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THE HONOURABLE T. PAGONE QC, Commissioner
MS L.J. BRIGGS AO, Commissioner

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

9.16 AM, WEDNESDAY, 16 OCTOBER 2019
Continued from 15.10.19
DAY 58

EXHIBIT #11-52 STATEMENT OF PROFESSOR SARA CHARLESWORTH DATED 14/10/2019 (WIT.0381.0001.0001)

MS HILL: As the Commission pleases. Professor Charlesworth, in your statement, you describe having a longstanding research interest in the employment conditions for the frontline workers in aged care, both in Australia and abroad, and I understand that's an interest that extends some 25 years.
PROF CHARLESWORTH: Yes. That's correct.
MS HILL: Professor Charlesworth, could I ask you to describe who are the frontline workers that you are referring to in this interest?
PROF CHARLESWORTH: The frontline workers are the people who are known as home care workers within home care services or personal care workers or sometimes assistants in nursing. They've got different titles in different organisations in different states, but they're the workers who do the hands-on care work within aged care.
MS HILL: And why do you hold that interest?
PROF CHARLESWORTH: Well, it goes back to – quite some way back into 1993, and I was then asked by the then department – the Federal Department of Industrial Relations who had just set up a pay equity unit to undertake a pay equity study of low-paid workers, and in discussions we agreed that we would look at home care workers in Victorian local government. And we set about – back in those days there was very much an emphasis on comparators. So we compared aspects of their job with – and the remuneration for different aspects of their job with assistant gardeners also employed in local government. So it was a kind of classic comparable worth case study and, really, ever since then I've been dipping in, dipping out, but for many years was very interested in what was happening, particularly in the home care space. Following that work, I undertook some work for the Australian Human Rights Commission, which was wanting to have a look at some of the problems that were being raised in award restructuring back in '94 and we looked at the differential over award payments that very feminised occupations like home care workers received when compared to more masculinised occupations. And then when enterprise bargaining was brought in, there was a lot of concern at the time that this may not be helpful once again to low-paid women workers, and as part of that work, I took a study which involved a number of studies not only aged care but a wide variety of low-paid women's jobs. And we looked at different organisations to actually have a look to see what the potential opportunities were but also challenges for enterprise

bargaining would be and that report was called Stretching Flexibility and that goes back to '96.
MS HILL: In your experience, is the work of those frontline workers valued?
PROF CHARLESWORTH: It depends what level. I don't think – societally, I think it's not valued. If you speak to the workers, they themselves know that the work that they're doing is important and valuable, particularly to their clients and the residents for whom they provide care and support; but they feel very strongly that broader society doesn't value their role, and they sometimes feel that their employers don't particularly value their role.
MS HILL: Does the fact of it being a majority female workforce explain, in and of itself, why the work is undervalued, in your view?
PROF CHARLESWORTH: That characteristic is a very important one. In Australia we are very occupationally segregated along gender lines. But what's particular about care work is that it is assumed to be the work that women are born to do naturally and, as such, with paid care work being seen as equivalent to unpaid care work it's therefore viewed as something that a lot of women are capable of doing, and so that it's not particularly skilled work.
MS HILL: In your statement, you describe the Commonwealth as being the real employer in aged care in Australia. Why is that?
PROF CHARLESWORTH: Well, the Commonwealth is the – overwhelmingly the majority purchaser of aged care services in Australia, and I mean, I would say the absolute purchaser, but it purchases the formal aged care services. It's clearly – an enormous amount of aged care is provided by family members, you know, through unpaid care. But it purchases, through a contracting line, and I often think of the Federal Government, really, in the current model we have, as being at the head of a supply chain. So that right down at the bottom you have this group of frontline workers that I'm talking about.
MS HILL: What role does the Commonwealth have in improving the conditions and the remuneration of aged care workers in Australia?
PROF CHARLESWORTH: It has a huge potential role but in fact over the years, because there have been inadequate rises in – how can I put this – there has been inadequate accounting for normal rises to wages, particularly through the national minimum wage case, which is the main way that wage rises are received if they're frontline care workforce, and by not paying indexation some years, by paying part of indexation, by not paying CPI wage increases, providers don't have the money to be able to pay better.
MS HILL: Can I ask you to expand on a matter which you address in your statement in respect of the current industrial setting in Australia.
PROF CHARLESWORTH: Yes.
MS HILL: What effect can current industry awards and enterprise bargaining arrangements have on improving remuneration and conditions of aged care workers?
PROF CHARLESWORTH: Look, in theory they're very appropriate mechanisms, particularly awards because the advantage of awards is that they cover all employees within the sector. So that it doesn't depend what enterprise you're employed in. But in point of fact, they have – and I mentioned award restructuring way back in '94 that wasn't particularly favourable for female-dominated occupations. In our current industrial relation systems, awards – we give precedence to enterprise bargaining so the main way to improve wages and conditions is through enterprise bargaining. That has been an abject failure, in my view, in aged care partly because a lot of workers, particularly home care workers don't have practical access to enterprise

