TRANSCRIPT

PANDEMIC DECLARATION ACCOUNTABILITY AND OVERSIGHT COMMITTEE

Review of Hospitals and Care Facilities Pandemic Order

Melbourne—Friday, 4 March 2022

MEMBERS

Ms Suzanna Sheed (Chair)
Mr Jeff Bourman (Deputy Chair)
Mr Josh Bull
Ms Georgie Crozier
Mr Enver Erdogan
Ms Emma Kealy
Ms Harriet Shing
Ms Vicki Ward
Mr Kim Wells

WITNESSES

Mr Martin Foley, Minister for Health,

Professor Euan Wallace, Secretary, and

Ms Nicole Brady, Deputy Secretary, Public Health Policy and Strategy, Department of Health.

The CHAIR: I would like to welcome you, Minister Foley, to this meeting of the committee; I have already welcomed the other two witnesses. I really do not need to introduce you to any of the committee obviously—you know who we all are—so on that basis we will proceed.

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I welcome our witnesses and invite you, Minister, to make an opening 5-minute statement—no more than 5 minutes—followed by questions from the committee.

Mr FOLEY: Thank you, Chair, and with help from our friends, who hopefully have the presentation, if we could start on the title slide.

Visual presentation.

Mr FOLEY: Can I thank the committee for the opportunity to make this presentation, and as part of the pandemic orders process welcome the opportunity to do so, with a strong view that this transparent and accountable process is, in my hope, going to result in greater community confidence in the way in which pandemic orders are made and supported by the Victorian community.

Throughout the pandemic our priority has been twofold: to both reduce morbidity and mortality whilst at the same time limit the impact of particularly the omicron variant on Victoria's most vulnerable residents, our health system and the other essential services that operate across Victoria. Victorians have taken steps to help protect our health system by getting vaccinated and prioritising third doses at fairly significant levels, and that has allowed us to manage particularly the omicron variant in recent times to the point where we have allowed easing of almost all restrictions across nearly all settings—all designed to take safe steps to get more people safely back to their work environment whilst protecting our health system. The work in leading the state through this pandemic is to balance the support of our health system with the benefits of easing restrictions in a careful, sensible and sustainable manner, and I think that continues to be our goal.

If you could jump to slide 2, thank you. In December and January, as you will see from what has been widely available across a number of sources, you saw cases rising sharply, and it was clear that the number of infected people in Victoria was considerably larger than the cases being diagnosed. At the time, particularly across December, the knowledge of the intrinsic severity of the omicron variant was still developing globally. Reliable sources that Victoria, and indeed Australia, is linked with globally, but particularly in the UK, indicated at the time that it could be as severe as the previous—delta—variant. The combination of these two factors—both the rise in infectivity and the potential severity of the virus in its latest variance of concern—indicated that the hospital system may well be stretched beyond its existing capacity at the time.

This was further reinforced by the experience of our New South Wales counterparts, as they had started down the omicron variant wave earlier than the rest of Australia. This was reflected in the experience of that jurisdiction, with very high rates of community transmission and the same concerns around the potential virulence together with the epidemiological patterns of transmission across the community. So even though it was just a few short months ago, December 2021 showed that there was still a lot that we did not know, including the severity of omicron and to what level its rapid growth would in fact achieve. This informed the making of both the initial set of pandemic orders and the need to take swift action to protect particularly sensitive settings such as hospitals and care facilities.

If I could jump to the next slides, rather than plough through all of these individually, these are a number of just high-level—it is a setting out of how in a hospital and care facility break-up the succession of different orders over time, since the initial pandemic declaration in December, have played out. So I will leave those for the committee's consideration, but what this does show us is that when it comes to visitors to hospitals and care facilities and elective surgery changes the combination of goals that we sought in the pandemic response did inform and play out through the orders that were created and issued, whilst the committee will see, both through these and the material that is on the pandemic order register, that we sought to apply the key advice provided by the Chief Health Officer and the Acting Chief Health Officer and other relevant persons at the time of making all of the different orders.

Importantly, this advice and the changes to the various orders reflect the differences in risk-setting assessments that occurred throughout that period. In making the orders with respect to, for instance, when it comes to hospital settings and care facilities, when it came to hospital settings and with respect to visitors, for example, a key factor for hospitals is that they are a high-risk setting for COVID outbreaks due to the heightened exposure risks and the larger potential footprint for an outbreak in what is disproportionately vulnerable and unwell populations. This potential really did pose, based on all the advice, a serious risk to patients particularly vulnerable to COVID infections at the time. Compare that with care facilities, who in contrast to hospitals are vulnerable but at the same time these are people's residential homes. So at the time of making orders for each of those facilities, those different risk assessments and the different components underlining those were taken into account. As such, in making orders with respect to visitors for care facilities as opposed to hospitals, it was considered necessary to strike a balance between allowing visitors to places people called home whilst at the same time protecting these sensitive settings. And I just use those two examples, Chair, as an example of the different, nuanced approach that is increasingly underpinning our approach to public health and pandemic approach issues here. Rather than go extensively through the rest of the presentation, I will perhaps just leave it for the committee's consideration and thank the committee again for the opportunity of contributing to your proceedings.

The CHAIR: Thank you, Minister. I will start with the questions that I have. Minister, you will know that while you make the orders, there is a sense in which the hospitals and care facilities then have the view that they are able to adjust them, sometimes be more restrictive, to manage the settings that they have. I am just wondering whether you have been made aware in your role as minister of really difficult situations that people who want to visit a loved one have had and whether you have considered that perhaps the hospital has been too restrictive, and if so, what steps you have taken to try and address that sort of situation.

Mr FOLEY: Indeed, yes. Thank you, Chair. You have rightly pointed out that when it comes to hospitals and indeed care facilities, the pandemic orders that apply to those facilities flow through a process overwhelmingly of being in keeping with the Chief Health Officer's or the Acting Chief Health Officer's advice, and that, if you like, sets the benchmark to which all facilities need to comply, and they do. This is complicated by the fact that facilities, particularly in those areas of the many thousands of private residential aged care facilities, can and do apply further measures as they see fit, as can hospitals, particularly in high-risk settings where immunocompromised people, particularly risky groups of patients, are in large numbers. We are certainly mindful of the different impact that that applies, and I know the Chief Health Officer in evidence earlier to this committee touched on some of those issues that apply to the thinking here. In that regard when it came to those orders, particularly the early, if you like, foundation orders in December 2021 as part of the new arrangements that require me to take into account the advice of the Chief Health Officer, I also sought the advice of the seniors commissioner, Gerard Mansour, as set out in various statements of reasons that are on the various registers. He had taken through a number of pieces of work with seniors groups, both the private and the not-for-profit aged care groups, and engaged across government on precisely these kinds of issues that seek to take into account the wider application of how the orders are applied in a way that takes account that these are people's homes, when it comes to residential aged care facilities—they are not just places of care and treatment—and the need to take that into account and engage with the providers was a key part of that.

The same can be said for the fact that, because we had kind of a dual regulatory approach with I think something like 90 per cent of aged care facilities being regulated by the commonwealth directly and funded by the commonwealth, with some 10 per cent being public residential aged care, through the forums that we had there we sought to engage with the sector to try to increasingly take into account wider notions of what care is beyond just a necessary view of trying to stop the spread of the COVID-19 variants. I think increasingly that

conversation has been successful especially as we have seen, eventually, the rollout of rapid antigen tests and other forms of reassurance to those facilities that there are options available to them.

