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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

HOBART

9.52 AM, WEDNESDAY, 13 NOVEMBER 2019

Continued from 12.11.19

DAY 66

MR P. ROZEN QC counsel assisting, appears with MR R. KNOWLES SC
MR H. AUSTIN QC appears with MR J. CLARIDGE for Southern Cross Care
MS J. NEEDHAM SC appears with MS J. BUNCLE for Bupa Aged Care Healthcare Holdings, Bupa Aged Care Australia Pty Ltd, Ms C.J. Cooper and Ms E. Wesols
MR W. AYLIFFE SC appears with MR T. BUGG AM for Dr E. Monks

COMMISSIONER PAGONE: Mr Knowles.

MR KNOWLES: Yes. If it pleases the Commission, I call the first two witnesses today in a panel. They are Mr Ray Groom and Mr Stephen Shirley.

<RAYMOND JOHN GROOM, SWORN [9.53 am]

<STEPHEN JOHN SHIRLEY, SWORN

<EXAMINATION BY MR KNOWLES

COMMISSIONER PAGONE: Yes, Mr Knowles.

MR KNOWLES: Thank you, Commissioner.

COMMISSIONER PAGONE: Gentlemen, do feel free to sit down and make yourself comfortable.

MR KNOWLES: Mr Groom and Mr Shirley, can I ask you just for the transcript to each state your full name.

MR GROOM: Raymond John Groom.

MR SHIRLEY: And Stephen John Shirley.

MR KNOWLES: And have each of you prepared a witness statement for the Royal Commission?

MR GROOM: I have.

MR SHIRLEY: Yes. I have.

MR KNOWLES: Yes. Thank you. And Perhaps if I start with you, Mr Shirley. Is that your statement dated the 30th of October 2019 which is displayed presently on the screen in front of you with the identification code of WIT.0549.0001.0001?

MR SHIRLEY: It is.

MR KNOWLES: And have you read your statement lately?

MR SHIRLEY: I have.

MR KNOWLES: And is there anything you wish to change?

MR SHIRLEY: No.

MR KNOWLES: And are the contents of your statement true and correct to the best of your knowledge and belief?

MR SHIRLEY: They are.

MR KNOWLES: I seek to tender the statement of Mr Stephen Shirley, dated the 30th of October 2019.

COMMISSIONER PAGONE: Thank you. That statement will be exhibit 13-17.

EXHIBIT #13-17 STATEMENT OF STEPHEN JOHN SHIRLEY DATED 30/10/2019 (WIT.0549.0001.0001)

MR KNOWLES: Thank you. And, Mr Groom, you prepared a statement for the Royal Commission dated the 23rd of October 2019.

MR GROOM: I did.

MR KNOWLES: Yes. And do you see the first page of that statement displayed on the screen in front of you?

MR GROOM: Yes.

MR KNOWLES: And that bears the document identification code of WIT.0550.0001.0001.

MR GROOM: Yes.

MR KNOWLES: Now, have you read your statement lately?

MR GROOM: I have, yes.

MR KNOWLES: Yes. And is there anything you wish to change in your statement?

MR GROOM: No.

MR KNOWLES: No. And are the contents of your statement true and correct to the best of your knowledge and belief?

MR GROOM: They are.

MR KNOWLES: Yes. I seek to tender the statement of Mr Raymond Groom, dated the 18th of October 2019.

COMMISSIONER PAGONE: Yes. That statement will be exhibit 13-18.

EXHIBIT #13-18 STATEMENT OF RAYMOND JOHN GROOM DATED 23/10/2019 (WIT.0550.0001.0001)

MR KNOWLES: Now - - -

MR GROOM: The document is dated 23 October, yes.

MR KNOWLES: Sorry, Mr Groom. Thank you for that. I was looking at the first page. And that just refers to the notice. Yes. Thank you. The 23rd of October is the date of the statement. Thank you.

COMMISSIONER PAGONE: Yes, I think that's right.

MR KNOWLES: Yes .....

COMMISSIONER PAGONE: The first page is a reference to when the .....

MR KNOWLES: It's the notice. Yes. Apologies.

COMMISSIONER PAGONE: It's the 23rd of October is the statement.

MR KNOWLES: Thank you, Mr Groom.

MR GROOM: Thank you.

MR KNOWLES: Now, Mr Groom, can you tell me what your present occupation is.

MR GROOM: I'm semi-retired.

MR KNOWLES: Right. And previously, in terms of Southern Cross Care Tasmania, what was your role there?

MR GROOM: I was on the board for some 16 years and chairman for almost 12 years.

MR KNOWLES: Yes. And that period ran in each case from when until when?

MR GROOM: It ran, in terms of the – being a director of the board from 2002, about February 2002 to the end of June last year.

MR KNOWLES: Yes.

MR GROOM: And, as chairman, October 2006 until the end of June last year, although I was acting chairman for a period before that October date.

MR KNOWLES: Yes. Aside from your involvement in Southern Cross Care Tasmania, have you had any other experience in the aged care industry?

MR GROOM: Not in the industry, except as a family member of residents.

MR KNOWLES: Yes. I understand. And, in terms of your qualifications, I take it that they are not medical or clinical qualifications?

MR GROOM: No.

MR KNOWLES: By way of background.

MR GROOM: No.

MR KNOWLES: You have a law degree; is that right?

MR GROOM: Yes.

MR KNOWLES: Now, Mr Shirley, you're the present chair of Southern Cross Care Tasmania.

MR SHIRLEY: That's correct.

MR KNOWLES: Yes. And you've occupied that position since Mr Groom stepped down from the position.

MR SHIRLEY: That's correct. 1st of July 2018.

MR KNOWLES: Yes. And how long have you been a director of Southern Cross Care?

MR SHIRLEY: I joined the board in November of 2013.

MR KNOWLES: Yes. And have you yourself had any other experience of the aged care system?

MR SHIRLEY: No. Again, only as a family member.

MR KNOWLES: Yes. And what are your qualifications?

MR SHIRLEY: I have a Bachelor of Commerce majoring in accounting.

MR KNOWLES: So, like Mr Groom, you also don't have medical or clinical qualifications by way of background?

MR SHIRLEY: That's correct.

MR KNOWLES: Yes. Now, can I go to your statement, Mr Groom. And this is at page .0003. Now, at the bottom of the page there at 5 you refer to the respective roles – well, you refer to the role of the board and that the board's role is to govern and not to manage, the board should give strategic direction to the whole organisation through a strategic plan and also approve policies to guide management. And then you observe that:

> *The board through reports from both management and the committees and other information made available monitors the performance of the organisation. That performance includes the quality and safety of care provided to residents in the residential aged care facilities.*

And, further up the page, about halfway up the page under paragraph (c), you observe that:

> *It's the CEO's responsibility on behalf of the board for the overall management of the organisation and all of its facilities and operations.*

The CEO is ultimately accountable to the board?

MR GROOM: That's correct, yes.

MR KNOWLES: And the board has power to change the CEO.

MR GROOM: Yes.

MR KNOWLES: Yes. And in that sense it's the board that has ultimate responsibility for the management of the organisation, isn't it?

MR GROOM: Well, overall, yes, it is.

MR KNOWLES: Yes. And you would agree with that, Mr Shirley?

MR SHIRLEY: I do.

MR KNOWLES: Yes. And during your time, Mr Groom, there were two core governance documents for Southern Cross Care Tasmania, being the rules and the governance charter. Do you agree with that?

MR GROOM: And the strategic plan.

MR KNOWLES: Yes. But those two documents were the core governance documents in terms of the actual setting out of responsibilities of the board and the like.

MR GROOM: The responsibility of the board certainly.

MR KNOWLES: Yes.

MR GROOM: Yes.

MR KNOWLES: Can I take you to the rules. They're at tender bundle tab 292 and they will come up on the screen in a moment. Now, do you see at the bottom right-hand corner they were prepared in August 2012?

MR GROOM: Yes. That was after, I think, some – an amendment or two, yes.

MR KNOWLES: So far as you're aware, they have not – they weren't updated prior to you not becoming a – stepping down as director?

MR GROOM: Between that date and when I stepped down?

MR KNOWLES: Yes.

MR GROOM: .....

MR KNOWLES: They remained in that form.

MR GROOM: I believe so, yes.

MR KNOWLES: Yes. Thank you. And, Mr Shirley, they haven't changed since you have been chair?

MR SHIRLEY: That's correct.

MR KNOWLES: Yes. Now, can I go to the fifth page of the document, which is .0017. And there you see the objects of Southern Cross Care Tasmania set out and, in particular, those first three paragraphs set out there. I'm not going to read them out, but, obviously, these are fundamental to the operations of Southern Cross Care Tasmania. They go to Southern Cross - - -

MR GROOM: It's our purpose, really.

MR KNOWLES: Yes.

MR GROOM: Yes.

MR KNOWLES: And that purpose I think was – it's described in the strategic plan to – and you've referred to it in your statement, Mr Groom, as to continue to provide quality care and services.

MR GROOM: Yes.

MR KNOWLES: In aged care.

MR GROOM: Yes.

MR KNOWLES: And I think Mr Sadek gave evidence yesterday that the whole mission of Southern Cross Care Tasmania was about providing the highest quality of care.

MR GROOM: Well, could I just make the point that our organisation was created to provide care.

MR KNOWLES: Yes.

MR GROOM: We have no other motivation. No one has any shares in Southern Cross Care Tasmania, no one receives dividends.

MR KNOWLES: Yes.

MR GROOM: Our whole mission is to provide the best care. We're created as a charity - - -

MR KNOWLES: Yes.

MR GROOM: - - - to help the Tasmanian community - - -

MR KNOWLES: Yes.

MR GROOM: - - - by providing care for the aged.

MR KNOWLES: Yes. And it's a not-for-profit organisation.

MR GROOM: It's a not-for-profit charity.

MR KNOWLES: Yes. And both of you have acted voluntarily throughout your time as directors, haven't you?

MR GROOM: We have. Yes.

MR KNOWLES: Yes. Now, can I go to the 14th page of this document, which is .0026. And do you see in terms of – pardon me for a moment – at the top of the page under Powers, the rules dictate that the board shall control and manage the affairs of

the association. That reflects what you acknowledged earlier in terms of the board's ultimate responsibility for the management of the organisation.

MR GROOM: Yes.

MR KNOWLES: You would agree with that?

MR GROOM: Yes.

MR KNOWLES: Yes. Now, can I take you then to the document at tab 306 of the tender bundle. And that's the governance charter. That document, if we go, I think, to the next page, you see at the bottom of the page appears to have been prepared in December of 2009. Mr Groom, are you aware of it being updated at any time since then?

MR GROOM: Could I see the index again?

MR KNOWLES: Yes.

MR GROOM: I think that may have changed since I ceased to be the chairman. I don't know whether you've looked at that.

MR SHIRLEY: Yes. If I can add - - -

MR GROOM: It seems a different index.

MR SHIRLEY: The – so in recent times we have had two directors join the board since I became chairman. And as part of the induction to the board one of the – our existing directors has been asked to do two things. One was to induct members, those new members onto the board, to brief them about background and be a bit of a mentor for them until such time as they felt comfortable in their roles. And the second request of that director was to review the governance charter, or the rules generally – sorry – the directors handbook generally and to make suggestions as to change. Now, there have been some minor changes to that, and I refer to that in my statement, that there was – that is an ongoing issue of change. So we realised that there are still things in there which need to change. So it's a process which is going on, but hasn't been concluded.

MR KNOWLES: Right. But at the moment as it stands, this is the document that is in effect; is that right, Mr Shirley?

MR SHIRLEY: I know that there was an update of the directors handbook provided to directors in the last couple of months. And I think the date on that may have changed, but I'm not certain of that.

MR GROOM: I actually have a copy of the index that was the index when I was chairman, and it's quite – quite different.

MR KNOWLES: Okay.

MR GROOM: There's some additional

MR KNOWLES: All right.

MR GROOM: - - - matters that have been included, but also some on here that are not on there. That's interesting.

MR KNOWLES: Right. I see. All right. So there have been changes?

MR SHIRLEY: Yes.

MR KNOWLES: This is the document that's been produced, though, by Southern Cross Care Tasmania in respect of a request for all governance documents. Do you agree, Mr Shirley? So that's the present document, so far as you understand it.

MR SHIRLEY: I would need to confirm, yes, but certainly I would expect that you'll have been provided with the most recent copy and so maybe the date hadn't been changed on that.

MR KNOWLES: All right. Well - - -

MR GROOM: I mention there's – in this list there's as a conflict of interest policy, which is probably still there somewhere.

MR KNOWLES: Yes. Perhaps if I can take you then to the page that is marked .0005. There you see a summary of key responsibilities at the bottom of the page. Now, would you agree that, in addition to those responsibilities, there is a responsibility on directors to take reasonable steps to gain an understanding of the operations of the organisation? It's inherent in your duties as a director, isn't it?

MR SHIRLEY: I believe so, yes.

MR KNOWLES: Mr Groom, would you share that view?

MR GROOM: Yes. I just wonder whether that's not included in someone – but, reading that, I would agree with that. Yes.

MR KNOWLES: It's probably something that is necessary in order to undertake some of those responsibilities.

MR GROOM: Yes.

MR KNOWLES: In terms of assessing risks, for instance, it's necessary that a person as a director takes reasonable steps to gain an understanding of the organisation's operations.

MR GROOM: Yes. But there are proper ways to gain an understanding. Directors go into facilities and talking directly to staff and all that. That sort of action is not proper governance. So it depends upon how a director obtains the information. There are proper ways to do it.

MR KNOWLES: Do you say that's never a proper way for a director to do that?

MR GROOM: Well, it's recognised in terms of governance that – and I think a document that's been prepared for the Commission indicates this, that, you know, two hands on can be – cause very – great difficulties for the organisation. That depends – you know, it's important that directors gain information, but there are ways and means of doing it in accordance with proper governance principles.

MR KNOWLES: Accepting that there needs to be clear lines of responsibility and clear divisions of role, accepting all of that, don't you see a place though for firsthand observation, at least, by boards of directors of the activities of aged care facilities that are run by the approved provider that they govern?

MR GROOM: I've got some concerns about directors going into facilities independently and talking to staff members, asking for information. My understanding of governance is that's not proper governance by directors of a board.

MR KNOWLES: What about the proposition that I put to you?

MR GROOM: We can develop that discussion - - -

MR KNOWLES: - - - what about – sorry, Mr Groom. What about the proposition I put to you, that – do you say that there shouldn't be a place for directors even observing the day-to-day operations, being mindful of the need to avoid meddling in the day-to-day management of the organisation, because that's a responsibility of someone else?

MR GROOM: I – I think it raises difficulties. I mean, we have – Southern Cross has 22 sites around Tasmania. Directors independently as individuals going into different sites. I'm talking about aged care facilities and villages. The total number of sites is 22, nine and 13.

MR KNOWLES: What about - - -

MR GROOM: That raises real difficulties. I know it causes great concern, because there has been a history of this, not just in this organisation, but others, where it causes great anguish for staff members and management if directors get too involved in the day-to-day management by getting involved.

MR KNOWLES: I'm not putting that to you, I'm just asking you whether you think there's a place at all for directors, in a structured way, to observe the operations on a

day-to-day basis of an aged care facility that is owned and operated by the organisation that they govern.

MR GROOM: In a general sense I think that's right, but there are limitations, I think, in terms of proper governance.

MR KNOWLES: I understand. You have concerns about directors stepping outside of their role in governing the organisation. Is that right? In that capacity.

MR GROOM: Well, I'm just trying to follow proper governance procedures, which we've all studied and tried to learn over the years.

MR KNOWLES: Yes. What about you, Mr Shirley? Do you see any place for that at all?

MR SHIRLEY: I share pretty much all the views that Mr Groom has just put. When I first became chair and since I spent a bit of time talking about the separation of the board as a board of governance and the CEO and other managers as the managers of it. Some few months ago we had a workshop around standard 8, the new standard 8 about governance. And that was facilitated by a consultant who's experienced in the area.

And I specifically asked the question about should board members be present in facilities, should they make themselves available to staff and residents of facilities to get direct feedback about the facility? And I was told fairly clearly that – that that is getting into the area of management, rather than governance. We do need to have an overview. And – but I haven't seen yet something which allows us the ability to get that overview without then potentially getting into the area of direct – people directly talking to you in a way that tries to pull you into management.

COMMISSIONER PAGONE: So is your position perhaps best summarised in this way, that you both take the view that it's appropriate and indeed possibly even essential that board members inform themselves about the day-to-day operations of their enterprise, but that it needs to be undertaken in a process and way that does not interfere with the management process that others are charged to do?

MR SHIRLEY: That's the view that I would take. I believe that the role of the board is to continue to seek sufficient information through those proper lines of communication through the CEO to be able to understand the organisation and where it is at any particular point in time. The – if you start getting into direct engagement, you open the opportunity then for people to seek to either work around the lines of authority within the organisation or to seek to have somebody at the board table potentially try and prosecute a line of position which has already been settled within the organisation.

COMMISSIONER PAGONE: Yes. I think Mr Knowles' questions are in part directed to whether you think it's appropriate for the board to be informed about the

activities of the organisation. And I think the concerns that you have is that the way in which the question is asked may cause you some discomfort, because it suggests a going in almost as unannounced visits of - - -

MR KNOWLES: Yes. Correct. Yes.

COMMISSIONER PAGONE: And one of the concerns I think that you're getting at, at least one of you, is that there is the potential if a board member just turns up, as it were, that there might be an undermining of the authority of the management, and because it may have the effect of interfering with the process of management structures. Is that the - - -

MR GROOM: Yes, I agree with that.

MR SHIRLEY: I do, too, and I would also add that that engagement can be inadvertent. You go in with the best of intentions to try and inform yourself as a board member and then someone takes the opportunity to – to have a discussion with you and raise something of – that is a concern to them which hasn't been taken through the normal processes. Yes, that's my concern.

MR GROOM: We have had board visits to facilities.

MR KNOWLES: Yes.

MR GROOM: And over the years, we've had visits up north where we have stayed and had our meetings at a facility and looked around, that sort of thing, in the north-west and both at Glenara Lakes and Yaraandoo, the board has met there over the years from time-to-time as a board but we, you know, it's in that sense, as a board.

MR KNOWLES: That's really what I'm getting at, in the sense that do you have – do you think that that at least provides some opportunity for observations at a distance, at a removed - - -

MR GROOM: Yes.

MR KNOWLES: - - - but first-hand observations that are - - -

MR GROOM: And to walk around the facility and see what's happening.

MR KNOWLES: Yes, indeed.

MR GROOM: And as a group, you know, talking to staff as you go.

MR KNOWLES: Without engaging with people necessarily in a way that night interfere with the operations of management but just that gives you a sense as a collective group, as a board, of how things are operating on the floor, so to speak?

MR GROOM: Yes.

MR SHIRLEY: Yes, I would agree and certainly the last time we did that was in March of this year; we went to Glenara Lakes and had our board meeting at Glenara Lakes.

MR KNOWLES: Yes. Mr Shirley, you refer to the training that was undertaken in respect of standard 8 of the quality standards. You'd be aware, though, that standard 8 requires that the organisation's governing body is accountable for the delivery of safe and quality care and services, so it reinforces the role of ultimate responsibility of the board, doesn't it?

MR SHIRLEY: It does, yes.

MR KNOWLES: Yes. Ultimately, while the board's role is one of oversight, it has responsibility through that oversight?

MR SHIRLEY: It does, yes.

MR KNOWLES: Now, in terms of taking reasonable steps to gain an understanding of the organisation's operation, those operations, essentially, as you said earlier in terms of the mission of Southern Cross Care, are devoted to provision of quality care?

MR SHIRLEY: That's correct.

MR GROOM: Yes.

MR KNOWLES: So there's a need, I take it from that, to understand how quality care is provided in the aged care context?

MR GROOM: Yes.

MR KNOWLES: Yes. So in that sense, is it right to say that in addition to those matters that were in the governance charter that were displayed earlier that directors should take reasonable steps to gain an understanding of the quality and safety of care given to residents in their charges at their facilities?

MR GROOM: Yes. They're a means of obtaining that information.

MR KNOWLES: And in that regard, is there also, would you agree, a responsibility on directors to take reasonable steps to ensure that the organisation is governed in a way that provides quality care to residents?

MR GROOM: Yes.

MR KNOWLES: Yes. Do you agree with that, Mr Shirley?

MR SHIRLEY: I do, yes.

MR KNOWLES: And in that regard you've stated in your statement, I think, at paragraph 11 that consistent provision of high quality care to residents is the foundation of Southern Cross Care Tasmania.

MR SHIRLEY: That's correct.

MR KNOWLES: Yes. Now, can I just ask you, Mr Groom, some questions about the organisation's background, that is, Southern Cross Care Tasmania. It was established by the Knights of the Southern Cross.

MR GROOM: Yes.

MR KNOWLES: In 1972.

MR GROOM: Yes, October 72.

MR KNOWLES: Yes. And the Knights of the Southern Cross, that's a Catholic lay male association, I think you describe it as, Mr Shirley.

MR SHIRLEY: That's correct.

MR KNOWLES: Yes. So all members of Southern Cross Care Tasmania are members of the Knights of the Southern Cross.

MR GROOM: Yes.

MR KNOWLES: Yes. And the rules which were brought up earlier, they stipulate that a majority of members of the board of directors must be Knights of the Southern Cross.

MR GROOM: That's correct, yes.

MR KNOWLES: Yes. So presently there are eight directors; is that right, Mr Shirley?

MR SHIRLEY: That's correct.

MR KNOWLES: So at least five of them are Knights of the Southern Cross.

MR SHIRLEY: At this stage four are Knights of the Southern Cross. So we four male members are each Knights of the Southern Cross. We have four female members. I'm in the process – I believe that we need a further member with legal expertise. So I'm in the process of obtaining a person with legal expertise who fills those criteria as well.

MR KNOWLES: Okay. Now, just on that, the rules require that there's a majority of the board of directors who are Knights of the Southern Cross. Is the present constitution of the board outside of the rules in that respect?

MR SHIRLEY: The advice that I – I asked at one stage was were we operating outside the rules if we didn't have a majority. And I was advised that as long as I'm working towards satisfying those rules, then that it is not a – that we are working within the rules.

MR KNOWLES: Yes.