bargaining and, you know, the Fair Work Commission itself has observed in the low paid bargaining case, that whenever enterprise agreements exist, they provide for very meagre and in some cases no wage increases over the award minimum. So it's extremely hard to get improvements via the industrial relations system. There has been this current long tortuous process that the relevant aged care awards are still subject to, the modern award review.

And over – before then and now, a lot of that has been kind of clawing back conditions that were lost in the award modernisation process which saw a whole lot of awards, state, territory, federal awards, aggregated into two separate awards, one the social community – what's known as the SCHADS award, Social, Community, Home Care & Disability Services Award which covers the home care workers for our purposes, and the Aged Care Award which covers personal care workers in residential aged care. But very meagre improvements are gained and with one step forward, we then see a couple of steps back and, at the moment, I suppose what I find very concerning is that the argument from the employer groups is that with funding models such as consumer-directed care, more flexibility is needed. We need more flexible permanent part-time work, etcetera, that, ironically, does nothing to create the conditions of work that would support – good conditions of work, that would support good conditions of care.

MS HILL: Do you consider we can rely on current enterprise bargaining and industry awards to support the aged care worker?

PROF CHARLESWORTH: Well, there's a number of ways to go. I think enterprise bargaining is not practical for the reasons that I mentioned but particularly in home care. It's very hard to organise outside when you don't have an institutional workplace. So it's somewhat easier if you are in residential aged care but still extremely difficult, and I read some of the submissions to the Commission which set that out very clearly. In home care, it's almost impossible. Increasingly you are dealing with a workforce who may never go into their employer's place of operation; they receive – on their smart phones. They communicate via their smart phone. So that there is very little opportunity to – for unions to organise and, indeed, to be able to go for enterprise agreements.

That's not to say that there aren't enterprise agreements that cover home care. There are. They're with very large providers. But in the main, the typical home care worker certainly is not covered by an enterprise agreement which means you're then reliant on the award system. Ideally, the award system would be revitalised. It would need, industrially, to be given a far more important place than it has in our industrial relations system, and that goes more broadly, but if we're just thinking about aged care workers we really need awards that are fit for purpose. And you've got your wage rates that are set out in those awards but you have also got the classification structures that they refer to. And those classification structures are incredibly repressed.

They have very meagre descriptions of the kinds of work and responsibilities that are undertaken at the different levels that are specified in the award. So at the moment, and this is both employers and unions, are spending an enormous amount of resources in this modern award process and it's just inching forward and, as I said, over the time since the modern awards came in, 2010, there have been some very small improvements in conditions but they are not improvements over and above that had existed prior to award modernisation, certainly in some awards.

MS HILL: What should change, then?

PROF CHARLESWORTH: It depends what level you are looking at. I don't think

you can change industrially unless you have a major change at the way in which aged care work is – or the work of aged care and by that I mean the care and support that is provided to people whether they be in residential aged care or in the community in their homes. But we need more funding but not just more funding, we need to recognise and value both the care that is provided to the frail and vulnerable elderly people as well as the workers who provide it. And that requires a major injection of funding but it also requires a restructuring of the way in which we organise the work of care.

MS HILL: You refer to employer groups indicating that they need more flexibility in the workforce.

PROF CHARLESWORTH: Yes.

MS HILL: And in your statement, Commissioners, at paragraph 22, Professor you refer to employer-oriented flexibility. Could I ask you to explain what you mean by that and what the role is – or the impact of a flexible workforce in the aged care sector?

