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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

9.51 AM, THURSDAY, 14 NOVEMBER 2019

Continued from 13.11.19

DAY 67

MR P. ROZEN QC, counsel assisting, appears with MS E. BERGIN
MS J. NEEDHAM SC and MS J. BUNCLE appear for Bupa ANZ Healthcare Holdings Pty Ltd and Bupa Aged Care Australia Pty Ltd, Carolyn Joan Cooper & Elizabeth Anne Wesols
MR T. HACKETT appears for Ms Davida Webb
MR D. LLOYD and MS L. BEANAGE appear for Anchor Excellence, Cynthia Payne, Dr Marguerite Haertsch and John Engeler
MS F. McKENZIE appears for Ms Hudec
MS ENGLAND appears for Ms Hechenberger

MS BERGIN: Good morning, Commissioners. There are a couple of appearances to be announced.

COMMISSIONER PAGONE: Yes.

MR T. HACKETT: Good morning, Commissioners. I wish to announce my appearance. My name is Hackett, H-a-c-k-e-t-t. I appear in the interests of Ms Davida Webb, pursuant to leave granted on 30 October 2019. May it please the Commission.

COMMISSIONER PAGONE: Thank you, Mr Hackett.

MR ROZEN: Commissioners, I have outside the hearing room been talking to Ms Fiona McKenzie who I understand appears for a witness that will be called later this morning, Ms Hudec. So I, just out of a matter of courtesy, indicate that to the Commissioners. She may be out of the hearing room at the moment, perhaps talking to her client. I suspect she will announce an appearance in due course.

COMMISSIONER PAGONE: Could it be the person who's just about to walk down?

MR ROZEN: No.

COMMISSIONER PAGONE: No. All right. Thank you.

MR ROZEN: Sorry.

COMMISSIONER PAGONE: Thank you, Mr Rozen. Ms Bergin.

MS BERGIN: May it please the Commission. I call Merridy May Eastman.

<MERRIDY MAY EASTMAN, AFFIRMED [9.53 am]

<EXAMINATION BY MS BERGIN

COMMISSIONER PAGONE: Do feel free to sit down, make yourself comfortable, Ms Eastman.

MS EASTMAN: Thank you.

MS BERGIN: Good morning.

MS EASTMAN: Good morning.

MS BERGIN: Could you please state your full name for the Commission.

MS EASTMAN: Merridy May Eastman.

MS BERGIN: Have you prepared a statement?

MS EASTMAN: Yes, I have.

MS BERGIN: Is there a copy of your statement there in front of you?

MS EASTMAN: Yes, there is.

MS BERGIN: Do you have any amendments to that statement?

MS EASTMAN: Yes, I do. Paragraph 72, when Dr Monks – the last sentence, when Dr Monks had suggested our mother see a doctor outside of Bupa for a foot injury – for a foot infection, that happened two months – that happened one year earlier, not two months.

MS BERGIN: So that last sentence, the first words should read:

Having seen Dr Lavers about her foot a year earlier.

MS EASTMAN: Exactly.

MS BERGIN: Save for that amendment, are there any further amendments?

MS EASTMAN: No.

MS BERGIN: Is it true and correct on the basis of your knowledge, information and belief?

MS EASTMAN: Yes.

MS BERGIN: I tender the statement of Merridy May Eastman dated 31 October 2019.

COMMISSIONER PAGONE: Yes. Thank you, that statement will be exhibit 13-24.

EXHIBIT #13-24 MERRIDY MAY EASTMAN DATED 31/10/2019 (WIT.0582.0001.0001)

MS BERGIN: Ms Eastman, you mentioned to me earlier that you would like me to call you Merridy; is that right?

MS EASTMAN: Yes, please.

MS BERGIN: You live in Sydney.

MS EASTMAN: Yes.

MS BERGIN: Your Mum lives at Bupa South Hobart.

MS EASTMAN: Yes.

MS BERGIN: Your mum's name is Berenice.

MS EASTMAN: Yes.

MS BERGIN: She has lived there since she and your dad first moved there in January 2016.

MS EASTMAN: That's right.

MS BERGIN: They had three periods in respite care in 2013 and 2015, before moving into Bupa South Hobart as residents.

MS EASTMAN: Yes.

MS BERGIN: Your dad passed away on 8 January 2018.

MS EASTMAN: Yes.

MS BERGIN: And his name was Walter.

MS EASTMAN: Yes.

MS BERGIN: Merridy, where did your parents meet?

MS EASTMAN: They met in Sydney in the mid-fifties. They were both from very different parts of Sydney. He was a working-class boy, and she was quite posh, and they met through their appreciation of music at the botanical gardens where he was working for the ABC selling programs, and they met and had a conversation. That was the beginning.

MS BERGIN: That was the beginning. And how many children did they have, Merridy?

MS EASTMAN: Three.

MS BERGIN: How many grandchildren did they have?

MS EASTMAN: They've got two.

MS BERGIN: Could you tell us, what were their hobbies or interests?

MS EASTMAN: They were devoted to the arts, both of them; and that's what, really, you know, kept them together. They loved theatre, music, literature. My mother was a teacher/librarian as well as a writer, and Dad was in broadcasting with the ABC and then administration with the ABC, and then he became The Mercury newspaper's theatre critic here for many years. He got an Order of Australia back in 2010, I think, or around about then. They were both pretty well known in the community because they were curious, generous, outgoing people that got involved in a lot of public arts things and they wanted to encourage children, especially, to get involved.

MS BERGIN: So you were born in New South Wales.

MS EASTMAN: I was born in Canberra.

MS BERGIN: In Canberra. And at what point did your parents move to Tasmania?

MS EASTMAN: I think it was 1974 or 3, yes, we were – and we went to The Friends' School and settled in Sandy Bay and – yes.

MS BERGIN: Your mum has been living in Tasmania ever since.

MS EASTMAN: Yes.

MS BERGIN: When did your parents first move into the retirement village in Vaucluse Gardens?

