counsellor in East Arnhem Land but we also have financial capability workers. And that work entails going out to communities and helping with any financial issues, as well as education, things to that regards.

40

45 Could you explain the difference between a financial counsellor and a financial capability worker?---Yes, a financial counsellor is – we have exemption through ASIC to talk about financial products, to talk about debts that a client may have, and also, you know, give advice and options on those debts. It could be – it could be, you know, organising a payment plan for a client, it could be talking about bankruptcy, and – and the information around that. So a financial capability worker

has kind of restrictions on them. They're not allowed to talk about those sorts of things, but they will look at budgets, they will help people with forms and those sorts of issues and do a lot of education.

5 Are financial capability workers generally more concerned with practical day-to-day matters of finance, as opposed to giving advice - - -?---Yes.

--- of a longer term?---Sure. Sure. Just – yes, simple issues or – yes – just education around how things work. Especially out in East Arnhem Land, that could be education regarding insurance, what is insurance, what does that mean, it could be how bank accounts work, it could be helping to - - -

THE COMMISSIONER: Mr Costello, apparently the stream is down, I think. Yes. The stream is down. So I might adjourn for a time to see if we can get it going again. Perhaps if I say I will come back at quarter to or shortly before, unless I'm sent for earlier. Quarter past. I'm having a good afternoon, aren't I, Mr Costello. I'm really having a good afternoon. Come back at quarter past, unless I'm sent for earlier.

20 **ADJOURNED** **[3.06 pm]**

RESUMED **[3.14 pm]**

25 THE COMMISSIONER: Mr Costello.

MR COSTELLO: Mr Bowden, just before we adjourned you were giving some evidence about the different work done by financial counsellors, as opposed to financial capability workers. Is it fair to say that part of the role of a financial counsellor is to build financial literacy?---Yes, that's true.

So that clients are better able to look after their own financial affairs into the future?---That's true, yes.

35 And - - -?---And make choices of what options they want to carry out with their issues.

Thank you. Is that what you spend a lot of your time doing?---No, not really. Not in East Arnhem Land.

Why is that?---East Arnhem Land is a little bit different. It's different from what I did in Sydney, where you have a lot of superannuation issues, a lot of questions about superannuation in East Arnhem Land. So that probably takes up probably 80 per cent of my time.

Are these questions by clients of yours that are trying to access their superannuation?---Yes. It could be a number of things. It could be accessing, getting close to – or on their preservation age, it could be searches, searching for super. So we get a lot of Aboriginal people coming in trying to look for money.

5 And it could be also things like deceased estates.

I see. And that occupies a lot of your time?---Yes, it's about 80 per cent. So, yes, we're trying to work with the superannuation industry, and advocate for changes, advocate that –maybe just encourage them to look after their clients, because, obviously, Aboriginal people have issues with identification, and that was, obviously, brought up with Lynda Edwards in the beginning of the week regarding those sorts of Aboriginal issues, trying to access their super or deceased estates, those sorts of things.

15 And where in East Arnhem Land does Anglicare do work?---We – we do work – we have an office in Nhulunbuy and we have three people there, myself and two financial capability workers. And we also – we go out from there on Cessnas to a lot of these remote locations. So we service places from Groote Eylandt, Numbulwar, obviously, the Peninsular, as well as – I travel, also, out to Lake Evella, 20 Gapuwiyak. And we also have two Aboriginal staff in Ramingining. And we also travel to and Elcho Island - - -

I see?--- - - - which is Galiwin'ku.

25 One of the places you mentioned is Groote Eylandt?---Yes.

You travel there by plane from Nhulunbuy?---Yes. There is a service with Air North that does go there once a week. So I usually travel on a Tuesday to there, usually spend four days, but usually have to get a charter back to Nhulunbuy.

30 And how often do you travel to Groote?---I try to get there at least once a month.

Okay. And does Anglicare have financial capability workers or worker on Groote Eylandt?---Yes, they do have at present, yes, they do.

35 It's just the one?---Just the one.

I see. And you work closely with that person?---I do, yes. He will be leaving next month, though.

40 Okay. Is retention of staff an issue?---Yes, it is, because of the remoteness, and a lot of transient work that goes on. Yes. It's hard to recruit and retain staff.

45 Speaking of Groote Eylandt generally, is Groote Eylandt predominantly indigenous?---Yes. There's a company called Gemco that is there and they do some mining. So there is an ANZ branch there on the island. And it's around about 1500, I think, Aboriginal people that live on the island.

And how many towns are there on Groote?---There's three. There's three kind of main places.

5 Okay. And do you work out of just one of them or do you travel?---Yes, I live in town. I stay in town. And then we travel out to Angurugu. And I usually try to at least get out to Umbakumba once in a visit.

10 All right. Speaking generally, to the extent that you can, is there a range of financial literacy that you see in your clients on Groote? Would you say some people are quite financially literate and others are not very financially literate?---Yes, there would be – you know, there's, obviously, well-educated Aboriginal people there, but there's also a huge – a huge amount of literacy is – is a problem. Literacy, as well as financial literacy.

15 Yes, I see. And are the people that you work most closely with generally on the lower end of the - - -?---Yes. That's correct.

20 - - - literacy scale?---That's correct. We kind of partner with other organisations. We – we have an office inside – the GEBIE office. We kind of share resources. And that's kind of like a work for the dole scheme. And so a lot of participants come into that and we get that cross-fertilisation of, you know, sharing clients and being able to do some literacy upstairs with them and those sorts of issues.

25 Would it be uncommon for one of your clients to be unfamiliar with something like a minus symbol?---Yes. Yes, that is – yes. That – in my witness statement, I think I've – I said I did come across a client that had – came to me and said that she couldn't get her \$200. I think it was around \$200. And I tried to explain to her that was a minus symbol. And so I just did some work on the board with her, you know, this is – it's an overdraft. You've used the bank's money. So you need to pay that back. So we did a little education sessions around that and just showed her that, you know, once she pays the bank back its money, then everything from zero up is – is yours.

35 Right. Is English the first language of most of your clients?---No. No. It could quite easily be the third or fourth language.

And is there any other bank on Groote Eylandt? Okay. Would it be fair to say that a significant proportion of your clients would receive Centrelink payments?---Yes.

40 Okay. You say in your witness statement that one of Anglicare's financial capability workers first raised with you that the accounts of the financial capability workers' clients were being overdrawn?---Yes, that's correct.

45 And that their accounts were being left with negative balances, and sometimes very low balances, even after they had received their Centrelink payment?---Yes, that's correct. I didn't have a full understanding of why some of the clients had signed up for overdrafts, so it was just a conversations that happened in the office.

Between you and the financial capability worker?---Yes. But it also happened with – with one of the workers in there, as well. She brought up that they’re – she thought she saw one of the clients have a letter that was an opt-out letter for an overdraft. I asked her if – if she could get me a copy of that, or ask the client, but I never
5 received that, so I didn’t pursue it any further.

I see. So were you surprised to see that client accounts were going into negative balances?---Yes. It was – yes, I was surprised that our clients would go down and apply for an overdraft.
10

I see. And the financial capability worker that you had this discussion with - - -?---Yes.

- - - is that person still with Anglicare?---No. She – she has moved on.
15

Okay. But in preparing your witness statement, you’ve reviewed her notes?---Yes, I did. So I just reviewed her notes. And – and that is part of my witness statement.

And have you also spoken with her?---Yes, just – just to clarify a few points. I wasn’t – sometimes when people write notes, you read them, but you kind of don’t understand the backstory of those notes.
20

I see. In your witness statement you set out the position of two of Anglicare’s clients on Groote?---Sorry. Say again.
25

In your witness statement you set out the story of two of Anglicare’s clients on Groote Eylandt?---Yes, that’s correct.