In regard to hospitals we do engage regularly particularly with senior medical staff, the chief executive officers and indeed board members around those same sets of concerns, particularly when it comes to things like end-of-life care, which has always been subject to a different arrangement, maternity leave, newborn babies—

The CHAIR: Minister, I might just cut in because I had got limited time here.

Mr FOLEY: By all means.

The CHAIR: During the evidence from Shepparton Villages, an aged care facility, the chief executive officer talked about the fact that during the delta wave in August last year when Shepparton had a big outbreak their residents were locked in their rooms for six weeks and subject to multiple testing and the like. When we heard evidence from Professor Sutton on 31 January this year my understanding of what he said was that there was a suggestion in his evidence that perhaps it is time for aged care facilities to think about ways of being more creative in dealing with those situations to prevent that sort of situation occurring—as in separating people into different wings or those sorts of actions. I am just wondering whether that is something that has been discussed with you, with your department, that might alleviate some of the pain that aged care people have really had to deal with.

Mr FOLEY: These are amongst the variety of issues that the seniors commissioner has raised through his forums with the department that he refers back through—Families, Fairness and Housing—and that indeed have helped then inform the conversations that Professor Sutton referred to and are regularly the basis of discussions that other ministers who have responsibility for that area in Victoria have. I would like to think that there has been an evolution of approach from agencies and aged care facilities in particular, given there is a distinction between someone's home and a hospital setting. Anecdotally at least I think there has been some take-up of that suggestion, and we will continue to work with the seniors commissioner with a view to getting that message out. That is always subject to the epidemiological framework that is applied at the time. Delta was a different beast when compared to omicron in terms of its severity.

The CHAIR: Minister, just with my last question, I wonder: can you outline what engagement you have had with the Independent Pandemic Management Advisory Committee to date?

Mr FOLEY: Well, other than establishing it and respecting its independence I have sought to respect that independence by facilitating all the administrative and legal frameworks to get it up and running and then facilitating the support for that group within the department. But if it is going to be in independent, I think I take the view that I will leave it to its own devices in terms of how it sees fit to operate in accordance with its legislative terms of reference. It is not my job to tell an independent committee what to do.

The CHAIR: Thank you. I will move now to Ms Shing.

Ms SHING: Thank you, Chair. Thanks, Minister and other witnesses, for attending today. I would like to, Minister, take you to the needs of patients who have been awaiting elective surgery procedures and the balance that must necessarily be struck between the precautionary principle on the one hand, which we have heard from a range of witnesses as being one of the primary drivers, the primacy principle and then also proportionality as that relates to an incursion upon human rights, which as you know is one of the things which this committee is very keenly focused on. Given the high-risk settings in hospitals and the need to manage that risk not just for individual patients and their families and loved ones but to other patients and to the staff and the ongoing operation of those sensitive settings, I would like to get an insight from you as to the feedback that you have received from health services on those elective surgery restrictions over the last few months, noting the high case numbers and hospitalisations that have been a key challenge throughout the pandemic but most specifically throughout the omicron wave that is the subject of these orders and indeed the jurisdiction of this committee.

Mr FOLEY: Thank you for that question. Like all orders that flow from the pandemic powers, anything that restricts access to much-needed care is something that is very serious and something that has to be taken with a great deal of caution and prudence in terms of its impact on all Victorians, whilst at the same time seeking to manage the goal of ensuring that the public hospital system and indeed the private hospital system are able to

manage the increased, and forecast increased, demands that were coming. In that regard we did in fact over the few months of this system and indeed before the pandemic orders system have in place numerous forums with conversations with health service CEOs, their board members, their heads of surgery, the various professional colleges and the various representative bodies of both public and private health systems, together with representatives of the workforces. They were all variously consulted in different ways as to their goals—sometimes unified but sometimes with different paths to achieve those—as reflected in their various advice. In doing so, underlying that was essentially kind of two principles. On the one hand there was the issue of the structure and the infrastructure of the system itself and how to manage that, and on the other the workforce demands and the different pressures—particularly with the omicron variant given its wider spread across the community—and what that meant in so many both public and private health services over December and January. And as part of that, when it came to elective surgery, these were restrictions that clearly, in this as in other jurisdictions around the commonwealth, were taken very seriously and were far from the first port of call, because we recognised the disruption that that causes to many, many families and people right across the state—indeed right across the country.

So the work of making sure that the health system's capacity and the health system's workforce were at the heart of that decision and indeed the advice that is set out in the Chief Health Officer's and the acting Chief Health Officer's advice to me and my adoption of that in the statement of reasons reflects that. It reflects the actual as well as the forecasted demands and pressures that the system would have, particularly when it came to projections as to the levels of hospitalisation, severe illness, treatment in the community, treatment in hospital and the numbers that were forecasted for both intensive care units and COVID specialist wards.

Ms SHING: So just on that point, Minister, can I ask—sorry to interrupt you, there is a lot to say in this—

Mr FOLEY: That is quite all right.

Ms SHING: But I am keen to understand what types of supports and arrangements have been put in place in terms of those partnerships that you referred to between the public and private systems and how that is related to elective surgery insofar as mitigation of risk but also management of demand.

Mr FOLEY: Indeed. There have always been close partnerships between the public and the private systems right across Australia. The system cannot operate without that. But since April 2020, when the national partnership arrangements facilitated by the commonwealth were put in place to manage the pandemic, the issue of elective surgery has been at the heart of that partnership. And in 2021, particularly in the omicron variant times here, these arrangements were critical. They have seen some 68 private operators and private hospitals covered in Victoria by that funding agreement, 56 of those in metropolitan Melbourne and 12 in regional Victoria. Of those 68, 61 are private hospitals and seven are day procedure centres.

The various postponement of non-elective surgery that was reluctantly put in place highlighted the value of how that helped us manage the demands, particularly as we were able to keep both category 1 and category 2A surgeries happening throughout that period of time—and the partnership of and from the private operators was really critical to allowing us to keep that system operating—and was on for not a moment longer than the advice that I received suggested it needed to be.

Ms SHING: Thanks, Minister. Thanks, Chair.

The CHAIR: Thank you. We will go now to Ms Crozier.

Ms CROZIER: Thank you very much, Chair.

Ms SHING: I have not been tardy, for the first time ever.

Ms CROZIER: That is excellent. Thank you, Minister. Minister, I asked this question of Professor Wallace previously: at the end of February, what is the current number of Victorians that are waiting on the elective surgery waitlist?

Mr FOLEY: Our elective surgery waitlist is put together by an independent data agency and is released quarterly—

Ms CROZIER: You know the numbers, surely, because how can you plan for opening up surgery if you do not have those numbers?

Mr FOLEY: Well, as I was attempting to say, as you will know, this data is released on a quarterly basis and is reflected in the advice to facilities that comes from over 80 public hospitals right around the state. The independent data agency that was established under this government—

Ms CROZIER: Minister, if I can just cut in there, on Monday we were told by various health services the numbers waiting on their waitlists. If you do not have their numbers, how can you open up surgery and plan, like you have said? How can you do that?

Mr FOLEY: As I was seeking to indicate, the most recent figure is just over 80 000. And when the next—

Ms CROZIER: At the end of February?