MS EASTMAN: That was 2008 when – when we knew Mum could no longer take care of Dad. They were both in their late 80s and things were getting a bit difficult so – yes.

MS BERGIN: You mentioned that things were getting a bit difficult; what prompted the move into a retirement village?

MS EASTMAN: My father was becoming more and more ill with diabetes, and the beginnings of dementia. He had had a series of heart attacks and mini strokes. Mum was – they had an extremely happy marriage. Mum was devoted to looking after him to the point where we had to peel her off him, kind of thing and, you know, go off at her for not letting others help. So she – she was really suffering. And she herself has acute osteoporosis and acute scoliosis. She has her head permanently bowed on her chest. She's tiny, she's frail and she was doing things like, you know, putting wheelie bins out on the street and looking after Dad, so we just knew that we had to get them into a retirement village.

MS BERGIN: How did your parents and the family select Vaucluse Gardens?

MS EASTMAN: They had a few friends who were at Vaucluse Gardens and loved it. So they were really going to, you know, a community of friends that they loved and knew and who were interested in the same things. And the care in those days was pretty good. You know, these weren't high care people, obviously, but they had some sort of supervision. They could press a green button and a man would appear at the door saying, "What do you need?" you know?

MS BERGIN: And was it a consideration that there was a residential facility next door to this retirement village?

MS EASTMAN: Yes, that was – in those days it was part of Vaucluse Gardens; it was the next stage of care. And a lot of people went from Vaucluse Gardens to – I don't know what it was called before it was called Bupa, but they went over there and it was – the connection was great because it meant that, you know, people could go and visit each other.

MS BERGIN: Your Dad first moved from Vaucluse Gardens Retirement Village to Bupa South Hobart in 2014, initially for respite.

MS EASTMAN: That's right.

MS BERGIN: And how were those, I think, three respite experiences for your Dad?

MS EASTMAN: He liked it. He liked it very much, because it was relaxing and people looked after him, but he missed Mum. So when she was there, as well, he loved it. And when she was there, as well, she especially loved it. She thought it was like staying at the Hilton.

MS BERGIN: At the Hilton in Bupa South Hobart in 2014?

MS EASTMAN: Yes.

MS BERGIN: And why was that?

MS EASTMAN: She was there because Dad had fallen onto her in the driveway and they both needed care, they both needed to recover. She couldn't keep making meals and things, so we decided the best things was to put them both in Bupa and have some respite. So, yes, they loved it.

MS BERGIN: Why did you describe it as the Hilton?

MS EASTMAN: Mum couldn't believe, because it was the first time in decades that she was putting her feet up and someone else was looking after Dad. It was just what she needed. She was having a well-earned rest.

MS BERGIN: So then, by the end of 2015, you and your siblings decided to move both of your parents into Bupa South Hobart for residential care?

MS EASTMAN: Yes.

MS BERGIN: And they moved into the manor in January 2016. What sort of room were they in?

MS EASTMAN: They were in a lovely room. It was up on the fourth floor and it had a balcony that looked down on the rivulet. My father used to love watching the ducks and things out there. The sun would come streaming in. It was called a double room. We were surprised when we'd seen it – when we first saw it, because we thought it was no bigger than some of the singles that we'd seen, but we were happy with the position of it. And they were happy especially – we sort of engineered it so that they didn't actually see it properly. We showed them photos, but they didn't walk into it until my brother and I spent two weeks moving all their paintings and things and bookcases and so the whole place looked like home when they walked in the front door.

MS BERGIN: And it was a double room in the sense that both your mum and dad could sleep in the same room?

MS EASTMAN: Yes. It was one room, really, with a bit of a wall partition that went halfway along a wall that would divide the bedroom from the lounge room, but it didn't. It was, really, one room with a bit of a partition.

MS BERGIN: You mentioned that you and your brother furnished the room with lots of their possessions. What were your impressions of the facility as a whole at that time?

MS EASTMAN: Our impressions were pretty good, because, you know, you've got these beautiful, immaculate gardens, everything was clean, everything looked comfortable and inviting. So physically it's very appealing. The staff were very friendly. As soon as we moved them in – my parents are very friendly so there was lots of, you know, friendly conversations and welcomes going on.

MS BERGIN: You mention in your statement that there was some initial concerns about five months in, being around May 2016. What were those initial concerns?

MS EASTMAN: Mum was ringing us up with her complaints, because she didn't want to complain directly to any of the carers, because she loved them all so much. She knew all their names, where they were from, their families, everything. So she would ring us and say, you know, "We haven't got – we didn't get breakfast this morning or breakfast was late or there's no sanitary pull ups in the bathroom", which was really important or, "There's no – the rubbish in the kitchen hasn't been taken out for days." And she couldn't get to see – no. That was actually later. Leave that till later.

MS BERGIN: In your statement you say that Mum knew it was a staff to resident ratio problem.

MS EASTMAN: Yes.

MS BERGIN: And why do you make that observation?

MS EASTMAN: Well, because when she needed staff to help with Dad, if no one came when she pressed the emergency button, she would go out on the floor and look for staff and she would not be able to see any staff. And when we went down to Hobart, because we went down every two or three months, we experienced this, as well, because there was just no one around. They weren't, you know, downstairs having a coffee; they were all working, but there just weren't enough of them. They were on different floors.

MS BERGIN: So, to take an example, Merridy – how long did your mum tell you she had to wait if she pressed the buzzer for assistance, for example?

MS EASTMAN: There were different stories. She would press the buzzer usually for emergency with Dad and she had had to wait 20 minutes, 40 minutes. And once no one came and she went looking for help.

MS BERGIN: So it was the case that one time no one came?

MS EASTMAN: Yes. Yes. I don't even know if that was just one case.

MS BERGIN: That's one case that you're aware of.

MS EASTMAN: Yes.

MS BERGIN: What assistance did your Mum provide to others in the facility?