And you’ve not used the name of either client in your witness statement?---No, I haven’t.
30

And why haven’t you used the name?---Just for privacy.

I see. I will call them client 1 and client 2, as you have in your witness statement, without meaning to be - - -?---Yes.
35

- - - in any way disrespectful to the clients. First client – client 1 spoke with the financial capability worker on 14 December 2017?---Yes, that’s what was in the notes.
40

And how did that person come to speak to the financial capability worker?---It says in the notes that it was through Centrelink.

And is it common that Centrelink would refer somebody to a financial capability worker?---Yes. We work very closely with Centrelink. We often pop in and meet the staff. I think last time I was there we popped in and said hello. And, yes, we
45

work very closely. They know what we do and there's a lot of referrals back and forth.

Why was this person referred to you by Centrelink?---It was referred to - - -

5

Sorry – to Anglicare by Centrelink?---It said in the – the notes that the bank – that the family – the client's family would commonly take his bankcard and spend money from the client's account. So, as you probably heard earlier in the week, this is a common occurrence with Aboriginal people. They don't really work as individual as we do, as they would call us Ballinda – it's not a Ballinda way; it's more of a sharing way. So they would share resources. This is kind of a common practice, that they share – share the resource, share cards. So that's – that's what has happened in this case, which is then, yes, been overdrawn.

10

15 So the client's family would make use of the card - - -?---Correct.

- - - to the client's account. And sometimes that would mean that the Centrelink payments were being used to pay overdrawn amounts?---Yes, it would, obviously – yes. The Centrelink payment, it says in the statement there, would be used to pay back.

20

And what did the financial capability worker do?---The financial capability worker took the client, tried to educate the client on what an overdraft was and tried to get the client to understand what that product was. And then, obviously, the financial capability worker took the client to the bank.

25

And did this client speak English?---No.

So how did the financial capability worker communicate with the client?---I think it was through the Centrelink. It helped with that – to translate.

30

Right. And you said the financial capability worker took the client to the bank?---Yes.

35 And did the financial capability worker establish that the client had an overdraft?---Yes.

And how much was that overdraft?---It said in her notes that it was – she – the account could be overdrawn to a thousand dollars.

40

I see. So what did the financial capability worker and the client do at the bank?---It says in the notes that the financial capability worker explained to the bank teller that the ability to overdraw was not benefitting the client – this is what it states in the notes – and asked it to be switched off.

45

And a something called 90 per cent arrangement is something you're familiar with?---I wasn't at the time until we started to delve into this and spoke to Centrelink about Centrelink payments and overdrafts.

5 And do you now have an understanding of what 90 per cent arrangements are?---Yes, I do.

10 Could you explain what 90 per cent arrangements are?---90 per cent arrangement is that when an account goes into overdraft and there's a Centrelink payment involved, that they will only use 10 per cent to repay back that overdraft, and that the client would receive the 90 per cent.

15 And is that why on the witness statement at paragraph 25 it mentions a \$600 debt being paid off, but the bank was only allowed to take 10 per cent each week?---Yes. So, trying to read into her notes, I'm pretty sure that's what the outcome was.

All right. The second client was referred to the financial capability worker on 30 November 2017. Was this the same financial capability?---Yes, it is.

20 And who referred this client?---This client had, obviously, come in, because it says there in note 28 the financial capability worker and the client discussed the client's current income and expense. There could be a time when some budgeting or some information is shared, and, obviously, this conversation, it looks like, has started over how to budget. That's how I read into it.

25 There's a reference in your witness statement to Groote Eylandt and Bickerton Island Enterprises?---Yes.

30 What is that?---That is – it's, basically, like a work for the dole scheme. And that's who we kind of partner with when it comes to, you know, getting referrals through them and clients coming in to do their activities.

35 You commonly work with participants in the scheme run by that entity?---Yes, that's correct.

I see. When the client spoke with the financial capability worker, was the client's account overdrawn?---In the notes, yes, it states that it was overdrawn by \$310.

40 And did the client understand what an overdraft was?---It says in the notes that no, the client had no such understanding.

45 So what did the financial capability worker do on this occasion with this client?---It says in the notes that the financial capability worker provided some education about overdrafts, and the client decided to contact the bank to cancel any overdraft available on the client's account.

And was the overdraft cancelled?---No. The – it says here that they needed to go to the branch.

5 They need to go to the branch for what?---It says here in note 26 the financial capability worker assisted the client to call the bank. The client was unable to be assisted over the phone and needed to visit the branch.

10 Right. And did they visit the branch?---They did. It's about a 25 minute journey into town. And the financial capability worker took the client to the bank.

Where were they journeying from?---

Right?--- - - - yes, into town.

15 And - - -?---

20 And so they went to town and they went into the bank. Did the financial capability worker take the client to the bank?---Yes, they did. It says in my number 30 at the bank the client was told that it was possible to cancel the overdraft but that, because the account was locked at the time, it would be necessary to return to the bank on Friday – this must be at a later date – after the client's Centrelink payment had been deposited, so that the outstanding balance could be cleared.

25 Did they return to the bank on Friday?---Further down the notes, it – it does state they returned to the bank.

30 And when they returned to the bank, did they successfully cancel the overdraft?---My note 30 says the capability worker assisted the client to go to the bank and take out cash from her account. 10 per cent of her family benefit payment was used to pay back the overdraft. Because the client took money, leaving the account overdrawn, her account remained locked until the overdraft was paid off.

That's another reference to the 90 per cent arrangements?---Yes.

35 All right. Are there many clients that you're aware of that are on 90 per cent arrangements on Groote Eylandt?---No, other than – I don't know of any others other than these ones.

40 And is it something you've encountered in East Arnhem Land more generally?---No, we have a Westpac branch in Nhulunbuy. And I've never come across it around – around the Gove area.

45 All right. What about the concept of an informal overdraft? Is that a concept that you've encountered in East Arnhem Land more generally?---No, not really. A lot of the other areas we go to, there's different sorts of banks. There's TCU and they have different arrangements. So I've never – I've never come across it other than – other than there.

And do you think that there is any benefit in an overdraft arrangement being either opt-in or opt-out?---I mean – I’m not against overdrafts. If a client wants an overdraft, I think that’s up to the client. As long as the client’s educated at what an overdraft is. I think if there was letters that were sent out to opt out, I think that’s
5 problematic, because of literacy rates and because of financial literacy understanding.

Do you understand that either client 1 or client 2 opted into an overdraft?---Not by the notes. We couldn’t ascertain that, because of language barriers. Sometimes we
10 receive yes answers, but it’s comprehension and understanding what the product is.

Thank you, Mr Bowden. I have no further questions.

THE COMMISSIONER: Thank you, Mr Costello. Yes, Ms Williams.
15

MS WILLIAMS: I have no further questions, Commissioner. As foreshadowed with Counsel Assisting and the solicitors for the Commission

THE COMMISSIONER: I’m sorry, Ms Williams. I’m losing you.
20

MS WILLIAMS: I’m sorry. There are some documents I wish to tender at a convenient point, but - - -

THE COMMISSIONER: Yes.
25

MS WILLIAMS: - - - I have no questions for Mr Bowden.

THE COMMISSIONER: Yes. Thank you very much for coming, Mr Bowden. You may step down and you are excused from further attendance.
30

<THE WITNESS WITHDREW [3.34 pm]

35 MR COSTELLO: The next witness is Mr Tapsall.

THE COMMISSIONER: Yes, Mr Tapsall. General counsel of your organisation is operating as the witness seurer, Ms Williams.