The CHAIR: Just let him get to the end of the answer, please.

Ms CROZIER: He is obfuscating, Chair.

The CHAIR: Well, he has just given a figure.

Ms CROZIER: Eighty thousand at the end of December.

The CHAIR: Ms Crozier, just let him finish this part of the answer. He is talking numbers. Let him finish.

Ms CROZIER: Well, I am looking forward to the number as at the end of February, Minister.

Mr FOLEY: As I was indicating, the independent data agency reports publicly to the Victorian community quarterly—

Ms CROZIER: I am not asking for those figures, Minister. I am asking for the figures—

Mr FOLEY: They are the most recent figures—

Ms CROZIER: How do you have informed decisions about code brown, shutting down surgery and then opening up from code brown if you do not know the number of Victorians waiting on elective surgery waitlists? And then if health services—

Mr FOLEY: The code brown did not shut down surgeries.

Ms CROZIER: Code brown did not shut down surgery?

The CHAIR: We do not need to have an argument here.

Mr FOLEY: Surgery continued throughout the period.

The CHAIR: Let the minister finish answering.

Mr FOLEY: What code brown did was bring a systems-wide approach to—

Ms CROZIER: Category 3?

Mr FOLEY: You said 'surgery'. All category 1 and category 2A surgery continued throughout that period.

Ms CROZIER: And a lot has been cancelled and delayed, Minister.

Mr FOLEY: Code brown was not a subject—

Mr J BULL: Chair, is that a question?

Ms CROZIER: Mr Bull, I want the number that he has, because the health services can tell this committee their numbers waiting on their waitlists. I want the number.

The CHAIR: This is not an opportunity to debate.

Ms CROZIER: I do not want the minister to obfuscate.

The CHAIR: Give the minister an opportunity to give the numbers. You have asked about four questions.

Ms CROZIER: I do not need the VAHI numbers. We get those at the end of April.

Mr ERDOGAN: It is difficult to follow. Could we have some order, Chair? It is difficult to follow here.

Ms SHING: Chair, can I raise a point of order, please?

The CHAIR: Yes, please.

Ms SHING: On a point of order, Chair, can we get some guidance as to how it is that this committee can do its work of asking witnesses questions and having them answer? I am as interested as anybody else in the answers that the minister is giving, but it is actually really difficult to understand that information if there is constant interruption.

Ms CROZIER: Thank you. I will move on.

The CHAIR: I will just say, because I was asked for some direction on this, that we need to give the witness an opportunity to answer, and the witness too should go to the point as quickly as possible.

Ms CROZIER: Well, that is my point.

The CHAIR: But do not ask another question until the minister has finished answering.

Ms CROZIER: Well, with all due respect, Chair, the minister has repeated his answer, and I am moving on. The minister will not provide this committee the number of Victorians waiting on elective surgery as at the end of February. Surely the government knows, when the health services tell this committee they know their numbers. I find it extraordinary.

Minister, in the last testimony given to the committee by Professor Sutton he detailed to us that he did not provide advice to government on tennis crowd caps, IVF and vaccine mandates, amongst a range of other issues, because he was not requested to. Since that hearing, Minister, have you or the Premier announced changes to Victoria's pandemic orders without requesting the CHO's advice?

Mr FOLEY: With the greatest respect to you, Ms Crozier, you seem to misinterpret the difference—which is reflected in the legislation the Parliament kindly gifted to us—as to how pandemic orders are developed. What you are confusing is pandemic orders with broader public events framework issues and the hospital demand issues that are separate instruments. My obligation is to report to this committee, and through it the people of Victoria, about pandemic orders. What you have confused is a process where I am obliged on any pandemic order matter to seek the advice of the Chief Health Officer, consider that and—

Ms CROZIER: It is a very simple question, Minister.

The CHAIR: He is giving a very simple answer, Ms Crozier.

Mr FOLEY: and to then take into account the views of any other relevant person when it comes to pandemic order matters.

Many of the issues that you have touched on in your question do not relate to pandemic orders. For instance, they might relate to the public events framework, which is not directly related to pandemic orders—

Ms CROZIER: Well, if I can go to my next question around that—

Mr FOLEY: or it might link to—just to assist you in further questions—hospital demand issues, which are the subject of advice from the state controller of health, a different path of advice, and therefore the results of different instruments. And I would urge you to return to the legislation, read it and have an understanding of how the system works.

Ms CROZIER: This pandemic committee is asking these questions in the interests of all Victorians, and they expect frank and reasonable answers.

Mr FOLEY: That is precisely what I was providing.

Ms CROZIER: And, Minister, Professor Sutton spoke to this committee and talked about the need for social consideration, which you have just referred to, in relation to public events outweighing the public health when it came to decisions made by government. So what is your definition of social consideration when it comes to the application of pandemic orders?

Mr FOLEY: The legislation requires me first and foremost to take advice from the Chief Health Officer through the health concerns. Depending on the nature of the order, depending on which one it might well be, different social considerations come into effect. For instance, our earlier discussion around restrictions of visitors to aged care facilities might have one set of applications. A different one again might apply to face mask coverings. There are different arrangements that apply to the different sets of orders. All require me to go through a considered process to take into account both, if you like, the epidemiological health side of factors and, should it be open to me, the opportunity to take into account wider social considerations, and I seek to always do that based on the merits of the orders, the advice and the wider set of both health and social circumstances that we are confronted with at the time of the making of the orders.

Ms CROZIER: Well, could I ask you then, Minister, what are the social considerations for certain year levels of schoolchildren that have to wear masks and others do not, especially in those composite classes where half a class has to wear a mask and half does not? What social considerations were taken into account when you made that order?

Mr FOLEY: As I indicated, there was direct Chief Health Officer advice that went to precisely that issue—

Ms CROZIER: The social considerations?

Mr FOLEY: The first set of issues was the health advice, and the health advice, which is available publicly on the pandemic orders register and which, although I did not hear it, I am reliably advised the committee was taken to by the Chief Health Officer in some of his considerations around these issues when it comes to mask wearing. The advice was pretty clear that given the fact that 5- to 11-year-olds had only become available under the commonwealth's rollout of the vaccination program from 10 January and the fact that the vaccination levels of that group at about the time the orders were made I am pretty sure was in the 40 per cents and the fact that there had been substantial numbers of transmissions across that group disproportionate to their proportion of the total Victorian community and that there had been—

Ms CROZIER: This is not happening in other states, though, so what about the social considerations, understanding that—

The CHAIR: Can I just say that your time is up. That question is finished. We will move on to Mr Bull.

Mr J BULL: Thanks very much, Chair. And thanks, Minister, for being here to present to the committee, and also thanks for being back with us, Secretary Wallace and Deputy Secretary Brady. Minister, this morning I did make comments to the witnesses to make an acknowledgement, a thankyou if you like, on behalf of my local community for the work that has been done in keeping people safe. Minister, I will also extend that thankyou and acknowledgement to you in what has been an incredibly challenging and difficult time. Minister, I did want to take you to masks. In December last year there were calls by some for the government to further ease mask requirements as the highly infectious omicron variant was becoming established in the Victorian community. Can you outline for the committee what advice you received from the Chief Health Officer and the public health team on what removing masks would do in relation to hospitalisations and our health system capacity?