MS EASTMAN: Well, Mum and Dad's room was just next to the common room where a group of about six ladies used to enjoy sitting after any meal and chatting, which was lovely and you could hear them through the wall. And then they would all go to their rooms, especially after dinner, but one would be left behind, because she was blind. And she would sit there and have to wait until a carer or someone came and took her to her room.

And she'd sit there quietly for some time and then inevitably she'd start to call, "Hello. Hello. Hello." And then we would – Mum would go and, you know, try and find help. If we were there, we would go and try and find help, but Mum was ringing us up saying on several occasions she had to take this lady to the toilet, because she was calling out for help going to the toilet and Mum had pressed the buzzer and no one had come. So my 90 year old mother was taking a 90 year old blind woman to the toilet, which was a dangerous situation.

MS BERGIN: And in calling out, "Hello. Hello," was the blind resident left in a common room and unable to navigate her way back to her room?

MS EASTMAN: Yes.

MS BERGIN: And she was calling out, was she, to – and tell me if I'm wrong about this. She was calling out to seek assistance with navigating the facility.

MS EASTMAN: That's right. She couldn't navigate on her own at all.

MS BERGIN: And your Mum could hear her because the common room was near to the double that she shared with .....

MS EASTMAN: Yes. And Mum always kept the door open, so you could just hear through the wall, but if you had the door open you could hear everything.

MS BERGIN: What gap – just to spell it out a little bit more, what did your Mum seem to be – what gap did you observe your Mum was filling here?

MS EASTMAN: She was caring for her husband and the blind resident, which was ridiculous. The carers were everywhere doing as much as they could, but Mum was left in this situation on a daily basis or a weekly basis – daily with Dad, weekly with this lady, I'd say, or every fortnight, maybe.

MS BERGIN: And when you say your Mum was caring for your Dad and the blind resident, this in the sense she was carrying out activities that you expected care staff would carry out?

MS EASTMAN: Yes, because some of the things that Mum was doing herself for Dad were things like dressing him, helping him with his incontinence problem. She was taking his soiled clothes downstairs to wash in the washing machine, bringing them back up. So she was permanently moving around, dressing him, picking up crumbs off the floor, making their bed, washing his clothes. Whenever a carer was available they did these things, but this was the problem, that they just weren't availability on a daily basis, and so my mother was doing it on a daily basis.

MS BERGIN: And how old was your Mum at this time?

MS EASTMAN: She was 89, 90.

MS BERGIN: Did you or your mum or siblings bring this situation with your mum filling gaps left by care staff absence to the attention of Bupa South Hobart or to management or staff?

MS EASTMAN: We brought it up with whoever walked into the room when we were there, in a friendly way, because we often shared our concerns with carers who were also finding it frustrating. We wrote emails to Rayleen Frezel when she was

general manager and to David Neal when he took over. And then later on we started writing emails to the two care managers at the manor.

MS BERGIN: Yes. And we will just refer to those care manager as the clinical care managers today.

MS EASTMAN: Clinical care managers.

MS BERGIN: What response were you given?

MS EASTMAN: We were always told that we were wrong about the staff to resident ratio, that there was adequate staff, even though there clearly wasn't. That was a repeated sentence in the emails. They also were very well intentioned, I'm sure, in saying, you know, "Yes. We will get onto this" and, "Thank you" and promising us that improvements would be made, including a family conference at one point in May, I think, 2016 when things were really obviously going off the rails and we needed to have some kind of get together.

MS BERGIN: So the response was well intentioned and saying, "Yes. We'll get onto this."

MS EASTMAN: Yes.

MS BERGIN: And what observation did you make about things that did or did not change?

MS EASTMAN: One observation I made was that Mum was quite often referred to as a bit stubborn, "not letting us", "she's being difficult", you know, in a friendly way, but it was – they were passing the blame onto Mum that she was not open to receiving help and support. And I think that there is some truth in that, but I think this is one of those gaps that has to be filled in aged care where you have to have that conversation very clearly with an independent ageing person that they are there because they can give up all those things and they will be cared for now. But, on the other hand, my mother is not seeing that care, so who can blame her for not, you know, still making the bed and still picking up the crumbs and still changing Dad.

MS BERGIN: So that sounds like an explanation as to why things didn't change.

MS EASTMAN: Yes.

MS BERGIN: But what observations did you make about the situation with your mum having to assist your dad with dressing and with assisting the blind resident, with responses to the buzzer, for example? Did you notice – observe any changes in the care given by the staff?

MS EASTMAN: No, not really. I think you can see that in all our emails, repeated emails, saying, "This still isn't happening" and – there weren't any cleaning staff on

the weekend or it just kept – but the emails back were very reassuring, but the actual, you know, action on the floor wasn't that different. There was still a problem.

MS BERGIN: Now, by about May 2016, you started to bring problems to the attention of Mr Neal at the facility.

MS EASTMAN: Yes.

MS BERGIN: And this also related to lack of staff on the floor.

MS EASTMAN: Yes.

MS BERGIN: And this is around paragraph 22 and 23 and 28 of your statement. How did you find – what changes resulted or what response were you given at this time?

MS EASTMAN: Well, the same thing, really. We're complaining about – about there being not enough staff.

MS BERGIN: And was that, in your opinion, the cause of the problems that your mum and your dad were experiencing?

MS EASTMAN: Yes. That was the main cause, that there just weren't enough of them. I'd say another cause associated was there wasn't enough trained staff. Sometimes they had staff that were very lovely young people that clearly hadn't had much experience or training. You never knew really what they'd had. That was also a problem.

MS BERGIN: And when you refer to staff, is that to care staff or nursing staff or registered nurses or a different category of staff?

MS EASTMAN: I'm mainly referring to the care staff. The registered nurses were fantastic, but there was never enough of them. There was never enough of them. You know, we had a real problem with medical attention at Bupa altogether.

MS BERGIN: Now, your father's health started to deteriorate in about July 2017 and again in November 2017. How was this for your mum?