MR SHIRLEY: That was the verbal advice I took from the lawyer.

MR KNOWLES: In relation to that particular aspect of the rules, Mr Shirley, you've prepared a paper entitled Strategic Themes.

MR SHIRLEY: I did.

MR KNOWLES: Yes. And that's in the tender bundle at tab 331. Perhaps if that could be brought up; is that the document that I'm referring to?

MR SHIRLEY: That's correct.

MR KNOWLES: Yes. And that document sets out, I take it, your own views on various matters, including the make-up of Southern Cross Care Tasmania's board.

MR SHIRLEY: It does, but it has also been considered by the board in November of – an earlier version was considered by the board in November of 2018. The genesis of this was that I visited Southern Cross Care South Australia and Northern Territory in October of 2018 to – for the celebration of their 50th anniversary as an organisation. And so I took the opportunity while I was there to have a look at a couple of their facilities and also to talk with their people about how they did what they did. And one of the things that came out of that was they had a – an IT system, a thing called person-centred care which seemed to be able to bring together a lot of the care that residents were receiving in an efficient way, in a reportable way and there were a number of other things that they had.

And so what I saw there was a system of care which we could potentially look at bringing into Southern Cross Care. So that was the initial paper. And then in the period from when I became chairman through to around about October/November there had been – we had been having a lot of discussion at the board level in confidence, so that we could openly talk about the various things we needed to do. And so this paper had come out of that and was – so it is a paper which has been considered by the board and I'm not – I'm not convinced – not certain whether or not it's actually – there's a decision to endorse it, but certainly the consideration around the table was that it was a good way of proceeding for the organisation. So yes, the

views – it's a longwinded way – so the views about the structure and the make-up of the board and the rules are things that I have put to the board.

MR KNOWLES: Yes. One of those things that you have set out there is that you state that:

> *The requirement for at least half of the directors to be Knights of the Southern Cross should be removed.*

And that's at page 6 of the document.

MR SHIRLEY: That's correct, yes.

MR KNOWLES: Yes. And is that a position that has been taken up by other members of the board?

MR SHIRLEY: I believe the other members of the board endorse that view and – and again, in March of this year, there was a meeting of Southern Cross Care Australia and so I took the opportunity to speak to the chairman – the chairs of the other Southern Cross Care and asked them about what their governance structure was. I've been provided with information from two of those and we are working through that process at the moment, and at our last board meeting in October of last month, we took a decision to look at the changing of these rules to bring those things into effect over the course of about the next six months.

MR KNOWLES: So do I take it that the proposed change to the rules vis-à-vis the requirement, as it presently stands, for a majority of board members to be Knights of the Southern Cross that that reflects a view, certainly of yours and by the sound of things of the other board members, of concern as to the previous rules going to the flexibility and diversity of members of the board?

MR SHIRLEY: If you take the governance view, which we do, that the first and foremost requirement of a board director – or a board is to have a range of skills capable of overseeing the operations of the organisation, if they're doing good governance, then I and, I think, the board, see that as being a restriction which would benefit the organisation by being removed.

MR KNOWLES: It restricts the pool of talent that you can draw from potentially, doesn't it?

MR SHIRLEY: It is one restriction on the talent; it's not the only one. The fact that we are a voluntary board restricts the people who are able – who are willing and able to join a board.

MR KNOWLES: You've referred to that in the paper as well, just on the same page, haven't you, that modest board remuneration must also be considered.

MR SHIRLEY: Yes.

MR KNOWLES: So is that a view also that's been taken up by other members of the board as it presently stands?

MR SHIRLEY: Yes.

MR KNOWLES: Yes. And - - -

MR SHIRLEY: In saying that, can I – can I also say that various board members – well, some board members at least have said to me that they would feel uncomfortable taking remuneration at the present moment because of the financial position of the organisation, that it would seem to be inappropriate to – to take a – even a modest remuneration until such time as we could see a positive trajectory for the organisation and its finances. And at the annual general meeting which was held in October I was actually asked a question about payment for the board and my answer to – to that question was "Yes, I agree with it" but there are too many people who I think would be uncomfortable taking payment until such time as we can show an upward trajectory.

MR KNOWLES: Stepping back from Southern Cross Care Tasmania and its present situation that you're referring to, just more as a broad statement of principle, what do you see as the potential problems that can arise when a board of an approved provider of aged care is made up of people who are operating or acting on a voluntary basis?

MR SHIRLEY: I – well, the – the greatest potential problem is that the pool of talent that you have to – from which to choose isn't as great. You are – because – because we are voluntary, the people that are not getting paid for the time that they put into their board activities, so predominantly, the board is – our board, and boards in those sorts of instances are made up of people who are fully or semi-retired, who can give the time to that. What you – that then lack is potentially is that pool of younger people who are still working, who are engaged in whatever area of life that they are, who can bring current thinking on all sorts of matters to the board table.

MR KNOWLES: Mr Groom, do you have anything that you would wish to add to that particular point as to the potential - - -

MR GROOM: On that point, I have to say I believe our board has been a very effective board, though a voluntary board.

MR KNOWLES: I'm just asking at a broad – a higher level of principle though, Mr Groom. I don't want you to talk about Southern Cross Care Tasmania's board specifically, but do you - - -

MR GROOM: Yes.

MR KNOWLES: - - - agree with what Mr Shirley said or do you want to add - - -

MR GROOM: I agree with what Mr Shirley has said. I think there will be advantages for Southern Cross looking to the future if there is some modest payment, a better chance to get younger people – young professional people, for example, others onto the board to bring their expertise. Generally, I agree with – with that thought that into the future there should be some – some payment. We're a large organisation now and – but I again say our board has operated very well and I would like to have the chance but I appreciate you're asking the questions.

MR SHIRLEY: And certainly can I make that same comment, that what I'm talking about is if you look at the horizon and the best of possible worlds, but I also believe that the board is effective in doing what it is doing.

MR KNOWLES: These are matters, though, that go to improving the operations of the board in the future as Southern Cross Care moves into the future.

MR SHIRLEY: Correct.

MR KNOWLES: You mentioned earlier the training in relation to standard 8 of the quality standards. What other sort of professional development do you expect that a board needs to engage in, in terms of its responsibility for governing an aged care-approved provider?

MR SHIRLEY: I believe that board members need to understand their role as a board member. In that same document I talk about the fact that I – talk about my belief that each of the board directors should become a member of the Australian Institute of Company Directors. And that will inform a lot of the way in which we do those things. I am not a member of the Institute of Company Directors, but some six or seven years ago I did the Institute of Company Directors course and found that to be very useful.

And again, some – some months ago the discussion was had about various members doing the Institute of Company Directors course. I didn't take that up at that stage, because I know the time commitment involved in preparing for and doing the Institute of Company Directors course. But it is something that, again, will help the professionalism of the board to be able to be aware of what is current thinking in terms of board governance and operations. And we also – we do have a couple of our directors who are members of the Institute of Company Directors. And they share and we use the public resources available on the Institute of Company Directors site.

MR KNOWLES: What about training in respect of clinical governance? Do you see that as being something that a board should receive?

MR SHIRLEY: I think that we – I would hesitate somewhat to get too deep into clinical governance. I – in terms of the detail, you know, of that. I believe that what

we need as a board is to have those people who are expert within the organisation to be informing us, but, also, we need to be able to identify those reporting items which would allow the board to understand what is going on.

And so, for example, at our last board meeting in October I mentioned that I had a discussion with the – one of our area managers, who is about to commence trialling some reporting from the facilities under her control. And she looks at that from the point of view of the care of residents, resident satisfaction, employee satisfaction and workplace health and safety and finance. And so what this says to me is that – and that covers off reportable incidents, other sorts of things like that. So I was very interested in that. I asked her to share that information with me. And I've actually sent that off to the board and asked for them to have a look at that, so that we can discuss it at our next board meeting in a few weeks time, towards the end of November. So that's where I see our responsibility should be in reviewing those aspects.

MR KNOWLES: Do you agree, though, Mr Shirley, that there needs to be some understanding of the way in which a clinical governance framework works in order to interrogate whether or not quality is being maintained within the organisation by the board, in its role in overseeing the operations of the - - -

MR SHIRLEY: Depending on how that is delivered to the board, that is good. I – my hesitation is about whether or not board members without any of that background are being asked to – or feel that they might become more expert in that area than they are.

MR GROOM: There is a medical practitioner on the board, Dr McArdle, a very experienced medical practitioner, who brings her clinical knowledge to the board in discussion.

MR KNOWLES: And Ms Alex Mcaskill.

MR GROOM: Alex Mcaskill, who's a nurse, also brings clinical knowledge. And they do do that.

MR KNOWLES: Yes. And I take it that you, as people without that clinical knowledge, consult them regularly on matters that go to clinical issues?

MR SHIRLEY: They – both of those people sit on our – what is currently our risk and audit committee, but we have also recently established a clinical governance committee under the – under the standards. And so the – and we will be looking at the membership of that to provide, again, better clinical oversight. The – I am – I was told in a side discussion I had with Dr McArdle that we do need – that the charter requires us – or the clinical governance committee requires us to have a doctor on that committee. And so we are doing that, but, yes, we – they are looking at the more detailed information, the clinical governance side of things. And then

they or the executive management within the organisation is bringing forward any concerns they have to the board.

MR KNOWLES: But do you consult them about matters where you perceive yourself to be lacking in expertise, that is, matters of medical or clinical issues?

MR SHIRLEY: I haven't consulted in that way, but then I don't believe that what I need to know is that the clinical care and the settings that we are putting in place are being effective.

MR KNOWLES: And, in terms of their being on the clinical governance committee, that is the medical people with expertise, do you think that there's a need for, in relation to aged care, a requirement that at least one person of that nature be on a board of directors?

MR SHIRLEY: A - - -

MR KNOWLES: A person with a medical or clinical background - - -

MR SHIRLEY: Yes.

MR KNOWLES: - - - should in every instance be on a board of directors governing an approved provider. Do you agree with that?

MR SHIRLEY: A doctor – or doctor specific to aged care.

MR KNOWLES: A doctor or a nurse, someone with AHPRA registration should be on a board of directors in each instance for an approved provider. Is that something that you agree with?

MR SHIRLEY: I believe that we should have, yes, that clinical expertise on the board. And, as Mr Groom has said, we do have that expertise on the board.

MR KNOWLES: Yes. And do you see that as being something that should exist more broadly in terms of the aged care sector?

MR SHIRLEY: Yes.

MR KNOWLES: Do you agree?

MR GROOM: I think it's a sensible proposition that that should occur. It might be difficult in some circumstances, but that's the ideal, to have some clinical expertise on the board.

MR KNOWLES: Yes.

MR GROOM: To contribute to discussion. I'm just thinking of remote small aged care providers in rural communities. There may not even be a local doctor. Probably would be, but - - -

MR KNOWLES: Yes.

MR GROOM: - - - that doctor might be not inclined to go on the board. So it can be difficult, no doubt, but I think it's an ideal - - -

MR KNOWLES: Yes.

MR GROOM: - - - proposal.

MR KNOWLES: And can you just elaborate on what you see as the benefits of having a person like that on the board. I mean, some of them are fairly self-evident, but can you - - -

MR GROOM: It's self-evident.

MR KNOWLES: ..... how you have experienced those benefits yourself.

MR GROOM: Well, I think it's very valuable. I mean, Dr McArdle has been a longstanding board member, excellent contributor to discussion. When care issues arise, Dr McArdle expresses her views very forcibly, actually, with her expertise. Alex Mcaskill also an experienced registered nurse. They contribute. So it's been very good that we – I mean, we're not – we've all learned over the years clinical issues. We're not experts in the field, but we have experts there who can guide us and help us in understanding the issues.

MR KNOWLES: Do you have anything to add to that, Mr Shirley?

MR SHIRLEY: Well, I would in that I agree, that they bring a skill and the knowledge and years of experience to the situation. And so they will see something that even the best meaning director who tries to inform themselves may not see, because you cannot – you may not make the connections. And I suppose it is a discussion that we've had on a regular basis about what are the skills even that we need as a facility manager.

And the question I often ask is, "If you don't have a background in care, as a facility manager, how do you walk around your facility and see that something that appears on the surface to be okay is actually not okay?" And that – and that is exactly the situation that I see with a medical practitioner, a nurse on the board. They will see things that to me, with the best of intention, I don't see. And so that is essential.

MR KNOWLES: Do you see from a regulatory perspective a place for, say, the Department of Health to assess the mix of skills and training of board members of approved providers and to make decisions as to whether or not people should be –

sorry – whether or not approved providers should be approved, depending on the constitution of their board?

MR SHIRLEY: I have a – I can see the theoretical benefit of that. I am wary of too much regulation which says this is what you should have, because, again, what you can end up with is you are ticking boxes about the type of person or the apparent qualification of the person on the board who may not be the best fit. But I think a – is there – I haven't spent a lot of time putting my mind to. Is there scope for particularly clinical care? There may be a benefit in that, I say, thinking here, given the nature of the environment we're in and care being an essential part. And maybe that is an essential requirement of a board, but I would hesitate for a regulator to go much further than that.

MR KNOWLES: Well, is – what about approved providers notifying a regulator as to the make-up of their board of directors on a regular basis and of any changes to their board of directors? Do you see a place for that?

MR SHIRLEY: I, again, I would be comfortable with that. It is – wouldn't seem to be an onerous process to demonstrate what is the current arrangements of who's on your board, what their skill mix is, those sorts of things. I suppose the question is what is the value of that information?

MR KNOWLES: What do you say to that, Mr Groom, yourself?

MR GROOM: I think you – I wasn't very supportive of your first proposition, but the second one I think is reasonable. But what happens then, you send the information, I think that's fair enough, but there's then some over-arching power to say, "No, not that person. No." I mean, local knowledge is terribly important in this sphere. We have aged care providers all around Australia, as you well know, and the Commission is very much aware of it in small communities and so on. And local knowledge and understanding, I think, is important in this sphere. So someone directing from above as to what should happen, who should be on the board and so on, I think would be going a bit too far. But informing the make-up of boards and skills and so on. So there could be some discussion, maybe. Perhaps that's reasonable.

MR KNOWLES: Yes. Thank you. Can I just ask you, Mr Shirley, in respect of your strategic themes document, what of the recommendations in there has actually been implemented by Southern Cross Care?

MR SHIRLEY: I don't believe that there are any recommendations as such in that document. I think towards the end, from memory, the document talks about priority of activity and those sorts of things. But the document itself, I don't believe, has any specific recommendations, but I stand corrected on that.

MR KNOWLES: Well, in terms of - - -

MR SHIRLEY: Okay.

MR KNOWLES: - - - matters like the removal of the requirement for directors to be - - -

MR SHIRLEY: All right.

MR KNOWLES: A majority of directors to be .....

MR SHIRLEY: So let me talk to a couple of things that are being done. So - - -

MR KNOWLES: Well, just before you do, is it right to say that none of them – nothing that is described in that document has actually been implemented at the present time?

MR SHIRLEY: No, I wouldn't go to that. So, for example, yes, we are in the process of prudently going through the issue about the change to the rules and even to the situation of what sort of an organisation. So currently we are an incorporated association. One of our other Southern Cross Cares is a company limited by guarantee, I believe. So there are different benefits for each of those processes. But let me go simply to, so let me go to the – the situation of person-centred care. We undertook an IT strategic review earlier in the year. That was endorsed by the board. It is a three to five year strategy.

And one of – so the first thing that is in that strategy is, or in that work is that the Southern Cross Care is out and I believe has received tender responses from five providers for – for care of the – for care systems. One of those care systems that's responded is that person-centred care. And so the organisation is currently going through a process of review of those tenders to select a group of preferred providers who can – or a short list of tenderers who can then come in and do some more work in that space.

But, again, in doing that there is a whole lot of other work which must be done to – to make those sort of things happen. So, for example, there has been discussion about moving from computer hardware which is run and supported by the organisation itself to possibly cloud-based. If we go to put in something like that system in our facilities, then we need to make sure that the – the computer systems within those facilities, particularly intranet within those facilities, is capable of supporting a number of carers walking around with handheld devices which are reporting back or communicating back to a central computing area. So there are a number of things which are in train in that so

Maybe the other thing I should say, I talked to you about the – the – the reporting for – that our – one of our area managers had. Again, that's in its infancy but this is part of the process of getting better information for the board. And so whilst we haven't moved as quickly as sometimes you would like, there – we are moving in those directions. We have - - -

MR KNOWLES: Just on that better information to the board, Mr Shirley, is it right to say that – have you utilised the skills of the clinicians on the board to identify what that information is and how it should be provided to the board?

MR SHIRLEY: They will certainly have – so the clinicians on the board have had that information shared with them and so that will be part of the discussion of the board in November about that. So it is about getting that right information, the information that has been put together, the process that this area manager is using is in discussion with her facility managers and from her own expertise. So we have people with clinical skill, direct clinical skill who are putting this together and then we have the clinicians on the board, plus the other board members who will be looking at that so we will come to a common understanding about whether that gives us sufficient information. I would also - - -

MR KNOWLES: Could I ask you on that - - -

MR SHIRLEY: Can I just finish that point. The other thing is that we have been very clear as a board that we would much prefer to see these – so something like this reporting system put in place, even if it isn't – if it isn't comprehensive, because it is better to start and refine rather than keep working through until you think you've got to the end and then put it in.

MR KNOWLES: Well, can I ask you on that, I will start with you, Mr Groom, do you think that the reporting of clinical issues to the board in the past has been adequate?

MR GROOM: I believe - - -

MR KNOWLES: With the benefit of hindsight?

MR GROOM: Well, issues have been raised and those terrible incidents that have been referred to during this week, I had no knowledge of – of those, but I think in the main they occurred after I'd finished as chairman in June of last year, but there were elements before I concluded my – my role. There can always be improvement. I think we always have to look to improve. It's a question of continuous improvement - - -

MR KNOWLES: Yes.

MR GROOM: - - - but generally speaking we've had a good, I think, quite a rigorous reporting process and the image that you might have of us as an organisation, I think, is a little bit distorted. And it's the role of the Commission to look at failings and so on but I think if you look at the general organisation, we're a large organisation. We have almost 1200 staff members doing a wonderful job, a loving, caring job all round Tasmania in all our facilities. We've had good reporting processes where we've been informed of lots of issues over the years. Some might

not be reported but generally speaking I think it's been a very good rigorous reporting process.

Indeed, I would argue or submit or suggest that our governance has been extremely good. The image recently might suggest otherwise but I would have to say, and I'd like to develop it if I had the chance, our governance has been extremely good, including on clinical issues.

MR KNOWLES: Can I ask you about that then, Mr Groom. In terms of what was reported to the board, you had the QPS Benchmarking system in place?

MR GROOM: Yes.

MR KNOWLES: And the – a committee of the board, the Audit and Risk Committee received from the director of clinical services a two-page – one to two-page summary of quarterly reports from her; is that right?

MR GROOM: That's correct.

MR KNOWLES: And then if there was anything that arose out of that one to two-page summary, that would somehow be discussed at the Audit and Risk Committee and the board would see the minutes of the Audit and Risk Committee in that discussion?

MR GROOM: Yes, the minutes from that compo would come to the board, and then there would be discussion and issues could be raised and there would be good discussion about those issues at board meetings.

MR KNOWLES: Do you agree – and I'm happy to take you to the documents on this – do you agree that some of those one to two-page reports didn't accurately or completely reflect the terms of the QPS Benchmarking reports?

MR GROOM: Look, I couldn't honestly answer that – that question. I'd need to look at documents but I'd be going on my recollection of matters.

MR KNOWLES: Yes.

MR GROOM: Generally speaking, I believe there was a good process in place to inform. It was essentially discussed at the Audit and Risk Committee where we had clinicians involved there. If matters of concern arose, they were to bring it to the board and, you know, there was a frank conveyance of advice about such issues that were coming to the board.

MR KNOWLES: Well, perhaps if I can take you to those documents. Some of them were the subject of Ms Marshall's evidence yesterday. At tab 107 of the tender bundle, this is a quarterly QPS Benchmarking report for Glenara Lakes. And that relates to the quarter up to June of 2018. If we go to the next page, that sets out

where benchmarks were not met. Now, have you ever seen that type of report before, Mr Groom, yourself?

MR GROOM: I honestly would have to say I've not seen that sort of page before from my recollection.

MR KNOWLES: Yes.

MR GROOM: I may have but I don't recall having seen such a page.

MR KNOWLES: And Mr Shirley, I think you've said in your evidence that you've seen one such report of this kind for the overall organisation?

MR SHIRLEY: That's correct. I, in I believe March 2018, the QPS report for the period for the quarter ended December twenty – sorry, March 2019, sorry, for the period ended December 2018 was provided to the board in the report of the Executive Manager of Integrated and Clinical services. I looked at that report. I make the point, and I – well, a couple of things I'd say. The report came without any analysis to the board. So it was presented to the board as, if you like, as an addendum to – to the report of the – that particular executive manager. I looked at it from my point of view and I made – came to the assumption of – well, came to the view that as an overall document in those areas which were – which were quantitative, so things like falls or medication, and I'm going from memory here a little bit, but those sorts of things as an organisation we were doing better than the industry average.

On qualitative measures, we were doing worse than the industry average. I – again, at our last meeting, having the benefit of the questions that the Commission put to me, I recommended to the board and they accepted that we – as a first step, we should see the QPS reports in their entirety when they are presented, so presented to the Audit and Risk Committee or the clinical governance committee as they will go to now, but they should be seen by the board in their entirety but they should come – and my view, which I didn't express at the meeting, but they need to come as a – as a – with some analysis because, again, I'm going back to my previous view. Because I don't have clinical expertise, what I might see in this report may miss something. So I need somebody to analyse this and say this is what that is doing.

MR KNOWLES: Can I ask you this, Mr Shirley, that change that you've introduced though to make sure that the actual QPS reports are provided to the board, doesn't that reflect an acknowledgement that what went before, that is, the lack of provision of those reports to the board, wasn't adequate?

MR SHIRLEY: I will go back. It is about continuous improvement. I – I believe that is a reasonable step at the moment.

MR KNOWLES: Is that a yes, though, in that regard?