40 MS WILLIAMS: I understand Mr Tapsall is just outside the court. He will just be a moment. I apologise, Commissioner.

<TONY COLIN TAPSALL, AFFIRMED [3.35 pm]
45

<EXAMINATION-IN-CHIEF BY MS WILLIAMS

THE COMMISSIONER: Yes. Do sit down, Mr Tapsall. Yes, Ms Williams.

MS WILLIAMS: Commissioner, might my instructing solicitor approach the witness box just to hand to Mr Tapsall some documents - - -

5

THE COMMISSIONER: Yes.

MS WILLIAMS: - - - he will need. Thank you. Thank you, Commissioner.

10 Is your full name Tony Colin Tapsall?---Yes.

And your business address is 111 Eagle Street, Brisbane. Is that right?---Yes.

15 And you're the general manager, retail branch network for Northern Queensland and Northern Territory for Australia and New Zealand Banking Group?---Yes.

Mr Tapsall, have you made a statement dated 21 June 2018 in response to questions asked by the Commission in rubric 4-13?---Yes, I have.

20 And do you have that statement with you?---Yes, I do.

And are the contents of that statement true and correct to the best of your knowledge and belief?---Yes.

25 Mr Tapsall, have you also made a statement dated 25 June 2018 in response to questions asked by the Royal Commission for Rubric 4-41?---Yes.

You have that statement with you also?---Yes, I do.

30 And are the contents of that statement true and correct to the best of your knowledge and belief?---Yes.

And, Mr Tapsall, have you made a supplementary statement, dated 4 July 2018, in relation to both of those Rubrics?---Yes, I have.

35

And are the contents of that statement also true and correct to the best of your knowledge and belief?---Yes.

40 Mr Tapsall, have you received a summons dated 21 June 2018 to appear before this Royal Commission to give evidence and to produce your Rubric 4-13 statement?---Yes, I have.

You have that summons with you there, Mr Tapsall?---Yes.

45 Commissioner, I tender the summons.

THE COMMISSIONER: Summons to Mr Tapsall, exhibit 4.201.

EXHIBIT #4.201 SUMMONS TO MR TAPSALL

5 MS WILLIAMS: And, Commissioner, Mr Tapsall's statement dated 21 June 2018 in response to that summons is produced, and I tender it.

THE COMMISSIONER: Exhibit 4.202 is the statement dated 21 June '18.

10 **EXHIBIT #4.202 STATEMENT OF MR TAPSALL DATED 21/06/2018**

MS WILLIAMS: Thank you, Commissioner.

15 Mr Tapsall, have you also received a summons dated 2 July 2018 to appear before the Commission to give evidence and produce your rubric 4-41 statement?---Yes, I have.

20 And you have that summons with you there? I see. Thank you. Commissioner, I tender that summons.

THE COMMISSIONER: Exhibit 4.203 will be the further summons of 2 July '18.

25 **EXHIBIT #4.203 FURTHER SUMMONS TO MR TAPSALL DATED 02/07/2018**

30 MS WILLIAMS: And Mr Tapsall's statement dated 25 June 2018 is produced in response to that summons and I tender it.

THE COMMISSIONER: Exhibit 4.204 will be that statement.

35 **EXHIBIT #4.204 STATEMENT OF MR TAPSALL IN RESPONSE TO FURTHER SUMMONS DATED 25/06/2018**

40 MS WILLIAMS: And Commissioner, my instructing solicitors have been informed that the Commission regards those two summonses as also requiring the production of Mr Tapsall's supplementary statement. And that supplementary statement dated 4 July 2018 is produced in response to the summonses. And I tender that statement.

45 THE COMMISSIONER: Exhibit 4.205 will be the supplementary statement of 4 July '18.

**EXHIBIT #4.205 SUPPLEMENTARY STATEMENT OF MR TAPSALL
DATED 04/07/2018**

5 MS WILLIAMS: Thank you, Commissioner.

THE COMMISSIONER: Yes. Mr Costello.

10 MR COSTELLO: Thank you, Commissioner. Mr Tapsall, you're the general manager of ANZs Northern Queensland and Northern Territory branch network?---Yes.

Australia-wide, ANZ has 19 branches in remote communities?---Yes, 19 branches and two agencies.

15 Two agencies. Could you explain the difference between a branch and an agency?---There's no defined definition within the ANZ that I've been able to find.

20 Is there a practical difference?---An agency runs under the branch, BSB, we call it, which is the locator of another branch. So in the case of Groote Eylandt, it runs under the Darwin branch number. And in the case of Yulara, it operates under the Alice Springs branch number.

25 And save for sharing a BSB with a branch proper, is there any other difference between an agency and a branch?---They may operate under slightly reduced hours, but, essentially, products and services are the same.

So anything that you can do in a branch you can do in an agency?---Yes.

30 Thank you. Of the 19 branches ANZ has in remote communities, I think that perhaps five of them are in the geographic region that you've got responsibility for?---Yes.

Is that right?---Yes.

35 Thank you. And in addition to branch and agency presence, ANZ operates 54 ATMs in remote communities in Australia?---Yes.

40 And those ATMs are in addition to any fee-free ATMs that are a part of a scheme that ANZ is a participant in?---That's correct.

You say in your statement ANZ has 136,548 retail customers living in remote communities?---Yes.

45 Does that sound familiar?---It sounds right.

And those customers held around 74,000 bank accounts?---Yes.

Your role at ANZ, Mr Tapsall, is very much connected with the practical operation of branches. Is that right?---Yes.

5 You have ultimate supervision for all of the branches and agencies in your area?---Yes.

10 And your area is northern Queensland and Northern Territory. Where in Queensland does your geographic location stop?---The easiest way I can explain it is if you take the Gold Coast, Brisbane and the Sunshine Coast out of Queensland, geographically, the rest of Queensland is mine. So - - -

The rest of Queensland is called Northern Queensland for the purpose of your role?---Yes.

15 But includes everything down to the border of New South Wales - - -?---Yes.

- - - save for the Gold Coast?---That's correct.

20 I see. I would like to ask you some questions about the role of branches in modern banking in Australia. Are you aware of how many branches ANZ has nationally at the moment?---Approximately 640.

And are branches considered profit centres?---Not to my knowledge. I don't know.

25 Is the financial performance of individual branches something that is measured?---It may be. It's not something I see.

30 It's not something you're responsible for within your area?---I don't see the financial figures specific – I see the cost figures.

Yes?---Not the financial – not the revenue side of the business.

35 What metrics do you see that are measured?---We see the branch performance in relation to customer feedback, individual components within that branch around the number of reviews we do with our customers, the number of products that are put in place for customers. As I mentioned, we also have customer feedback that we talk about at both an individual and a branch level for both the review and home loans.

40 Is the volume of deposits measured?---Yes.

What about the volume of loans written?---Yes.

The number of accounts opened?---Yes.

45 What about the average balance of accounts in a branch?---No.

The income earned from accounts held at a branch?---No.

You say in your statement that since January 2011 ANZ has closed 10 branches in remote communities?---Yes.

5 Do you know why those branches were closed?---I could speak specifically to my branches that were in that area.

10 Thank you?---And that – on the basis of less foot traffic to the branch. That was one of the main points. People are choosing other ways to do their banking. And there’s other opportunities and digital channels and – so far less people are actually frequenting upon our branch – my branches in that particular case.

Is ANZ, to your knowledge, planning further branch closures at the moment?---Yes.

15 And does that include in your area?---Not at the moment, no.

Thank you. Can I take you to a document, please. It is ANZ.700.008.0060. Mr Tapsall, this is a document entitled Branch Options Final Recommendations?---Yes.

20 Have you seen this document before?---Yes, I saw it yesterday.

Yes. You hadn’t seen this document before you prepared – started preparing your evidence?---No.