MS EASTMAN: This was really upsetting for Mum, because, on the one hand, she's watching her husband deteriorate, so there's the distress of that. On the other hand, she is in despair, because she sees he's not getting the help that he needs. She's also in despair because she's not getting the support she needs to help him. And she's also feeling anxious about her own future. It's a cumulative – it's – it adds to a huge feeling of insecurity in an aged resident when they see someone they love dearly not getting the support and care that they need.

MS BERGIN: Do you want to have a glass of water, Merridy?

MS EASTMAN: Yes. Thanks.

MS BERGIN: There's some tissues there, as well, if you - - -

MS EASTMAN: Yes. I'll be fine.

MS BERGIN: Okay. Merridy, at about this time you mention that your mum was approached about moving rooms; is that right?

MS EASTMAN: No. What happened was my mum asked about moving rooms herself, because it was getting to the point that Dad was so dangerously unstable on his feet – and in every way, actually, with his health, his heart failure and his dementia – that she said – I think it was July 2017 and then again in November 2017. She said, "I'm just not coping." Maybe he should be in a separate room and I could visit him every day, but then people would stop seeing us as a unit and they would realise that I need care and that he needs care and then things would get better. And we thought that was a great idea.

So we actually brought it up with Bupa and asked about, you know, the possibilities of rooms and deposits and all the money that that would entail. But we were curious, but then Mum said, "No. No. No. I don't want to do it, because I couldn't bear to do it to him." So she was too emotionally attached to Dad to do it. And then she changed her mind again in November, because, again, she was really suffering.

MS BERGIN: So there was a bit of tension for your mum between her care needs and her attachment and love for your dad?

MS EASTMAN: Definitely.

MS BERGIN: What were your feelings about this situation?

MS EASTMAN: I thought that she nailed it when she said that "They see us as a unit". I think that there's a danger in that double room because if you don't have enough staff and people are rushing – well, not rushing but, you know, in a hurry from one thing to another past the doorway and they can see two elderly people sitting together, it looks like they're okay. But if they were sitting on their own, one might come in and say, "Are you okay?" and find out no, they're not. So that was a problem.

MS BERGIN: How was your mum's own health at this time?

MS EASTMAN: She was not great. She had a series of urinary tract infections and we suspect that's because of the lack of hygiene care because of the lack of sanitary pull-ups available all the time. For some reason there was, I gather, some cost-cutting method of supplying only three sanitary pull-ups a day. Sometimes there were two. Sometimes there was, you know, we would go looking for them. So she had a series of UTIs. She had her pain from her scoliosis and osteoporosis. Her neck

– which, you know, if you can imagine just walking around the entire time with your head resting on your chest and you're picking up crumbs off the floor, dressing your husband, and taking him in and out of rooms.

She never complained but she was in pain. We knew because she had the Osteo Panadol, whatever it was called, with her all the time. She was extremely stoic and more worried about him so she didn't often speak up about her own pain but it was clear that she was in pain.

MS BERGIN: Your dad passed away in January 2018.

MS EASTMAN: Yes.

MS BERGIN: How did your mum manage his death?

MS EASTMAN: She was – she was devastated, of course. We all knew it was coming. It was just a time of great sadness.

MS BERGIN: Yes.

MS EASTMAN: She was very stoic. She – yes, we were all there. We had all been there for Christmas so we were all there through mid-December till the end of January in the end so that we could help her, but then we all had to go back and get on with our own lives but she was coping.

MS BERGIN: Yes. So through December and January you and your two siblings were with your mum supporting her - - -

MS EASTMAN: Yes.

MS BERGIN: - - - through this difficult time, and your mum at this stage was still in the double room that she had shared with your dad.

MS EASTMAN: Yes.

MS BERGIN: How did she feel about her – I withdraw that. What were your mum's feelings about wanting to stay in the room?

MS EASTMAN: Well, we had been told by the manager, David Neal, when we were talking about moving them into separate rooms that once Dad moved out of their room that Mum would have to go too, because it was a double room and it could only be used for two people. So now that Dad died, we were terrified that they were going to tell Mum to go out of the room, to leave the room and put her in another room.

MS BERGIN: And you were terrified because your Mum wanted to stay there with her memories of your Dad.

MS EASTMAN: It was her home. It was her home, and two of the clinical care managers had said to her, "This is your home, you won't have to move out of this room". And my sister was present when both of those conversations happened. So we started to feel – and also because the room is the same size, as I said, as some of the singles – we started to feel secure about her. Surely, you know, someone who has been here for two years, who everyone loves, who's such a lovely person, who's going through this awful situation, who's not well, surely, they won't throw her out, or at least not in a hurry, you know. And I don't want to say throw her out; no one talked about it like that, but in hindsight that's what it felt like.

She was – you asked how she felt. She was terribly distressed about it to the point where we actually lied to her. We told her a lot of lies around this time because she was really going through a difficult time. We told her, "It's all right. You can stay. You can stay", so – and we were madly, you know, doing things behind the scenes to try and get her to stay.

MS BERGIN: When you say you lied, do you mean that you said things to reassure her - - -

MS EASTMAN: Yes.

MS BERGIN: - - - which might be sort of true only in the short time but not a long time plan.

MS EASTMAN: That's right. Well, we had looked at the contract by now and we could see that two people had to be in this room, and that if one died the other one had to go to a single room. It did not say in the contract anything about timeframe and we repeatedly asked David Neal to tell us – give us some sort of timeframe.

MS BERGIN: Okay. And what did Mr Neal say about whether or not your Mum had to move in the short or medium or long term out of the double room that she had been sharing with your dad for years now?

MS EASTMAN: Well, he was away on holidays when Dad died, but he was coming back towards the end of January, the last week, and we desperately tried to, before we left Hobart on 24 January we tried to have a meeting with [REDACTED], the clinical care manager – yes, acting manager - - -

MS BERGIN: The clinical care manager?

MS EASTMAN: Yes. Who I think at that time was acting manager while he was away. Because we were dreading that this move might actually be enforced on Mum once we had left.