Mr FOLEY: Thank you for that. Like always, I refer to the material that is on the pandemic register of decisions and the advice from both the Chief Health Officer and my statement of reasons. But you will recall, if you remember the first slide in my presentation, we were in the unenviable position of seeing the omicron variant really take off firstly in New South Wales and then in Victoria in December very, very quickly. There was a view reflected in the Chief Health Officer's advice to essentially hold the mask requirement in mid-

December whilst that assessment of the unknowns of the omicron variant were being assessed. Whilst indeed New South Wales at the same time initially took the view to wind back masks, and that was supported by some in Victoria—very forcefully by some in Victoria—New South Wales found themselves in the difficult position of having to rewind that decision when it came to mask wearing in December in the face of that omicron surge. Given how quickly those numbers rose, one dreads to think what the consequences might have been if that advice had been followed from those purporting to be acting in the interests of the Victorian community rather than taking into account the Chief Health Officer's advice. Really, in that regard, so as to ensure both clarity of and support for the Chief Health Officer's direction and out of the, I think, justified causes that we then saw from the substantial rise in the weeks after that, that decision was justified.

Part of the importance of pandemic orders being supported by the wider Victorian community is the level of support—that those in leadership positions, or those who would claim to aspire to leadership positions, need to take into account all of the evidence as opposed to what they think is popular. In that regard I think the decision that we made, based on the advice from the Chief Health Officer, to set clear, realistic arrangements in place for face masks for the limited period that that was in place was both justified and clearly the right one, given that other jurisdictions followed very quickly.

Mr J BULL: Thanks, Minister. As a supplementary to that question can you just elaborate further on decisions around 25 February, when mask requirements were eased in many indoor settings, and as you do, make some reflections, if you can, for the committee in relation to hospitals, healthcare settings and care facilities, where the requirement is still to be in face masks, please.

Mr FOLEY: In regard to the most recent set of decisions that were made upon the advice of the Chief Health Officer and others, which will be reflected in both the Chief Health Officer's advice and the statement of reasons for adopting that advice, it was very much because fundamentally the measures that had been taken over the course of December, January and February and the combination of the vaccine levels and the social and other limited, but nonetheless important, restrictions that were put in place had seen the rapid increase and the relatively rapid but not as rapid decrease in case numbers and through it the continued decline in hospitalisations and severe illness but tragically still as a lag indicator deaths of people via that. We are no longer in that same high level of demand on our systems, nor are we in the same level of peak transmissions, which were quite severe. I think on about 17 January infection rates peaked. Based on all of those factors, together with the notion that there are in fact social benefits to be gained more widely—whether it is the return to work, the return to school, the return to something that looks like living safely with COVID—those measures were deemed appropriate by the Chief Health Officer, were widely supported by a number of stakeholder groups that were consulted and were duly reflected in the orders you refer to.

Mr J BULL: Minister, you are obviously the state Minister for Health, but what I think is true to say is that most people within this country look for a uniform set of restrictions that limit variations between states and territories. Can you outline for the committee how the pandemic orders process can support more nationally consistent settings, whether that be mask rules, testing, isolation requirements, visitor restrictions in care facilities and so on?

Mr FOLEY: By themselves the orders and the nature of the legislative framework we have do not automatically lend themselves to a nationally consistent approach. The Australian federation has many benefits when it comes to checks and balances, but in the case clearly of a global pandemic, it has at times been somewhat challenging to achieve national consistency across a range of measures, particularly given we have a constructive working relationship with the commonwealth. The commonwealth has chosen not to invoke a number of legislative options that it has when it comes to nationally consistent approaches and has made a decision to leave many of those issues to the states and their various public health legislations, which they are perfectly entitled to do. What that has meant is that over the course of the global pandemic and the forums that the states and indeed the commonwealth have set up, there has been an increasing and growing recognition that living safely with COVID requires the states and the territories to seek, whenever we possibly can, to align our various measures wherever we can. That plays out at the ministerial-level forums, but perhaps more importantly it plays out at the officer levels. The great work that all state health departments, particularly their public health units, have put in place over the course of the pandemic reflects a growing appreciation of the need for that national consistency—something that will only grow as we continue to open up and hopefully put the era of cross-border restrictions and different arrangements in different states behind us in an increasing effort for states to seek to coordinate their efforts in the absence of any leadership from the commonwealth.

The CHAIR: On that note, Minister, we will move now to Ms Kealy.

Ms KEALY: Thank you very much. Minister, I will follow up on some of the questions from Ms Crozier around mask mandates for primary school age children. I would like to quote a tweet from Professor Fiona Russell of the Murdoch Children's Research Institute from this morning. She states:

> There is no need for a mask mandate for Victorian primary school age children when it is not mandated for anyone else in the general community.

When will mask mandates for primary school age children between grades 3 and 6 end?

Mr FOLEY: The Royal Children's Hospital Murdoch institute do a fantastic job, and the state works very closely with them on a range of areas of advice when it comes to both general epidemiological advice and responses and when it comes to young children in particular. As valuable as that advice is, it is not the only advice that is available in the wider community, and in that regard, as—

Ms KEALY: Minister, my question is specific to when the mask mandates for primary school age children will end.

Mr FOLEY: Well, with the greatest of respect, you did set the context of the question by reference to one particular form of advice, and it is my contention to the committee that particularly when it comes to public health advice and pandemic advice in an area where there is a contest of ideas, there are many areas where that advice is tested and where that advice is shared. In that regard I rely on the forums that the public health unit and the Chief Health Officer in particular have, where the public health team consult through a variety of different experts in this field. And with the obligations that I have under the legislation, which requires me to take into specific account the advice in these areas of the Chief Health Officer—

Ms KEALY: Minister and Chair, can I cut off the Minister there? It was a quite specific question: when will it end?

Mr FOLEY: I am required to do that. And the Chief Health Officer's advice as registered is pretty clear. In regard to what that means, theoretically the advice and therefore the orders that have flowed from that are in place until the pandemic declaration ceases—

Ms KEALY: So until the end of time. Thank you, Minister, very much for that extensive response that did not actually answer the question.

Mr FOLEY: so in a technical sense it is in April. But in regard to all of these orders—if I could be allowed to finish. I am trying to set the context.

The CHAIR: I think you have answered the question in saying that it will be based on the Chief Health Officer's advice.

Mr FOLEY: Correct.

The CHAIR: We can move to the next question.

Ms KEALY: Thank you very much. I receive dozens of emails every day asking when vaccine mandates will end. When will vaccine mandates end? Will they ever end?

Mr FOLEY: Vaccine mandates have been absolutely critical to Australia and indeed comparable regimes around the world achieving high levels of vaccination, which has been the basis of our being able to open safely and to live safely and sustainably with COVID-19.

Ms KEALY: Weeks, Minister? Months? Years? Is it a permanent fixture?

Mr FOLEY: We are one of the most vaccinated places on earth when it comes to vaccines, both first, second—

Ms KEALY: Minister, will you even look at us? You will not look at me or Ms Crozier. Have you got a problem with us asking you questions as women, or not?

Ms Shing interjected.

Mr FOLEY: I am seeking to concentrate on what are very important issues. So in regard to—

The CHAIR: Can I just say that the minister deserves to be treated with some respect in answering the questions. He is in the process of answering the question. He is nearly finished. I am satisfied that he has got close to the end. Then you can put your next question.