PROF CHARLESWORTH: By employer-oriented flexibility, I'm thinking particularly of the permanent part-time workforce which is the majority workforce in both residential care and in-home care. And under the relevant awards, unlike – and it's always instructive to do comparison with awards in male-dominated sectors, but if one looks at the manufacturing awards, for example, if your contracted hours are 20 hours a week and your employer asks you to stay back and work a couple of extra hours, you are paid overtime for those hours. In aged care you can be, as I describe it, be flexed up to 38 hours; it's with mutual agreement but you can be asked to work additional hours and you are paid at ordinary time rates. You receive no compensation for the disamenity of being available and working additional.

So that's one indicator of employer flexibility, without going into the minutiae of the Social, Community, Home Care & Disability Services Award but, for example, if a client cancels their appointment or their – you know, for some reason and if they do it the evening before, by 5 pm the evening before, then the part-time worker will still be entitled to be paid for that time but she will have to make up those hours, so outside of her normal schedule hours. And a practice in the industry is to keep people on short part-time hours. We see quite extensive – and this is documented in the National Aged Care Workforce Census and Survey, quite extensive under employment where people want more hours of work in their current job.

And so if you keep people hungry for hours and you then say, well, you know, can you work a few extra shifts over the next month, you know, we've got some people taking leave, people will do it but they don't get any extra premia for being available to work those extra hours as they would if they were covered by an award such as the manufacturing award.

MS HILL: Can I turn to the issue of travel time for the home care worker. We have heard evidence this morning of the home care worker sitting in their car, waiting to go in to deliver care to the next client, not being paid for that time and on a split shift working, being paid for five. Professor, in your statement – Commissioners, at paragraph 24 – you address the introduction of travel time in New Zealand.

PROF CHARLESWORTH: Yes.

MS HILL: Could I ask you to describe why that's important, how that came about, and what lessons there are to learn in the Australian experience?

PROF CHARLESWORTH: Yes, I think the whole issue of travel time is absolutely – it's very revealing about the lack of value we accord home care workers' work. It's hard to think of any other job where you are required to travel from client to

client and you are not paid for your travel time. You are recompensed for your mileage when you travel, when you use your own car, which home care workers do but you are not paid for your travel time. It's – some of the enterprise agreements – the better enterprise agreements in the sector do pay travel time; local government in Victoria pays travel time. When it had its own home care service, the New South Wales home care service used to pay travel time.

But it isn't paid and it just seems to me quite extraordinary. It has been addressed in a couple of countries but most importantly in New Zealand back in 2012 the New Zealand Human Rights Commission had an inquiry into aged care. The inquiry and the report of that inquiry is called Caring Counts and they recommended but also placed significant pressure through a Caring Counts coalition on the government to remedy that situation and in the event the government agreed that travel time should be paid and it provided quite a bit of additional funding for that purpose.

That was in sharp contrast to the situation in the UK where an employment tribunal had found, as a matter of law, that travel time of home care workers was work time and therefore should be paid at the national minimum wage which is what social care workers earn in the UK. However, the UK government didn't fund that additional travel time to providers and, not surprisingly, that requirement that travel time be paid is mainly observed in the breach. So the New Zealand case is instructive. It's not only providing or mandating that travel time between clients – and this is not travel from your work to your first client, it's travel time between clients, should be paid time and providing funding to cover that.

MS HILL: How does job quality then compare or differ in New Zealand for the home care worker to the Australian home care worker?

PROF CHARLESWORTH: Well, I had the privilege of accompanying a number of New Zealand home care workers as they did their rounds. It made – they, though, were also the beneficiaries of a substantial wage increase, as I put in my statement, the whole New Zealand aged care system has been entirely renovated in terms of employment conditions and attaching wage rates to achieved competencies via qualifications. But the workers were incredibly appreciative of it. However, there had been some implementation issues emerging and this goes to the not quite full recompense of the actual travel time. So in the settlement that was agreed between the parties in New Zealand, if you travel under 15 kilometres it's assumed to take you 8.3 minutes. Now, let me tell you, in Auckland traffic that doesn't work. So workers are often taking longer.

And the stress for workers is they might be allocated 15 minutes to travel between clients and this happens in Australia; it can take you longer than that amount of time. So you are behind the eight ball when you arrive at a client's house. You then need to stay if you're 40 minutes, they need to say for the 40 minutes so your clients are pushed back for the day so that you end up kind of working on unpaid time, if you like, when you finish your last client for that day. But there are real problems with it and then when you put that, if you're a home care worker then you have a one hour minimum engagement so that's really where you can have that incredibly – you know, you could be available for up to 14 hours across the day, and you might have four or five hours of paid work so you work, you know, with one client.