MR SHIRLEY: It is, yes, to the extent of we can always look back and say maybe this information will assist. But the – well, and so where I'm – where I'm going is that in the audit and risk reports that came to the board, there were – when the QPS information was provided, along with others, there was also often a statement in there saying that the – the particular executive or director of clinical services said there were no issues to be concerned of or words to that effect. So it was not raising any issues of concern at the risk and audit meeting which were then not elevated to the board. I think it is reasonable for the board to rely and – and to some extent even the committees to rely on that expert advice.

And so the elevation of this to the board is to say, well yes, given the questions that were asked, yes, there is more information we can provide. I am hesitant – I'm concerned a little, I suppose, that I don't want the board to be overburdened with documents, just with information because, again, my – my working experience is that as you report upwards through an organisation, you – your responsibility is to synthesise the information to pull out the salient information for the decision-makers above you to make those decisions, to be informed in making those decisions.

MR KNOWLES: Yes. But it's right, isn't it, that as a board you need to make sure that that reporting process is monitored and is audited to ensure that it is effective?

MR SHIRLEY: That's correct. And again, from the Risk and Audit minutes there was nothing raised by the – the particular manager responsible to say there is something in here which as a risk and audit committee or as a board you need to be thinking about.

MR KNOWLES: Can I just ask you this: if we go to tab 110 of the tender bundle, this is another quarterly report for the overall organisation from QPS Benchmarking for the quarter from April to June 2018. Can I go to the third page which is 0003. Sorry, the fourth page I think it is. If we just rotate that page. So this shows that there are a number of areas where there is high risk at various facilities owned and operated by Southern Cross Care. Do you see that, Mr Groom? This is back in the quarter ending June 2018?

MR GROOM: Yes. I see it. It's a little difficult to read it for me.

MR KNOWLES: Yes. Well, the dark squares are areas of high risk and they relate to, among other things, falls at various facilities, urinary infections, wound infections, skin tears, and the like. Now, just putting that to one side of the screen, if I can bring up tab 330 of the tender bundle on the other side of the screen. And what is coming up on the other side of the screen is a report from the director of clinical services to the Audit and Risk Committee in respect of the same period, and it involves the analysis by the director of clinical services of this particular report made by QPS Benchmarking. Sorry. So you see there the report from the director of clinical services. Now, I accept that this is at a point in time in that it's after you've actually left, Mr Groom. But just take it as an example of what I want to put to you in a moment.

Do you see at the bottom of this report about the quarterly benchmarking report from QPS, it said:

Comment: there are no indicators of significant clinical risk identified in the report.

Does that concern you, just at face value at least, when you compare it with the black marks on the other side of the screen?

MR GROOM: I'm assuming it's, as you say, they're related.

MR KNOWLES: Yes. Take it from me that they are.

MR GROOM: Yes, I take it from you that they're related. I accept that. Yes, it's very surprising that there are a number of black dots indicating high risk and the comment:

There are no indicators of significant clinical risk identified in the report –

if that's the – as you say it is - - -

MR KNOWLES: Yes.

MR GROOM: - - - related so that is very surprising.

MR KNOWLES: And does that suggest a breakdown in the reporting mechanism to the Audit and Risk Committee by the director of clinical services?

MR GROOM: Well, the Director of Clinical Services, which was at the time Carolyn Wallace, a very experienced clinician, one of the most experienced aged care registered nurses in the State, and noting that knowledge, experience, expertise, that seems surprising, but maybe Carolyn had a reason for that and I wish she was here to explain it. But it does seem surprising.

MR KNOWLES: Is this part of the reason, Mr Shirley, as to why it's now something that you see as necessary for the QPS Benchmarking reports to be provided together with an explanation of this kind?

MR SHIRLEY: Well, the – clearly, there was nothing that we saw out of the system that has been in place to identify risks that potentially have led to where we ended up with, with Yaraandoo and – and that. So yes, I believe that better reporting, better analysis will allow that. So looking at that on face value, I would have hoped that there would be more nuanced reporting which might talk about those high risk areas at least and say – give some analysis of it and some indicator as to whether or not that is an area of focus that needs to occur, those sorts of things. So yes, it is about better – better information to the board so that we get that more nuanced analysis of what is going on.

MR KNOWLES: Did either of you – have you in the past seen these one-page reports from Carolyn Wallace?

MR GROOM: When they went to the Audit and Risk Committee, I wasn't on that committee, and then that would be processed on that committee, and then if there were significant issues it would then come to the board as a sort of delegated arrangement to that committee. To answer your question, I don't recall – I may have, but I don't recall seeing that form of report - - -

MR KNOWLES: What about - - -

MR GROOM: - - - to the Audit and Risk committee. I mean, that wouldn't be in the – I don't think – that wasn't in the board papers so I don't recall seeing it.

MR SHIRLEY: Similarly, I can't recall seeing those one-page or couple of page summaries and, as I say, the only time that I saw any QPS reporting at the board was that report provided in March 2019.

MR KNOWLES: And did you hear the evidence yesterday of facility managers about their involvement in the QPS Benchmarking system.

MR GROOM: I didn't hear the evidence yesterday.

MR SHIRLEY: Neither did I.

MR KNOWLES: Well, in summary, two former facility managers stated that while they provided data for inputting into the QPS system, they were never provided with the reports and they were never provided with feedback arising out of the reports. Do you think that's satisfactory?

MR SHIRLEY: I – I would say no. I would think that the – not only should they have been provided with the reports and provided with some information but I would have thought that as a – as a facility manager it is something that you would be actively seeking out. It is a key component of the work that you are doing and if there are areas where you are, you know, those areas which are identified as high risk you would be wanting to drill into those and understand what they were.

MR KNOWLES: Yes, but if you're a facility manager and you've provided the data but not received any feedback, you might not be aware that there's something wrong when there is something that is wrong?

MR SHIRLEY: I struggle to understand that if you are putting the data into something like this, you wouldn't want to be – be having a look at the output to review where you were going with it. It probably also – it may and, again, I'm conjecturing here, but it may be that again the systems that we – the electronic systems that we have don't make it easy for facility managers to extract or to see those reports. And so again, it's just part about that process of improving our

information technology to allow that sort of information to be available to facility managers at their desktop to be able to do that. Because again, the other point that I would – I haven't made but the point that I believe is that the – my experience, my view is that facility managers have a – a job which is – it requires them to – to do a lot of things.

And so I – I take my hat off to them. They – they do a terrific job and so it may be that the day-to-day doesn't allow – if the information isn't easily available to them, it doesn't allow them to take the time to find that information and pull it out and do those sort of things. So we're trying to make that easier but, yes, I would have thought there should have been that feedback loop.

MR KNOWLES: Do you know how much is actually spent on QPS Benchmarking each year?

MR SHIRLEY: I have no idea.

MR KNOWLES: Mr Groom?

MR GROOM: No. I couldn't answer that.

MR KNOWLES: You don't know that.

MR SHIRLEY: And again for me, it's – it is something that is necessary information. So it – it will cost us what it costs us.

COMMISSIONER BRIGGS: Might I ask, in my experience it's often the case that collecting information is seen as a burden rather than a liberation in the sense that people resist putting data together; they see it as red tape and annoying and it goes nowhere and if they never see the results, they get upset. Would you agree with that?

MR SHIRLEY: I believe it is in a – a less connected end-to-end system, that is the case, I think you – people see it as a – yes, it's a burden. I have got this set of things in front of me which I think are more important about the – my focus on the residents and care or staff issues, or all those sorts of things and then to pull the information and put it in, and then find the time to analyse it and get the report back. If it's not represented easily, yes, it can get lost. Can I just continue. So the person-centred care software I saw in South Australia seems to me to be able to start at the resident and record that information and bring it through so that it is then – it is retained in the system which then allows the analysis to occur.

So that's what we're trying to do in the tender that we've got out at the moment is to make it easy for people to put the information in as the normal work that they do of a day and then information comes out and it can be analysed in the way we do our business.

COMMISSIONER BRIGGS: Yes, your point about easy access to data is, I think, fundamental to this. So what we're looking at is ways that transparency might be increased as part of this discussion because it seems that somebody who had this, was collecting this clinical information but it wasn't going up to the board and it wasn't going down to the people providing it. So there's more than an issue of transparency associated with IT issues. There's a question about responsibility of personnel in positions to understand their functionality or their responsibilities, and distribute the information that you need or, as you say, Mr Shirley, the analysis you need. Do you agree?

MR SHIRLEY: I do, yes.

COMMISSIONER BRIGGS: Yes. So there was a breakdown in those linkages between the manager responsible and the organisation, and the board?

MR SHIRLEY: And again, the same reasoning may occur in terms of the executive managers also have jobs which have pulled them in various directions.

COMMISSIONER BRIGGS: Yes.

MR SHIRLEY: So even though this information is important and we can look here and say – sit here and say, yes, that's important and something should be done about it, again, you can get caught in the day-to-day which then says I'll get to that tomorrow, I'll get to that next week, and then you're a little way down the track and the information you think is, well, you know, it's a bit out of date; I'll wait to the next.

COMMISSIONER BRIGGS: Yes, we're all people, we understand that. It's not easy to juggle as many things you have to do particularly when you're operating in a resource-constrained environment - - -

MR SHIRLEY: That's certainly the case, yes.

COMMISSIONER BRIGGS: Yes. Counsel, sorry.

MR KNOWLES: Can I ask you, Mr Shirley, in relation to standard 8 that you mentioned earlier of the quality standards, do you think that that gives approved providers and their governing boards sufficient guidance as to the requirements of clinical governance?

MR SHIRLEY: I believe it does, yes.

MR KNOWLES: Yes. Are you familiar with the standards that are promulgated by the National Safety and Quality Health Service?

MR SHIRLEY: I – can you - - -

MR KNOWLES: They're an alternative set of standards that relate to the health system. Are you familiar with those standards?

MR SHIRLEY: No, I'm not.

MR KNOWLES: Okay. Are you familiar with those, Mr Groom?

MR GROOM: No, I'm not across those.

MR KNOWLES: Okay. One of the things I also wish to ask each of you about was the importance of leadership and culture in aged care approved providers. And in that regard, do you think that there's some utility in directors of a board publicly attesting on an annual basis to various matters going to their promotion of culture of quality care in the organisation? Can I start with you, Mr Groom?

MR GROOM: I would like to know more about what you're really suggesting.

MR KNOWLES: Well, in that regard, what would you say to the suggestion that directors, as the leaders of an organisation attest publicly and on an annual basis that they provided leadership to develop a culture of safety and quality improvement within the organisation.

MR GROOM: What form would the attestation take – the public attestation? I'm just wondering.

MR KNOWLES: It's something that you have to do, basically.

MR GROOM: How would you do that? I'm sorry, I don't quite understand how that would be promulgated.

MR KNOWLES: Well, you would do it as part of your annual - - -

MR GROOM: Annual report or - - -

MR KNOWLES: Yes.

MR GROOM: Yes.

MR KNOWLES: Would that be something that you think is worthwhile?

MR GROOM: I think it's worthwhile.

MR KNOWLES: Yes.

MR GROOM: Why not?

MR KNOWLES: And would that attestation be something that you could see extending to directors saying that they have satisfied themselves that a culture of that kind that I've just mentioned exists within the organisation?

MR GROOM: Yes. It may have to go beyond clinical matters and care matters to other responsibilities.

MR KNOWLES: Sure.

MR GROOM: Because I think the concentration seems to be quite properly on care, but organisations have to also manage - - -

MR KNOWLES: Yes.

MR GROOM: - - - their organisation so it survives.

MR KNOWLES: But do you see some utility and worth in that type of attestation in terms of what it might say to management, to staff, to residents about how the board approaches its governing task?

MR GROOM: Yes. So long as it's not just tokenism. A lot of these things ultimately become just tokenism, "Yes, we signed that. We do this and" - - -

MR KNOWLES: Yes.

MR GROOM: - - - and off it goes. I mean, it has to have some real meaning - - -

MR KNOWLES: Yes.

MR GROOM: - - - in the form it takes.

MR KNOWLES: Yes.

MR GROOM: And I see no harm in that. It could only be positive.

MR KNOWLES: Yes.

MR GROOM: But I would certainly like to know more detail exactly what should be included and so on.

MR KNOWLES: Yes.

MR GROOM: But the idea is valuable.

MR KNOWLES: Yes. What do you say to the idea, Mr Shirley?

MR SHIRLEY: While you were talking I was contemplating when I was working I actually suggested a similar sort of thing in the last organisation that I worked in, in that each of the people responsible within the organisation for a particular area of responsibility would make some sort of attestation like that to the secretary of the department saying that for the areas in their control that they have satisfied legal and some other requirements. I would say that it – it went nowhere very quickly.

But as a – as a general proposition about transparency, I think that that is a – it is something which is worthwhile. It is going to be a question of what is a director or is it the chairman on behalf of the board attesting to, and then what is required to allow the director or the chair to be able to say that that is the case. So that they go to information about reporting. But, as a general principle about transparency, I think that that is a good idea. And I believe that we should try and get to the point where we can be as transparent as possible with – particularly with our residents and the families about what we do and certainly with funding bodies and any other reasonable stakeholders.

MR KNOWLES: Thank you.

COMMISSIONER BRIGGS: I hear what you're saying, Mr Shirley. In the annual financial statements, directors sign off to a number of things. I think there's three of them, about the organisations being financially viable and it's not bankrupt and so on and so forth. That kind of simple reporting may well get to the issue, do you think?

MR SHIRLEY: Something like that I think would be useful, yes. If we are blue sky thinking, I contemplate where we are as a society in our access to information over the internet. So I can go wherever I like and go to my bank and know the details of my bank account. Why can't a resident or family have that sort of access to the financial information - - -

COMMISSIONER BRIGGS: Yes.

MR SHIRLEY: - - - that they have? And then why couldn't they have access to other information similarly? There become a whole lot of issues about access, about being able to understand what you see, all of those sort of things. But, as an end point, if you've got your residents and their families who are well informed, because we are happy to tell them, we believe we've got a good story to tell them, it will give them comfort.

COMMISSIONER BRIGGS: Yes.

MR SHIRLEY: But we are – we're a long way from that.

COMMISSIONER BRIGGS: Thank you. Sorry, Counsel.

MR KNOWLES: And just on that issue of residents and their families, how do you see them potentially having some engagement with the board or some right of putting things to the board by way of the governance process?

MR SHIRLEY: As I understand it, the Clinical Governance Committee should have some sort of resident or family engagement with it. Again, I think that we probably, because of our systems and other things – we probably are at the very early stages of doing that, but, again, I think that being able to have, through – initially through that Clinical Governance Committee to have residents and their family being able to have, by some representative process, input is – I think is a worthwhile aim to achieve.

MR KNOWLES: How might that work in practice that – what you've talked about, residents or their families having some input? Would they be – would there be a representative on the actual committee itself?

MR SHIRLEY: That may be – again, we are in the infancy of doing this, but that may be an end aim. But then the questions you've got to ask yourself and answer is how does the – because you would only be talking about maybe one or two representatives across currently nine facilities for us. How does that – how do those people come? Do they come as an individual or do they come as some sort of a representative of the entire residential population? Do we, again – going back, do we need people who are skilled or are we sufficient to say we want people who can just bring their day-to-day lived experience to it?

There are a whole lot of those issues about how does that work and, again, is that person bringing their individual experience or are they then being asked to come and say, "Well, I have this experience as a member of the governance – Clinical Governance Committee, and so my involvement is not just bringing the personal experience; it is bringing that educated mind to the whole work of the Clinical Governance Committee, including pressures, resource pressures and all those sorts of things." So it's very complex, in my mind, but it is something that I think is useful to explore.

MR KNOWLES: Do you see a role, though, being – existing somehow for residents to have input into the Clinical Governance Committee, in particular, in future at Southern Cross Care Tasmania?

MR SHIRLEY: I'm not sure how that would work at the moment. I am open to that sort of a concept, but it needs to be workable in a way that is – that it enhances the work of the Clinical Governance Committee.

MR KNOWLES: Just going back to the issue before that was raised in relation to the QPS reports and the report that was received from the director of clinical services, do you think that there should be specific duties in the statutory regime to impose on boards and directors some requirement of regularly informing themselves

of the quality of care issues and the impact of their own decisions on quality of care issues?

MR GROOM: I think there's merit in that. Again, it would need to be explored in some detail how it would come about, but I think in principle it certainly seems to have merit, so that we're – you know, it's all about communication, isn't it? We have to be fully informed, we have to learn all the time. There has to be continuous improvement. And, you know, issues highlighted in the Commission require us to learn. I'm retired now, but I'm sure that the board and Mr Shirley will be learning from these ideas that are being developed.

MR KNOWLES: Mr Shirley.

MR SHIRLEY: Again, as a concept I'm – I am comfortable with the idea. I do have hesitation that the more you put in regulation it makes work that needs to be done, which adds to the overhead cost of the organisation in a – what is a resource-constrained area of activity. So, again, unfortunately, we see regulations get put in. They don't usually get taken away; they get added to. And so it is how can that be done in a way which is – which achieves the end which is – which works properly. And – but, again, it is about – I fully endorse the concept of transparency that we are doing what we are being asked to do.

COMMISSIONER PAGONE: I think in fairness to Mr Knowles' question, that was probably really the question that he began with right at the start, wasn't it? I think you had agreed – both of you, I think, agreed that the board ought to be informing itself about quality of care matters. Now, this additional question seems to be only should there be a positive obligation in the regulations that the board do what I thought you said the board should do.

MR SHIRLEY: Yes. And, as I say, I am comfortable with the concept. My hesitation is the more you regulate the more you reduce the flexibility of people to operate organisations to - - -

COMMISSIONER PAGONE: That's inevitable, isn't it?

MR SHIRLEY: Pardon?

COMMISSIONER PAGONE: This particular one is inevitable. That's really only stating what is - - -

MR GROOM: And your point, Commissioner, I think, is, whether or not there is a regulation, the board should do it.

COMMISSIONER PAGONE: Yes. So you may as well put it in the regulation. That's the point. That's the only additional point Mr Knowles said. You agreed you should do it. It's essential to the institution that you do do it. "Well, shouldn't it be in the regulations?" I think is all he was saying.

MR SHIRLEY: I'm comfortable with that line of argument.

COMMISSIONER BRIGGS: Could I follow up your line of argument, Mr Shirley, about you don't want too much regulation. And I understand that. So my question would be Southern Cross is a big organisation operating nation-wide. To what extent is the broader body learning from the problems that have happened here in Tasmania and looking at ways the organisation as a whole needs to lift its game to improve the care more generally available to people?

MR SHIRLEY: I didn't get all of your question, so I might ask you to put it again.

COMMISSIONER BRIGGS: Okay. Sure.

MR SHIRLEY: But, before you do that, I think you made the assumption that Southern Cross Australia was one organisation Australia-wide.

COMMISSIONER BRIGGS: No. I understand that. But you're a collegiate group, one would assume, so there must be, or am I not correct, some exchange of learnings, lessons, issues each year? The reason I ask – so is that right or not? A couple of times a year, I thought I read somewhere.

MR GROOM: Twice a year.

COMMISSIONER BRIGGS: Twice a year, yes.

MR GROOM: Twice a year there's a gathering.

COMMISSIONER BRIGGS: Yes.

MR GROOM: And it's a good chance, as you quite rightly say, Commissioner, to exchange thoughts, ideas, which we do. It's not a formal united body; it's a meeting.

COMMISSIONER BRIGGS: No. I understood that from the witness statements, Mr Groom.

MR SHIRLEY: Could I add, at our last meeting in September the issue of commonality of activities was raised. And so things like policy development, procedure development, some of those sort of things, why would we develop those individually, rather than share it?

COMMISSIONER BRIGGS: Yes.

MR SHIRLEY: So, again, fairly embryonic in that regard that we've recognised that there would be some benefits for us each to pool our efforts in that regard, but that is embryonic.

COMMISSIONER BRIGGS: Could I suggest to you that one of the things we're – sorry. By way of preamble, one of the things we're thinking about is we may well recommend quite a lot of changes to the way the sector operates in all its guises. And we're looking at how does – how is implementation effective across such a disparate system of different providers in different parts of the country with different considerations and so on? So would Southern Cross Care, the greater organisation, have an interest in auspicing, with its six monthly meetings a year, implementation of reforms, of the sort that we might make, or changes that you're seeing are necessary now from the work that you've been doing and the problems you've had here in Tasmania? And, if so, how could that happen? How do you make that sort of thing happen effectively?

MR SHIRLEY: Well, the first aspect is that, because we are each independent, it would have to be a collective decision that we want to become involved in that. I – Southern Cross Care Australia as an organisation is – basically, it has a chairman and a – a chair and a deputy and a secretary and no other resources. So how that would be resourced would be an issue. As to – I think you're asking, really, the question of would we be interested in piloting, being involved in trialling some of these aspects? I find that to be something that would be – be useful. I think, you know, if we are as an organisation seeking to improve the way we do our business from the board to the facility floor, if we were at the early part of doing that, then I can only see benefits.

MR GROOM: I think the state entities are keen to be involved in something like that, to have some common purpose - - -

COMMISSIONER BRIGGS: Yes.

MR GROOM: - - - that doesn't take away the autonomy of each organisation, but it's pursuing some improvements. So they could well be interested, I think, in that.

COMMISSIONER BRIGGS: Well, we would certainly be interested in your – a submission from you on how you see, in a body such as yours with a distributed arrangement, how that might work. I won't get you to answer that. I will just leave that with you, get back to counsel, because I'm conscious I'm taking his time. So I'm sorry.

MR KNOWLES: I think my time may nearly be up, in fact, so - - -

COMMISSIONER PAGONE: I think you've exceeded it.

MR KNOWLES: Indeed. So I don't actually have any more questions - - -

COMMISSIONER PAGONE: Thank you.

MR KNOWLES: - - - for Mr Groom and Mr Shirley.

COMMISSIONER PAGONE: Well, I don't want to ask you a question to which I expect an answer today, but I do want to raise one matter for you also to think through. I don't think it would be fair to ask you this question today, but it is perhaps appropriate to get your response in due course. So Mr Knowles asked you some questions earlier on about would it be sensible to have some form of attestation, annual attestation, about matters in the context of leadership. And Commissioner Briggs gave you, as an example, a kind of declaration that you have in the annual reports that says, for example, that the company's solvent.