Mr FOLEY: Vaccine mandates have been critical to the high levels of success that we have achieved as a country and as a state, and they continue to play an important role particularly when it comes to protecting vulnerable groups in our community and vulnerable and exposed workplaces that have been the focus of this hearing.

The CHAIR: Minister, are you saying that when the vaccination rate is at a satisfactory level, then mandates will end?

Mr FOLEY: I will continue to take advice, as I do, from the Chief Health Officer and others as to what is the most appropriate form of and longevity for vaccination mandates, and when that advice changes I am sure our position will change.

Ms KEALY: Thank you, Minister. Minister, you would have seen the reports yesterday of thousands of young people waiting more than 60 days for mental health appointments across the state. Is that your advice as well?

Mr FOLEY: In regard to advice for the wait times for mental health services, that advice in an immediate sense would go to the Minister for Mental Health and is reflected—

Ms KEALY: Are you saying you have got no line of sight over mental health, when COVID is known to have so many impacts on the mental health of Victorians?

Mr FOLEY: Well, as I was attempting to say—if you give me the courtesy of responding—the system of the public reporting, monthly, which is available publicly that shows the data in this area together with how that reporting comes back through government, comes through the Department of Health, comes through my colleague the Minister for Mental Health. But in regard to the importance of mental health and wellbeing as a key component of the framework that sets, when it came to the original pandemic declaration orders that we issued in December, the public record shows that both the Chief Health Officer's advice and indeed my own extra next steps of advice involved taking specific advice from the chief psychiatrist and his forums around the importance of mental health and wellbeing. I should note in doing so, because it is a very important point that you raised, that the orders that are in place under the pandemic orders since mid-December are very light on when it comes to social restrictions. There are no restrictions now on social movements. The only restrictions that have been in place during the course of the pandemic orders when it came to these arrangements were in the areas of DQ arrangements—

Ms KEALY: Minister, the evidence does not reflect that at the moment.

Mr FOLEY: If I could just finish, it is a very important issue you raise.

Ms KEALY: We just discussed that in the previous hearing—the increase in presentations for mental health—

Mr FOLEY: There were no restrictions on attendance at school. There were no restrictions on attendance at home. Whilst there were mask-wearing obligations for some at school, particularly when it comes to kids, in fact most of the arrangements that had previously been in place that restricted social engagement or access to services had in fact been well and truly lifted and have certainly been lifted now. In regard to the specific report that you talked about yesterday, quoting as it does a pre-eminent former Australian of the Year, Professor McGorry, as it happens I did have the opportunity earlier this week to discuss these and other matters with Professor McGorry, and he assured me that the measures that this government had in place, particularly relating to the application of the Royal Commission into Victoria's Mental Health System, were leading the country if not the world in response to mental health challenges—

The CHAIR: Thank you.

Ms KEALY: So no-one can get an appointment with a psychiatrist—

The CHAIR: Thank you.

Ms KEALY: they are lining up at an emergency department and you are saying that is okay?

Mr FOLEY: No, I do not think I am saying that.

Ms KEALY: You are saying it is all fixed now. That is absolute nonsense—absolute nonsense, Minister.

Mr FOLEY: No, no. I do not think I was saying that. With the greatest respect, Chair, I think the honourable member is seeking to verbal me. I was seeking to answer her question to the best of my abilities.

Ms KEALY: Well, that reflects your abilities then, doesn't it, Minister?

Mr FOLEY: She raised a very general question, and I am giving her a specific answer in the context of all the information that is—

The CHAIR: We have a point of order here, Minister. I will just go to that.

Ms SHING: Chair, I refrained from raising this issue earlier, but I think we actually need some guidance on reflection on the character of witnesses throughout this entire process. I have got some concerns that we are not in a position to hear the answers because of invective that is unnecessarily coming from various parts of the table, and I would actually seek your guidance on how it is that we can get the answers to the questions that we are after whilst not actually seeking to cast aspersions on the witnesses who are here.

Ms CROZIER: On the point of order, if I may, on some of these questions that I think Ms Shing is referring to from both Ms Kealy and me in terms of those comments, I think when we are asking these questions and we are not getting the respect from—the minister refuses to look at us and does not provide us with the figures. He knows the figures. We are not getting the answers. That is our frustration coming through this process—

Ms Shing interjected.

Ms CROZIER: Through you, Chair, and I would ask—when we are asking simple questions, then surely the government can provide the answer.

Ms SHING: Just further to that point of order, if I may—

The CHAIR: Yes.

Ms SHING: Sorry, Chair, I will be brief. It is standard practice that questions are asked and answered through the Chair. That is a well-known and established practice. On the other hand it is also not unusual for people when they are answering questions or putting positions not to maintain eye contact, and it is not then open for people to argue that there is some form of sexist conspiracy or agenda at play here. I actually think that brings witnesses into disrepute. It seeks to impugn their characters. It is completely unnecessary, and I think we can be better than that. Thanks.

The CHAIR: Ruling on the point of order, I am very disappointed at the way this is going. There are questions being asked which Victorians would like to hear the answers to. Minister, I would ask you to be more concise sometimes in answering the questions. I would ask you not to argue with the minister during the course of him giving an answer, because it does not help in any way. You are just having a back and forth at times, preventing us from hearing the answers.

Now, I think you all know exactly what you are doing. We need to treat the witness with respect, give him an element of time to answer it. Minister, I would say I might interrupt and bring you back to the next question when I get the opportunity, because we have a very limited time and each member only has a limited time to ask questions. So on that basis—what have we got, 12 seconds left?

Mr J BULL: Yes.

The CHAIR: Yes. One more question from Ms Kealy.

Ms KEALY: Minister, we heard earlier from Professor Wallace that no IVF cycles were disrupted during the government-ordered suspension of IVF. I had women approach me in tears in the street. I have had numerous, dozens, of emails about this. Minister, were you ever contacted by members of the public who shared with you that they had had their IVF disrupted and that this actually caused an enormous amount of harm to women who were just trying to have a baby?

Mr FOLEY: Well, you refer to evidence that Professor Wallace has given, and I unfortunately was otherwise engaged this morning and did not have the opportunity to hear that evidence—

Ms KEALY: Did you receive the emails? Did you receive contact from people around that?

Mr FOLEY: so you are asking me to reflect evidence I did not hear.

Ms CROZIER: No, she asked a question of you.

Ms KEALY: I am asking you a specific—

Ms CROZIER: You see? That is why we are frustrated.

Ms KEALY: Chair, my question was quite specific: did you receive emails from women who were upset about the IVF?

The CHAIR: We did not hear the end of the answer. Please let him finish. He is referring to the professor's evidence. It does not mean he is not going to answer the question that you put to him. Give him a moment. And the time is nearly up. If you could be brief, Minister.

Mr FOLEY: Thank you, Chair. So I think I am entitled to reflect on the question that was asked, and the question referenced Professor Wallace's evidence. I did not hear Professor Wallace's evidence, and the sad truth is that members of the opposition are not immune from verballing people in their questions when they give evidence. In regard to the disruption for IVF that occurred, everyone regrets having to put in place any—

Ms KEALY: Are you saying I am a liar? Are you are saying those women are lying, women in tears?

The CHAIR: Minister, I will stop you there and we will move on to—

Ms SHING: Professor Wallace wants to add something.