You might be then just parked in your car waiting for another two hours before you then go to another client, etcetera. So one of the reasons that the New Zealand government, they brought in the travel time and then – because before then they didn't have any guarantee of regular hours, they have introduced a system called regularisation because the government figured if it was paying for travel time, it was

worth then organising the work of home care in a way that provided joined-up hours for the home care worker so that you would minimise the kind of gaps between clients.

MS HILL: It has frequently been said in evidence before this Commission that it is important to get the right people for the right job in respect of home care workers, aged care workers more generally. Do you agree with that proposition?

PROF CHARLESWORTH: Of course it's important to get the right people for the job, like it is for any job. Any job I can think of, you need the right person to do it but you also need a set of skills that will enable that person to be able to do the job. And I think that what one often hears in the aged care sector – and I've heard employers say for example we're thinking of introducing psychometric testing, we need to work out how to get the right person. And it is important to have somebody who is people-oriented but it is just as important for nurses, it's just as important for doctors. What you absolutely need is somebody who has a set of skills that will enable them to do, you know, fairly difficult, challenging but very individualised work that needs to be done in aged care and I'm thinking both in residential aged care but also in the community in terms of home care.

So for me, the problem, the emphasis on the right personality really undercuts the – and devalues the skills that are currently being exercised and they can be gained through formal qualifications such as certificate III, certificate IV, but also the skills that are required on the job and with experience. So the knowledge of how to handle a frail aged person in a shower, it may be a 90-year old women, her limbs might be quite stiff. Her skin will be very thin. You need to be extremely gentle, you need to work with her and it takes time. And one of the main problems in aged care – and I know that you have heard a lot about this, is that everything is rushed in home care and in residential aged care and that makes it extremely difficult for workers to use the skills that they've gained.

MS HILL: Are those skills that are required, that you described as being currently exercised, recognised in the current job classification for aged care workers?

PROF CHARLESWORTH: Well, absolutely not. So while it's only an entry level – I will just give you an example. For home care workers they're required to have basic oral communication skills. That seems absolutely ridiculous; they need highly developed communication skills. They need to be able to talk to somebody, maybe a new client, the first time they meet them who is very anxious about having someone in their home. They need to have the communication skills to be able to put someone at their ease, to work out fairly quickly how somebody likes to be spoken to. A lot of older people prefer to be addressed quite formally. They want to be Mrs Jones, for example. They don't want to be called Madge. They don't want to be called "love". You need to be able to really work out how you're going to communicate with that person. So that's just one example. The way that the skills are described in a very rudimentary way in both awards really fails to acknowledge the complexity of the work that is being done, the judgment and the deep knowledge that people have to have about working with – if you just think of just straight body, intimate body work with a variety of older people who have not just different needs as individuals, but have different needs on different days at different times of the day.

MS HILL: How can those skills be recognised in the current awards framework?

PROF CHARLESWORTH: Well, there's some templates out there. The former New South Wales home care service under their – it was a state-based award, they have very well-described skill descriptors, as do a number of the Victorian local government enterprise agreements. So, if you like, I describe it as they've unpacked

what the skills are. They have actually set out the skills that are required. They've set out the particular competencies that are required at different levels of care and they clearly make it – they are able to differentiate between more routine care and more complex care. So I think that if one were to redesign the award system, then you would start with some existing templates and they have been negotiated over the years.

So I referred right back to '93 when I first did that work and I worked then – a union which is – a Victorian union which is no more. It's been amalgamated but it was called the Municipal Employees Union and they covered what they called the outdoor workers, the garbage workers, the gardeners and also covered home care workers, and over the period of time after we – after I initially did that pay equity study, they started – they had one skills classification for their home care workers; they unpacked it into three quite distinct skill classifications and where the complexity of care, particularly personal care was seen as denoting or requiring a higher level of skill.

MS HILL: Professor, you've described the aged care workforce as one which is highly feminised and given evidence about the gendered undervaluing of aged care work.

PROF CHARLESWORTH: Yes.

MS HILL: What role, in your view, would an increased participation in aged care work by males have in improving the conditions of aged care work?

PROF CHARLESWORTH: I think in terms of just providing additional source of labour – I think that that's very important. In Australia, it's been incredibly slow to change, but I can just turn you to table 3 of my statement; it's under paragraph 56, but there, where I'm talking about migrant workers, you can see clearly we are beginning to get more men particularly into residential aged care – that's personalcare assistance – by migration so that we're seeing men form a larger – overseas born workers in aged care – both in home care and in aged care, men form a larger component. So that is, certainly – we're beginning ..... more men come in. But as I said, there is some degree of stigma for men in aged care. There also some practical difficulties.