Now, that kind of statement in an annual report by directors is able to be done because you can interrogate the accounts and come up with a clear answer, both as to a clear rule, so it's fact-based, relatively straightforward as an exercise. The kind of attestation that Mr Knowles was asking you about is a more complicated one and would require there to be a kind of understanding or rules about what you would be looking for in order to be able to make the relevant attestation.

So I wonder whether it would be possible for you both at some point to think about what the content of such an attestation would be by reference to the underlying facts that you need to look at so that the attestation would not just be, I think, as, Mr Groom, you might have put it, as a kind of just another thing to be done without it having any real content, but was meaningful and based upon actual facts that could be verified. Understand more or less - - -

MR GROOM: Yes.

COMMISSIONER PAGONE: Yes.

MR GROOM: So we will consider that, Commissioner.

MR SHIRLEY: Yes. Certainly have to consider that. I presume we will be written to - - -

COMMISSIONER PAGONE: No. You've been asked now. That's enough.

MR SHIRLEY: Okay.

MR GROOM: Could I make a brief point about – if it's in order, about facility managers and the importance of that role. It came up, I notice, on Monday. I did hear the evidence on Monday. That is one of the toughest, most difficult jobs in the whole aged care sector, being a facility manager. And there was evidence of Mr Anderson being appointed, had limited experience. He was only, I think, one of two applicants. So – and Yaraandoo is in a country area, small country town of Somerset.

But I just do believe, listening to that evidence, that there needs to be some sort of training for facility managers within weeks of them taking up the role or prior to or getting a certificate of competence as a manager. There's so many things they have

to deal with on a day-by-day basis. It's a really difficult job. And I just feel some national training, some sort of national course, would be a benefit.

COMMISSIONER PAGONE: Well, that's another topic we would be happy to get your views on. You've got the experience and the knowledge about these matters, which is really why both those aspects and all three aspects, really, are one that we're genuinely reaching out asking for your depth of experience, so that we can factor that in one way or another.

MR GROOM: Thank you.

COMMISSIONER PAGONE: Gentlemen, thank you for giving evidence. It's been informative and thank you for your time.

MR GROOM: Thank you.

MR SHIRLEY: Thank you.

<THE WITNESSES WITHDREW [11.34 am]

MR KNOWLES: I take it - - -

COMMISSIONER PAGONE: Mr Knowles, we might press on, rather than have a break, if that's all right with you?

MR KNOWLES: Yes. I'm happy to do that, if it pleases the Commission. Commissioners, I understand that there may be a need for a very brief adjournment for the next witness to come to the witness stand.

COMMISSIONER PAGONE: All right.

MR KNOWLES: Ms Patricia Job.

COMMISSIONER PAGONE: All right. Well, we will adjourn then. Will three minutes be enough?

MR KNOWLES: I think it should be.

COMMISSIONER PAGONE: All right.

MR KNOWLES: Thank you .....

COMMISSIONER PAGONE: We will adjourn for three minutes.

ADJOURNED **[11.34 am]**

RESUMED **[11.41 am]**

COMMISSIONER PAGONE: Mr Knowles.

MR KNOWLES: Thank you, Commissioners. I call the next witness, Ms Patricia Job.

<PATRICIA MARY JOB, SWORN **[11.41 am]**

<EXAMINATION BY MR KNOWLES

MR KNOWLES: Thank you, Ms Job. Could you state your full name for the transcript.

MS JOB: Patricia Mary Job.

MR KNOWLES: Thank you. And you've prepared a statement for the Royal Commission dated 31 October 2019.

MS JOB: Yes.

MR KNOWLES: And do you see there's a copy of the first page of that statement up on the screen in front of you.

MS JOB: Yes.

MR KNOWLES: With the document identification number WIT.0601.0001.0001 on it?

MS JOB: Yes.

MR KNOWLES: Do you have a copy of your statement with you as well?

MS JOB: Yes.

MR KNOWLES: Yes. And have you read that lately, Ms Job?

MS JOB: Yes.

MR KNOWLES: Yes. And are there any changes that you wish to make to your statement?

MS JOB: Not really. Somewhere it said I was the first resident; I was among the first residents, which is not really important.

MR KNOWLES: That is in paragraph 9, I think.

MS JOB: Yes, I think it was.

MR KNOWLES: So subject to that minor qualification, are the contents of your statement true and correct to the best of your knowledge and belief?

MS JOB: Definitely.

MR KNOWLES: Yes. I seek to tender the statement of Ms Patricia Job.

COMMISSIONER PAGONE: Yes, that statement will be 13-19.

EXHIBIT #13-19 STATEMENT OF MS PATRICIA JOB DATED 31/10/2019 (WIT.0601.0001.0001)

MR KNOWLES: And, Ms Job, you're accompanied by a volunteer; that's Ms Patricia Corby is with you there.

MS JOB: Yes.

MR KNOWLES: Yes, thank you. Now, you're a resident at Fairway Rise Aged Care Facility in Lindisfarne.

MS JOB: Yes.

MR KNOWLES: Yes. And that's an aged care facility operated by Southern Cross Care Tasmania.

MS JOB: Yes, yes.

MR KNOWLES: How long have you been a resident at Fairway Rise?

MS JOB: Since January 2015.

MR KNOWLES: And as you've just said, that's around about the time of the facility opening.

MS JOB: When it opened.

MR KNOWLES: Yes. Have you had any prior experience of aged care and aged care facilities yourself?

MS JOB: Way back in the sixties and seventies.

MR KNOWLES: Yes, and what was that?

MS JOB: Quite different to today.

MR KNOWLES: Yes. What was your experience back then?

MS JOB: Well, the nurses are – the trained nurses did all the work. The house cleaners – people did the beds and the general thing that carers – a lot of the things that carers do now. But the medicines – the medications and everything were so different then, but there wasn't – everything has changed so much dramatically, with medical things, but it was much easier and the trained nurses more or less did the same work as the carers.

MR KNOWLES: Were you one of those trained nurses? You're a registered nurse yourself.

MS JOB: Yes.

MR KNOWLES: So you've had some experience, albeit from considerable time ago, of working in aged care as a nurse. And did you retire when you were about 59 - - -

MS JOB: Yes.

MR KNOWLES: - - - from nursing?

MS JOB: Yes.

MR KNOWLES: And why was that?

MS JOB: Well, I had polio when I was 25 and my back was very bad, and I had remarried so I didn't have to work.

MR KNOWLES: Yes. So it was a matter of health conditions and other things.

MS JOB: Yes.

MR KNOWLES: Yes. And can you tell the Royal Commission a little bit about your family.

MS JOB: Well, I've got two sons and a daughter-in-law and two grandchildren, a boy and a girl who are very, very helpful. My son lives up at Bicheno which is a two

and a half hours drive from Hobart so he comes down quite a lot. My other son lives in Canberra and rings me every day. My granddaughter lives near me; she comes in a lot, and they all do everything for me. I've been very, very blessed with my family. They've been marvellous, which is – and I – I mean, they knew what – my mother was in a nursing home years ago and we've had lots and lots of friends. So my kids knew all about nursing homes.

MR KNOWLES: Other than what you've just mentioned in terms of the cause for your retirement being your back and the polio that you had suffered, how is your health more generally, Ms Job.

MS JOB: Excellent, really; my general health is.

MR KNOWLES: Now, in terms of your time at Fairway Rise, at paragraph 10 of your statement you say that when it first opened there were a lot of little things that weren't right. You will see that paragraph is on the screen in front of you. What were those little things to which you refer?

MS JOB: Well, it's very hard to say but in any new place there's always difficulties, isn't there. It was – the facility managers, we had two in a couple of years, probably weren't as experienced as the ones we've got now, and I think the lack of experience – they were learning, too, probably. And a lot of residents came in, we had two wings so there was 48 people fairly quickly in the building, and they were still doing the other wings so there was a lot of workmen around and it was just generally teething problems that you get anywhere with a new building.

MR KNOWLES: So you found that those little things that you've referred to were resolved in due time?

MS JOB: Definitely.

MR KNOWLES: And when abouts was that?

MS JOB: Well, I think we've had had the new facility managers for – it's been open nearly five years, probably two years, two and a half years ago.

MR KNOWLES: Right.

MS JOB: We had a very good facility manager and now we've got an excellent one.

MR KNOWLES: Yes. And how do you find living at Fairway Rise now?

MS JOB: I love it.

MR KNOWLES: Yes. So how do you rate the way in which the facility is managed particularly?

MS JOB: What do you mean?

MR KNOWLES: How do you rate the way in which the facility is managed?

MS JOB: Full marks now.

MR KNOWLES: Yes. And what do you say contributes to an aged care facility being well run.

MS JOB: I'm sorry - - -

MR KNOWLES: Sorry, you might just have to avoid knocking the microphone.

MS JOB: An experienced facility manager.

MR KNOWLES: Yes. And you see that as being an important - - -

MS JOB: That's the main thing, yes.

MR KNOWLES: Are there any other things that you would regard as contributing to Fairway Rise being well managed in your view?

MS JOB: All the staff – it depends on good staff, caring staff, sort of thing.

MR KNOWLES: Yes. And can I ask you about that. You've said that one of the things that sometimes people do take issue with is the number of staff at Fairway Rise. Have you experienced difficulties in that regard yourself?

MS JOB: Yes, we definitely need more staff, but everywhere does.

MR KNOWLES: Yes. How does that affect you and, from your observation, others that lack of adequate numbers of staff.

MS JOB: Because I'm pretty independent, apart from walking, it doesn't affect me so much. But we're getting so many more frail people that need a lot of care and people don't have time to – I mean, there are a lot of feeds, a lot of wheelchairs to be wheeled back from the dining room, and there's just not enough staff to do it. Residents are so impatient, they want to go back to their rooms immediately, and it takes time and they get cross and sometimes a bit aggressive because they can't go back straightaway. And the same with toileting; you know, go to the toilet, they expect to be straightaway back.

MR KNOWLES: And other than the numbers of staff, are there other issues that you perceive could be improved in relation to staffing?

MS JOB: Not really. No. It's hard to remember.

MR KNOWLES: Do you think the numbers of staff impacts on the ability for staff members to interact with residents in a meaningful sense?-

MS JOB: Yes.

MR KNOWLES: How have you seen that play out at Fairway Rise?

MS JOB: Well, it's hard to say. I mean, I see quite a few of the staff because my door is always open and I can hear – I mean we talk as they go past or they pop into nigh room. So I really can't say. The ones that are there are very good.

MR KNOWLES: Yes. What are other matters that you are aware of that people sometimes complain about in relation to aged care facilities generally, but more particularly have you experienced anything of that sort at Fairway Rise?

MS JOB: It's mainly not enough staff to take people to the toilet and get them from the toilet straightaway. People say they wait quite a while. Sometimes they think they've pressed the bell and they probably haven't because they – when you get old your fingers are not so good and they don't – they feel they've pressed the bell but it's not always the case and, of course, their aggression, if they, you know, can't be taken back, they will try to stand up. One man stands up – a man I've known all my life – when he's finished, naturally thinks he can walk but he's likely to fall and he has fallen a few times. But, I mean, the staff can't be staying with them all the time while they are toileting. It's probably more or less impossible.

MR KNOWLES: What are the things that you particularly like about Fairway Rise?

MS JOB: Well, the openness and the big rooms and the en suites and lovely fresh atmosphere, and the ground are beautifully kept, wonderful gardens all around. And the staff are all friendly, but since this last couple of years it's been very, very good. Excellent.

MR KNOWLES: Are there any things that you think might be improved generally in residential aged care?

MS JOB: Not at our place, no.

MR KNOWLES: Right. Do you see anything in terms of people coming into aged care - - -

MS JOB: Yes, male staff, that's right.

MR KNOWLES: Sorry.

MS JOB: Sorry. More male staff, more males.

MR KNOWLES: More male staff?

MS JOB: Yes.

MR KNOWLES: Why do you say that?

MS JOB: A lot of the old fellows don't like young girls showering them; they prefer the men.

MR KNOWLES: And can I ask you, is there anything else that you want to say to the Royal Commission yourself about your experiences or aged care more generally?

MS JOB: Not really. I've enjoyed my time there. After my husband died and I had steps in my house back and front, and the laundry downstairs, so I knew I couldn't manage and I was waiting for Fairway Rise to be built. I was watching it, I lived near it, and I couldn't wait to get in there. It's a lovely fresh building. And I knew all the other homes have been well used, and so I was looking forward to the newness of it all and it's been wonderful. I've really enjoyed the experience of seeing it grow and it has grown. Eventually it's reached that ..... now. No, it's a very good place.

MR KNOWLES: Yes. Thank you, Ms Job. Is there anything else that you want to say to the Royal Commission?

MS JOB: I probably can't remember. I am getting old.

MR KNOWLES: I don't have any further questions of Ms Job.

COMMISSIONER PAGONE: Thank you, Mr Knowles. Ms Job, thank you very much for coming to the Royal Commission and telling us about your experiences, and may I say how wonderfully refreshing it is to have heard at least some good positive stories. So thank you very much indeed.

MS JOB: Thank you. That's one thing, people are coming in so much more frailer and they need so much more care, to all nursing homes now, that the independent ones like me are hardly any there, and that's where the problems come in. That's why we need more staff.

COMMISSIONER PAGONE: Thank you.

MS JOB: Thank you.

MR KNOWLES: Thank you, Commissioners.

COMMISSIONER PAGONE: I think the – yes.

MR AUSTIN: Sorry, Commissioners. Might the legal team for Southern Cross Care be excused from the bar table. We've been so unobtrusive the Commissioners might have forgotten that we are even here.

COMMISSIONER PAGONE: No, no, I can see you smiling over the top of my computer. I'm very conscious of your presence and we're delighted that you're here. Do you need to be excused for the rest of the day or for the balance of the hearing?

MR AUSTIN: For the balance of the hearing. We understand there will be some oral closings on Friday, and there will be somebody present for that but we won't be taking up space here.

COMMISSIONER PAGONE: Yes. You're certainly excused from further attendance as, indeed, Ms Job is also excused from further attendance.

MR AUSTIN: Thank you.

<THE WITNESS WITHDREW [11.54 am]

COMMISSIONER PAGONE: Thank you very much and thank you for telling us. The Commission is now going to undertake a site visit, so I think we will formally adjourn until 2 pm.

ADJOURNED [11.55 am]

RESUMED [2.00 pm]

COMMISSIONER PAGONE: For the benefit of the transcript, we mention that Commissioner Briggs and I have just visited the Bupa South Hobart facility and managed to have a tour of the facility. Mr Rozen.

MR ROZEN: Before I commence, I think there are some appearances that need to be announced, Commissioners.

MS J. NEEDHAM SC: May it please you, Commissioners, my name is Needham. I appear with Ms Buncle pursuant to leave granted by the Commission for Bupa Aged Care Healthcare Holdings, Bupa Aged Care Australia Proprietary Limited, Carolyn Joan Cooper and Elizabeth Wesols, and instructed by Herbert Smith Freehills.

COMMISSIONER PAGONE: Thank you, Ms Needham. Nobody else?

MR ROZEN: I think that's it. Thank you, Commissioner.

COMMISSIONER PAGONE: Thank you. Yes, Mr Rozen.

MR ROZEN: Thank you, Commissioners. Commissioners, as part of this week's examination of governance in the aged care sector, the Bupa South Hobart case study will investigate the links between the governance of an approved aged care provider and the quality and safety of the aged care services it provided at Bupa South Hobart facility. You will hear that extensive deficiencies in the clinical care provided to Bupa's frail elderly residents at South Hobart had been identified in internal audits conducted by Bupa and by a whistleblower doctor working at the facility. Despite this, Bupa implemented a policy of significant cuts to its nursing staff at South Hobart as part of a Bupa-wide policy of staff cuts to save money because the business was facing financial difficulties. In devising and implementing this policy, inadequate attention appears to have been paid to the likely impact on the care of the residents. This points to apparent failures of governance.

The evidence will raise a number of issues for your consideration, including why had Bupa found itself in financial difficulties; whether the Bupa board was on notice of quality and safety of care deficiencies at Bupa South Hobart; whether Bupa's various corporate strategies to reduce nursing numbers and therefore operating costs were appropriate for implementation at Bupa South Hobart; why Bupa's corporate governance structures allowed this to occur; how organisational culture plays a central role in quality and safety; whether information regarding deficiencies in health and personal care delivery at the facility failed to flow upwards to the board level; whether existing legal obligations on aged care providers are sufficient to ensure satisfactory levels of corporate and clinical governance; whether specific duties should be placed on members or directors of boards or governing bodies of approved providers to supplement existing duties, particularly in relation to ensuring that quality care is provided, which, of course, was the subject of some evidence this morning; and whether the suitability test for accreditation and re-accreditation of aged care providers and the skills expected of their key personnel require reform.

Commissioners, Bupa South Hobart is an aged care facility in Tasmania operated by Bupa Aged Care Australia Proprietary Limited. Bupa South Hobart was purchased by Bupa in June of 2012. The layout of the facility will be apparent from the Commissioner's site visit that has occurred this afternoon. There are three buildings called The Lodge, The Manor and The Court. The Lodge is a higher care facility. The home has the capacity to house 119 residents. When the former Quality Agency audited the home in October 2018 there were 118 residents, all of whom had high care needs. As a result of the sanctions which have been imposed there are now considerably fewer residents living at Bupa South Hobart.

Fundamental deficiencies of care at Bupa South Hobart were exposed by an external audit conducted from 15 to 18 October 2018 by the former Australian Aged Care Quality Agency. The agency's auditors concluded that the facility did not meet 32 of the 44 expected outcomes set out in the applicable accreditation standards. This included 13 of 17 expected outcomes concerned with health and personal care. And it was, of course, the statutory responsibility of Bupa to comply with these standards. One of the important expected outcomes that applied and was found not to have been met was outcome 1.6 which required at that time that at an aged care facility there

are appropriately skilled and qualified staff sufficient to ensure that services are delivered in accordance with these standards and the residential care services philosophy and objectives.

In concluding that the service did not meet outcome 1.6 the Quality Agency's report cited evidence that A, care recipients and representatives are not satisfied with the quality of care and services or the availability of skilled and qualified staff; B, that staff are not satisfied with staffing levels and said this impacts on meeting care recipients' needs; C, that staffing numbers allocated to each floor do not support the care recipients' needs, and D, the current skills and numbers of staff impact in the delivery of health, personal care, lifestyle and physical safety of care recipients. The link between inadequate staffing and the failure to provide for the health and personal care of the residents to the appropriate standard is clear from the audit report.

On 25 October 2018 a delegate of the secretary of the Commonwealth Department of Health concluded that the extensive noncompliance by Bupa with the accreditation standards disclosed by the Quality Agency's audit had placed some of Bupa's residents at an immediate and severe risk to their safety, health or wellbeing. The delegate described the failure to meet the majority of the health and personal care outcomes as:

An extremely high and concerning level of noncompliance.

The operator has displayed a page from tab 89 of the tender bundle and I would ask that the middle third of that be highlighted, please, from the heading and perhaps down to the next – that's right. Thank you. The delegate therefore considered that it was appropriate to impose sanctions on Bupa without first giving Bupa the opportunity to make submissions under section 67(1), subsection (2) of the Aged Care Act 1997. South Hobart was one of 10 Bupa homes that was sanctioned between July 2018 and March 2019. As part of the sanctions imposed on it, Bupa appointed Key2Care to provide nurse adviser services. You will hear from Tiffany Wiles of Key2Care. And on 6 November 2018 Bupa appointed Anchor Excellence as an administrator. You will hear from Cynthia Payne and other employees of Anchor Excellence.

Commissioners, Bupa South Hobart is one of the few aged care facilities that this Royal Commission has examined which has a dedicated employee general practitioner working full time at the facility. Dr Elizabeth Monks was an experienced aged care medical practitioner when she commenced as the GP at Bupa South Hobart in January 2016. Dr Monks was employed as part of what will be referred to as the Bupa model of care 1. She has looked after between 70 and 90 per cent of the residents at Bupa South Hobart since that time. Dr Monks started raising concerns in writing about the standard of clinical care at Bupa South Hobart in September 2016. In an email to Stephanie Hechenberger, Bupa's then regional director with responsibility for Bupa South Hobart, Dr Monks wrote that she believed Bupa was having:

...premature deaths and hugely increased morbidity of our residents secondary to lack of nursing staff and paralysed ability to deal with those staff who I believe need to be performance managed and educated properly.

Dr Monks referred to medication mishaps, inadequate wound care and preventable life-threatening falls among other concerns. A little over a year later in November 2017 Dr Monks sent a long and detailed email to the director of medical services, Dr Tim Ross, outlining her many serious concerns about substandard clinical care that was being provided to Bupa South Hobart's residents. She wrote specifically of cuts to nurses and the impact on resident care. Shortly after Bupa South Hobart was sanctioned in October 2018 Dr Monks again wrote to Dr Ross as follows:

Oh! Am I sounding mad - yes! Because I've sent warnings to operations so many times. No-one has ever come to me and asked what exactly I was talking about or what the problems were!... and I haven't been approached or contacted by a regional manager for over 12 months!!!

Dr Monks, who continues to work at Bupa South Hobart is expected to tell this hearing that she believed she was:

...ostracised from the business by the members of the operations team for bringing to light and questioning their actions around the deterioration of clinical care.

Dr Monks' evidence raises important questions about the clinical governance framework and culture at Bupa. We will explore with her and other witnesses why her important voice was apparently not listened to by the decision-makers. Bupa's clinical governance framework. Part of Bupa's clinical governance framework at the relevant time was a process for a mock audit of a care home. A mock audit was to be conducted by two clinical governance consultants and its purposes were to assist the care homes with continuous improvement and to identify opportunities for improvement. Mock audits conducted by Bupa at Bupa South Hobart between 2016 and 2018 appear to substantiate Dr Monks' concerns.

They too seem to have been given inadequate attention by Bupa in its decision to cut staff at Bupa South Hobart. The results of these various mock audits are summarised on the right-hand side of the table that will shortly be displayed on the screen. It's RCD.9999.0263.0001. Commissioners, you will see that the table which has been prepared by the staff of the Royal Commission is divided by a vertical line which is approximately 60 per cent of the way across the page, and immediately to the left of that line are a series of red boxes, and to the right of that line are a series of boxes variously coloured white, amber or red.