Prof. WALLACE: Chair, I just want to make sure the record is correct that earlier today I did not say that no IVF cycles had been disrupted. What I did say was that cycles that had commenced, were already underway on 6 January when the restriction came in, were not disrupted.

The CHAIR: I think we are well aware of what you said. It is on the transcript and can be easily read. I will move to Mr Erdogan now.

Ms CROZIER: I know the minister did not answer the question.

Ms WARD: Well, he would if you wouldn't keep talking over the top.

Ms CROZIER: No, he didn't answer the question deliberately.

The CHAIR: Please, let—

Mr ERDOGAN: It is very difficult to follow from here.

The CHAIR: Can I have some order, and we will go back to Mr Erdogan. Start again, Mr Erdogan.

Mr ERDOGAN: Thank you, Minister, for all your work and your appearance today at the hearing. I just want to kind of focus a bit on the workforce impacts of this global pandemic. As we know, in some circumstances health workers identified as close contacts are able to continue working now under strict

conditions and under exemptions under the pandemic orders in place right now. How important were these exemptions in easing pressure on our healthcare settings and care facilities as hospitalisations increased early this year?

Mr FOLEY: Thank you for the question. So when we saw the peak of the omicron wave throughout Victoria, particularly in the first half of January, peaking in mid-January, healthcare workers and aged care workers, like their compatriots throughout the rest of the community, got very, very high levels of infection—overwhelmingly in the community. We saw at the peak of that close to, just on, 6000 healthcare workers furloughed either through being direct cases themselves or caring for or being close contacts of other cases. If you take out 6000 frontline healthcare workers right across the clinical spectrum and the support spectrum at a time when the system was already under great strain, that has a huge impact on the delivery of healthcare services, and indeed I think stands as an element of support as to why some of the unfortunate but necessary restrictions were put in place in December and January when it came to healthcare services across both the public and the private systems.

When it came to the matter being considered at AHPPC, state health ministers forums and indeed the national cabinet, the issue of how critical services, and in this case particularly critical health services, could continue to operate under extremely challenging circumstances, the issue of how people who were caught up within that—some 6000 people—and how some elements of that could be safely and appropriately returned to work was a really significant issue of discussion. Based on that public health advice, the decision at all of those levels of consultation and ultimately decisions of, I think, all states and territories reflected that if you were asymptomatic and if you went through a fairly rigorous set of arrangements—for testing, for PPE and protection, for infection prevention and control measures and other social measures, both at work, where you worked and under what sorts of conditions, and what you did outside of work arrangements—there were many, many workers in our healthcare system and in fact our wider care system, be it aged care or disability, that saw people in that category safely return to work.

Now, you will never measure things that did not happen, because by definition they did not happen, but that contribution of extra critical workforce at that time was fundamental to those services, be they health services, aged care services, disability services, continuing to be able to support very vulnerable communities through some very challenging times in January and February. The fact that that workforce was up for that discussion and so assiduously carried out the fairly onerous requirements in attending to it I think speaks volumes as to the professionalism and the contribution that those healthcare, aged care and disability care workers have shown not just through the omicron wave but through two years of very stressful circumstances. I want to take this as an opportunity to put on the record, I am sure, all Victorians' thanks and support of them and for their efforts.

Mr ERDOGAN: Thank you for that, Minister. In previous hearings we have heard about how the environment and the settings were rapidly changing throughout the pandemic at the different healthcare and aged care providers. Could you explain to this committee how you worked and consulted with the healthcare workforce and the industrial representatives, especially on the decision regarding the furloughing arrangements and the changes there, the changes to elective surgery and wider policy settings throughout the pandemic? What kind of consultation did you have with the workforce in this space?

Mr FOLEY: The workforce in the healthcare and care sectors is very well organised at both an industrial and professional level, and rightly so. During the course of the global pandemic more generally their contribution to the policy framework and the rolling out of policies has been fundamental, and indeed their holding of governments of all levels right across the country to account has been really significant. We have seen example after example of the benefit of consulting that workforce through those efforts. The different forms in which I am involved and the advice that comes to me from other consultation forums vary from work that we do with industrial representatives on a weekly basis—everyone from the AMA, the ANMF, the healthcare workers, the allied healthcare workers and the ambulance workers and others across all of the spectrum—around all manner of issues, be it infection prevention and control or workforce issues, the kinds of issues we have dealt with in this set of questions about the safe operation of the organisations. At the same time there are specialist forums in which the directors of surgery consult with both each other and the department—and through the department, the controller of health, who of course is the Secretary of the department—and I get advice from that group. I also get advice from the forums that are in place when it comes to specialist groups, whether it be the work that the deputy controller of health has done in coordinating both the public and the private sectors' response to demands, most obviously in recent times, on elective surgery.

But the critical nature of keeping the workforce central to our response has been really invaluable. When you look across the country, you can see examples of what happens when that advice and that keeping close to people and organisations does not occur. We have seen around the country high levels of criticism, and indeed industrial action, when it comes to responses to the pandemic. And whilst we are not immune from criticism from our partners in the workforce, we treat them as genuine partners. The fact that they are central to our operation, our advice, our consultation and our policy direction I think has been one of the key central tenets of how Victoria and indeed Australia has done particularly well from a global perspective in getting us to the position we are in today.

The CHAIR: And on that note, Minister, it is a great time to finish the answer.

Mr ERDOGAN: Do I have any more time, Chair?

The CHAIR: No, you do not. Your time has expired.

Mr ERDOGAN: Thank you, Minister. It is great to hear of the comprehensive dialogue and cooperation between you and your department and the workforce. That is pleasing to hear. Thank you.

The CHAIR: In the absence of Mr Wells I will go back to Ms Crozier.

Ms CROZIER: Thank you, Chair. I am just taking on your previous advice—if I could just have a yes or no answer, thanks, Minister. Minister, are you going to be setting targets for the elective surgery waitlist to be reduced by June of this year?

Mr FOLEY: Sadly in the real world complex questions do not lend themselves to yes or no answers, but what we know when it comes to pandemic orders, which are the subject of this hearing—I will take the advice, as I am obliged to, of the Chief Health Officer around the measures that are needed that have been constraining elective surgery. It is important to note of course that currently there are no measures constraining elective surgery under the pandemic orders, but clearly the global pandemic and the pandemic orders have had a significant impact on the waiting lists not just in Australia but around the world in comparable regimes. When it comes to the process to address those, as we have already foreshadowed, it is really important that there be an every-level-of-government approach to that, and that particularly involves substantial resources. I am looking forward to next week's national cabinet meeting looking to extend the national partnership agreement between the states, the commonwealth and the private health agencies, which is due to expire shortly. That will allow us—

The CHAIR: Thank you, Minister.

Mr FOLEY: This is a very important issue—that will allow us to then provide important resources to throw at this significant problem. So whilst you might require, or seek, a yes or no answer, there are many factors beyond the control of the states that impact on this important question. Rest assured we will throw every resource at bringing those levels down.

The CHAIR: Thank you. Minister, I think you have supplied a very fulsome answer.

Mr FOLEY: It was a very fulsome question.

Ms CROZIER: Well, Minister, the facetious remarks you just made then—I do not take that at all—

Members interjecting.

The CHAIR: Can I have some order here. This is just the sort of commentary I do not want going backwards and forwards. If you just move directly to the next question, please, Ms Crozier.