I was recently in a Scottish aged care home. Now, in Scotland there's been quite longstanding – particularly the area I was in, Glasgow, longstanding male unemployment. So there are increasing numbers of men in caring-type jobs, but – including aged care. But in this particular organisation, one of the dilemmas they had was – when they had men on shifts, doing personal-care work, a lot of older women – and increasingly you find the service users within aged care are increasingly women, because people who are using formal aged care services tend to be older, and because of the increased longevity of women, you tend to find a greater portion of female clients in residence; if they don't want their personal care done by a man – that's fine, and organisations ..... organisations and residential facilities respect that; then that actually creates – and I saw this with my own eyes; that actually creates extra load for the female workers on that shift.

So the – somebody will say "Look: I don't have a man doing my personal care"; that's fine. But somebody who's got another six residents to get up, dressed, toileted etcetera has to do that job. So depending on people's preferences, which they are perfectly able to exercise in the aged care setting, there can be some practical difficulties. But in principle, it's really important, to be getting in a whole diversity of people in aged care. And as I said, we can see already – and we've done some work with – I've done some work with colleagues; we've been tracking the

increasing number of men coming in by the overseas-born.
MS HILL: What can be done, in your view, to overcome the perception that aged care work is work that's done by women and accordingly is not ascribed – is undervalued?
PROF CHARLESWORTH: Well, I think we need a decent – and this goes back to remedying the award – a decent skills structure that not only differentiates between various levels of care and various levels of skill that's required but provides a career pathway. At the moment, while there are certain levels designated in the awards, if you have a look at the remuneration for them – they are very – they are tiny, in some cases cents' difference per hour as you go from one level to the other. So you need decent increases. But, clearly, if you want to make the sector more attractive, well, you really need to do something about the remuneration. But I would also say, because this goes hand-in-glove with the working-time conditions, we need to be providing income security and working-time security to the workers. And it's instructive, to have a look at the New Zealand ..... because the wage increases there were really quite profound; aged care workers had only been entitled to their national minimum wage. So there was a significant increase in wages, but then there are meaningful relativities between the different levels, the four levels of aged care worker that they have there, in both residential and home-care work. So that's also going to be crucial in creating that value.
And, well, I think industrially one has to start there, because, as I said at the very beginning, aged care workers know that the work that they do is valuable. They know and they are told by clients and residents and residents' and clients' families that the work is valuable. But they feel very strongly that they are undervalued, and that means being involved in decision-making. So in some of the better facilities I've been in, you'll actually see aged care workers, the frontline workers bought into meetings with the families, when you're discussing how the resident is faring; the workers really feel that something like that recognises the fact that they're the ones who spend most time with that particular individual, and I've seen situations where allied health staff have been quite surprised at the level of knowledge that the frontline aged care worker actually has about that particular resident. So in some organisations – and I've had the privilege of going into, probably, better organisations than most, but even in the better organisations, there can be a view that your frontline workforce is unskilled and your registered nurse is the skilled one and, if you're lucky enough to have any enrolled nurses there, then – they're also much more skilled than the home-care or the residential-aged care worker.
MS HILL: You've described the opportunities that you've had to see residential aged care facilities in Auckland, in Scotland. Is that part of the Decent Work and Good Care International Approaches to Aged-care project that you're a part of?
PROF CHARLESWORTH: Yes. Yes. I'm leading that project with Scottish colleague and two Canadian colleagues, one of whom used to be based at the University of Sydney, but she's now at the University of British Columbia. So – yes. That's a large Australian research-council-funded project.
MS HILL: And what is the objective of that research?
PROF CHARLESWORTH: The objective of the research is to have a look at different – we're also looking at Canada, but because in Canada aged care is organised at the provincial level – so we're confining our investigation to Ontario, the largest province there. But the main objective is to really understand how different national systems – so these are the different policies, the funding, the regulation. So it's things like employment regulation, but it's also things like

migration for example – how all of that then gets operationalised through organisational practices and work design and how that then shapes the quality of the work and the quality of the care. So we've been doing a lot of mapping work, a lot of systems-mapping work; we've been spending time in aged care organisations that have been recommended to us in the relevant countries as being of good quality. And we are really interested, to see what they're doing right. So we're there to try and pick up promising practices, but within the countries we're looking also at what we call promising policies.