Each box represents one of the 44 outcomes that are listed in relation to the four accreditation standards. The mustard colour to the right of the line that I've just described represents partial compliance and the red represents noncompliance. A white box indicates that the facility was compliant with the particular standard.

There will be considerable evidence about the audits that are summarised in this table but for present purposes it's worthy of noting that at no time during the four audits which were conducted between November 2014 and July 2018 was the home compliant with outcome 1.6, the human resources outcome that I referred to earlier.

And similarly, at no point during the period of those four audits was the home compliant with outcome 2.4 which is concerned with clinical care; 2.5 specialised nursing care needs; 2.7 medication management; 2.10 nutrition and hydration; 2.11 skin care; 2.12 continence care; or 2.13 behavioural management. As can be seen from the table, significant quality and safety deficiencies were identified, firstly, in the audit of November 2014. That audit assessed compliance with 34 of the 44 accreditation outcomes and concluded that the service was only fully compliant with 14. The audit found that the home was only fully compliant with three of the 14 assessed health care outcomes.

Further mock audits were conducted at South Hobart in February 2016 and October 2016. In the first, the home was only fully compliant with 19 of the 43 outcomes assessed and only six of the 17 health and personal care outcomes, and in the October 2016 audit the position was worse; only two of the 17 health outcomes were met. Further, Commissioners, in relation to six outcomes in which there was partial compliance in February 2016 the audits found that by October 2016 there was noncompliance with those outcomes.

The home was subject to one further internal audit in July 2018. On this occasion the auditors concluded that there were 12 non-compliances, including seven in the health and personal care standard. There were only 15 of the 43 outcomes that were fully met. Three months later, as noted above, the Quality Agency's audit was even more damning.

A further feature of the Bupa clinical governance framework which should have ensured these deficiencies were properly addressed was the ability to conduct what is referred to as a clinical governance review. According to the applicable Bupa work instruction, such a review:

> …*will be undertaken for care homes identified at risk of Accreditation Standard 2, health and personal care, from information gathered through complaints, clinical data indicators, incidents relating to clinical care or changes in the clinical care team.*

Despite the clear pattern of substandard care at South Hobart at least after October 2016 and the concerns of Dr Monks, no clinical governance audit was instigated by Bupa at South Hobart prior to the quality agency's accreditation audit in October 2018. We will be asking key managerial witnesses why. What was it about the apparently robust governance framework, at least on paper, that failed to address the clear deficiencies in care that the residents at Bupa South Hobart were receiving as recorded in the audits?

Maureen Berry was the clinical services improvement director between February 2014 and May 2017 and thereafter was the chief operating officer. Ms Berry's statement outlines the corporate governance arrangements that were in place between 2016 and late 2018. Specifically, Ms Berry refers to a number of important committees which had oversight of clinical care aspects of Bupa Aged Care business and at which one might have expected that the Bupa South Hobart mock audit results would be discussed and the likely impact of the proposed staff reduction strategies would have been considered.

After receiving that statement, the Royal Commission issued a compulsory notice to Bupa seeking a range of documents, including documents comprising minutes of meetings of the following Bupa committees that had been identified by Ms Berry: the risk management committee, the clinical governance committee and the operations team. What was asked for was any records of the meetings of those committees which recorded discussions about the Bupa South Hobart internal audits conducted between 2014 and 2018.

Now, although Bupa provided the Commission with a number of documents in response to the notice, no such records were produced. It appears that the audits were not discussed at these committees, which according to the evidence were central to Bupa's clinical governance framework. Again, we will be asking why and what it tells us about corporate governance more broadly, both at Bupa and in the sector generally.

Bupa's plans for improving profitability. Commissioners, you will hear about a number of corporate strategies implemented by Bupa between 2016 and 2018 which were decided at board level and were aimed at improving profitability at Bupa's aged care facilities. You will note that these strategies were being implemented during the same period of Dr Monks's concerns and the mock audits to which I've previously referred. At the heart of this case study are two questions: (1) were those audits and concerns taken into account by those who decided to cut nursing staff at Bupa South Hobart? And (2) if not, why not?

There are four relevant strategies that were implemented between 2016 and 2018 which will be referred to in the evidence: first, there was what is referred to as the Back to Base program. It aimed to reduce operating costs by reducing clinical care management numbers. Secondly, there was the Bupa Model of Care 2, which will be referred to as BMOC2 in the evidence, which saw the position of a clinical manager being discontinued.

Third, there is Project James, which as part of BMOC2 reduced the number of registered nurses and enrolled nurses employed. In May 2016, Bupa South Hobart reduce its nursing hours – sorry – May 2018, Bupa South Hobart reduced its nursing hours by 26 hours. The evidence will be that this was also a response to financial pressures. Finally, a program referred to as Save a Shift, under which staff who called in sick were not replaced. You will hear that these various cost cutting strategies were devised and driven by the finance and operations department at

Bupa's head office, in part to respond to funding reforms introduced by the Commonwealth Government.

Stephanie Hechenberger, the Bupa regional director, was responsible for implementing these strategies at Bupa South Hobart. On 27 June 2017, she expressed a concern in an email to a Daniel Thomas, a financial planning and reporting analyst at Bupa's head office, that the proposed new rosters would not save enough money. Mr Thomas's reply included the following:

> *If we want to save on staff costs, we need, essentially, to cut hours month on month.*

The email went on:

> *The goal each month should be to have worked less hours each week than we did in the corresponding week of the previous month. This will result in a continual reduction in staff costs. This is the only strategy I believe will work.*

said Mr Thomas. We anticipate that the evidence will be that these strategies were implemented enthusiastically across the Bupa Aged Care business, including at South Hobart. You will hear from Carolyn Cooper, who is currently the managing director of Bupa Villages and Aged Care New Zealand, or BVAC New Zealand, and who was between November 2018 and July 2019 the interim chief operating officer of Bupa's aged care business in Australia. Ms Cooper has been asked to reflect on the impact of the rostering changes that were effected by Project James at Bupa South Hobart. In a witness statement that has been provided to the Commission, Ms Cooper says:

> *The paramount consideration that should guide the development of a roster is ensuring the provision both of quality care and quality of life to the residents and their family.*

She accepts in her statement that the rostering model introduced under Project James reduced the number of registered and enrolled nurses at Bupa South Hobart and other Bupa homes and that this:

> *…had an impact on the ability of the care home to provide the quality of care and quality of life to its residents that is rightly expected by the residents, their families and the standards that BVAC Aus sets for itself.*

We will explore with Ms Cooper and other witnesses why this was allowed to happen. Why were the clear messages from the mock audits and the clear warnings from Dr Monks apparently not considered in the decision to cut clinical staff at Bupa South Hobart? How can Bupa's governance processes be improved to ensure that there is no repetition? And, importantly, what can the aged care sector as a whole learn from this experience? Are any policy and regulatory changes needed?

The witnesses that we will call. In direct account evidence you will hear firsthand from four daughters who had one or both parents at Bupa South Hobart. You will hear evidence of complaints they made to management which were not responded to to their satisfaction. For example, two daughters, who have been given the pseudonyms UQ and US, complained to the facility during family meetings about visible continence aids being left around their father's room in 2014. They will tell you that three years later this complaint remained unaddressed.

Ms Merridy Eastman will tell you that although she considers the staff at Bupa South Hobart to be kind, compassionate and hardworking, she has been frustrated by inaction on the part of the management. Her complaints and concerns about the care of her mother and of her late father have not been adequately addressed, to the extent that she engaged a solicitor. An email from her solicitor, dated 1 February 2018, led to a series – to Bupa led to a series of internal emails between the manager at South Hobart, Mr Neal, and the regional director, Ms Hechenberger. In one of those emails Mr Neal described the Eastman family as:

> *Wealthy, spoilt, sense of entitlement, very difficult, all vying for mum's attention, all guilty at a distance.*

The evidence will demonstrate that this was not an isolated example at Bupa South Hobart. Sadly, it is consistent with other evidence in this Royal Commission about the way some aged care providers view complaints and suggestions by residents' family members. We will examine what it says about the corporate culture of Bupa and what can be learnt by this Royal Commission. We anticipate that family members UQ and US, as well as Merridy Eastman and Diane Daniels, will each observe that they consider that it was primarily a lack of staff which caused the health and personal care failing detailed in their witness statements.

During the period under examination, the Bupa South Hobart facility was managed by a general manager based at South Hobart. Between January 2017 and December 2018, that was Mr David Neal. Mr Neal has been served with a summons to give evidence. He answered to a regional manager with a team of regional support managers based on the mainland. Former regional manager Stephanie Hechenberger and former regional support manager Elizabeth Wesols will give evidence. You will also hear from the South Hobart general practitioner Dr Monks.

At the relevant time, the New Zealand and Australian business units of Bupa operate under a combined management structure. The role of chief operations officer was filled by Maureen Berry and subsequently by Carolyn Cooper as interim chief operating officer. Ms Berry has made a detailed statement which will be tendered into evidence, but she has been excused from attending due to her poor health. Ms Cooper, who will give evidence, is currently the managing director of Bupa Villages and aged care. You will also hear from Mr Davida Webb, who was the head of operations from July 2018 until July 2019.

The clinical services improvement director of Bupa Services Australia Proprietary Limited had responsibility for strengthening clinical governance and providing clinical leadership. In February 2014 to about May of 2017, that role was held by Ms Berry based in Sydney. As noted, Ms Berry has provided a statement, but will not be called.

Between March 2018 and January 2019 the head of the clinical services improvement team based in Sydney was Ms Linda Hudec, who will give evidence. You will also hear from two consultants that were engaged by Bupa between September 2018 and March 2019 to examine eight of its sanctioned facilities, including South Hobart. As part of that consultancy, Dr Penny Webster and Ms Beth Wilson AM conducted a meeting with residents at Bupa South Hobart. As Dr Webster and Ms Wilson say in their report:

> *Had Bupa respectfully listened and responded to the complaints of residents and investigated the underlying causes of the complaints, then the serious deterioration in service delivery leading to the sanctions of October 2018 may not have occurred.*

They describe this in their report as a lost opportunity. Commissioners, at this point I would seek to tender the Bupa South Hobart tender bundle.

COMMISSIONER PAGONE: Yes. Well, the Bupa South Hobart tender bundle will be exhibit 13-20.

EXHIBIT #13-20 BUPA SOUTH HOBART TENDER BUNDLE

MR ROZEN: And I call the first witness in the case study, Ms Diane Daniels.

<DIANE NANCY DANIELS, SWORN [2.28 pm]

<EXAMINATION BY MR ROZEN

MR ROZEN: Good afternoon, Ms Daniels.

MS DANIELS: Good afternoon.

MR ROZEN: For the purposes of the transcript, could you please state your full name for us.

MS DANIELS: Diane Nancy Daniels.

MR ROZEN: And – would you like me to call you Diane or Mrs Daniels or - - -

MS DANIELS: Di.

MR ROZEN: Di. Even better.

MS DANIELS: Whichever.

MR ROZEN: All right. Thank you, Di. Di, have you for the purposes of the Royal Commission made a witness statement dated the 30th of October 2019?

MS DANIELS: I have.

MR ROZEN: Should be a copy of that in front of you. It has the code WIT.0583.0001.0001. And are there a couple of minor amendments that you want to make to that statement, please, Di? Is that right?

MS DANIELS: All right.

MR ROZEN: Is the first of those in paragraph 6 on the first page?

MS DANIELS: Yes.

MR ROZEN: Which starts:

> *In 1966 when her mother suddenly passed away, Mum returned –*

Would you like to delete the word "returned to" and insert the words "remained in"?

MS DANIELS: Yes, please.

MR ROZEN: So the sentence will now read:

> *In 1966 when her mother suddenly passed away, Mum remained in her family home and became the sole carer for her younger sister, who had spina bifida.*

Is that right?

MS DANIELS: Yes.

MR ROZEN: And is the other change a change that you would like to make to paragraph 37 which is on page .0007. Can you see paragraph 37, Di?

MS DANIELS: Yes, I've got it.

MR ROZEN: In the second line we can see that it starts:

That the nurse had gone into Mum's room –

Do you see that?

MS DANIELS: Yes.

MR ROZEN: Would you like to delete the word "the" and insert the word "a" before nurse and the words "or carer" after nurse?

MS DANIELS: Yes, please.

MR ROZEN: So the sentence will read:

I also added in my email to Dave and Elizabeth "Today when I visited Mum I learnt that a nurse or carer had gone into Mum's room"

And so on.

MS DANIELS: Yes.

MR ROZEN: Is that right? With those changes being made, are the contents of your witness statement true and correct?

MS DANIELS: They are.

MR ROZEN: Before I ask you to read out your statement, you've provided the Royal Commission with two photos of your mother.

MS DANIELS: Yes, I have.

MR ROZEN: And would you like those to be displayed at this time?

MS DANIELS: Yes, please.

MR ROZEN: The first is a photo, as I understand it, that was taken in 2016 of your mum, Emily Flanagan. That's RCD.9999.0267.0001; if that could be displayed, please. And you've also provided us with a second more recent photo taken this year; is that right? Di?

MS DANIELS: Yes.

MR ROZEN: That's RCD.9999.0267.0003. And perhaps if the two photos could be displayed side-by-side, if that's possible. Thank you. They're the two photos that you've supplied us with.

MS DANIELS: Yes, thank you.

MR ROZEN: And now, Di, I'd ask you, please, to read out your witness statement without reading the first three formal paragraphs but starting at paragraph 4 under the heading Background.

MS DANIELS: Sorry, the four?

MR ROZEN: I'd ask you to read your statement starting at paragraph 4, sorry, it's paragraph 1 on the copy in front of you. I'm sorry. It starts:

My name is Diane Nancy Daniels.

Do you have that?

MS DANIELS: Yes.

MR ROZEN: All right. If you could commence there please, Di.

MS DANIELS: Okay. Thank you.

My name is Diane Nancy Daniels and I live in Bagdad, Tasmania. I was employed as an advanced skills teacher until I retired at the end of 2016. My mother, Emily Flanagan, is 95 years old and has been a permanent resident at Bupa South Hobart since February 2015. Prior to entering this facility, she lived by herself at Kempton in the house in which she and her six siblings had been raised. In 1966 when her mother suddenly passed away, Mum remained in her family home and became the sole carer for her youngest sister who had spina bifida, and Mum also cared for her elderly father and two older brothers as well as her own four children.

She helped her brothers to run a family bakery business, won community awards for her garden, was an excellent cook and loved being on the wood heap chopping sticks for the fire. Mum was a strong, hardworking and independent woman who had loads of energy. She set high standards in caring for others. She continued to care for her siblings until her older brother passed away in 2005 when she was 81. In 2010 my younger sister, Leza, who was a disability carer, was diagnosed with pancreatic cancer. Her death three months later devastated Mum and I know that Mum still misses Leza terribly.

Later in 2011 a hip operation left Mum with some form of nerve damage in her left leg. Mum had never learned to drive and this injury prevented her from being able to independently catch a Redline bus. She persevered through weekly physiotherapy sessions for two years but she was only able to independently mobilise with the aid of a four-wheeled walker. During 2013, it became apparent to me that Mum was having difficulty in coping with daily living tasks. After an ACAT assessment in June 2013, she was provided with personal support and home help for three hours each week. The district nurses assisted Mum in showering and I believe that they were a wonderful support for her.

As Mum became less able to care for herself, my brother and I acted as her informal carers. My workplace was 40 kilometres north of where my mother lived so I would call in on my way past in the morning to help her with hygiene and breakfast. On my way home I would drop off shopping, prepare and have a meal with her, make sure she was settled for the night and do any washing or tidying up that was needed before I left. My brother would call in during the days that the district nurses were not rostered. As I had reduced my working hours I was able to take Mum out to Fridays to go shopping or to meet with grandchildren in Hobart. During weekends one of her granddaughters would often stay overnight or else I would spend time with her.

On 8 January 2014 Mum was assessed by ACAT and approved for permanent residential and respite care at a high level, as well as a home care level three and four package. In April she was formally diagnosed with dementia. Because of her cognitive decline and frailness, Mum's general practitioner suggested residential care, however, I knew that this was not Mum's wish nor mine at the time. The district nurses and our family continued to provide Mum with support to stay at home, but it became more apparent to me that she was having problems in knowing the time of day and in eating prepared meals. Even though Mum was adamant that she could cope, I was aware that she became risky. Risky with electrical equipment, unsafe in managing the wood stove, confused about whether she had taken daily medication in her dosette box, and less vigilant in wearing her safety alarm pendant.

In late 2014, Mum agreed to spend a fortnight in respite care at St Ann's in Hobart to heal an ulcer on the sole of her foot. This began a conversation about permanent residential care. Entering Bupa South Hobart. I researched residential care facilities in southern Tasmania and found that many did not have vacancies. Mum agreed to enter Bupa South Hobart on 21 January 2015 initially for a fortnight's respite to gauge what it was like. We chose this facility because it was central for a number of her grandchildren and great grandchildren to be able to regularly visit. The nursing and care staff numbers seemed adequate and the menu allowed for choice and variety. It offered extra services that were important to Mum, for example, a daily newspaper, a telephone, a television and rooms with an en suite and kitchenette.

Mum's life at home had revolved around being in her kitchen, and I thought that this would make her feel more connected, but also allow some independence. At that stage, Mum was still able to move around on her walker, so the space she had in her room seemed sufficient without her getting too taxed or confused. The facility was in a natural environment and Mum's room was sunny and had a shared balcony that looked onto the river. The building appeared clean, the gardens were beautiful and I knew that they appealed to Mum.

Mum's two weeks of respite were extended for another two weeks and then she reluctantly agreed to stay longer. My brother and I had to finally admit that neither of us could take on the responsibility of full-time high level care that Mum required. Family members thought that everything seemed okay, so the decision was made to admit Mum as a permanent resident on 23 February 2015. At this time, I was still

working. I would visit Mum on Friday and Sunday and take her out for lunch and retail therapy or to meet up with family. My brother and granddaughters would visit Mum on other days. Between us we made sure that Mum was visited regularly.

After I retired at the end of 2016 I started going in to see Mum more often, three times per week for at least two or three hours each time. I would take foods that she liked: watermelon, cantaloupe, and home-made cakes and leave them in her fridge. I provided bottles of cordial and made sure that she had a constant supply of lollies and magazines which she loved to read. My brother and I always spoke to each other about visiting Mum and often her granddaughters would communicate to us about their visits, too. Sometimes we spoke on the phone after visits or we left messages to each other in a notebook we kept in Mum's drawer.

Falls and rehabilitation. About a month after Mum moved into Bupa South Hobart she had a couple of falls, both unwitnessed. On the first occasion, I knew that three chairs had been left at the end of her room. A nurse phoned me hours later and said that perhaps Mum had been trying to go out the door to the balcony. Mum told me that that was rubbish. Mum told me that she had become confused and got her walker tangled up in the chairs and had fallen. The nurse said that Mum had fallen onto her bottom and was okay. But Mum later told me that she was sore along her side.

When Mum had the next fall on 26 or 27 March 2015, I insisted that she be checked out at a local hospital and X-rayed. I was informed by staff that we would have to pay for a carer to accompany her, that no staff were available. So I left my workplace and privately organised to meet an ambulance and accompany Mum. I was told by staff over the phone that Mum had possibly fallen out of bed. I am aware that Mum had no recollection of what had happened. X-rays showed that she had fractures around her hip prosthesis and the doctor said that she would require eight weeks bed rest. I wanted Mum to be transferred to a rehabilitation hospital, but was told by staff at the hospital that, no, she had to return to Bupa. I believe that this was the worst thing that could have happened to Mum because she went downhill after this.

On returning to the facility, I asked a nurse about rehabilitation therapy for Mum and she said that she would pass my query onto their physiotherapist. A week later I was made aware of an A4 photocopied page titled 'breathing exercises' that had been prepared for Mum. To this, the physiotherapist had added an ankle pumping exercise. I was aware that a copy was left in Mum's room for the PCAs and the exercises were scheduled for four to five times daily. Three weekly arm exercises had been added in writing. To start with, I saw that most regular care staff were diligent in helping Mum with her exercises but I believe that others were unaware of their existence.

After five weeks' bed rest with no evidence of Mum receiving any other therapy, I questioned why. I had expected her to be given leg massages at least. Mum already had osteoarthritis and osteoporosis, and I knew that her loss of muscle strength and

mass with be considerable. I worried that when she finally got to weight bear she would find it extremely difficult. Because Mum has a Department of Veterans' Affairs gold card, I phoned the Department of Veterans' Affairs to inquire whether Mum would be eligible to get another physiotherapist in for rehabilitation. They told me that Mum's care was up to Bupa South Hobart and that DVA would not provide private physiotherapy.

Finally, on 7 May 2015 the facility's therapist produced a photocopied sheet of lying lower limb exercises. Again, I believe that these were actioned intermittently. Mum's bed rest turned to 10, then 12 weeks. I was present on occasions when the physiotherapist and her assistant at Bupa South Hobart attended to Mum after 12 weeks of bed rest. During one session, I watched as they tried to get Mum to step up onto a tilted platform from a sitting position on the bed. I did not think that she would have the strength or the confidence do it without physical support. They did not offer her any assistance, and I could see that she was confused and nervous of the platform moving. I thought that it would have made more sense to have her weight bear by using a rigid frame and pulling herself up to a standing position as she always had done. This is what Mum later told me that she had wanted to do. I did not feel empowered to challenge the process being followed.

On another occasion the physiotherapist came into Mum's room and stated Mum had said earlier that she didn't want to get up so they left her. This is not what Mum was saying to me. I knew that Mum wanted to get up. She wanted to walk. In my opinion, the physiotherapist gave up too easily and didn't adopt a positive proactive approach. There was no motivation, no fun. I felt that had they really listened to Mum's fears and built a more trusting relationship with her, the outcome may have been more positive. After this, Mum's functional capacity to walk disappeared.

I believe that Bupa South Hobart was neglectful in not providing timely and effective physiotherapy and rehabilitation. Mum became a two person assist and lost her independence. Sometime during 2016 or '17, I became aware that the policy for physiotherapy at Bupa South Hobart changed. I understand that the new practice provides for a physiotherapist to fly to Hobart from the mainland for one day every six weeks. I believe that this was simply a cost cutting exercise and in no way considered the needs of residents or families. I never knew when the physiotherapist was going to be onsite.