25 Thank you. The two authors on the front are Ms Noble and Mr Freeman. Do you report to Ms Noble?---No. My boss reports to Ms Noble.

All right. So who do you report to?---Paul Presland.

30 What’s his title?---General Manager, Retail Distribution Network.

So he’s the General Manager, Retail Distribution Network. And Ms Noble is Managing Director, Retail Distribution?---Yes.

35 That’s the way the chain of command works?---Yes.

Thank you. Is it Ms Noble that has ultimate responsibility for ANZs Australian branch network?---Ms Noble reports into the CEO of Australia division.

40 Yes?---Mr Fred Olsen.

Thank you. And Mr Olsen is, I think, a member of the group executive?---Yes.

45 This document is headed Final Recommendations. Do you know who they were recommendations to?---No.

If we go over the page to 0061, you see the Executive Summary. And it says at the top of the document:

5 *To ensure alignment between ANZs purpose and our branch optimisation objectives, we have recently explored the viability of selling a package of regional, rural and remote branches as an alternative to closures. This sought to improve continuity of banking services for customers, provide ongoing employment options for local workers, minimise broader impacts on regional and remote communities, recognising the commercial and social role of bank branches.*

10 Do you see that?---Yes.

And then there's another heading, the Outcomes of this Work Are As Follows. And it speaks of a possible sale of some branches. And in the third bullet point down it says:

15 *The transaction appears to be feasible, from a technical, legal, and possible from a regulatory perspective.*

?---Yes, I can see that.

20 There's then discussion of adverse financial outcomes for ANZ shareholders of a potential sale. And notes in the first bullet point under that that:

25 *In regional, rural and remote areas, ANZ historically experiences remarkably low customer attrition when closing a branch.*

See that?---Yes.

30 Does that accord with your experience of branch closures in your area?---I don't see customer attrition figures.

I see. It then points to some further risks. And then it says, at the very bottom of the page, which I hope you can see on your screen there:

35 *Based on these facts, we recommend to continue with the current plan for branch closures.*

40 And that is a recommendation not to proceed with the possible sale of some branches that are being discussed, but, rather, to proceed with the closure of those branches. Is that how you understand the recommendation to work?---I'm sorry. Can you – can you repeat that.

Can you see at the bottom of the page?---Yes.

45 And, by all means, if you need a bit more time to read – if you want to read the whole of the page, feel free to take the time. Would you like to do that?---Yes, if I could, thank you.

Yes. Tell me when you're ready?---Sorry. Can I – whoever blew it up, can you blow it up again for me. Sorry. Thank you. Thank you, Mr Costello.

Thank you. So you see the recommendation at the foot of the page is:

5

Based on these facts, we recommend to continue with the current plans for branch closure.

?---Yes, that's what I can see there.

10

That is a recommendation to proceed with the closure of branches as opposed to an alternative proposal which was to sell a package of branches?---This document is not mine, and I've seen it for the first time yesterday, so I don't know the package of branches as opposed to other options that may have been explored at the time either.

15

Yes. But can you see in the second heading:

The outcomes of this work are as follows.

20 And it says:

A possible sale package of –

and then there's a number that has been redacted?---Yes.

25

Continuing:

Regional rural and remote branches was identified based on future opportunity.

30

?---Yes, I can see that.

Yes. So one of the things considered here is sale of branches – which I've called a package of branches, but just say sale of some branches, and the recommendation is not to go down that path. Instead, to continue with the current plans for closure. Do you see that?---That's what it looks like in this document, yes.

35

All right. Thank you. And then if we go over the page to 0062. It says:

40

A possible sale package of regional, remote and rural branches was considered. ANZ is the last major bank in town in –

and then it's redacted. But in some of the locations ANZ is the last major bank in town; see that?---Yes, I can see that.

45

Yes. And you've seen a version of this document, presumably, that - - -?---Yes. I saw - - -

- - - without the redactions for confidentiality?---I saw this – yes, I saw this yesterday.

5 Yes. So what’s being considered particularly relates to regional, remote and rural branches?---In this slide, yes.

In the slide. And in the previous slide from the line that I took you to, there was the same phrase, regional, remote and rural?---Yes.

10 Do you recall that?---Yes.

15 Yes. Could we then please move to 0070. You can see here there is consideration of a range of factors that would touch on the decision. To this point in time the consideration in the document has been principally as to the competing financial considerations of closure versus sale, but at this slide there are a large range of factors taken into account. Can you see that?---Yes.

20 And the final factor taken into account is “rural community impact”?---Yes, I can see that.

And it notes that:

25 *Transferring responsibility for certain regional communities to a third party is preferable to closure/exiting.*

?---Yes, I can see that.

Continuing:

30 *Potentially mitigates rural job losses, economic decline in some locations.*

?---Yes.

Continuing:

35 *Both options enable more focused support to a smaller set of communities.*

See that?---Yes.

40 In your experience of running a part of ANZs network that includes branches in rural and remote locations would you agree that a branch presence can be an important – can be important for a town?---In my experience, it can be important for a town.

45 Thank you?---I would also – sorry, I don’t know the context of this document.

Yes?---So you are taking me, obviously, to certain places within the document, but the – the rest of it – as I said, I’ve only seen it for the first time yesterday. So the context of the branches, I – sorry, I don’t have that level of information.

5 I understand that. I will take you to one more page in this document, I think. 0071, which is the next page. And you see here the Proposed Next Steps. The first one is:

Continue with the current program of 50 branch closures during FY17.

10 Now, do you recall whether that is about the number of branches that ANZ did close in that financial year?---Sorry, I don’t recall. I don’t know.

Do you recall if there were branches closed in your area in that financial year?---Yes, there would have been.

15

Do you remember how many?---Can I just refer to my statement?

Yes, of course?---In my area there was one in FY17.

20 Thank you. And when there is a branch closure in your area, is that something that you have to become involved with in your role, or is that taken out of your hands and handed to somebody else?---We become involved, yes.

25 All right. And at what point do you become involved in the closure of a branch in your area? Has the decision been made to close it when you’re notified?---No.

A decision has not been made to close it?---No. We’re – we’re involved in the operational component of it.

30 Is your view sought on whether or not it ought be closed or if there’s any consideration that is relevant to it being closed?---In my role - - -

Yes?--- - - - we are asked around considerations of closing a specific site, yes.

35 Yes. And when you’re asked that, would you have a discussion with the local manager as well?---We would discuss it with the district manager, yes.

District manager. And is the way that ANZs branch network operates that there are managers in each branch and they report to a district manager?---Yes.

40

And then that district manager reports to you in your region?---Yes.

And how many districts are there in your region?---Six.

45 Thank you. How many of those districts are in the Northern Territory?---One.

The Northern Territory is a district?---The Northern Territory is a district.

Thank you very much. Commissioner, I tender that document.

THE COMMISSIONER: Branch options final recommendation,
ANZ.700.008.0060, exhibit 4.206.

5

**EXHIBIT #4.2016 BRANCH OPTIONS FINAL RECOMMENDATION
(ANZ.700.008.0060)**

10

MR COSTELLO: Mr Tapsall, that document was dated on the front, you might recall, March 2017. I now want to take you to another document. It's ANZ.700.008.0002. This is a document prepared – or it's dated 26 April. So it's a month or seven or eight weeks, perhaps, after the document I've just taken you to, and it's prepared by Ms Noble. And as you can see there it says:

15

For CEO discussion on –

sorry, it says it's:

20

For CEO discussion on 26 April 2017.

Can you see that?---Yes.

25

And it says:

For decision.

?---Yes.

30

Do you understand from that page that this is something Ms Noble has prepared to discuss with the CEO so that he can make a decision?---That's how I would understand the document, yes.