Ms Kealy interjected.

Ms CROZIER: Exactly. It is important because in previous evidence provided Professor Wallace did say that there was going to be a plan and that they needed to get this elective surgery waitlist down, so I think it is a very reasonable question to ask—whether there is a target that the government has in place to try and get these ballooning numbers down.

The CHAIR: He has just answered that question, so I would ask you to move on to the next question.

Ms CROZIER: Professor Wallace, is there a plan to reduce the elective surgery waitlist?

Prof. WALLACE: Planning is currently underway. Clearly we will be looking at the waiting list numbers and, as the minister said, we will work with the sectors, both public and private, to reduce the numbers as quickly as possible.

Ms CROZIER: Could the committee have a copy of that plan?

Prof. WALLACE: Planning is underway.

Ms CROZIER: Is there a target?

Prof. WALLACE: Not currently. I think the intent is to reduce the waiting list as fast as possible.

Members interjecting.

The CHAIR: If someone wants to make a point of order, please make a point of order, but we are not going to have back and forth across the table. Is there a point of order from anyone? If not, we will go to your next question.

Ms CROZIER: Thank you, Professor Wallace, for providing the committee with a bit more detail—

Ms SHING: You just said the minister had provided too much detail and now it is not enough.

The CHAIR: Ms Shing, you just heard what I said. Can we just move to the next question.

Ms CROZIER: Yes. Minister, was it your decision to vary the crowd cap at the Australian Open? Just a yes or no is fine.

Mr FOLEY: Again, complex decisions do not necessarily lend themselves to yes or no answers. The issue that I understood this committee was charged with went to matters that related to pandemic orders and their application. There was no pandemic order relating to the public events framework.

Ms CROZIER: On a point of order, Chair, I raise this because in previous evidence the Chief Health Officer said it was not his decision—in relation to this committee—so can I just say, Chair, these are important questions around transparency and openness. The minister's opening remarks to this committee were about transparency and accountability, so I am just asking the minister for a very simple yes or no. Was it his decision?

Ms SHING: Further to the point of order, again on the question of scope: we have the opportunity as a committee to discharge our obligations under the terms of reference, and if that is not within scope, to use parliamentary and other processes to interrogate the minister or indeed anybody else about any matter that does not fall within the scope of the orders and the terms of reference that we have. So any guidance you can provide on how it is that we do not end up traversing every matter of public policy that has happened since the pandemic was first declared would be really helpful.

The CHAIR: I will provide a ruling on this, and the ruling is that we are here tasked with looking at the orders and we are even able to look at the impact of the orders. We are not here to look at government policy or other decisions that have been made along the way outside the scope of the orders. While Professor Sutton may have happily answered the question to say he did not do it, it is not relevant to the orders as they stand at the moment. But if you want to answer it, Minister, please do.

Mr FOLEY: I am more than happy to provide the committee all of the support, transparency and accountability in accordance with its terms of reference. Its terms of reference go to pandemic orders. Issues relating to the public events framework do not flow from pandemic orders, and my view is—and I am of course more than happy to be guided by the committee—that that is beyond the scope of the powers of the committee. Having said all of that, I agree completely with the Chief Health Officer that it was not his decision, that there were wider factors at play—all of which are actually on the public record in the media—that go to the

arrangements for how an exemption can be put in place for the public events framework, and I completely support the comments of the Chief Health Officer. I actually think the decision was the correct one, and to see that final weekend of fantastic participation by Victorians at both the Ash Barty final and the epic men's final I think played some not insignificant role in that Australian Open being in the circumstances a rip-roaring success.

The CHAIR: Thank you, Minister. Ms Crozier.

Ms CROZIER: Thank you, Chair. It was a pretty simple question, but we got another longwinded answer.

Members interjecting.

Ms CROZIER: Well, it actually is important in terms of, Ms Ward—we have got—

The CHAIR: Are we going to have a discussion here between—

Ms CROZIER: Through you, Chair, the interjection—

The CHAIR: Is this a point of order? Can we just move on.

Members interjecting.

Ms CROZIER: I am just stunned by the degree of what is going on here from the minister. Minister, the vaccine booster mandates—again, these are important in the context of what this committee is trying to understand through the pandemic orders, through those that are ending up in hospital, through the visitations because they are either vaccinated or not, and you have said that there is no end in sight for people around your decisions around vaccine mandates.

Ms SHING: No, that is literally not what the minister has said. Verballing is important to avoid.

The CHAIR: Ms Shing, I think the minister will be well able to deal with the answer on this.

Ms CROZIER: So in the absence of the Chief Health Officer's advice, did you recommend to the Premier that the booster, now the third vax, be mandated?

Mr FOLEY: Well, I note in your question you sought to ascribe to me the phrase that there would be 'no end in sight' to the vaccine mandates. That is not what I said, and I think the record needs to be clear. I would refer you to—

Ms CROZIER: What did you say to Ms Kealy?

The CHAIR: Look, do you want to put the question again?

Mr FOLEY: Given that I have been asked to refer back to my earlier answer, I am happy to do so.

The CHAIR: There is an answer in the transcript. This is a different question. Please continue.

Mr FOLEY: I am happy to revisit that earlier answer, should you wish, Chair, but I will take your guidance. In regard to the last bit of Ms Crozier's question, where I think—I do not want paraphrase her; that would not be appropriate, or to verbal her—she said, 'Was it your recommendation to the Premier?', again I would refer Ms Crozier and indeed the opposition to the legislation that has been gifted to us by the Parliament. Pandemic orders are not the subject of me making recommendations to the Premier. The recommendations that I make under the legislation to the Premier—who is the person under the legislation, quite appropriately; it should not be the health minister, the same person making the orders—go to the issue of 'Should there be a pandemic declaration?'. That is done in partnership with the Chief Health Officer, and on the two occasions when I have necessarily been required to provide that advice as has been tabled, I have in fact provided the advice that the Premier should declare a pandemic declaration. And then flowing from that declaration are the orders. So the substance of your question is misplaced, Ms Crozier, in that I do not make any recommendation on orders to the Premier or anyone else.

The CHAIR: Thank you, Minister.

Members interjecting.

Mr FOLEY: The decision on orders is made by me.

Ms CROZIER: So the Chief Health Officer did not provide advice either?

The CHAIR: Thank you, Minister. We will go now to Ms Ward.

Ms CROZIER: On a point of order, I think it is important to clarify—

The CHAIR: I think he has answered the question for you. I am not going to argue with you. We will move to the next questioner. Thank you. Ms Ward.

Ms WARD: Thank you, Chair. To go to the December pandemic orders, Minister, I think many people were very interested—and relieved I suspect—to see the changes in the orders come out, but particularly people were trying to get their head around it, and there was a bit of confusion, in trying to understand the change in the pandemic orders that actually allowed some healthcare workers to continue on at work in certain circumstances and with strict conditions if they had been close contacts of people with COVID. Can you talk us through the necessity for those exemptions and what they actually meant in terms of reducing pressure on healthcare settings and care facilities as the hospital cases increased over December–January?