When I did finally get to speak to the physiotherapist and said that I thought Mum was not getting enough treatment and support, she informed me that she left notes for the diversional therapist to organise physical exercises for Mum. When I approached this staff member, she told me that she knew nothing about it and said that it was more likely that the notes would have been passed to the nurse in charge. Her role was to provide group exercise sessions on level four. Mum did attend a few sessions in a wheelchair, but told me that she found it extremely hard and painful to do the leg exercises. She said it only made it worse, it was embarrassing and she wasn't going to go back.

Initial issues and complaints. I started having problems with the level of care Mum was receiving soon after her falls in March 2015. These related to the irregularity of physiotherapy exercises, a lack of assistance with meals, because Mum was restricted to lying on her back, Mum's inability to access her call bell, telephone and drinks, the wait time for assistance and the general untidiness of her room.

At that time, I was not aware of the complaints process. At first, I expressed my concerns to the personal care attendants and thought that talking to the people providing Mum's care was sufficient to address my concerns. When I realised that this was not achieving any change, I arranged to meet with the care manager, Hannah Butler. She was receptive and genuinely tried to come up with strategies for improvement. However, I soon realised that when I raised things like staffing ratios or meal quality, she didn't seem to be able to action solutions herself and was constrained by upper management decisions and a budget. To me, she seemed a bit frustrated about this.

During 2016, many of my complaints related to taking Mum out on Fridays. On many occasions, I arrived at 11 or 11.30 am to find that Mum was still in bed and had not been showered. I could never organise a time for a maxi taxi and sometimes it took hours before we could leave. I would have to time my arrival to coincide with staff availability to hoist Mum into her wheelchair. In the end, I would often phone ahead and hope that Mum would have her regular carers rostered, as I knew that they would have to her ready.

When we returned, I would have to wait with Mum until the afternoon staff were available to hoist her out of the wheelchair. Usually I waited for more than half an hour. None of this was the fault of care staff. I believe that management did not provide a sufficient number of staff to cater for two person assists over four levels.

My frustrations and delays with the provision of aids, equipment and maintenance are ongoing. At first, Mum's wheelchair was provided by the facility and I had to battle with management to get a proper cushion for it. Several times the wheelchair's cushion had deflated and we had to wait for maintenance to find a pump. The tyres would often be flat, despite a logged request to inflate them and sometimes several batteries for the hoist would all be flat at the same time. Whilst these may sound like petty incidents, they were not in the context of my Mum, a resident with dementia. They created chaos.

Finally, it was discovered that the wheelchair tyres needed replacing. It was months before they arrived. In desperation, my family brought in our own wheelchair for Mum. As Mum's eyesight deteriorated, issues with poor room lighting did not get addressed until my complaint finally escalated to Bupa management on the mainland and the down lights were replaced. As this was still inadequate, Mum's optometrist provided a standing magnifier lamp for her.

Escalating complaints. Around December 2016, Hannah Butler went on leave and was replaced by David Neal. By then, I had learnt to put my complaints in writing.

On the 15th of February 2017, fed up with inaction, I formally complained to the Aged Care Complaints Commission about my concerns with Mum's care. The complaints officer responded promptly and a meeting with David Neal, who had been promoted to general manager, was arranged on the 3rd of March 2017.

I raised 15 issues and an action plan prepared by David Neal outlined the persons responsible for finalising outcomes. Of the 15 issues raised, seven were either resolved or are now irrelevant, eight continued to be ongoing concerns that required constant monitoring by me.

On Tuesday the 14th of March 2017, 11 days after this meeting, I sent an email to David Neal and regional support manager, Elizabeth Wesols, explaining that on Sunday at 11.50 am Mum had somehow hit a redial button on her phone and called me. Mum did not realise that she had done this. I could hear that Mum was calling out for a nurse and getting more agitated. Because it was lunchtime, I thought someone would come into Mum's room, but I could hear that no one did. I waited, but Mum began sobbing and saying "I wish I was out of it." And this broke my heart.

COMMISSIONER BRIGGS: Do you want to pause for a minute and just have a drink of water? Just take your time.

MS DANIELS: I used another phone to call the Manor office. I could barely understand the nurse who answered. I explained that Mum needed help. And she told me the name of two PCAs on Mum's floor. By then I had reached tipping point, so I yelled at her to go down to level two to Mum. When she entered the room at 12.35 pm, I heard her ask Mum what was wrong and where was her lunch tray. It was apparently sitting in the kitchenette. She proceeded to assist Mum with lunch and then she ended the call.

Because I could not leave to go to the facility straightaway, I contacted my daughter and she went in to check on Mum. She said it was apparent to her that someone had upset Mum, that she was hungry and she ate all the food they took in. I also added in my email to David and Elizabeth:

> *Today when I visited Mum I learnt that a nurse or carer had gone into Mum's room and told her off for calling out and then deliberately shut the door. Mum became really agitated and upset. Mum's regular carer heard Mum and witnessed the nurse shut the door. He asked her to leave it open. How much more of this ill treatment does Mum have to endure, David?*

David emailed and apologised and said he would ask Mary Kamau, the care manager, to investigate. I was not able to meet with her that week to discuss the outcome. Elizabeth responded by email that day to say:

> *Dear, Diane. Thank you for keeping me in the loop. I have notified Stephanie Hechenberger and we are working closely with David. I know that he is taking*

this very seriously. Please continue to raise your concerns with him as often as you need. Kind regards, Liz.

This was the only email I received from Elizabeth Wesols. I have copied her into two other complaint emails to David and Stephanie since that time, but she has not responded to them.

On the 16th of January 2018, I saw that Mum had not been given any lunch when I came and visited her. I could see her lunch sitting on a bench. While I was there, kitchen staff came in and would have removed the lunch tray if I had not intervened. Had I not arrived before lunchtime and realised no tray had been delivered, Mum would have missed out on her meal. Again, I knew that this was not the fault of PCAs, but the result of a managerial decision to transfer one of them to the kitchen.

On the 28th of January 2018, I tried to phone Mum's room and could not get an answer. This was during the lunchtime when she should have had assistance. It was an extremely hot day. I then tried phoning the mMnor office. After several attempts, I finally phoned the Lodge reception. After being on hold, I was told that the receptionist couldn't contact the nurse at the Manor either. The receptionist said she would try to get a carer to phone back.

I soon tried calling Mum's room again and a carer answered. He told me that Mum had just finished lunch. Later, I found a container on Mum's sink containing a half-eaten and cold serve of scrambled eggs. This made me wonder if she actually had eaten anything for lunch. I emailed David Neal about this incident on the 1st of February 2019. I emailed Amanda Woodorth about Mum continuing to miss meals on the 28th of February 2019. Ms Woodorth promptly replied by email and apologised. She said that they were undertaking a complete roster management project and working to ensure allocation of staff to each level is effective.

On the 1st of March 2019, I also received an email from Cynthia Payne, the appointed administrator working with Bupa South Hobart. She asked for clarification about my complaints on several points, to which I responded. She sent a lengthy update and verified that staff replacement was an issue and that as of the 2nd of March 2019 an additional catering staff member would be rostered. This complaint process made me feel really bad for Mum. I felt like I was failing her. It felt like no matter what I tried I wasn't able to access the right kind of care for her. Bupa sent people to try and smooth over my complaints, but nothing changed. These issues with Mum's meals being missed have continued for three years.

Lack of stimulation. During 2016 and '17, Mum was able to sit in a wheelchair and use maxi taxis for medical appointments, socialising with family or friends and enjoy going to markets or shopping centres. I was aware that Bupa South Hobart had a small bus for excursions. However, I know that Mum was only ever included once in any of the once a week excursions. It became increasingly difficult for Mum to bend her legs and keep her feet on the foot plate. This would result in Mum sliding forward in the seat.

By May 2018, it had become so uncomfortable and unsafe for her to sit in a wheelchair that I had to stop taking her out. I could find no alternative mobile chair for Mum in Hobart, and Bupa South Hobart could not provide me with any form of alternative wheelchair. It became Mum's preference to eat meals in her room and care staff did not take her out from her room at other times. I believe that Mum has been restricted to her room since then.

I am aware that Bupa South Hobart recently purchased a new mobile reclining chair after their accreditation was withdrawn. Mum is hoisted into this new chair every second or third day for a few hours. This simply infuriates rates me, because had they purchased this chair for her before when she needed it, her life would have been so much more enjoyable. Now, she spends most of the day lying with her eyes shut and dozing.

I know that Mum is not – still not taken out of her room when she is in the chair. I am aware that she is not taken on walks within the grounds or even onto her balcony for some sun and fresh air. I assume that this is because staff do not have the time to do these things with Mum. I know that she spends her life in the bed or in the chair. Bupa South Hobart seems to think that that is okay. I believe that this is neglect and makes a sham of their publicised values. Mum's eyesight started to deteriorate in 2016 because of macular degeneration. This means that she cannot watch TV, read the newspaper or books or do a lot of the things that she used to. It seems to me that Mum isn't stimulated in any way.

Communication issues with staff. I believe that Bupa South Hobart has some really good staff who are compassionate and relate well to Mum. I have seen that they have taken the time to get to know her as a person and to appreciate the woman she was before dementia. I have observed that they are proactive in her care and they know the triggers of behavioural change. They enjoy her sense of humour and she responds positively to theirs. They communicate openly with family members and I have learned to trust them. Poor communication both from and between staff at Bupa South Hobart has been one of the main complaints for my family members about the facility. I feel that many PCAs in The Manor have been let down by management.

I believe that complaints and frustrations from people like me and my family have often been thrown back to the staff when the real problems have been caused by poor managerial decisions and tight budgets. In my discussions and meetings with managers I know when care staff have been made the scapegoats instead of inadequate staffing ratios and poor resourcing. Last year, there seemed to be a plethora of casual staff even though I know some permanent part-time staff had their hours cut back. Many casual staff, especially on weekends or public holidays, did not speak English well and Mum could not understand them. This was reciprocal because often I observed that they could not appear to understand what Mum was trying to say either.

I have witnessed staff talking to Mum from metres away, unaware that she could not see or hear them well. I have had to explain to care staff about things that I believe should have been passed on in handovers. I complained about this in a meeting to David Neal and the care manager in February or early March 2018 but they told me that they couldn't do anything about it. Mum's mind is now focused on her past life, her family and country town community. She is immobile and has lost most of her sight so verbal communication is paramount. I have observed that staff who are young and unfamiliar with Australian culture cannot make any connections with Mum's attempts to converse.

I believe that what I consider to be their inadequacy or indifference in responding to Mum only adds to her sense of loneliness and isolation. On a few occasions, when I visited Mum, agency staff would speak to her and then ask me "What is she saying?" It seemed obvious to me that if I wasn't there to clarify, there wouldn't be any communication between the staff and Mum. For example, a staff member would ask Mum "Would you like a drink?" and Mum wouldn't understand. I saw that when this happened the staff member would end up just putting the drink down without realising that Mum couldn't reach it for herself. The drink would end up being placed on a trolley out of reach for Mum.

It seemed to me that the communication between staff and Mum just wasn't there. I wondered how it was that the staff didn't know that Mum couldn't hear very well and then couldn't do what they asked of her. I believe that this failure to communicate has triggered emotional and physical reactions in Mum. I have seen Mum's reactions include agitation, fear, refusal or aggression. I believe that the resulting impact has then led to duty of care issues, inadequate hygiene performed, medication not given, pain not controlled and physical handling. Mum has also voiced her fears of intimidation or retaliation by unfamiliar staff to me. In my email to Mary Kamau on 12 April 2018 I repeated what Mum had said about being told by overnight staff to shut up or she will get into trouble and be told to leave.

I believe that staffing in any situation has to meet set criteria. Surely, for elderly Australian citizens living with dementia a clear command of spoken English should be a minimum staffing requirement in residential aged care. Inadequate care should not be excused by management. On a positive note, I have noticed that there seemed to be fewer casual staff since the sanctions were imposed. I have also found that communication from the facility and the staff has improved since re-accreditation. Bruising and marks. In early April 2017 Mum complained to me of being very sore in the chest. She told me that a male carer had tried to lift her and in doing so had hurt her under her boobs. I think that it must have really hurt her because she told me that she had asked the carer to stop and not to come near her again.

I saw that Mum did have a reddened area on her chest following this incident. A staff member told me that the male carer was a learner but it made me wonder why there wasn't an experienced carer with him while he was lifting Mum. I emailed David Neal about this incident on 13 April 2017. He sent a brief email back that day saying that "The acting care manager will investigate these issues and report back to

you as soon as possible." I do not recall hearing back from anyone at Bupa South Hobart about this incident. A further issue arose on October 2017. I had visited Mum on Friday, 13 October and she did not have any marks on her arms then.

When I visited again on Sunday, 15 October, a care worker made me aware that Mum had sustained marks to her arms on the previous day, Saturday. I saw that she had extensive bruising to the back of her hands and lower arms. I mentioned to Mum about the marks on her hands and she said that someone had scratched at her, and that, "They didn't have to hit me on an angle". I didn't understand exactly what she meant but I wrote it down. Around this time, Mum would get agitated when care staff approached her and when she was hoisted. I am aware that Mum has become quite hostile at times but I believe that a lot has to do with how she is approached by staff.

I spoke to the care manager, Mary Kamau, about this on Tuesday, 17 October 2017 and she gave me no resolution other than to say that she would speak to staff about giving medication to Mum. This seemed to me a far from satisfactory resolution to what I saw as abuse, so I emailed David Neal about this on 18 October 2017. In April 2018 Mum spoke to me about being bashed during the night. She was adamant that she had been hurt and said "It's a wonder I haven't got red marks on me." I know that Mum has cognitive issues but it worried me that she seemed frightened. This was the second time that Mum had complained to me of receiving rough treatment at night-time and of being told to shut up or she would get into trouble and be told to leave.

I emailed Mary Kamau about this issue on 12 April and queried why there was no record of the care given that night on Mum's chart. She responded by email the following day. In her email, Mary said that the care staff who had worked on the relevant night shift said that Mum slept all night with no disturbance. The explanation for not filling in the chart was because the extended care assistant did not have a pen. Medical issues. I have also had issues with medication at Bupa South Hobart. When Mum moved in, there was a registered nurse who would be the person giving residents their medication. I understand that at some point the policy at Bupa South Hobart changed. I was told that the new policy was for medication to be kept in a locked medicine cupboard on the wall for either a nurse or care staff to dispense medication.

I saw that on some occasion carers would ask Mum whether she wanted Panadol or if she was in pain. Mum would say "No" but then later might complain of pain in her knees. On some occasions carers gave Mum medication and at other times she refused. There seemed to be no consistency. I believe that if it is medication that Mum requires, then staff need to learn how to engage her or come back later when she is in a better frame of mind. I believe that the regular staff knew Mum's routine and behaviour and understood how to approach her. In my opinion, part of the reason for Mum's refusal to take medications was because of the timing and quantity.

I observed that she was expected to swallow all her tablets regardless of size and quantity, followed by liquid medications. I think this was too much.

When I realised this was a problem in January this year, I asked the nurse to contact Dr Monks, the facility GP, to either change or omit some of the medication. Fortunately, a nurse caught up with her and after a discussion the problem was resolved. Nurses now use a pill crusher for some tablets and then disguise them in yoghurt or ice-cream. Pain medication was changed from four large tablets to a smaller slow-releasing one. I believe that this has been a positive change for Mum. I have been made aware in talking to nursing staff that since the sanctions were imposed on Bupa South Hobart there are stricter protocols being followed in dispensing and recording medications. I understand that responsibility has been shared across floors in The Manor and there is more consistency in how medication is handled.

In August 2019, I received a phone call from a staff member to say that they had found a tablet on the floor of Mum's room and that this meant she hadn't had her medication the night before. Before the sanctions period this phone call would not have happened as I have never received one before. There used to be very little communication from staff. I have seen that Mum's behaviour has changed and at times she is agitated and aggressive. Sometimes I believe that this has been triggered by sheer exasperation from not feeling listened to when she calls out for help. I have learned that Mum's frustrations are often the result of what hasn't happened, for example, a carer saying they will be back and not returning, or staff not having knowledge of Mum's background and not being able to respond to her worries about family.

The action plan of 3 March 2017 stated that a six-weekly care review by Mum's doctor and The Manor's care manager would be emailed to me after each review. I have only received one, on 30 May 2017. I have never been informed about changes to medication and I only know what Mum is taking because of her pharmacy account or by happening to be in the room when medication was given. There have been times when I believe that I should have been contacted because Mum had had a medical problem – for example, asthma, heart failure, in May 2016 – but I wasn't. My family was not informed that Mum had had an episode of losing consciousness and we only found out about it after noticing blood pressure equipment in Mum's room a week later.

Mum has had varied medications but with the exception of one review in May 2017 I have never been informed about these. During 2016, Mum was given medication that made her nauseous and unable to eat. I am aware that she had hallucinations and dropped dramatically in weight. Her doctor was on leave at the time and I thought that the locum did nothing to help Mum. Finally, after family complaints, the medication was stopped and she began to recover. In mid-2016, Mum developed a chronic cough and was eventually diagnosed with bronchiectasis. From July 2016 until February 2017 she had to attend the respiratory rapid access clinic in Hobart once a month for check-ups.

Either my brother or I would organise transport and accompany her. As part of Mum's therapy she was prescribed daily breathing exercises. At my request, the physiotherapist gave me extra equipment and written instructions for nursing staff. I observed that these were not used consistently. It seemed to me that few staff actually read and followed the instructions. After Mum's fall in 2015, I became frustrated that Mum was not being given the rehabilitation she needed. Added to this was the fact that, despite constant reminder to care staff, Mum developed pressure sores on her toes from heavy bedding and spent more months not being able to wear shoes. Staff ordered a cradle, but it took three months to arrive.

On the 6th of February 2019, I was phoned by a nurse at Bupa South Hobart to inform me that Mum's dentures had been removed and that she had an infection and would need antibiotics. Two days later, I saw Mum's dentures that had been left in her en suite and they were absolutely filthy. Weeks later, I knew that she had not had them replaced. On the 12th of March 2019, I emailed new care manager Scarlett Atkins and asked her to follow-up on Mum's dentures and her missing bed cradle. On the 18th of March I received a reply stating that she would ask staff to attempt to put the dentures in for Mum. On the 25th of March Scarlett informed me that the dentures were not fitting properly. They have remained out since and now Mum is on a soft food diet.

Clinical oversights. In early 2016, Mum's eyesight began to deteriorate and a conversation with one of Mum's regular carers confirmed that she had noticed this, too. I organised for an optometrist, Paul Grayson, to examine her on the 4th of March 2016. She was prescribed new bifocal eyeglasses and provided with a standing magnifier lamp, because the light in the room was insufficient for reading. Digital retinal photography showed elevated eye pressure in her right eye, which indicated an increased risk of glaucoma. Nursing staff were made aware of this.

On the 27th of March 2016 when I visited Mum, I noticed her eyes looked red and sore. I contacted Mr Grayson and asked him to examine Mum's eyes, which he did on the 29th of March. He was concerned that Mum was having an acute glaucoma attack, so he consulted with Dr Monks about Mum's medication and then organised for an ophthalmologist at the Royal Hobart Hospital to see Mum that day. Tests evidenced it was a glaucoma attack and she was prescribed nightly glaucoma eye drops. These are still administered daily by staff.

On the 1st of June 2017, I received an email from Mary Kamau about Mum's six monthly review with Dr Monks. Originally, Mum had seen a different GP, but he went on leave for a long time and I thought it would be good for Mum to see someone who would be available in an emergency, so Mum started seeing Dr Monks instead. I noted that in the review with Dr Monks there was no mention of Mum's macular degeneration. I couldn't understand this oversight, as I knew that Dr Monks is aware of Mum's condition and that it has ramifications for her daily care.

I raised this issue with Mary on the 1st of June 2017 as, despite making David Neal aware of Mum's macular degeneration, I found that care staff would tell me that they

had not been informed of this. I emailed Mary Kamau outlining the ramifications of mum's eyesight issues on her care needs. Mary responded that she would arrange a review by the optometrist.

On the 19th of September 2018, I emailed Mary Kamau about medication Mum was being prescribed. It seemed to me that at that time Mum was always sleeping. Three other members – family members had also noticed this and asked me if she was being sedated. Mary responded by email the following day to say:

> *There has been no changes with your Mum's medication. She refuse to take them most of the time.*

I have asked other nurses about Mum's medication and drowsiness and have been told that she is fine, her medication has not been changed and the combination of drugs in her medication can make her drowsy.

Staffing levels. There are three buildings at Bupa South Hobart, the Lodge, the Manor and the Court. The Lodge and the Court have two storeys and the Manor has four. In my experience, the only lift in the Manor often breaks down. In this year alone it has been out of action in April for two weeks, in May, August and September. Since sanctions were imposed, communications have improved and at least families now receive a text message to warn us that it is broken. I have seen residents go to the lift and get so frustrated when they cannot use it. It is an unnecessary imposition on both staff and residents. I am sure it should be replaced, rather than constantly repaired.

I have heard call bells going off in the Manor and not seeing anyone coming to assist. Outside Mum's room there is a device which lights up and beeps when a resident presses their call bell. In the past, it beeped so often that it becomes background noise. On average, the beeping continues for 20 to 25 minutes before a staff member attends to the resident. I know that Mum does not use her call bell anymore. She is reliant on staff going in to check on her.

Because Mum is a two person assist, she needs to have two staff members present to help her with transfers. At times, I have seen that there have only been three people rostered for the Manor. And I know from experience that, despite what management say, there has sometimes been two. This means that often I have not been able to find any staff members around to help Mum and that she can't move around or have her needs taken care of. Mum was one of the first residents on level two to need extra assistance, but now there are more.

As one resident is now a three person assist, it leaves little assistance available for the other residents. Management have not taken this into account when rostering staff for the manor, despite appeals from care staff. I have heard staff talking about how their shifts have been reduced and how they are working less than they used to. I have also seen staff leaving at 1 pm instead of 3 pm and understand that they had been told to leave before the shift change. This has meant that for two hours the

Manor was short-staffed. I know this because the care staff are generally quite open and honest with me.