So for example: the travel time in New Zealand is, clearly, a promising policy, but we also very interested in the way that they have there – of organising a more ndevolved aged care system. So aged care is organised through district health Boards, and particularly within one district health Board, where we've spent quite a bit of time at aged care services, they have this – they call this "alliancing model" – so that the designated providers for example of aged care work together, and this is really interesting in this particular case, because two for-profits, two not-for-profits, but they actually share information. They share clients coming into their particular area, and they have – because they work directly with their local health Board, they are able to feedback what's working on the ground.

And one of the terrific things that has happened through this is then – the assessment and re-assessment of clients' needs as they change is actually done through the – done through these particular organisations. So if you like – an assessor from the district health Board is actually located in these organisations, and from the workers' and the clients' perspective, they can say, "Look: I'm worried, that Mrs Brown for example, seems to be getting a bit frailer. I really think we going to provide some additional care", and the next day, an assessor will be out there, re-assessing that particular person's needs. So you have a very responsive system, partly because it's more localised. So that's one example of the kind of promising policies that we're picking up.

Another one – and I'm still digging through it, but – in Scotland they have a care inspectorate, and the care inspectorate is responsible for auditing all of aged care, residential and home care, but it's done – well, their whole system is very much outcomes-focussed, and in these reports, which are put up online, which are posted so, if you go into the residential aged care facility – the results of that latest care inspectorate report is up on the notice-board for families, for visitors coming into the centre, and they are rated across various areas of standards. But in gathering the information, the care inspectorate will be talking to residents for example, if you're in residential aged care, residents' families. It'll be talking to workers. It requires organisations to be doing regular surveys of its workforce and of its family and resident population. So it's a very – it creates a lot of transparency within the system.

So I'm thinking of some service for my mother for example, I can go online to the care inspectorate, look at the name of a particular service I'm interested in and see how they've rated over the time. And it's not just a rating; it's not just a "passed" or "failed". They're scored, and what's extremely interesting is that, when you pull it up, I can actually see how things have improved or perhaps not improved in various domains. And then a narrative report is produced. So it's quite a bit of detail about what the inspectors observed, any areas, they think, need to be improved and if there are areas designated to be improved. And they can be quite minor things.

For example: in one aged care facility where I was, they felt that the deck – you've got to remember this is in a grim Glaswegian summer – that the deck wasn't very

accessible for some of the residents so that they were immediately – had set about – they got a carpenter in to try and make it somewhat more accessible by lowering the angle of the ramp. So that's the kind of details that are provided, and it's – because somebody's actually out there in your facility and talking to you about how you go about it, but talking, as I said, to residents, family members and, I think, very importantly to workers – workers are seen as an absolute central part of that auditing process.

MS HILL: And that project that you are involved in, Decent Work and Good Care: when is that due to conclude?

PROF CHARLESWORTH: Well, we are getting to the end of our data-gathering phase. As with all Australian research-council projects, once ..... we're in our third year, doing a lot of gathering of data, and then we'll be spending the next several years, really, synthesising that, but we've started the slow publication process. But we're using a quite-good website that we've specially set up for the project to present our findings as we go. Whenever we go into aged care facilities and run a case study, we give a very detailed report back to that aged care organisation about what we've found, the promising practices we found but also things that, we think, they ought to consider. And, luckily, because they're the kinds of organisations that are open to more innovative practice, they welcome that feedback. A number have said to us that they really welcome an external set of eyes just coming in and seeing how things work.

And we use quite an immersive process. So in every case study we have a number of researchers, both what we call insider researches – so if it's in Australia, I'm an insider researcher, but my Scottish and Canadian colleagues can, if you like, ask the dumb questions; they can say "How does that work? I don't understand that. That's different from where I am from". And likewise I'm able to do that in New Zealand and most recently in Scotland, and that's very useful, because it means we pick up things that you mightn't pick up, if you really knew the system, or you mightn't pick up, if you were totally outside the system and didn't really understand the rational for the ways in which things work. So we – as I said, going back to your question, we are starting to publish from it. We're having an expert workshop next year, but we provide regular feedback to an ever-widening list of people through our newsletter and remain in contact with all the organisations with which we've been conducting those in-depth case studies.