35

If we could go to the next page, 0003. See here For Decision:

Action requested. Approval is sought to accelerate closures resulting in an Australian branch network of –

40

blank:

...branches by 30 September 2019.

?---Yes, I can see that.

45

Continuing:

Closures would accelerate from 50 in 2017 to –

blank:

5 ...in each of 2018 and 2019. Reduction from 677 branches is estimated to cost

10 and then there's some figures quoted. It says there a reduction from 677 branches. Do you recall how many branches ANZ has now?---Yes. My understanding about 640. I don't have an exact number.

So since the date of this document, there have been further closures from 670 to around 640, you think?---Judging by this document, yes.

15 And then you can see in the second last bullet point:

This proposal extends earlier analysis which indicated relatively low value from potential sale options.

20 ?---Yes, I can see that.

Do you recall that, in the last document I took you to, there was an analysis of potential sale and the recommendation was to continue with closure rather than sale?---Yes.

25 And then it says in the final bullet point:

30 *Closure of less productive branches is consistent with ANZs purpose in enabling concentration of resources into significantly better physical and digital interactions, enabling more customers to thrive.*

What do you understand that to mean?---Sorry, without the context or being directly involved in this, I – I can't provide an answer to that.

35 All right. Could I take you to the next page, 0004. Can you see the heading there:

Around 70 per cent of the proposed –

blank:

40 ...branch closures are lower contributors in regional and remote locations as well as some metro sites where the speed of digital adoption by customers will likely be high.

45 ?---Yes, I can see that.

The second part of that sentence:

...as well as some metro sites where the speed of digital adoption by customers will likely be high.

5 Is it your experience that your – one of the reasons there may be fewer people attending branches in metropolitan areas is because they're banking in a different way, online or telephone, for example?---That would be my experience but, again, I don't know what else is within this document - - -

10 No, no, no, I understand that. But I just want to speak to you in your capacity at the moment. I think you gave some evidence very early on that one of the things that is happening to branches is that people are banking in different ways?---Yes, that's correct.

15 And in your own experience, do you think that that is more prevalent in metropolitan areas than it might be in rural and remote areas?---That's something I can't answer, sorry. I don't see any data on that.

20 Okay. Could I take you to 0006, please. Do you, in the course of your role with ANZ, consider the relative performance of ANZ branches as opposed to your competitors?---Not at branch level. I don't see reporting on that, no.

25 Is ANZs market position in terms of branches and what it offers to customers who come into branches something that is important to ANZ?---Sorry, I missed the start of your question there.

Right. Is the offering – is the service that ANZ offers to customers who come into its branches something that's important to ANZ?---Yes.

30 And do you know from your own role that ANZ considers what its competitors are doing and seeks to do something that differentiates itself?---Strategically, I – I wouldn't be able to say.

35 One thing we will speak about later is the A to Z review. Is that something that you would say differentiates ANZ?---I think that is something we do try and differentiate ourselves on. In saying that, I'm not fully aware of what the other organisations do.

40 All right. I will just take you to one more document – one more page in this document, which is 0013. Can you see there ANZ now has the smallest branch network among the majors, although Westpac has fewer core Westpac branded branches than ANZ in all states?---Sorry, are you looking at 2005 - - -

45 Sorry, is that – well, I was doing the typical lawyer thing, and avoiding looking at the numbers, and reading instead the words in the column next to it. The first bullet point which says:

ANZ now has the smallest branch network among the majors.

?---My apologies, I see that.

That's all right. You were doing the banker thing and looking at the numbers, which is understandable. Did you understand, before you read that paragraph, that ANZ
5 had the smallest branch network?---I knew we were close to the smallest, yes, but I wasn't 100 per cent sure that that was the case.

And did you know that there was consideration of further reducing the size of that network?---From 2016. From the documents you've shown me, yes, I understand
10 that.

Okay. And then it says in the second bullet point:

Only Westpac is closing branches at a higher rate.
15

?---Yes.

And there's some comments about what NAB and CBA are doing. Now, I asked you at the – early on whether or not the individual profitability of branches was
20 measured, and I think you said you weren't sure?---Sorry, I said that it's not something I see.

Yes. Are you aware of whether it's measured?---No, I'm not aware.

25 All right. But the volume of deposits is measured?---That's one of the measurements that we have, yes.

And the number of accounts opened - - -?---Yes.

30 And the number of loans written by a branch?---Yes, that's part of the staff performance measurements.

Yes. Thank you. Commissioner, I tender that document.

35 THE COMMISSIONER: Accelerated branch closures presentation for 26 April '17, ANZ.700.008.0002, exhibit 4.207.

40 **EXHIBIT #4.207 ACCELERATED BRANCH CLOSURES PRESENTATION DATED 26/04/2017 (ANZ.700.008.0002)**

MR COSTELLO: Mr Tapsall, what did you do before you assumed your current role?---I was a district manager in Brisbane.

45 And what district was that?---Brisbane west.

How many branches are in the Brisbane west district?---Sorry, Mr Costello, now
or - - -

At the time?---At the time, 11.

5

11. Are there less now?---Yes, there are less now.

How many now?---Sorry, I couldn't tell you that off the top of my head.

10 Right. Because that's one of the districts you're not responsible for, because it's in
the metropolitan zone of the southeast corner of Queensland?---Yes.

Is that right?---Yes.

15 Thank you. Since you've come into your new role, you have no doubt travelled to
branches in rural and remote locations?---Yes.

All right. And do you appreciate that closing a branch in a rural or remote location
can be a very large step for a bank?---Yes.

20

And can be a very dislocating experience for a community, potentially?---Yes.

And do you think that it's appropriate for a bank like ANZ to maintain a branch
presence in a location where there is no other bank?---That's something I can't
answer.

25

And have you spoken with any of your superiors at ANZ about this document or the
earlier one that I took you to?---No, I haven't.

30 All right. So you don't know if Mr Elliott accepted the recommendations that were
in this document?---No, I don't.

All right. Thank you. Mr Tapsall, I want to – that document can come down, thank
you. I want to move to a different topic now, which is the evidence that was given
by Ms Do earlier today. Were you in court when Ms Do gave that evidence?---No.

35

All right. Did you see that evidence?---A small portion of it.

All right. You chose not to listen to Ms Do's evidence?---Sorry, I was trying to get
across my own statement a little bit further.

40

I – I'm not criticising yet. You've read the statement that Ms Do made to the
Commission?---Yes. I've looked at it, yes.

45 Not her oral evidence, I mean the written document. You've read that?---Yes, I've
gone through it, yes.

Yes. And you've made investigations with ANZ staff in connection with the matters set out in that statement; is that right?---Yes.

Spoken to a number of ANZ employees?---Yes.

5

And I think that, in fairness to you, you set out at the end of your statement the names of the people you've spoken to in connection with different aspects of that evidence. Do you recall doing that?---Yes. For that statement I have spoken to a number of people.

10

Yes. Including people directly involved?---Yes.

Including the banker directly involved?---Yes.

15 And was that a person you knew before you came to speak to them in connection with Ms Do's evidence?---Yes.

That banker is somebody you know?---Yes.

20 Yes?---Through – through working.

Yes. Because it's a branch you're responsible for?---Yes.

25 Thank you. Can I – just before we turn to the detail of that evidence, can I just understand the way branches are now organised. A branch like – a branch like Katherine has somebody who is called the branch manager; is that right?---Yes.

And then below the branch manager there are people of different levels of seniority with different titles to reflect their seniority?---Yes.

30

[REDACTED]

35 Yes. Thank you. Now, you're aware, I take it, that Ms Do's evidence was that her clients come from a remote indigenous community that's about an hour and a half drive from Katherine?---Yes.