I do not encourage the staff to be negative about Bupa South Hobart, but I will ask them straight up if they are short-staffed. In my experience, there is usually no one here in the Manor that you can even speak to about issues, because the care manager is located outside of the building in an office. At the end of 2016, when the then care manager went on maternity leave, the role remained vacant for a while. Over the years of Mum's time at Bupa South Hobart, the person in the care manager position has changed seven times.

I understand that when Bupa South Hobart lost its accreditation they were sharing the same care manager between the Lodge and the Manor. I was not aware of this and when I tried to find the care manager to raise issues at this time, I kept thinking I had just missed them, but now I know it was because there wasn't anyone in the office. After Bupa South Hobart lost this accreditation, I noticed that six care staff began to be rostered on in the Manor instead of four. That happened for a couple of months and then it went back to previous staffing levels. Now there are five, but one can be called away to replace staff in the other buildings. This may be reviewed as more residents move into the Manor. At the moment, Bupa South Hobart seems to be down about nine or 10 residents in the Manor.

Issues on hot days. On the 28th of January 2018, I was concerned about the extreme temperature that day and lack of air-conditioning in Mum's room, so I drove to Hobart to stay with her for the rest of the day. When I arrived, I saw that the care staff member on duty was doing kitchen, rather than caring, duties. I found Mum sweating in bed with a blanket over her wearing thick grey bed socks and woollen heel protectors. I saw that Mum's bed had been lowered so there was no way she could reach a drink, let alone the phone on the trolley. The blinds had not been lowered to block out the hot sun, but the door to the balcony was ajar.

During the hours that I was there, I saw only one staff member on Mum's floor briefly twice. On two occasions, I had to leave Mum's room to assist two other residents who were calling out for help. I was aware that no one had responded to their buzzers. On this day, I saw that there was also no afternoon tea, nor drinks offered to residents on Mum's floor.

On Friday the 8th of March 2018 a similar incident happened. When I visited Mum before lunch she was in bed and it was obvious to me that she had not received appropriate care. I thought this because her room was hot with no window open and no fan on. Mum was in bed with two blankets over her. I saw that Mum's air mattress was also deflated. Mum complained to me of being hot and sore. She also said that she was only given a partial wash by the care staff.

I visited on Sunday, two days later, and saw that Mum's air mattress had been deflated for the two nights. When I discovered this, I was so upset that I cried. It felt to me to be a deliberate lack of care by both the carers and nurses. When I

complained to the nurse on duty, she acknowledged that Mum looked uncomfortable. Whilst Mum had her sanitary pad changed that day, it was also noted that she had pressure marks on her lower back and upper buttocks.

Continuing issues at Bupa South Hobart. I have observed that care staffing levels have been presently set at five staff members for the Manor, but there are currently 18 residents, not 28. I believe that with two and three person assists the staffing ratio needs to be practical. After sanctions were imposed, management announced that there would be a care manager in each of the three buildings, but this has now reverted to a sharing role between the Lodge and the Manor.

Getting staff to follow hygienic procedures when toileting Mum continues to be an issue. In mid-August 2019 there were dried faeces on the carpet. I called this to the attention of a staff member going past and she said, "I'll do that. I'll put down for the carpet to be cleaned." However, it took a reminder to a nurse and more than a week for this to occur.

Monitoring Mum's care is exhausting. It feels like an ongoing battle. Mum is now unaware of things like the room being tidy or not, so I prioritise and try not to sweat all the small stuff. If I find that her clothes haven't been put away properly or that there is no cutlery left in the kitchen, I don't make a song and dance about it. Anything that affects Mum's emotional, spiritual or physical wellbeing is quite another matter.

Concluding remarks. I know that some of the events I have experienced on this journey with Mum will haunt me for a long time. Mum was so independent. She cared for all her family and grandchildren into her 80s. My family thought we were doing the right thing by putting Mum in care. We knew that she would deteriorate physically and cognitively because of the dementia, but it has been really hard as an extended family to witness her emotional distress when we believe that her care has been deficient. I feel that a lot of what has happened to Mum was so preventable.

I believe that Bupa South Hobart needs to be held accountable for its failure to put people before profit. I believe that its culture of making decisions from the top down and ignoring real input by stakeholders at the coalface alienates everyone. Sadly, I think that unannounced visits and the threat of sanctions will continue to be their motivators for change. It is my hope that the Royal Commission will promote community debate and regulation on what really constitutes quality care and well-trained staff. I know from experience that this has less to do with renovated foyers and beautiful gardens and more to do with the warmth, respect and professionalism of the people providing it.

MR ROZEN: Thank you, Di. I neglected to tender the statement.

COMMISSIONER PAGONE: You did.

MR ROZEN: I should do that now.

COMMISSIONER PAGONE: Yes, the statement of Diane Daniels dated 30 October is exhibit 13-21.

EXHIBIT #13-21 STATEMENT OF DIANE DANIELS DATED 30/10/2019 (WIT.0583.0001.0001) AND ITS IDENTIFIED ANNEXURES

MR ROZEN: And could Ms Daniels please be excused.

COMMISSIONER PAGONE: Ms Daniels, thank you for sharing your experiences with us. I know how difficult it is for people like you to come and say those things publicly, but it is important that the Commission and the public at large hears them. So thank you for doing so.

MS DANIELS: Thank you very much for giving my family a voice. Thank you.

COMMISSIONER PAGONE: You're excused from further attendance. Thank you.

<THE WITNESS WITHDREW [3.30 pm]

MR ROZEN: Commissioners, before I ask Mr Knowles to call the next witness I need to clarify a matter that I have unintentionally misled the Commissioners in my opening. I said that Mr Neal, the former facility manager of Bupa South Hobart, had been served with a summons.

COMMISSIONER PAGONE: Yes.

MR ROZEN: There have been several attempts to serve him with a summons to attend but - - -

COMMISSIONER PAGONE: It's not happened.

MR ROZEN: It's not been successful, and I just wish to clarify that.

COMMISSIONER PAGONE: Yes. Thank you.

MR ROZEN: Mr Knowles will take the next witness. Thank you.

COMMISSIONER PAGONE: Thank you. Yes, Mr Knowles.

MR KNOWLES: Thank you, Commissioners. I note the time.

COMMISSIONER PAGONE: Yes. So do we.

MR KNOWLES: I expect to be about an hour with this witness. I don't know how the Commission wishes to proceed in the circumstances, whether we seek to deal with the evidence in one go today or to split it up over two sessions?

COMMISSIONER PAGONE: Well, I don't think you've got much more than an hour. But if you can keep it within that time, then do so. Perhaps IF you can manage it in a bit less, that would be better.

MR KNOWLES: Yes. Thank you, Commissioners. In that case, I call Dr Elizabeth Monks. Just before I proceed any further, I believe that there is an appearance that needs to be made in relation to Dr Monks.

MR W. AYLIFFE SC: If it please the Commission, my name is William Ayliffe SC. I appear, Commissioners, with my colleague, Timothy Bugg, pursuant to the leave to appear granted on 8 November 2019 on behalf of Dr Monks, if it please.

COMMISSIONER PAGONE: Yes. Yes, thank you, Mr Ayliffe.

<ELIZABETH ALICE MONKS, AFFIRMED [3.33 pm]

<EXAMINATION BY MR KNOWLES

COMMISSIONER PAGONE: Mr Knowles.

MR KNOWLES: Dr Monks, can you tell the Commissioners your full name.

DR MONKS: Elizabeth Alice Monks.

MR KNOWLES: And you've prepared two statements for the Royal Commission.

DR MONKS: Yes.

MR KNOWLES: Now, the first of those was dated 31 October 2019 and that is presented on the screen before you, with WIT.0558.0001.0001 being the relevant code. Perhaps I will come to your – pardon me, Commissioners, I've just been alerted to an issue about the second statement. So I might come back to the second statement later on.

COMMISSIONER PAGONE: Right.

MR KNOWLES: And just deal with the first statement for the time being. Now, that first statement, have you read that lately, Dr Monks?

DR MONKS: Yes.

MR KNOWLES: Yes, and are there any changes that you wish to make to that statement - - -

DR MONKS: No.

MR KNOWLES: - - - that don't appear in the second statement that I've referred to earlier?

DR MONKS: No.

MR KNOWLES: And are the contents of your first statement true and correct - - -

DR MONKS: Yes.

MR KNOWLES: - - - to the best of your knowledge and belief?

DR MONKS: Yes.

MR KNOWLES: I seek to tender the first statement of Dr Elizabeth Monks dated 31 October 2019.

COMMISSIONER PAGONE: Yes, thank you, the first statement of Dr Monks dated 31 October 2019 is exhibit 13-22.

EXHIBIT #13-22 FIRST STATEMENT OF DR MONKS DATED 31/10/2019 (WIT.0558.0001.0001)

MR KNOWLES: Now, Dr Monks, you're a general practitioner.

DR MONKS: Yes.

MR KNOWLES: And you presently work at Bupa South Hobart.

DR MONKS: Yes.

MR KNOWLES: And how long have you been working there?

DR MONKS: Just about four years.

MR KNOWLES: Do you do other work as well at present?

DR MONKS: Yes, I have some patients in other nursing homes that I visit that have been long-term patients.

MR KNOWLES: Right. What percentage of your work constitutes work with patients at Bupa South Hobart?

DR MONKS: 95 per cent.

MR KNOWLES: So it's more or less a full-time position there.

DR MONKS: Yes.

MR KNOWLES: And prior to working at Bupa South Hobart, did you have previous experience working in aged care?

DR MONKS: Yes.

MR KNOWLES: Yes. And what was that?

DR MONKS: There's quite a bit. I was, prior to being employed, a visiting GP to aged care facilities full time within Hobart, prior to that 50 per cent of the time when I was in a practice, I had a number of years experience in the UK looking after community hospitals, primarily delivering palliative care, rehabilitation and dementia care. During my training I have spent quite a lot of time in aged care and providing services to people of the older generation.

MR KNOWLES: Yes. Now, in terms of your employment relationship with Bupa, can you just explain how that works a little bit to the Royal Commission?

DR MONKS: So I'm employed to provide services to the residents at Bupa South Hobart that opt into my care. I am paid a salary and I bill Medicare for the consults that I do, and that money goes back to Bupa.

MR KNOWLES: And in terms of your responsibilities in the role that you have, are they set out somewhere in an official job description at Bupa or not?

DR MONKS: No, I was effectively employed to provide the care in a way that I chose.

MR KNOWLES: And what about reporting? Who do you report to?

DR MONKS: Right now, I report to the managing director, Suzanne Dvorak.

MR KNOWLES: When you say "right now", has that been different it in the past?

DR MONKS: So previously, during the time that's in question I reported to the then medical director, Dr Tim Ross.

MR KNOWLES: And he's outside of the operations side of the business; is that correct?

DR MONKS: Yes.

MR KNOWLES: Yes. Do you have any key performance indicators that are stipulated in connection with your position at Bupa?

DR MONKS: The GPs usually come up with our own KPIs, usually centred around clinical care and outcomes.

MR KNOWLES: So they're self-imposed; is that what you're saying?

DR MONKS: It's self-imposed.

MR KNOWLES: Right. And are there financial targets that you are set to meet by Bupa?

DR MONKS: Not at the moment, that I'm aware of.

MR KNOWLES: Okay. Has that been different in the past?

DR MONKS: I was never formally given a number as such, but I was encouraged to try and earn as much for the company as I could.

MR KNOWLES: And what was your response to that encouragement?

DR MONKS: Resistance.

MR KNOWLES: Now, when you say that, do you mean that you – what did you say to people who were making those comments to you?

DR MONKS: I was known within the company as an advocate for GPs and as all the other GPs who were employed at the time, looking towards trying to show that that's not the way it should work.

MR KNOWLES: Now, do you have any involvement in regulatory compliance or internal audits at Bupa?

DR MONKS: No.

MR KNOWLES: Do you have any involvement in management of nursing or other staff?

DR MONKS: No.

MR KNOWLES: Can you tell the Commissioners what you perceive to be the benefits of being employed by Bupa and being embedded in a particular aged care facility?

DR MONKS: For who? For the residents?

MR KNOWLES: Well, for residents, for Bupa and for yourself?

DR MONKS: For me, it's a salaried job so it's easier than running your own business. For the residents, huge. Having you on site, you're able to treat illnesses a lot quicker or injuries a lot quicker, provide a lot of education and support to the nursing team. You're able to have more time to focus on medication management and polypharmacy, able to have proper conversations with families, with allied health professionals, with colleagues. It's big. For Bupa, I believe the benefits are they do get a financial benefit from it from a doctor being in the home and being able to occupy those beds. In regards to the clinical care for the company, I think it's a really good thing that they're able to say that they have a doctor in the home.

MR KNOWLES: What about disadvantages? Do you see there being any disadvantages for residents or for Bupa or for yourself in terms of the arrangements that you have presently?

DR MONKS: I think – I can't think of a disadvantage for the residents. For Bupa, I can't think of any. For myself, I'm perhaps exposed to the – the downside of being an aged care employee.

MR KNOWLES: What downside is that?

DR MONKS: There's a majority of the experience that is good. There are a minority of patients and families and external people that are verbally abusive, physically threatening. I've had hate mail. I've been – had a death threat. I've been stalked. And I'm pretty sure that I'm not the only one.

MR KNOWLES: Are you aware of many GPs working in-house in aged care services like you do?

DR MONKS: Only the Bupa ones.

MR KNOWLES: Right. Now, your employment with Bupa started, was it January of 2016?

DR MONKS: Yes.

MR KNOWLES: Yes, and was that so far as you're aware, part of the Bupa Model of Care 1?

DR MONKS: In South Hobart. I think South Hobart was one of the last ones to have this put in place. I was brought on board before the full BMOC1 was put in by three or four months I think so I was embedded by the time the systems came into play.

MR KNOWLES: Was it ultimately, though, part of BMOC1 - - -

DR MONKS: Yes.

MR KNOWLES: - - - as you term it that you were in the role?

DR MONKS: Yes.

MR KNOWLES: Yes. And what are the salient features of BMOC1?

DR MONKS: Obviously, the GP in the home was a big one. There was a development of an information system that had work instructions and how to do things. There was employment of a clinical care manager – sorry, a – yes – no, a clinical manager that would work alongside me to work primarily assisting me and providing more clinical support for the home. There was a change in medication management where the idea was to make the residents feel more at home so that the medications were put into the rooms into locked cupboards with the idea that it was more like their home where the care staff would go in and give them their medications.

Also the care staff gave the medications and so there were a lot of care staff providing medications. There were probably other things but they don't come to mind. They were the major ones.

MR KNOWLES: And, in terms of BMOC1, that was replaced by the Bupa Model of Care 2, BMOC2. In summary, what changed and why at that time?

DR MONKS: I'm not sure that I ever actually knew when BMOC2 actually started. But, effectively, it was a reducing nursing hours in the – what I saw was nursing and care staff hours in the home. Yes.

MR KNOWLES: Sorry. You say that one of the things that you saw arising out of BMOC2 was a reduction in nursing staffing hours in the aged care facility that you were working at?

DR MONKS: Yes.

MR KNOWLES: Yes. Okay. Now, despite BMOC2, you remained at Bupa South Hobart?

DR MONKS: Yes.

MR KNOWLES: And were you tasked with any role in connection with BMOC2 and its implementation?

DR MONKS: Not that I can recall.

MR KNOWLES: Now, we've heard a little bit from the previous witness, Ms Daniels, about the layout of Bupa South Hobart. Can you perhaps describe it in summary to the Commissioners and – well, perhaps for the transcript, given that the Commissioners have actually been there this afternoon and for myself.

DR MONKS: All right. Bupa South Hobart is made up of, effectively, three communities, which are three buildings. Two are joint. Each building is multi-level, with one building having four levels. The way in which you get between levels is mainly with lifts. In one of the communities, the manor, if you do want to use the stairs, one half of the stairs is on one side of the build and one half is on the other, so it's very difficult to get up and down quickly.

MR KNOWLES: And what's the overall number of residents at Bupa South Hobart at the moment?

DR MONKS: I wouldn't know.

MR KNOWLES: Can you estimate it?

DR MONKS: I think around maybe 90.

MR KNOWLES: Yes. And have you come to any views, other than the one you've just expressed about the stairs, how the building design affects the delivery of care to residents?

DR MONKS: It's not quick to get between levels, for the carers particularly, but for any staff member. And, therefore, supervision of residents really hard, particularly if there's a two assist or more. From one end to the other, you're probably walking 500 metres. So for a supervising nurse ..... it will take time to get from one building to the other, particularly if it's urgent. If the lift breaks down in one of them, that does create a lot of issues.

MR KNOWLES: And have you experienced the lift breaking down in one of them?

DR MONKS: Yes.

MR KNOWLES: That was referred to in the previous witness's evidence, Ms Daniels, and she said it happened with some regularity.

DR MONKS: Yes.

MR KNOWLES: You agree with that?

DR MONKS: Yes.

MR KNOWLES: Now, in terms of the residents that are at Bupa South Hobart, what proportion of them are your patients?

DR MONKS: Currently?

MR KNOWLES: Yes.

DR MONKS: I suspect 90 per cent.

MR KNOWLES: Yes. And how many of those residents would you see as patients each day, on average?

DR MONKS: Now?

MR KNOWLES: Yes.

DR MONKS: 10 to 15.

MR KNOWLES: Yes. And what services are you typically providing to those residents? I understand it will vary, but - - -

DR MONKS: Predominantly chronic disease management. Also, medication management. They're most of my day's work. Obviously, the things that happen acutely, as well.

MR KNOWLES: Have you encountered any particular challenges or difficulties in the provision of services to patients at Bupa South Hobart?

DR MONKS: Over which period of time?

MR KNOWLES: Well, over the whole period of your time there.

DR MONKS: Yes.

MR KNOWLES: Broadly speaking - - -

DR MONKS: Broadly - - -

MR KNOWLES: - - - what are those difficulties caused by?

DR MONKS: Well, definitely by the lack of nursing staff, if it's not completely – you know, there's a lot of – if it's not fully. I don't know the word. If the roster's not fully filled. The experience of our nurses is probably big. The care management system is paper-based. That is extremely cumbersome, time consuming to try and find it, for me and the staff, and leads to delay of observations and care. Trying to get things – like, previously, not now, trying to get specific products or care items for residents has been difficult, particularly the types of dressings that we were not allowed to order. That's all that comes to mind at the moment.

MR KNOWLES: You have, as you've set out in your statement that's been tendered, been at times critical of Bupa's practices. Would you agree?

DR MONKS: Which practices?

MR KNOWLES: Well, practices in terms of things you've just mentioned, staffing levels and the like.

DR MONKS: Yes.

MR KNOWLES: Yes. In that regard, how did you make your observations for criticisms? Was it – what was the mode of communication? Who did you raise them with?

DR MONKS: Who did I express to?

MR KNOWLES: Yes.

DR MONKS: Everyone. So, obviously, I expressed to the general manager frequently, to the – to my manager very frequently. I communicated - - -

MR KNOWLES: That's Dr Ross that you mentioned earlier.

DR MONKS: Dr Ross.

MR KNOWLES: Yes.

DR MONKS: Yes. I through the years communicated with anyone that came down from interstate that was with Bupa that there was – if there was problems, because there was a time when there wasn't. And to the head of the company, Jan Adams, at the time.

MR KNOWLES: And how did you perceive that your raising those observations and criticism was received?

DR MONKS: Deaf ears.

MR KNOWLES: Deaf ears. And how were you treated by management on raising those matters with them?

DR MONKS: I felt that there was a feeling amongst those in the central office that I was histrionic, over-reactive, over-passionate and, therefore, my information to them was not valid.

MR KNOWLES: Now, I'd like to take to you a series of emails that set out some of those occasions when you have raised observations and criticisms. Can I take you, firstly, to the email which appears in the tender bundle at tab 9. Now, this was

referred to in the opening submissions. Do you see at the bottom of the page there is your email to Stephanie Hechenberger.

DR MONKS: Yes.

MR KNOWLES: On the 15th of September 2016. And there is the paragraph beginning:

> *I believe that we are having premature deaths and hugely increased morbidity of our residents, secondary to lack of nursing staff.*

and so on. Now, you raised that complaint, which, essentially, went to the issue of nursing staff. Then, in the next paragraph, you've raised a complaint about medication management and wound management and the undertaking of clinical observations. Do you agree?

DR MONKS: Yes.

MR KNOWLES: Is it fair to say that these matters came back to the number and skills of the staff who were providing clinical services to residents at Bupa South Hobart?

DR MONKS: Predominantly - - -

MR KNOWLES: Yes.

DR MONKS: - - - but it was also because there wasn't leadership in the home at that time physically.

MR KNOWLES: Yes. When you say there wasn't leadership in the home at that time physically, was that because the position of general manager was vacant at that time?

DR MONKS: From memory, yes.

MR KNOWLES: Yes. And you've also referred, on the second page of your email, to staff that are bordering on bullying not being pulled up for it. Can you explain what you were talking about there?

DR MONKS: I can't remember specifics, but there was bullying going on in the home. I do remember that.

MR KNOWLES: And what was the nature of that? Was that in respect of residents?

DR MONKS: No. Between themselves.

MR KNOWLES: With other staff?

DR MONKS: Yes.

MR KNOWLES: And did that reflect some concerns on your part about the culture that existed at Bupa South Hobart at the time?

DR MONKS: A subsection of the culture.

MR KNOWLES: Yes. Now, what was the response that you – pardon me. Perhaps if I go to tab 182 of the tender bundle. Now, that's an email from you in December of 2016. So this is some months later. And in that email you appear to be quite satisfied with the response that's been given in connection with your earlier observations and criticism.

DR MONKS: Yes.

MR KNOWLES: Can you just elaborate on what had been done over that two to three month period, so far as you recall.

DR MONKS: What I recall significantly is that the recruitment of staff, of nurses - - -

MR KNOWLES: Yes.

DR MONKS: - - - that's what made the difference.

MR KNOWLES: Right. And so at that time you were quite satisfied with the response that had been given, is it fair to say?

DR MONKS: Yes, absolutely.

MR KNOWLES: And you see there's a paragraph:

> *The leadership team that has been created over this year at south Hobart I believe is absolutely fantastic and is already starting to make a huge impact on the home, the care that we provide and increase our morale.*

So it's fair to say you had high hopes at that stage about what might happen in the future.

DR MONKS: Yes.

MR KNOWLES: Were your hopes fulfilled?