MS HILL: Bearing in mind the stage of the project – that the project's up to: what ability is there, in your view, to take these promising practices, these promising policies that you've identified in your work to the Australian aged care sector?

PROF CHARLESWORTH: I think that they're all food for thought. It's very hard in the policy sense, to just translate things holus-bolus. The example I gave you of the Scottish care inspectorate only works, if you've got health and care standards, health and social-care standards that are outcomes-focussed, that recognise the important roles of workers et cetera. So that – there are various parts to the puzzle. You can't just – in Australia you couldn't just import for example, the Scottish care inspectorate; you would need a total renovation of our quality standards. So you need to be mindful, I suppose, of what parts you're adopting. But if I go back to the example of – New Zealand totally – well, increasing wages but also renovating the classification structure and hanging that off specific skills that are – qualifications that are required – I, certainly, think that that provides a basis to start thinking about how we might do things differently in Australia.

MS HILL: Professor Charlesworth, that concludes the questions that I've got for

you, and I'm conscious of not testing my luck with the Internet connection. Were there other matters that I haven't taken you to in your evidence that you'd like to raise at this time before we conclude?

PROF CHARLESWORTH: I suppose just one thing that I was originally asked to comment on and we touched just obliquely on – but I do think it's important – is the whole issue of the fact that we're starting to rely on temporary migrant workers in aged care, and I think that can – that is concerning. Australia's history – Australia's always – in aged care we've always had more overseas-born workers, but they tend to have be long-term permanent migrant workers who've got the full rights and social protections of people with citizenship and permanent-visa status. We are increasingly using what my colleagues and I describe as a number of back doors. So international students are used a lot in residential aged care. They are here on temporary visas. They have very strict criteria as to how many hours they can work, be in paid employment a week. But we've recently started in an Australia Pacific labour scheme, which is a front door if you like, which is – the aim is to bring in Pacific islanders to provide – to do a range of work. It's based on the seasonal workers program, but the idea is it wouldn't be seasonal. And the idea is – this is something that is – been described as a triple win. It's a win for the women and the families, because it'll be mainly women doing the care work – women and their families in the sense that they will be earning money. It's a win for the countries in that they'll be receives remittances, and it's a win for Australia, because we will be doing something to address what is seen as this looming labour-force deficit. Concern is that these are temporary visas. The women will not be allowed to bring their families when they're here. They are not covered by any social protection; by that I mean basic things like Medicare. The employment in the industry is not organised around a full-time norm. They will be located outside major cities, and that just sets up a whole lot of hallmarks of vulnerability. And we know – it's been extremely well documented in both the UK and Europe, the plight that temporary migrant workers can find themselves in. They're often anxious to keep their jobs so that – they may not be reporting for example, health and safety issues. But there is also, I suppose, a concern that – this is seen as the solution to the labour-force deficit, rather than addressing decent wages and remuneration. Australia will always have a lot of migrant workers in aged care, and that is important for a whole number of reasons, not least those who have the language skills to be able to communicate with older people, older migrants who often revert back to their mother tongue as they age. They find it increasingly difficult, to speak English. So there's a really valuable workforce.

But we do know that both in Europe and in the UK, that a lot of migrant workers have been treated very poorly by employers and there is also some elements of racism, sometimes among clients and residents, but sometimes among co-workers and I've spoken with workers who have experienced this. There's a view that they shouldn't be speaking another language if they're talking to a colleague who is of the same language group as them. So that there can be a whole lot of issues raised. So I just think it's importing another – bringing in some more vulnerability and it's really only a temporary solution. The solution is to do something about the wages and the working time conditions, the skill recognition in the sector and rather than relying on what are seen as short-term fixes.

MS HILL: At paragraph 58 of your statement, you describe the work of Anna Howe who has looked at other developed countries and that the Australian situation was best described as migrants working in aged care rather than as migrant aged care