And that during the wet season the road into and out of the community is sometimes closed?---I understand that to be in Ms Do's statement, yes.

40 And that for the two particular clients that she mentions in her statement, travelling into Katherine is difficult because, apart from being a long trip, they have young children?---I understand that to be the case, yes.

45 All right. And Ms Do's evidence was that in mid-December 2017, her colleague Penny attended the Katherine branch of ANZ and inquired about an Access Basic account. And she was told – that is Penny was told that that type of account is no longer available to new customers?---Sorry, can you take me to a document on this?

To the statement of - - -?---Yes.

- - - Ms Do?---Yes.

- 5 Yes, I can. Yes, it's WIT.0001.0075.0001. And if we could move to paragraph 11, which is at 0003. Can you see there, in paragraph, 11 Ms Do had said that:

10 *In mid-December 2017, prior to going on leave, Penny went to the ANZ Katherine branch to ask whether the access basic account was available to new customers. Penny was advised by an ANZ Banker that the Access Basic account was no longer available to new customers. The banker recommended the Pensioner Advantage account as an alternative for customers that were receiving a government pension.*

- 15 Do you recall reading that?---Yes. I can see that in Ms Do's statement.

And have you made inquiries as to the truth of that statement?---I've made inquiries on the basis of Ms Do's statement, yes.

- 20 Yes. You've discussed that paragraph in that statement with people within ANZ Bank?---Yes.

Including the banker involved?---Yes.

- 25 And what did those inquiries reveal?---Can I go to my statement, please?

You can. I'm not sure that you deal with this in your statement, but I - - -

- 30 MS WILLIAMS: Commissioner, I am sorry to interrupt. While Mr Tapsall is going through that part of his statement may I apply for a non-publication order in relation to Mr Tapsall's evidence at 4037.41 of the transcript to 4038.2. The application is made on the same basis that the application was made and, as I understand it, granted in relation to the banker's particular title where it's referred to in Ms Do's statement. There is a concern about staff being indirectly identified and consequences for those staff.

- 35 THE COMMISSIONER: I understand that, but is the bare description as [REDACTED] - I'm just - - -

- 40 MS WILLIAMS: I - - -

THE COMMISSIONER: I'm just expressing a little surprise, but no doubt you will tell me surprise borne of ignorance. Common enough.

- 45 MS WILLIAMS: I understand that is a concern because of the size of the branch staff, Commissioner.

MR COSTELLO: Could I suggest, Commissioner, something that might assist you is if an unredacted version of paragraph 11 was handed to you, the point being made might be slightly clearer to you.

5 MS WILLIAMS: Thank you. I'm grateful to my learned friend.

MR COSTELLO: I might have one.

10 THE COMMISSIONER: Do you say I should make this NPD or not?

MR COSTELLO: I tried to be careful in my questioning, but I appreciate the concern and I wouldn't oppose it.

15 THE COMMISSIONER: Look, I will make the order – the direction you seek. I'm always very hesitant about non-publication directions, if only because people go to jail if they disobey them, and I don't want to make orders that I shouldn't make. If you press it, I will make it, Ms Williams, but do you think – is your journey really necessary, was the question that was asked at one time.

20 MS WILLIAMS: The evidence I – pardon me one moment, Commissioner. Just to clarify, I don't seek the order in relation to questions about journey being necessary, but - - -

25 THE COMMISSIONER: Don't follow the red herring, Ms Williams. Is the NPD really necessary?

MS WILLIAMS: I'm instructed that it is, in the circumstances of this particular branch, Commissioner.

30 THE COMMISSIONER: Yes, well, Mr Costello, what do you say?

MR COSTELLO: Well, Commissioner, I'm not going to oppose it.

35 THE COMMISSIONER: Very well. There will be a non-publication direction in respect of the evidence given by this witness at transcript page 4037 from line.

MS WILLIAMS: 41, Commissioner.

40 THE COMMISSIONER: 41 through to 4038 at line 2.

MS WILLIAMS: Thank you, Commissioner.

THE COMMISSIONER: Yes.

45 MS WILLIAMS: Thank you.

MR COSTELLO: Thank you, Commissioner.

Mr Tapsall, I was asking you about inquiries that you made in connection with this paragraph of the evidence. Now, do you recall the discussions that you had in connection with this paragraph?---Yes. And while I wasn't, obviously, present during any of these meetings between these two individuals, I am taking both
5 versions of events under – in my statement, and that's been mentioned in my statement – that I do understand this is Ms Do's version of what occurred on that day.

10 Yes. But my question is do you recall discussing Ms Do's version, in particular this paragraph, with the relevant person at ANZ?---With the banker, yes.

Yes. Do you have a recollection of that?---Yes.

15 All right. And what did the banker say to you in response to this paragraph?---She said that wasn't the case; that wasn't her understanding of this discussion.

Right. And what was her understanding?---That this was never discussed at that – at this particular point.

20 Was not discussed?---The banker has said that she – the banker said that this wasn't discussed at this point of time and had never said it was no longer available to new customers.

25 Okay. I just want to make sure I understand that. Does the banker say there wasn't a discussion at this time, or does the banker say there was a discussion, but it was different to this?---It was different to this.

30 All right. Thank you. If this was – just assume for present purposes that a discussion took place along these lines, you accept that that information is incorrect, that Access Basic accounts are available to new customers?---Access Basic accounts are available to new customers, yes.

35 Thank you. Have you made any inquiries about the number of Access Basic accounts that were established in the Katherine branch in 2017?---No specific inquiries along that line, no.

Okay. Is there any reason you didn't?---No.

40 Were you concerned when you read this paragraph that perhaps it could be the case that customers had been given incorrect advice?---Again, this is one version of the events.

45 Yes. And when you read this version of the events, were you at all concerned that incorrect advice may have been given?---It's not something I've tried to reconcile between the two different versions.

You've not sought to reconcile the two versions?---No, as I've said, the two versions have been outlined in my statement.

5 Yes. But you dispute various aspects of Ms Do's evidence, don't you?---We give the banker's view as well.

10 Yes. And where there is an inconsistency between the banker's statements to you and Ms Do's evidence, you say the banker's version is the version that should be accepted?---No, Mr Costello. We've got both versions and where there's a discrepancy – sorry – within the document, we highlight that and both – both versions are put.

15 I see. So you don't say that the banker's version is necessarily correct. You're just - - -?---I - - -

You're just relaying what the banker told you. Is that the position?---Based on my inquiries with the banker is what – is within my statement.

20 I'm just going to ask you that question again, because I'm not quite sure that I understand your answer. Where in your witness statement you outline a version of events that is different to the version that Ms Do gives in her statement, do you say the Commissioner should accept that the banker is right?---I'm not making a call on that within my statement.

25 Right. So you're simply just putting forward the evidence of – as told to you by the banker, but no more?---Yes.

30 All right. Thank you. I think that it's common ground that the first time Ms Do visited the Katherine branch with her two clients she was told that it wasn't possible to open an account without a scheduled appointment?---Yes.

Is that the common practice at ANZ branches?---Yes.

35 And do you know when that became the common practice?---Not exactly, no.

Is it relatively recent?---It would be, yes, more recently.

40 And that rule applies across the entire ANZ network, does it?---Yes, we've deployed an appointment booking tool to the branch network.

So it's not open to a customer or a potential customer to walk into an ANZ branch and open an account?---There still is an opportunity to walk into the branch to open an account, yes, as long as there's no other appointments booked at that time.

45 I see. And is that an opportunity that can be taken up by ANZ – current ANZ customers only, or can somebody that's not an ANZ customer walk into a branch and open an account?---Yes, someone that's not an ANZ customer could – as long as

there's no appointments booked at that time, then they will book a walk-in customer in for an appointment to open an account if that's their need.