Mr FOLEY: Yes. Not dissimilar to the earlier question, but a little bit different in its nuance and I will attempt to answer it accordingly. Going right back to the original graph that I had in my presentation, which showed hospitalisations and case numbers—at least reported case numbers—peaking over mid-January through to early February, we saw particularly in aged care and hospital settings and to a degree in disability settings substantial furloughing. I think the highest figure we got close to was just south of 6000. Add to that—I did not include this in my earlier contribution—the large number of people who traditionally over that period of time seek leave, and through just the exhaustion levels there were many more thousands of people not available to the health system, so it was north of 8000 people out of the system at that time. That is the data that we have for the public health system. By the time you then view the private health system and the non-government areas of aged care, which is about 90 per cent of those many thousands of facilities, we are talking in the multiple tens of thousands of workers in these care sectors not being available at a time when demand was at record highs and the importance of providing that care was at a level never before seen. So for all of those sectors to get through that enormously difficult and challenging time—it was not just the Victorian set of circumstances, it was a national set of circumstances—the various forums that met right throughout that Christmas-New Year holiday period, whether it be the chief health officers collective forum in the AHPPC, the health ministers forum, the chief executives of the various health services, the consultative forums that we have in place with the aged care sector through the VACRC or indeed national cabinet, the issue of how we sustained those services in the face of record demand and record non-availability of key critical staff meant that measures that would not normally be contemplated had to be consulted on, agreed on and operationalised safely.

Ms WARD: Can I just grab that thought for a sec, Minister, if I may, around the tens of thousands of health workers and care workers who were furloughed at the peak of the omicron wave. I am assuming it did—how did this influence decisions around elective surgery and visitor restrictions?

Mr FOLEY: Both the return of some staff and elective surgery decisions were predicated on the projections that we referred to in the Chief Health Officer's advice and the Acting Chief Health Officer's advice in December and early January as to where omicron was likely to go. And whilst in some respects the worst-case scenario was not met, nonetheless in terms of the infectivity levels of omicron and the impact of that on the workforce, that was certainly met and they had a direct and immediate framing of: how do we deal with the issues when it comes to elective surgery? It really is not elective, it is critical surgery to so many people. Those projections and realities had a direct and real impact on both the public and the private sector. I think as awful as they were to have to implement, they were, sadly, justified by those levels of furloughing and non-availability of staff and the need to transfer many thousands of both public sector patients on that waiting list and many thousands of COVID-positive patients into the private sector to help us get through what was a very challenging period.

Ms WARD: Thank you. We have heard from hospitals around some of their staffing challenges, and you have spoken about those who have needed to be furloughed and the changes that have had to happen in the

workforce to address the omicron challenges. What consultation has there been with the actual workforce and with workforce representatives?

Mr FOLEY: Again, not dissimilar to the general consultative forums that we seek to have in place across the health sector, it is a pretty big sector and its multiplicity of industrial and professional organisations rightly require their engagement, and whether it be, again, the kind of collective chief health officers forums and their engagement with those sectors, my own structured weekly engagement with those sectors together with whether it be the Victorian perioperative council, whether it be the chiefs of surgery at all the public facilities, whether it be the work that the deputy state controller of health, who is also the CEO at the Austin, and his networks, or whether it be the work that the state controller of health, the Secretary of the department, does, all of those forums, whether it be the AMA, the ANMF, the colleges, the ambos, the CEOs of hospitals both private and public, the surgery councils, all of these advisory groups were necessarily part of that important framing of the decision and I thank them for it, because their efforts over that very challenging period were critical to getting us through.

Ms WARD: Thank you. I think we share with you our gratitude. Just quickly, with the challenges that the workforce had, how did you make sure that people had the PPE they needed, particularly those who have been close contacts?

Mr FOLEY: The whole infection prevention and control measures, of which PPE are an important part, were pretty important to all of those groups. They certainly drove governments right across the country to lift our standards over the course of the pandemic and we certainly have. We have had over 140 000 frontline healthcare workers, for instance, fit tested with N95 masks as part of that. Through HealthShare Victoria we have now established, I would like to think, a leading body in which we have consolidated and coordinated the provision of PPE on a global market and indeed a local market in regard to local providers, particularly in regional Victoria, and tried to apply those principles to providing a safe environment for those staff. That is a precondition that all of those groups brought to those wider discussions. We have learned many things over the course of the last two years, and safety and wellbeing in the face of a highly infectious and increasingly infectious variant of COVID, I think, has played out particularly well based on the advice of those groups.

The CHAIR: Thank you, Minister. And that is the end of your time, Ms Ward. I will just go to Mr Bourman.

Mr BOURMAN: Thank you, Chair. Thank you, Professor Wallace and Deputy Secretary Brady for returning to the lion's den. Just before we start I want to thank Professor Wallace for his previous work in the IVF field, a field of which I am a personal beneficiary in the form of a little girl. I just think that it is one of those wonderful things all this modern technology can bring to us.

But my question is for Minister Foley. Minister, given aged care is a shared state and federal responsibility and it is somewhat of a football when it comes to question answering time, how does it work now I guess with the state and the federal bodies coming up with a set of guidelines for, in this case, the visitors to the hospitals and care facilities that is actually relevant and enforceable and okay to both sides? And that is my only question, so knock yourself out if you want to give me a fulsome answer.

Mr FOLEY: Okay. I will knock myself out, Mr Bourman. Whilst it is a shared space, the regulatory responsibility lies solely, 90 per cent of it, with the commonwealth. What the commonwealth did, at Victoria's urging—and they did not need much urging—back in 2020 was establish the VACRC, the Victorian Aged Care Response Centre. And that, both operationally and in terms of ongoing issues that result from the pandemic, has been a critical forum in which precisely these areas of contention can be dealt with, and overwhelmingly there has been a shared view and outcome. In Victoria about 10 per cent of the aged care market is essentially provided through healthcare services, and they are therefore the subject of Victorian regulatory crossover whilst at the same time necessarily being guided by the licensing system that flows from the commonwealth.

When it comes to those issues of access to sites, we try to, through VACRC, take the views of everyone, particularly the people whose homes—living places—are accounted for here into account. But the commonwealth, other than a few public comments, has not really sought to engage around issues of access to those facilities. It has the ability, as it did through its own vaccine mandates, which apparently are quite

controversial. You will recall that the first vaccine mandate was issued by the commonwealth to aged care workers, and how that then plays out to access to sites is the matter of state orders. We try to, through VACRC and just the regular forms of engagement we have through the commonwealth, at health ministers' meetings, at AHPPC, at chief executives of state health departments and commonwealth health departments, deal with these issues. If we do not do it well enough, then that is a reflection on us all, but I do point out that the commonwealth is the agency that funds and regulates this sector. It has chosen to not implement any instruments that are available to it to regulate this space and to leave it to the states, and the states, particularly Victoria, do try to engage with them through the VACRC and through those other forums to arrive at an understanding as to how to make accessible aged care safe for people from COVID-19 but also livable and supportable for people whose homes it is. As the commissioner for senior Victorians pointed out, there is more work to be done there.

The CHAIR: Thank you, Minister.

Mr BOURMAN: That is my only question. Nothing came of that.

The CHAIR: Right. I thank you, Minister, for appearing here today together with Professor Euan Wallace and Ms Nicole Brady. A transcript of today's hearing has been taken and within the next week will be sent to you for review, including a list of any questions on notice. That concludes today's hearings, and I thank everyone who provided evidence and those who watched the proceedings today online. Thank you.

Committee adjourned.