workers.
PROF CHARLESWORTH: Yes.
MS HILL: Is that something that you have observed as changing since that time in 2009 when Anna Howe made that observation?
PROF CHARLESWORTH: Yes, yes. Yes, I mean, I think – still think it is predominantly true because when I've, with other colleagues, done other work, and we've used the National Aged Care Workforce Census and Survey and we've kind of looked at where people are right, but increasingly having a look at the – an integrated dataset that the Australian Bureau of Statistics provides with its census and it matches settlement data and that works for permanent migrants, but if you look at the characteristics of recent Australian migrants, you can see that people working in care, and it's hard to get below that level because it's essentially a labour force survey, that are overwhelmingly now tending to arrive on temporary visas and are more likely to stay on temporary visas so – and that really reflects the changes in Australia's migration regime.
We used to be a country of permanent migration. We've shifted now much more to rely on temporary migration and where you do a pathway to permanency depends – and this is where the undervaluing of aged care work, particularly frontline care work in the ABS occupational classifications really makes an effect, if you are – for example, you're an aged care worker, you are on a temporary visa, you would like to transition to permanency, because your job is allocated ANZSCO level 4, you are highly unlikely to be given or have access to permanency in that job. That is if it's an aged care worker. We do know that there is a number of people that arrive from India and the Philippines and they will have nursing qualifications which are not recognised in Australia, and they could apply for permanent residency if they were able to have their qualifications recognised and trade up and be then going into a nursing job, that's possible.
But as long as they are an aged care worker and they want to stay as an aged care worker, they will find it increasingly hard to achieve permanency. And I think I cited there; Peter Mares has this wonderful expression talking about, you know, permanent temporariness. So that is something that I think is going to be an ongoing issue and gets back to the kind of labour force that we need in aged care, which is a stable, sustainable labour force. So however it is made up, we need people who are going to be able to stay there and having – spending a lot of time in the UK, the real concern there is with Brexit looming, very soon the people who are there from Europe will suddenly not be able to work there any more. So aged care is – the aged care sector, certainly in Scotland, the people I've been speaking to there are very worried about the impact of losing those people, and that's because they are essentially temporary migrants.
MS HILL: Commissioners, that concludes my examination of Professor Charlesworth.
COMMISSIONER PAGONE: Yes. Thank you.
COMMISSIONER BRIGGS: Ms Charlesworth, it's Lynelle Briggs here. Thank you for your evidence. I think it's your morning in Sicily so thank you for getting up early for that. I wanted to ask you about a couple of things; it's my understanding that the rate of unionisation in this sector is quite low, I think under 15 per cent, so quite low. And we've had a sort of bunch of evidence today about there being different awards, state-based, federal and enterprise agreements. And it's almost like it's a collage or a matrix of different arrangements coming from everywhere. And it's very hard to see your way through this fog of different arrangements to get to

what you're talking about, which is an improvement in wages across the board and conditions across the board and career-related pathways to higher wages and so on. So how do you do that? How do we get there? Do we need a new model award that's a national award or what are you proposing?

PROF CHARLESWORTH: Well, I hope I haven't confused you, Commissioner Briggs. There are, in fact, just two relevant awards. So the award modernisation that took place in 2009, for example, in the award that covers home care workers – the Social, Community, Home Care & Disability Services Award – there were, I think, from memory 32 awards. They were state, federal, territory awards, that were, if you like, smooshed into that one award.

COMMISSIONER BRIGGS: I didn't appreciate that.

PROF CHARLESWORTH: Yes. So – and then there's the Aged Care Award which covers the residential frontline workers, the personal care workers. So we do just have two awards. But I think, if I can just – and then obviously you have your two awards and where you have an enterprise agreement, the enterprise agreement is supposed to sit on top of the award. In theory, it's supposed to be you bargaining for better wages and conditions. In practice, as you point out, unionisation is very low and it's very hard to get data on unionisation in the sector. But I think your estimate is probably at the higher end. I suspect it's – overall that it's lower than that. It is higher in residential aged care. It's probably very much lower in home care.

But in terms of what can be done, I mean, there is the industrial relations system. But a bit like in New Zealand, it was an act of will by their government that said right, we're going to fix this. So I think trying to effect change through our current system of modern awards is incredibly difficult because our awards have been basically hollowed out under the Fair Work Act but it was something that started under the Workplace Relations Act. I think we are going to need a multi-pronged approach but I think what it starts with is government will that these issues are going to be addressed and if these issues are going to be addressed, then there needs to be additional funding, and there needs to be specific funding that is tied to these kinds of improvements.

COMMISSIONER BRIGGS: Thank you, that is very helpful.

COMMISSIONER PAGONE: Professor Charlesworth, thank you very much for sharing your research and depth of experience. Your statement is very informative and we are grateful that you were able to give us the time at what must be a lot earlier there than we think it is, and I thank you.

PROF CHARLESWORTH: Thank you.

<THE WITNESS WITHDREW [4.43 pm]