MS BERGIN: And when you say "once you left", do you mean once you and your siblings returned to your respective homes around the country?

MS EASTMAN: Yes. So it wasn't until David was returned on – I think it was 25 January, somewhere around there, that he started to say very firmly in a series of emails 'Your mother has to go" and it was like now, next week. Dad had died three weeks earlier.

MS BERGIN: And your dad's funeral had been on 22 January.

MS EASTMAN: I think it was the 21st, yes.

MS BERGIN: 21 January. How long – what would you – so your mum was put under – or the family was put some pressure for your mum to move.

MS EASTMAN: We were put under incredible pressure. We were writing a series of emails almost begging him to be kinder and compassionate to Mum and not make her move three weeks or even four weeks after she lost Dad. I should also say that at this point Mum – she had had a failed root canal procedure just before Dad died and so now she was on pain-killers for the tooth.

MS BERGIN: What would you have preferred for your mum?

MS EASTMAN: I would have preferred – I will just finish what I was saying. She was on pain-killers and her usual medication and antibiotics and she had just lost Dad, and she had acute osteoporosis and scoliosis. And she and all of us would have preferred that she could stay in her room, which wasn't her room, it was her home, for one or two months longer than this. We were prepared to all come back to Hobart and help facilitate this move but we thought do it to her, none of us were there to help, when we had been asking for responses while we were still there and getting none, to make her go through this on her own with so little notice at such a time in her life was cruel.

MS BERGIN: And what was your understanding of the reasons the facility required your mum to move promptly?

MS EASTMAN: David Neal's emails over and over again – sorry – never referred to our mother and her situation. They referred to 119 beds, revenue, income, loss. It was like – it was like we were on the same board as him and not a family of a resident. Sorry. So we found his – his emails were very callous and business-like and our situation couldn't have been more personal and distressing, requiring compassion.

MS BERGIN: Merridy, you mention later in your statement at 71 that your family wasn't offered a condolence book for your dad in what you describe as the – unlike every other resident who has passed away at Bupa South Hobart.

MS EASTMAN: Yes.

MS BERGIN: Why was that?

MS EASTMAN: We didn't know. We all noticed it because we had been visiting Bupa for years and we had seen people pass away and get this condolence book always as you came into the building so that you couldn't miss it, and when our father died he didn't get one. We noticed it. We felt hurt. We didn't say anything. I think we genuinely didn't say anything because we were so worried about Mum and what she was going through. We actually were robbed of the whole grieving for Dad process because of this room business. It just – there wasn't the time to sort of argue about that or, you know, petition for that as well; we just noted it and thought that was really hurtful because it seemed deliberate.

By now we knew that we were a real thorn in the side of management and the emails were letting us know that we were not their favourite family. So we kind of wondered if it was a personal statement.

MS BERGIN: Merridy, you mention at paragraph 104 that you consider there have been improvements at Bupa South Hobart since the facility was sanctioned in October 2018. How do you think – consider things have improved?

MS EASTMAN: Okay. I think that – I think they have improved because of, you know, losing accreditation and being in the news and knowing they've got to quickly lift their game – well, not lift their game but change their game. I think that Mandy Woodorth, the manager that came on board was much more approachable and proactive and got a lot of things going. She certainly opened up communication between residents, families and management in a way that I had never witnessed before. I thought she was wonderful in that regard. And so we could see changes on the floor in terms of there being so many less residents; there was more relaxed staff with more time.

MS BERGIN: Have you noticed any improvement in your mum's care needs being met?

MS EASTMAN: Yes. I think that there's a little bit more daily routine which we had petitioned for for months about hearing aids and bathing time – bathing at all. I think that is now happening on a very regular basis. Someone knocks on her door and offers her a cup of tea in the afternoon which they didn't used to. They did at The Manor but not at The Court.

MS BERGIN: Merridy, I'll just pause you there; you say that the staff to resident ratio appears to be higher than it was before. Why is that, do you think?

MS EASTMAN: Well, my feeling is that it's because there's so fewer residents because they weren't allowed to take on new residents in this period. That's my honest answer to that.

MS BERGIN: Yes. You mentioned just a moment ago that one of the things that has improved is communication and I just want to ask you about complaints management and what would assist, in your view, moving forward. Would it assist if

there was more transparency about complaints that have been made, when they were made, when they were responded to and what's changed, for example?

MS EASTMAN: Definitely. There's no transparency at the moment. You write these emails to a clinical care manager or to the manager, and you get a reply and you don't know who they've spoken to or when or what the outcome was. You just know that nothing much has changed. I think that it would be great if there was some kind of group of representatives from – from family, residents, care – carers – I was going to say nurses but there's so few nurses they wouldn't have time – to get together and discuss the problems and then take their findings back to management. I don't see why something like that can't happen on a regular basis.

MS BERGIN: Yes. Would it be of assistance if there was a complaints register?

MS EASTMAN: It would depend if it was, you know, a cardboard box by the - - -

MS BERGIN: A register where you could – a transparent register that you could inspect - - -

MS EASTMAN: Yes.

MS BERGIN: - - - that anyone could inspect.

MS EASTMAN: I think that's a great idea, yes.

MS BERGIN: And better process around complaints management.

MS EASTMAN: Yes. At the moment I don't even know what it is, that process.

MS BERGIN: Okay. Now, Merridy, just finally, I wanted to ask you why it was important for you to give evidence today to the Royal Commission?

MS EASTMAN: It's important because – because of what we saw our parents go through which was unnecessarily – and remains to a certain extent because Mum is still there, unnecessarily heartbreaking. I shouldn't be feeding other residents at the table when I go to visit Mum. She shouldn't be helping residents go to the bathroom. I just think it's really important to speak on behalf of these people and to draw our attention to the carers as well and they're also suffering. You know, you don't go and work in aged care for money, clearly; you do it because you want to be of service to elderly people. So I think everyone in these buildings is suffering as a result of bad governance and – and I hope that this Royal Commission shines a light on that and changes it.