DR MONKS: Yes.

MR KNOWLES: Ultimately?

DR MONKS: No.

MR KNOWLES: Okay. And, in that regard, can I take you to tab 35 of the tender bundle, which is another email exchange, particularly at the bottom of the first page between yourself and Tim Ross. This email is from November of 2017. A number of things had happened between December 2016 and November 2017, hadn't they?

DR MONKS: Yes.

MR KNOWLES: Is it somewhere in there that BMOC2 was implemented at Bupa South Hobart?

DR MONKS: Yes.

MR KNOWLES: Yes. And had the vacant position that you've described earlier of general manager been filled?

DR MONKS: Yes.

MR KNOWLES: And who filled that position?

DR MONKS: Mr David Neal.

MR KNOWLES: Yes. Now, in terms of what you've set out there, you say in the first paragraph that:

It's not quite at the level of seriousness that it was this time last year.

And then you go on to say:

But I am seeing signs that we are going to be in that position again very soon.

What were those signs?

DR MONKS: At the time, I was collecting data on the influences that a DB may have in the home for the clinical outcome of residents. In that I was collecting information that Bupa didn't necessarily have the – that weren't in their system. And, during that time, I could see there was starting to be a big spike or rise in admissions to hospitals and into serious illnesses and injuries, which were two things that I was not aware that Bupa were monitoring it all.

MR KNOWLES: Now, again, was this a case of you, among other things – you've just referred to monitoring and having systems to audit clinical incidents. Was this a case, again, of you saying that there was a need for more and more qualified staff?

DR MONKS: Can you repeat the question, please.

MR KNOWLES: Was this a case, in terms of this email, of you seeking more – more qualified staff?

DR MONKS: It was me seeking someone to come and help and assess what was going on and try to rectify it.

MR KNOWLES: Okay. Do you see about midway through the second page of your email you say:

> *I can only presume that the lack of RNs in our home now, extremely green ENs that have replaced many, and financial pressure on all other areas of the home, particularly our kitchen, to continue to save money is a direct effect of back to basics continuing despite what I am told are pleasing results of the back to basics focus.*

What do you mean by that?

DR MONKS: They were what I thought might be the problem but I'm – there is not – well, there was not much communication from any other part of the business, it was only my presumptions and my observations.

MR KNOWLES: So what was the response that you received in relation to this email that you'd sent to Dr Ross?

DR MONKS: I became aware that he circulated it amongst the appropriate people, the director in the company, and I was told it would be looked into.

MR KNOWLES: In that regard, can I take you to tab 36 in the tender bundle, and can I go to the second page of this tab. And you will see at the top of that page an email from Mr Neal to various people, and he states "Sarah", and I'll just stop there. Do you take that to be a reference to Sarah Gaffney, the nurse clinical manager?

DR MONKS: Yes.

MR KNOWLES:

> *Sarah did try to talk Libby out of starting an email campaign again, as Libby was ramping up and saying she was going to do emails and becoming dramatic about the changes, and losing her nurse and to at least give BMOC2 a chance. This was the stuff I was concerned about with Libby, and hoped that Tim would settle her.*

Is that an example of what you described earlier as the response to your observations and criticisms being one in which you were portrayed as histrionic?

DR MONKS: Yes.

MR KNOWLES: And I meant to ask you earlier: how did you perceive the leadership qualities of Mr Neal?

DR MONKS: Initially, I thought he would be very good because I felt he did a good job as – in his previous roles in the home, but it became obvious to me that he may have had deficiencies in what he was doing.

MR KNOWLES: Do you think he contributed in some way to the culture at Bupa South Hobart while he was heading it up as general manager?

DR MONKS: What type of culture are you referring to?

MR KNOWLES: Well, in terms of that email does that say anything to you about the culture that he might have promoted at Bupa South Hobart at the time?

DR MONKS: I haven't seen this email before, and yes.

MR KNOWLES: Can I go to the first page of the email, and there there is an email from Elizabeth Wesols in which she refers to some review of various matters, including some clinical documentation being wound assessment and progress charts and diabetic records and she found them wanting. Was that something connected with your initial complaint that you had made?

DR MONKS: I believe so. I believe that was – she was sent down to investigate what I was expressing, and this was what she looked at.

MR KNOWLES: And did you regard the – well, firstly, were you told about this response from Elizabeth Wesols?

DR MONKS: Not that I can recall.

MR KNOWLES: What response did you get to the matters that you raised with Dr Ross? Perhaps I can take you - - -

DR MONKS: I only – I only recall one person getting back to me which was later on, Jan Adams, and I had expressed later on to – she was the head of the company, that she had investigated and felt no cause for alarm.

MR KNOWLES: Well, can I take you to tab 39 of the tender bundle. And here, do you see there there's the - - -

DR MONKS: Yes.

MR KNOWLES: An email from Ms Stephanie Hechenberger.

DR MONKS: Yes, I do recall.

MR KNOWLES: Do you recall that?

DR MONKS: Yes.

MR KNOWLES: What was she asking you for there in connection with the matters that you had raised in November 2017?

DR MONKS: It appears she was asking for information about concerns and asking me to give her residents that were impacted.

MR KNOWLES: Yes, and your response is at tab 40 of the tender bundle. And at the bottom of the page, you have provided some response by way of reference to data that you've collected. Can you just elaborate on what you provided to Stephanie Hechenberger in connection with the matters that she had sent back to you seeking input into a table?

DR MONKS: Well, I wrote back to her saying it was very difficult to fill that table in. And that I provided her with the information I had collected that had led to my concern in the first place, I believe with the names of the residents that had had serious injuries and the graph accompanying that.

MR KNOWLES: All right. And then in terms of what follows from that, if I could take to you tab 42 in the tender bundle, you subsequently indicated that there had been additional issues that arose. What were they? And you've set them out at the bottom of the first page in relation to – pardon me – at the bottom of the first page and following up into the top of the second page in relation to those additional clinical issues. Perhaps if I can bring the second page up as well.

DR MONKS: Sorry, what was your question now that we have both?

MR KNOWLES: What were these additional issues that you were raising with Tim as more clinical risk issues with BMOC2 implementation?

DR MONKS: The home was in chaos. No one knew their roles. Roles were forgotten – not forgotten but because there was no allocated certain tasks to the roles and they were neglected, or not neglected because it wasn't intentional, and the care deteriorated significantly, I believe, despite me requesting – or at least advising people above me that this was happening.

MR KNOWLES: And at the top of that email chain in the most recent email you've said:

I'm 100% there is a culture amongst gms –

and I take that to be general managers –

...not to report problems so that they look good to the powers that be. They don't want to be red flagged.

Why did you make that observation?

DR MONKS: It was pretty much well known in the care manager level and me that the general manager was not keen to, in his words, red flag the home to bring the microscope down to have a look at what was going on. He didn't, I believe – I don't think he felt there was anything wrong that what was going on, and therefore didn't want the higher powers that be to look in, come down, inquire.

MR KNOWLES: So am I right in thinking you're saying that there was a tendency perhaps to paint a rosier picture than might otherwise have reflected reality? Is that what you're suggesting?

DR MONKS: Potentially.

MR KNOWLES: Yes. And when you make that reference to "red flagging" what do you mean by that?

DR MONKS: That's the term he used. A red flag, meaning, I suppose, making ourselves out – be outstanding amongst the 72 homes that something's wrong.

MR KNOWLES: Now, in that regard, can I take you then to tab 45 of the tender bundle. Sorry, pardon me. I've just been corrected. Tab 44. And just under halfway down the page you will see an email from Mr Neal to Stephanie Hechenberger, and this relates to the matters I take it that you had raised earlier with senior management.

DR MONKS: Yes.

MR KNOWLES: And he says:

As I mentioned, and Libby agreed, these are ordinary incidents and accidents that happen in homes every day. All efforts are made to prevent falls. She was just highlighting spikes, she says, and was trying to tie things in with BMOC2. There are nil concerns with below events. They are over a six month period and several people are now deceased from natural causes.

Just taking this one paragraph at a time, can I just ask you to comment on the first paragraph that I've read out to you from his email? Do you have any views about what he says in terms of - - -

DR MONKS: He didn't discuss it with me and I did not say that.

MR KNOWLES: - - - your purported agreement?

DR MONKS: Sorry?

MR KNOWLES: Do you have any views about what he says about you having agreed with him - - -

DR MONKS: We didn't talk.

MR KNOWLES: - - - to various matters.

DR MONKS: We did not talk about this.

MR KNOWLES: All right. So do I take it from that you don't accept that you agreed with him?

DR MONKS: That's correct.

MR KNOWLES: Okay. And do you have any comments on what he said in relation – in the second paragraph?

DR MONKS: They must be his nil concerns.

MR KNOWLES: Right. So at this stage you had concerns still.

DR MONKS: Yes.

MR KNOWLES: Is that right? Thank you. Now, can I move forward in time to the document at tab 56 in the tender bundle. Sorry. Pardon me. And on the pages marked 7380 and 7381 there is an email from yourself to Ms Jan Adams headed Apology. What were you apologising to Ms Adams about?

DR MONKS: We had had a meeting in Sydney or Melbourne for the GPs and part of that program was to have a video conference with Jan, and during that conference I expressed concern for the home and that of the general manager not being completely honest about the state of the home.

MR KNOWLES: And what was the response from Ms Adams to your email headed Apology? Were you asked to provide further details in terms of clinical issues that you had referred to?

DR MONKS: That was in the forum.

MR KNOWLES: Yes.

DR MONKS: On the – yes, so I – yes, she asked me to provide her with more information about what was going on.

MR KNOWLES: And did you do that?

DR MONKS: Yes.

MR KNOWLES: And did she look into that subsequently herself or arrange for somebody to do that?

DR MONKS: I don't know.

MR KNOWLES: Can I take you to the document at tab 183 of the tender bundle. There seems to be some difficulty in bringing that document up, Commissioners. I apologise. The code is BPA.013.0003.4038 – sorry, BPA.013.003.4038. Sorry, Dr Monks. Now, do you see that document there?

DR MONKS: Yes.

MR KNOWLES: Does that refresh your memory in terms of the response that you received from Jan Adams in connection with the matters that you'd raised with her?

DR MONKS: Yes.

MR KNOWLES: On various clinical indicators that you said were – clinical issue that is you said existed at Bupa South Hobart.

DR MONKS: Yes.

MR KNOWLES: Now, in summary, does her email reflect what appears at the start of the second paragraph, essentially, that:

> *Nothing appears to be stand out, with the care home being under benchmark for most areas, including infection control, which has trended up but is still under the benchmark level.*

Yes? That's what the rest of the email reflects? Would you agree with that summation?

DR MONKS: Yes.

MR KNOWLES: Yes. And what does it mean to say that it's under benchmark in that context, that it's within acceptable realms? Is that how you understood what she was referring to?

DR MONKS: Presumably, benchmark the average of Bupa homes, the levels - - -

MR KNOWLES: Right.

DR MONKS: - - - that are averaged out, but I don't know.

MR KNOWLES: Were you satisfied with this response?

DR MONKS: No.

MR KNOWLES: No. And why was that?

DR MONKS: Because I didn't think what she was looking at was the right thing to be looking at. I thought it was superficial. And it appeared that she really hadn't looked into what I was saying at all.

MR KNOWLES: And can I ask you this. This response comes in April 2018. A couple of months later there was the mock audit in July of 2018. Were you aware of that at the time?

DR MONKS: No. I may have been aware there might have been an audit coming, but that would have been it, by hearsay in the home.

MR KNOWLES: Yes. But were you involved in that in any way?

DR MONKS: No.

MR KNOWLES: No. Now, you say that you were not satisfied with this response. Was anything done further in addition to this email? Did you follow it up further with Jan Adams?

DR MONKS: No.

MR KNOWLES: And why was that?

DR MONKS: Because that was part of the whole – that represented the last of my fight to try and bring this issue to attention in the company. What else can you do when you talk to the head of the company and that's what they send back to you?

MR KNOWLES: Well, in that regard, can I take you now to an email that was referred to earlier in the opening, which is at tab 86 of the tender bundle. Now, in that email, can I first go to the end of the document, which is the first email in time, which is your email sent at 1.51 pm on the 17th of October. And there you're reporting to Tim that there's been – Tim Ross, that is. Dr Tim Ross – that there's been a four day unannounced accreditation this week. So you're referring to a visit by the aged care – the Australian Aged Care Quality Agency as it then was; is that right?

DR MONKS: Yes.

MR KNOWLES: Yes. And you say:

From what I gather, it is going extremely badly.

And what gave you that impression at the time?

DR MONKS: I believe I might have had a talk with one of the agency officers, who had said that.

MR KNOWLES: And you surmised that:

It's likely we'll be close to be sanctioned.

And, obviously, as it turned out, Bupa South Hobart was the subject of sanctions.

DR MONKS: Yes.

MR KNOWLES: And then you say:

And I would have to say that is nearly entirely due to the reduced RNs used and poorly organised CCM roles. We don't have one per community. We have two CMs doing all communities and a floater. Just doesn't work.

Were these matters that you considered that you had raised earlier in respect of - - -

DR MONKS: Frequently.

MR KNOWLES: Yes. Had you raised it, other than in the emails that I've taken to you earlier, in other ways with people?

DR MONKS: Yes.

MR KNOWLES: And what were those ways and who did you raise it with?

DR MONKS: As I referred to previously, anyone that came into the home I would say something or attempt to, if I could find them. Frequently when I talked to my manager Tim Ross. Everyone and anyone I could.

MR KNOWLES: And that was raised verbally where you - - -

DR MONKS: Verbally.

MR KNOWLES: - - - spoke with them.

DR MONKS: Verbally.

MR KNOWLES: Is that right? Yes. Okay. Well, can I go to the next - - -

DR MONKS: Well, clearly email didn't work.

MR KNOWLES: Sorry?

DR MONKS: Clearly email didn't work.

MR KNOWLES: Can I take you to the next email. And that's from Dr Ross, where he says:

> *Not good news. Seems to be the proverbial everywhere at present.*

To which you then reply, to use your words, with a rant. But you say:

> *Oh, and I did tell them that clinical care had deteriorated, too. The Bupa internal investigation was a superficial farce, by the way, using limited user-dependent outcome measures that were interpreted wrongly.*

Can I just ask you to explain to the Commissioners precisely what you mean by the matters that you raise in that paragraph.

DR MONKS: It refers specifically to the email we've already talked about and Jan's response to my concerns.

MR KNOWLES: So you thought that the response from Ms Adams, as provided in April of that year, was a superficial farce; is that right?

DR MONKS: Yes.

MR KNOWLES: And that the information that was used to formulate that response was limited user-dependent outcome measures that were interpreted wrongly.

DR MONKS: Yes.

MR KNOWLES: Yes. Now, then you say:

> *Oh, am I sounding mad? Yes, because I've sent warnings to operations so many times. No one has ever come to me and asked what exactly I was talking about or where the problems were. And I haven't been approached or contacted by a regional manager for over 12 months.*

What were the warnings that you had sent to operations so many times? I mean, some of them we've seen in the emails. Were there any others that you can recount?

DR MONKS: Verbally.

MR KNOWLES: Yes.

DR MONKS: Verbally. Our GP forums, the emails.

MR KNOWLES: And, in terms of when you mention operations, do you mean people such as Mr Neal, the general manager?

DR MONKS: Not really. He is part of the operations team and it would have been incorporating that, but I probably was thinking more regional manager and upwards.

MR KNOWLES: Yes. Now, in terms of these matters that you have raised, have there been – were there matters that were consistent throughout the period from September 2016 through to this period in 2018 that you consistently raised as being problems?

DR MONKS: Well, the clinical care?

MR KNOWLES: Yes. In terms of the way that clinical care was being delivered at Bupa South Hobart.

DR MONKS: It was a similar story in 2016, improved early 2017, and then deteriorated after that, for the same reasons, mainly lack of governance. Of all those people on the operations team, I believe, now, and the lack of nursing staff and experience.

MR KNOWLES: So what should have changed over that time, in your opinion, to prevent where things ended up with Bupa South Hobart being the subject of sanctions soon after you sent that email?

DR MONKS: I think if people had have listened and acted, we could have fixed quite a number of the problems we've talked about before, improved clinical care and got back to where we were sort of early 2017 when BMOC1 was working effectively.

MR KNOWLES: And why don't you think people did listen?

DR MONKS: I think there was a degree of arrogance, lack of recognition that doctors have something positive to say for the business. And I believe they were people within the company that were portraying me in a light that was not good.

MR KNOWLES: So, subsequent to the imposition of sanctions, what's changed since at Bupa South Hobart?

DR MONKS: A huge amount. There's been a massive amount of support that has been brought in, lots of changes, a real effort to try and improve all the things that I have outlined in – you know, that have been a problem over the years. People are start – are now listening to me and acting on things that I bring up. We now have – we will be having three care managers now, not just two. And we've got an extra nurse shift in the court community, which will significantly improve clinical care there. We're able to access any kind of equipment we can get. We have lots of stores. We're actively recruiting for staff when we need them, although I think that is quite a challenge. We have a – a very good general manager and regional manager who communicate, who collaborate with me. And we – we work together to try and improve the care for our residents.

MR KNOWLES: What does your experience say in terms of what you've gone through at Bupa South Hobart about the governance as it was previously?

DR MONKS: Clearly, if someone had been looking properly at what the general manager was saying and not just taking it superficially, it would have been picked up a lot earlier that there were problems. Again, same for the regional manager, same for the person above that, the whole chain. No one really checked up on anyone or followed through on such a serious complaint from a doctor in a home.

MR KNOWLES: So do you say that there just wasn't sufficient oversight or monitoring of what was being said by people in those management positions?

DR MONKS: Yes.

MR KNOWLES: Now, I don't have any further questions for you, Dr Monks. Is there anything else that you wish to say to the Royal Commission in terms of your experiences at Bupa South Hobart?

DR MONKS: I would like to say that I hope the Commission consider my position and what I've been doing – well, not me, the Bupa GPs in this experience with the Bupa Model of Care. It's an innovative way to try and improve aged care, and I believe it's the way forward. There may be hybrids of that model, but involvement of a medical practitioner in an aged care facility, which is, effectively, hospital patients from when I trained 20 years ago, leads to a lot better quality of life, dignity and clinical care for the residents.

I also hope that, now that I am still with Bupa and things have turned around, that I can take more of a role within the company to help improve the care throughout the company for all the residents. If Bupa as a corporation can achieve the outcomes that are required in aged care in Australia, I would like to be involved and I'd like to help guide that. There's not many companies that could do that that have the power or the financial backing to do it. And if Bupa are able to do that, then I would hope that that's seen as a signal for others to follow.

MR KNOWLES: Thank you, Dr Monks. There is one last formal matter that I do need to attend to.

COMMISSIONER PAGONE: Yes.

MR KNOWLES: And that's the supplementary statement. Dr Monks, do you have a copy of your supplementary statement there - - -

DR MONKS: Yes.

MR KNOWLES: - - - with you? And that is the statement dated the 12th of November 2019.

DR MONKS: Yes.

MR KNOWLES: And it's bearing now the code WIT.0558.0002.0001. And have you read that statement lately?

DR MONKS: Yes.

MR KNOWLES: Yes. And are the contents of the statement true and correct to the best of your knowledge and belief?

DR MONKS: Yes.

MR KNOWLES: I seek to tender the supplementary statement of Dr Monks, dated the 12th of November 2019.

COMMISSIONER PAGONE: Yes. Thank you. That will be exhibit 13-23.

EXHIBIT #13-23 SUPPLEMENTARY STATEMENT OF DR MONKS DATED 12/11/2019 (WIT.0558.0002.0001)

COMMISSIONER BRIGGS: Dr Monks, thank you for your evidence. I've read all the witness statements on the Bupa case study quite carefully. And it seems to me that there was no shortage of Bupa policies and practices on any number of activities that would have, I think, been designed to have Bupa meet the standards. So my question is, given what you saw, why weren't those policies and practices implemented on the ground as they should have been and as I suspect the company was assuring the wider public in its publications and so on?

DR MONKS: Governance. You know, it's no one's actually looking at what is happening, no one knows if they're being implemented or not. I know when the sanction happened and everything was a lot more attention, there were some highly skilled people that came down that knew about the work instructions and educated people on those. So I think, yes, it was because it wasn't monitored.

COMMISSIONER BRIGGS: Wasn't monitored. And you reported to Dr Ross.

DR MONKS: Yes.

COMMISSIONER BRIGGS: Do you feel he was raising these issues or what do you think was happening?

DR MONKS: He told me he was.

COMMISSIONER BRIGGS: And, amongst your colleague GPs who are operating in Bupa services in other parts of the country, were they raising similar issues?

Because we're conscious of the level of failure against the standards that's occurred, because the CEO has talked about that publicly. So what do you think?

DR MONKS: I believe they were. We don't have a lot of contact. We come from a very wide acreage. And you also have to remember that Bupa has 72 homes and at our peak I think we only had 25 GPs or in those homes. But, yes, definitely when I was speaking at the forum with Jan Adams there was a lot of nodding heads and afterwards everyone said, "Thanks for saying something."

COMMISSIONER BRIGGS: Thank you. And since the CEO has appeared on television talking about the changes, has the CEO visited your facility, the new CEO?

DR MONKS: Yes. Yes. Twice.

COMMISSIONER BRIGGS: And are you satisfied that he's acting to work on the sorts of concerns you've raised?

DR MONKS: You're meaning Susanne Dvorak?

COMMISSIONER BRIGGS: Perhaps I saw a different person on the television. Sorry.

DR MONKS: Do you mean Hisham?

COMMISSIONER BRIGGS: Yes. That's right.

DR MONKS: No. I haven't met him. I don't know if he's come down. But he has communicated. He's returned to my emails and he's keen to get me involved in the company more.

COMMISSIONER BRIGGS: Thank you.

MR KNOWLES: Thank you Commissioners, I have nothing arising out of that.

COMMISSIONER PAGONE: Yes. Thank you, Dr Monks. You're excused from further attendance. Thank you for giving your evidence. It's been very helpful.

<THE WITNESS WITHDREW [4.33 pm]

COMMISSIONER PAGONE: Adjourn till 9.45 tomorrow morning.

MATTER ADJOURNED at 4.33 pm UNTIL THURSDAY, 14 NOVEMBER 2019

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