5 And is part of the reason for that, that opening an account with ANZ is a lengthy process?---I think that's based on the customer need at the time.

10 Well, assume a customer with a need that is to open a transaction account of any variety, how long does that process ordinarily take, in your experience?---Those appointments are normally booked into the calendar for 30 to 60 minutes for an individual customer.

30 to 60 minutes?---Yes.

15 To open a transaction account?---For a new – new customer.

For a new customer. How many customers would you expect that a banker in a branch like Katherine would interact with in a day?---I'm sorry. I don't know that.

20 Do you have any idea of the number of customers that attend ANZ branches on average in branches in the area that you're responsible for?---No, it's not a number I look at.

It's not a number you look at?---No.

25 The number of attendances by customers into the branches that you're responsible for?---We look at – we look at – we can – I can look at transaction data which would show me that, but it's not something I regularly look at, no.

30 I see. Do you – would it be fair to say that a banker in – at a branch like Katherine would deal with more than 10 clients in the course of a day – customers, rather?---I'm sorry, I really – I don't know.

Do you know how many people work in the Katherine branch?---Yes.

35 How many?---Four to five at one time.

And how many of those are in roles that deal with client – with customers?---They all deal with customers.

40 Right. So some would deal with customers more than others?---There's different accreditation levels as to what branch staff are able to do.

45 Okay. And does that affect the amount of customers they interact with?---Yes, because there will be some more complex conversations.

And you're aware of the role within this branch that the particular banker occupied?---Yes.

And would somebody with that level of accreditation deal with customers over the full gamut of issues that might arise?---Yes.

5 And would you expect that a banker in that role would deal with many customers in the course of the day?---Yes.

Thank you. The bank was unable to open an account on that first visit and an appointment was then made for 21 December 2017?---Yes.

10 Do you recall that?---Yes, I do.

And Ms Do and her two clients attended at the branch on that day?---Yes.

15 And you say in your statement – and this is paragraph 84, if it assists you – that the banker conducted an A to Z review?---Yes.

20 And that's something that I mentioned earlier, the A to Z review. Could you explain what an A to Z review is?---Yes. It's what our bankers will go through with a customer, whether new or existing, to discuss the customer's needs. It's a tool to support a conversation between the banker and the customer.

25 And is it mandatory for an A to Z review to be conducted when a new client comes to the bank?---It's not mandatory, but, ideally, yes, it's one of the – one of the key things we encourage our staff to do, to discuss with customers.

When you say encourage, do you mean encourage by ANZs incentive program?---It's – it's part of their performance measures to do a number of reviews, yes.

30 And is the A to Z review in part a sales tool?---It's used, as I said, as part of the conversation to understand a customer's need and goal. That might lead to a recommendation which sees the – which sees a customer have a product fulfilled.

35 All right. And so a customer's need is something that might not be something readily apparent to the customer. Would that be fair to say?---It would be a stated need and confirmed with the customer.

40 Right. So if a customer came into the branch with a desire to open a bank account, what more would you need to know about the customer's need than that they wanted to open a bank account?---They would need to understand their name, their address, personal details around email addresses and mobile phone, if they have one.

45 This is the type of information that once upon a time would have been completed in an application form?---It would depend on the – on the account or the product.

But now that information is given to the teller – sorry – to the banker who inputs it into the computer?---The banker will input it into a computer, yes.

Yes. And the banker will find out other information from the customer?---Yes.
They will inquire from the customer as to why they're here today, why they're in the branch.

5 What other questions will they ask as part of the A to Z review?---Well, they would want to understand, based on why the customer was there, what were they trying to achieve, what was their goal.

Would they inquire as to income level?---Yes.

10

And why would income level be relevant to opening an account?---It may not be relevant to opening an account.

15 Would they inquire into income level in part because it might identify the need for another product?---It might identify a need – it might identify the fact they're on a pension, as well.

Yes. But might it also identify the need for another product?---It would depend on the customer.

20

If a client came into a branch with a high income, and that was something told to the banker in the course of the A to Z review, would that lead to a process that might lead to the banker suggesting a wealth management product, for example?---Again, it would be based on the customer's need and confirmed need with the banker.

25

Yes. So that's a need identified by the banker?---No.

30 So if a customer came into an ANZ branch and had an A to Z conversation with a client and when they went into the branch their sole goal was to open a transaction account, the only product that would be offered to that customer is a transaction account?---I'm sorry. It would be a case-by-case. It would depend on the course of the conversation.

35 Well, on my hypothetical example, the person just wants a bank account. That's their need. And they happen to have a high income. Would you expect that a person in that situation, after a proper A to Z review process, might be offered additional products?---Again, it would depend on what the customer had stated as a need within the conversation, and if they had stated the need was a transact account, for example, that's – that's what they would walk away with. If during the course of a
40 conversation with any specific customer there was additional needs confirmed with that customer, they might – they might walk away with something else.

All right. You accept at the meeting on 21 December that the banker opened an Access Advantage account?---Yes.

45

In fact, one of the letters you've exhibited to your statement says as much?---Yes.

The welcome letter. And is an Access Advantage account a standard form of transaction account?---It's one of our transaction accounts, yes.

It incurs fees?---Yes, it does.

5

You understood Ms Do's evidence to be that her client had incurred significant fees on her transaction account, as well as significant ATM fees?---I understand that from Ms Do's statement, yes.

10 And you also understand that the account fees that her clients had incurred on her previous account included significant overdrawn and dishonour fees?---I'm sorry. I'm not – I'm not quite sure I have seen that, but I have sighted that.

15 I'm not sure that I understand the difference between seen and sighted?---Would you take me to the document – sorry – where it says.

Yes, I can. I think it might be paragraph 6 of Ms Do's statement that's on the screen. You can see – sorry – it's at 0002. Thank you. Can you see about the middle of the paragraph:

20

Amongst other things, Penny could see that our client was incurring substantial ATM fees. This is not uncommon in my client's community, because there is only one privately operated ATM, and my client was charged a fee every time she took out money or checked her balance at the ATM. My client was also being charged overdrawn or dishonour fees when she did not have enough money in her account to service a direct debit that she had in place. Penny spoke with my client about switching her bank account to a fee-free account.

25

?---Yes.

30

So you can see now that the account fees that Ms Do's clients had been incurring included – included overdrawn and dishonour fees?---Yes, I can see where that has been the case.

35 And they wanted an account that would avoid those fees in the future?---Yes, I can see where Penny says that there.

Do you think that an Access Advantage account is an appropriate account for a client in that – for a bank – for a customer in that position?---It's not the account we would open for a customer in that position.

40

But it was the account that was opened on this occasion?---Yes, and subsequently changed.

45 What is the most appropriate account for somebody in that position?---Sorry, in what position?

In the position of Ms Do's clients?---We have a – we have a low fee and a no fee account.

What's the low fee account?---The Pensioner Advantage.

5

What's the no fee account?---The Access Basic account.

All right. And which account would you recommend for clients like Ms Do's clients?---It would come down to a discussion with the customer, based on their need.

10

It would be one of those two accounts?---Yes, it would.

Thank you. Ms Do says that her colleague was told the Access Basic account was not available. I've shown you that already?---Yes.

15

And the banker denies making that statement?---Yes.

Do you accept that a trip from a community, an hour and a half drive out of Katherine, to Katherine to speak with a banker would be more memorable to somebody in the position of Ms Do and her clients than it would be to a banker who's dealing with many customers in the course of a day?---That's not a question I can – I can answer.

20

It would seem logical to you that driving an hour and a half to be told something, that it might stick in your mind?---Again, it's not something I can answer.