MS BERGIN: Thank you, Merridy. Commissioners, that concludes my examination of this witness.

COMMISSIONER PAGONE: Yes, thank you. Ms Eastman, thank you for giving evidence and for your part in shining the light on these circumstances. It's a distressing story that you have told us of a lack of care and compassion, of two elderly people at a time when they needed care and compassion. And it's distressing to hear that that is – that lack has been motivated even in part for a need to earn profit or increase revenue. We're very grateful that you've come out. I'm sure there are lots of other people who are grateful that they've heard your story on their behalf. Thank you.

MS EASTMAN: Thank you.

COMMISSIONER PAGONE: I think I must formally excuse you from further attendance.

MS EASTMAN: Thank you.

<THE WITNESS WITHDREW [10.30 am]

COMMISSIONER PAGONE: Yes, Mr Rozen.

MR ROZEN: Commissioners, I call Elizabeth Wesols and Stephanie Hechenberger. Commissioners, while the witnesses are making their way to the witness box, could I just raise one housekeeping matter. I think you should have in front of you an A3 table, which was what I had had on the screen yesterday during the opening. I've discussed this with my learned friends. They're content for that to be before you, really, by way of an aide-mémoire. It's a document that's been prepared by the staff in the Commission. I'm happy to tender it, if it would be helpful from an identification point of view. I don't know if that's really necessary.

I hand it up subject to this. Ms Needham's instructors have prepared – that is, Bupa's legal team have prepared a similar document, albeit one that's more comprehensive, in the sense that it extends to the periods after sanctions, whereas this one is only concerned with audits before sanctions. I'm quite content for both of them to be before the Commission. We don't take any issue with the accuracy of theirs, they don't take issue with the accuracy of ours. They depict different timeframes, essentially, and used different colour, because they've got more colours than us. We concede that. So I think copies are available.

COMMISSIONER PAGONE: Yes. Thank you, Mr Rozen.

MS NEEDHAM: Thank you, Commissioners. The spreadsheet which we have prepared, as my learned friend says, provides a longer timeframe. And it also, rather than merely having compliance or not assessed or not – not assessed yet, commented on in the same colour, we've split that up. And we think, with respect to my learned friend, it's more helpful. But if I could hand that up.

COMMISSIONER PAGONE: Presumably more informative?

MS NEEDHAM: Yes. My friend Mr Rozen suggests I read the code onto the transcript. The green is compliant or met. The code. I'm sorry. BPA.001.274.0001.

COMMISSIONER PAGONE: All right. Thank you.

MS ENGLAND: Might I just announce my appearance, too. My name is England. I appear instructed by MinterEllison for Ms Hechenberger pursuant to leave that was granted on the 30th of October 2019.

COMMISSIONER PAGONE: Yes. Thank you, Ms England.

MR ROZEN: For completeness, Commissioners, I should read the code of our table onto the transcript, too. It's RCD.9999.0263.0001. Thank you.

COMMISSIONER PAGONE: Thank you.

<ELIZABETH ANNE WESOLS, SWORN [10.34 am]

<STEPHANIE GAI HECHENBERGER, SWORN [10.34 am]

COMMISSIONER PAGONE: Yes, Mr Rozen.

MR ROZEN: Thank you, Commissioners. In no particular order of importance, I assure you, Ms Wesols, can I ask you to please state your full name for the transcript.

MS WESOLS: I'm Elizabeth Anne Wesols.

MR ROZEN: And, Ms Wesols, have you provided the Royal Commission with a witness statement dated the 9th of October 2019 that has the code WIT.0444.0001.0001?

MS WESOLS: Yes, I have.

MR ROZEN: And I think you've got a hardcopy of that in front of you.

MS WESOLS: Yes.

MR ROZEN: And there should also be the first page of that on the screen. Are there any changes that you wish to make to your statement?

MS WESOLS: Yes. I would like to make a change to paragraph 4.

MR ROZEN: Yes.

MS WESOLS: So just to state that currently I'm now working as a regional support manager for region 12 for Bupa.

MR ROZEN: Okay. So would you have us add the following – or would you like to add the following words to the end of paragraph 4:

> *On 30 October 2019, I returned to being a regional support manager for region 12, covering Portland, Ballarat, Barrabil, Bellarine Lake.*

Is that right?

MS WESOLS: Lakes.

MR ROZEN: And Sunshine.

MS WESOLS: That's correct.

MR ROZEN: With that change being made by those words being added to the end of paragraph 4, are the contents of your statement true and correct?

MS WESOLS: Yes, they are.

MR ROZEN: I'll tender the statement of Ms Wesols, Commissioners.

COMMISSIONER PAGONE: Yes, the statement of Ms Wesols will be exhibit 13-25.

EXHIBIT #13-25 STATEMENT OF MS WESOLS DATED 09/10/2019 (WIT.0444.0001.0001)

MR ROZEN: Ms Hechenberger, could you please state your full name for the transcript.

MS HECHENBERGER: Yes. My name is Stephanie Gai Hechenberger.

MR ROZEN: And, Ms Hechenberger, you have made two witness statements for the Royal Commission?

MS HECHENBERGER: That's correct.

MR ROZEN: The first of those is dated the 3rd of November 2019 and bears the code WIT.0607.0001.0001.

MS HECHENBERGER: That's correct.

MR ROZEN: Yes. And do you have a copy of that first statement that you've made handy?

MS HECHENBERGER: I do.

MR ROZEN: And is there anything that you would like to change in that statement?

MS HECHENBERGER: No, Mr Rozen.

MR ROZEN: All right. There does appear to be a typographical error that may have slipped through the net. It's on – it's in paragraph 102. As I'm reading it, anyway, it looks like it's an error. It's on page 17. If that could perhaps be depicted on the screen. You've got a hardcopy in front of you, Ms Hechenberger?

MS HECHENBERGER: I do.

MR ROZEN: You'll see in the second line of paragraph 102 the word "complaint".

MS HECHENBERGER: I'm sorry, yes.

MR ROZEN: Should that be "compliant"?

MS HECHENBERGER: It should.

MR ROZEN: All right.

MS HECHENBERGER: Thank you for that.

MR ROZEN: That's all right. With that change, are the contents of your statement true and correct?

MS HECHENBERGER: That's correct.

MR ROZEN: I tender the statement of Ms Hechenberger dated the 3rd of November 2019, Commissioners.

COMMISSIONER PAGONE: All right. The statement of Ms Hechenberger dated the 3rd of November 2019 will be exhibit 13-26.

EXHIBIT #13-26 STATEMENT OF MS HECHENBERGER DATED 03/11/2019 (WIT.0607.0001.0001)

MR ROZEN: And, more recently, Ms Hechenberger, you have made a further supplementary statement, dated the 12th of November 2019?

MS HECHENBERGER: That's correct.

MR ROZEN: And the code for that is WIT.0607.0002.0001.

MS HECHENBERGER: That's correct.

MR ROZEN: And have you had an opportunity to read through that statement before coming along to the hearing room this morning?

MS HECHENBERGER: Not this copy in front of me, but I have read the statement that was submitted. Yes.

MR ROZEN: Okay. And are you satisfied the contents of that second statement are true and correct?

MS HECHENBERGER: I am.

MR ROZEN: I tender the further statement of Stephanie Hechenberger, dated the 12th of November 2019, Commissioners.

COMMISSIONER PAGONE: Yes. The statement of Ms Hechenberger dated the 12th of November 2019 is exhibit 13-27.

EXHIBIT #13-27 FURTHER STATEMENT OF MS HECHENBERGER DATED 12/11/2019 (WIT.0607.0002.0001)

MR ROZEN: If the Commission pleases. Ms Wesols, if I can just return to you briefly and just ask you some brief questions about your professional background and the roles that you have performed whilst working for Bupa. As you've told us, you presently perform the role of regional support manager for region 12.

MS WESOLS: Yes.

MR ROZEN: Is that right?

MS WESOLS: That's correct.

MR ROZEN: And those six care homes – perhaps there's five care homes that you've identified, are they the only homes that are your responsibility presently?

MS WESOLS: That's correct.

MR ROZEN: Okay. And is that a change that's been implemented recently in Bupa, to reduce the number of homes that a person in your position is responsible for?

MS WESOLS: Yes, that's correct.

MR ROZEN: It was previously 10 or as many as 14, was it not - - -

MS WESOLS: Yes.

MR ROZEN: - - - in days gone by? And it probably goes without saying, but do you see that as being a beneficial change in your role?

MS WESOLS: Absolutely. Yes. It's going to be so much easier to be around and support less homes.

MR ROZEN: We will come to this, but was at least some of the explanation for events at Bupa South Hobart that the Commission is investigating to do with a number of homes that you were responsible for at that time, including Bupa South Hobart?

MS WESOLS: I believe so.

MR ROZEN: All right. Now, you are by professional training a registered nurse?

MS WESOLS: That's correct.

MR ROZEN: And you have had some 32 years working in aged care?

MS WESOLS: Yes. That's correct.

MR ROZEN: You've worked for Bupa since 2007 in a variety of roles.

MS WESOLS: Yes, that's correct.

MR ROZEN: And, as you explain in your statement, in the period that I'm going to be asking you about, between 2014 and 2018, you were, with some breaks, as you explain at different times, you were the regional support manager for Victoria/Tasmania for Bupa.

MS WESOLS: Yes, that's correct.

MR ROZEN: And during that period how many homes were you responsible for in your role as regional support manager?

MS WESOLS: It did change, but generally more than 10 or more over a vast distance.

MR ROZEN: Okay. South Hobart was, of course, one of those homes.

MS WESOLS: Yes.

MR ROZEN: It's presently the only Bupa home in Tasmania. That's right, isn't it?

MS WESOLS: Yes.

MR ROZEN: Was that also the case during that period?

MS WESOLS: Yes, that's correct.

MR ROZEN: And the role of regional support manager, as I understand the evidence that's before the Commission, was to provide clinical and operational support to general managers, that is, the managers of individual homes; is that right?

MS WESOLS: That's part of the role, yes.

MR ROZEN: Are there other aspects of the role that are presently significant that you need to tell the Commissioners about?

MS WESOLS: Yes. Certainly, part of the role is working very closely with the clinical team - - -

MR ROZEN: Yes.

MS WESOLS: - - - coaching, mentoring and monitoring and supporting that group of people in the home.

MR ROZEN: And that's downward in a sense of your responsibilities, that is, you're responsible for the homes that are within the area that you're covering, but above you in the hierarchy was a regional manager; is that right?

MS WESOLS: That's correct.

MR ROZEN: And between August 2016 and May 2018 that was Ms Hechenberger, who's sitting next to you.

MS WESOLS: That's correct.

MR ROZEN: Yes. All right. And I will come back and ask you a little bit more about the respective roles of the two of you. But if I could turn to you, please, Ms Hechenberger, you don't have any medical training?

MS HECHENBERGER: That's correct.

MR ROZEN: Yes. Your qualifications are included in your first statement. They include an MBA.

MS HECHENBERGER: That's correct.

MR ROZEN: Is that right? And when you started with Bupa in August 2016 as the regional director, that was your first role in aged care; is that right?

MS HECHENBERGER: It was, yes.

MR ROZEN: Do you have a present role in aged care, as well?

MS HECHENBERGER: I do.

MR ROZEN: You do. All right. You've heard the questions that I've asked of Ms Wesols. You, too, were initially responsible for 10 homes; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN: And they were in Victoria and Tasmania.

MS HECHENBERGER: They were.

MR ROZEN: And at some point that increased to 14. Is that right?

MS HECHENBERGER: That's also correct.

MR ROZEN: So, presumably, additional homes in Victoria were added to your area of responsibility.