25

Are these the sorts of questions that you put to the banker when you had this discussion?---Not specifically, no.

30

What did you put to the banker?---I made inquiries based on Ms Do's statement and the banker's recollection of those events.

Did you show her Ms Do's statement?---Yes, she has seen – well, she has seen a previous version of Ms Do's - - -

35

The outline, perhaps, the shorter version?---The – yes, the complaint.

The complaint that is attached to this statement?---Yes.

40

Is that what you mean?---Yes.

She has seen the complaint. And had she seen the complaint when you first spoke with her?---I don't know.

45

Who showed her the complaint?---I don't know.

Was it you?---I have shown her the complaint. I'm not sure that I'm the only person that has shown her the complaint.

5 All right. Had others had discussions with the banker before you did about this matter?---I don't know.

Why don't you know that?---About this specific statement?

10 Yes. I'm just trying to get an understanding of the process. You received the complaint – Ms Do's complaint, either from the Commission or - - -?---Yes.

- - - otherwise?---Yes.

15 And somebody had a discussion with the banker who was involved, because that's the person who knows what went on?---Yes.

And was that you or was that somebody else?---I had a discussion with the banker about this, yes.

20 And when you spoke with her, did you understand that she had already had discussions with others about this?---I don't know if she had a discussion with anyone else about this.

25 Did you - - -?---Not – sorry, I don't know.

You don't know if she had discussed this matter with anybody else?---Prior to this – this statement, no, I don't know.

30 All right. Where did you meet with the banker?---In Melbourne.

Face-to-face?---Yes.

35 All right. And was the reason the banker was in Melbourne to discuss this statement?---Yes.

And when you met with the banker, it wasn't known to you whether or not she had already had discussions with others?---Not around the statement, no.

40 All right. And you don't need to tell me their names, but were there other people involved in the meeting?---Yes.

All right. And do you recall whether the banker had Ms Do's complaint at the time of the meeting?---I don't recall that.

45 All right. Do you recall referring to Ms Do's complaint in the course of the meeting?---Yes.

Okay. Do you recall there being a copy of Ms Do's complaint at that meeting?---Yes.

And was there also a copy of Ms Do's statement?---No.

5

It was – do you think that's because it was before Ms Do's statement was received?---Yes.

Thank you. And did you ask questions of the banker?---Yes.

10

You were the person asking the questions?---Yes.

All right. And did you ask her questions based on Ms Do's complaint?---Yes.

15 And did you ask her specifically if she said Access Basic accounts can't be opened by new customers?---Sorry, did who say?

Did you ask her whether she had said that Access Bas accounts cannot be opened by new customers?---Yes.

20

And what was her response?---She said she didn't say that.

Right. On that occasion to Ms Do?---To Ms Do – sorry?

25 To Ms Do, did you ask her if she said it to Ms Do, or did you ask her if she says it generally?---On this occasion.

All right. Thank you. Do you accept that it might be embarrassing for a banker to find out that she had misunderstood the availability of an ANZ product that is sold in branches?---Sorry, I missed the start of that.

30

That's all right. Do you accept that it could be embarrassing to a banker to find out that they misunderstood the availability of a product sold within branches?---I – I don't know.

35

You don't know?---That's not something I can answer on behalf of a banker.

Do you think that if you were called to Melbourne and asked whether or not you had said something about an ANZ product that was just incorrect, that it would be a bit embarrassing if you had?---I – I can't answer on behalf of the banker.

40

Do you think it's a pretty big deal for somebody who works in an ANZ branch in Katherine to be flown to Melbourne to be asked questions about a particular transaction in the branch?---Yes.

45

That would be a very unusual thing, wouldn't it?---Yes, it wouldn't be usual.

And do you accept that the banker might have some concern about being flown to Melbourne for that type of conversation?---I can't answer on behalf of the banker as to their state of mind being flown to Melbourne.

5 Did the banker not express any concern about being in Melbourne to meet with superiors within the bank?---He did express concern, yes, to me personally.

Yes?---Yes.

10 You've accepted, I think, that irrespective of whatever was said to Ms Do, the Access Advantage account would not be the right product for people in the position of her clients; is that correct?---Yes.

15 You accept that. And you accept that Access Basic would have been one of the right products?---One of the two products, yes.

And what was the other one?---The Pensioner Advantage.

20 Thank you. The account, although opened as an Access Advantage account, was then changed to a Pensioner Advantage account. Do you recall that?---Yes.

25 Does the difference between a Pensioner Advantage account and an access basic account turn largely on whether a customer needs a visa debit card?---A visa debit card is one of the differences of the accounts, yes.

What are the other differences?---The Pensioner Advantage offers – it's interest bearing and it also has overdrawn fees and dishonour fees.

30 So why then do you say that a Pensioner Advantage account might be an appropriate product for people in the position of Ms Do's clients, in circumstances where they have previously incurred overdrawn and dishonour fees, and were concerned not to continue incurring those fees?---Sorry, what was your question then?

35 Why do you say that the pensioner advantage account is an appropriate product in circumstances where Ms Do's clients were concerned to stop incurring overdrawn and dishonour fees?---It's one of the two accounts that's offered for people on a pension.

40 Yes. But if you want an account and one of the things that you want to achieve by opening it is not to incur dishonour fees and not to incur overdrawn fees, then that account doesn't do the job for you, does it?---And again, I would say I wasn't in the conversation that day in the branch to understand exactly what was discussed.

45 No, no?---You've got the two differing versions.

I well understand, Mr Tapsall, that you weren't in the branch. My question is – if you just accept for present purposes that an ANZ – that a customer comes to an ANZ

branch and they want an account, they receive Centrelink benefits, and they're concerned that their current account with another institution is charging them dishonour fees and overdrawn fees, that's the – they are the circumstances presented to the banker – if you just accept that. I'm not saying that that's what happened on
5 this occasion for the purpose of this question, I'm saying if you accept that as the position of clients, what is the appropriate bank account that ANZ offers?---I would say again this is a specific case, and I wasn't there, so I can't understand exactly what was discussed between these people.

10 I've just asked you a hypothetical question twice. I will put it to you one more time. If a client comes to an ANZ branch and they say to the banker, "I receive a Centrelink benefit and I'm getting killed with overdrawn fees and dishonour fees on my current account. Does ANZ have an account for me?" What would be the appropriate answer?---It – it would be a discussion with the customer based on some
15 of that as their information.

What more would you need to know to determine the appropriate product?---If – if they were – as I've mentioned, one of the differences between the accounts is the advantage – Pensioner Advantage comes with the visa debit card.

20 Yes?---If that is a stated need of the customer at the time, then that may be one of the options that the customer

But you wouldn't solve the problem of dishonour or overdrawn fees, would
25 you?---No, not in that case. That would be the difference between the two accounts, as I've highlighted.

Are you reluctant to recommend ANZs Access Basic account?---No. It is based on the customer need and the discussion. Hypothetically or not, it is still – it's a – it's
30 an account that's available for people in customers that come into our branches. It is a fee-free account and is applicable for some people.

Commissioner, I apologise. I had not appreciated the time. That might be a convenient point.

35 THE COMMISSIONER: 9.30 tomorrow.

MR COSTELLO: Yes, thank you, Commissioner.

40 THE COMMISSIONER: Can I ask you to be back in time so that we can begin at 9.30 - - -

MR COSTELLO: My apologies, Commissioner.

45 THE COMMISSIONER: - - - Mr Tapsall?---Thank you, Commissioner.

<THE WITNESS WITHDREW

[4.48 pm]

MATTER ADJOURNED at 4.48 pm UNTIL FRIDAY, 6 JULY 2018

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