MS HECHENBERGER: They were all in Victoria, mostly in the Melbourne area, but including Ballarat, as well.

MR ROZEN: Right. Okay. We're told – as you heard me asking Ms Wesols, we're told by the evidence of Ms Cooper, who will be giving evidence tomorrow, that a regional manager now manages no more than seven homes. Drawing on your experience, would you also, like Ms Wesols, see that as an improvement?

MS HECHENBERGER: Significant improvement.

MR ROZEN: And can you tell us why?

MS HECHENBERGER: The challenge with having so many homes in our portfolios was that we tended to focus on homes that were in need. That was primarily because at any point in time there was a home that needed particular attention. That meant we were mostly reactive to what was happening in those

homes, having a lesser amount of homes would have enabled us to spend more time in homes that weren't displaying issues and challenges that needed our support.

MR ROZEN: Now, at paragraph 13 of your first statement, Ms Hechenberger, you explain that the regional director role was, to use your words:

The key connection between Bupa executive and the care homes.

MS HECHENBERGER: That's correct.

MR ROZEN: Can you expand on that for us, please. In what way were you the key connection?

MS HECHENBERGER: Well, the organisation was very large. There were 72 homes in the portfolio. That – it was a key interest in my experience of the executive that there was repeatable process and continuity across those 72 sites. In order to achieve that, information, communication and direction was channelled through the regional directors to disseminate to their homes.

MR ROZEN: I take it that that information flow – which is obviously very important for the governance of the organisation which I will ask you about in a moment – the information flow is a two-way thing, that is, you were a conveyor of information from the facility up through to the executive; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN: And equally, you were conveying decisions and information that were taken at the executive level back down to the facility.

MS HECHENBERGER: Also correct.

MR ROZEN: Right. Given that you didn't have a clinical background – I make no criticism of you about that – but given that you didn't, you were presumably quite heavily reliant on those of your colleagues that did.

MS HECHENBERGER: That's correct.

MR ROZEN: Ms Wesols was one of those.

MS HECHENBERGER: She was a key person in that communication.

MR ROZEN: Equally, for most of the period that you were regional director you had Mr Neal who had clinical training as a nurse at Bupa South Hobart.

MS HECHENBERGER: Yes, he was a registered nurse.

MR ROZEN: And Dr Monks was also medically trained - - -

MS HECHENBERGER: That's correct.

MR ROZEN: - - - and she was present at Bupa South Hobart during that time.

MS HECHENBERGER: That's correct.

MR ROZEN: Part of your responsibility, you tell us in your statement – it's at paragraph 20, I don't need you to look at it, but you explain that part of your responsibility was to oversee the general managers who themselves had operational responsibility for quality and safety?

MS HECHENBERGER: That's correct.

MR ROZEN: And what was your relationship with the clinical service improvement team in Sydney, as you understood it?

MS HECHENBERGER: So we would interact, both at a regional level but also for individual homes around a range of clinical activities, reporting processes. They would keep me closely informed as to their scheduling, what they were looking at, what they were finding. I also was able to activate that team for any clinical support to investigate anything that I or the regional support manager found or suspected or indicated in our time in the home. It was a very close working relationship with the CSI team.

MR ROZEN: Can I just clarify that a little more if I could; so the CSI team, or clinical service improvement team was a specialist group of Bupa employees based in Sydney; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN: Was that head office at that time?

MS HECHENBERGER: Yes, it was.

MR ROZEN: All right. And you may not be able to tell us this, but how many people were there in the clinical service improvement team during your time as regional director?

MS HECHENBERGER: To my best recollection, I think there were about five streams of different areas that they worked in, each having multiple clinicians working within those streams.

MR ROZEN: There is some evidence before the Commission which I understand Ms Hudec will be giving later today that in her time as the head of the clinical service improvement team there was a reduction in numbers of staff in that team. Do you recall that happening?

MS HECHENBERGER: I do.

MR ROZEN: And did that impact on your ability to extract value from the CSI team?

MS HECHENBERGER: Yes, it did.

MR ROZEN: In what way?

MS HECHENBERGER: It impacted in a few ways. Firstly, it was a loss of knowledge. When we worked together over long periods of time in the homes, we became very familiar together about information in the home. We could assess quite quickly whether we expected things to be easy to improve or more challenging to improve. So that loss of knowledge was the first loss in that situation.

MR ROZEN: Yes.

MS HECHENBERGER: Head count, so just availability of people and their speed at which they could be deployed to provide support. And then confusion as to who do I go to for particular supports as roles and responsibilities were changing as well.

MR ROZEN: Your direct report, that is, the person that you directly reported to, was the director of operations; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN: And was that Mr Ian Burge before he left in November 2017.

MS HECHENBERGER: It was.

MR ROZEN: After that you reported to the chief operating officer.

MS HECHENBERGER: I did.

MR ROZEN: And that was Carolyn Cooper.

MS HECHENBERGER: No, that was Maureen Berry.

MR ROZEN: Maureen Berry. It may just be me, but my reading of the material indicates a large number of changes, both of job descriptions and personnel in various managerial roles. Was that your experience at Bupa?

MS HECHENBERGER: In reviewing the documents that, many of which are after my time at Bupa, I also gained that same experience that you did.

MR ROZEN: I'm not so much interested in the experience you gained from reading the documents but rather during the time that you were regional director, was that a feature at that time of Bupa?

MS HECHENBERGER: Not at my time.

MR ROZEN: Okay.

MS HECHENBERGER: So Maureen Berry became acting – in my best recollection, she was acting COO. She was then appointed to COO and I remained reporting to her until my departure.

MR ROZEN: So the – my word – the instability in managerial positions is something that appears to have occurred largely since your time with Bupa?

MS HECHENBERGER: I believe so.

MR ROZEN: Ms Wesols, if I can return to you, I want to ask you about an aspect of your statement where you describe the clinical governance framework at Bupa. This is in paragraph 24 of your statement on page 6 which will be brought up on the screen in front of you and hopefully highlighted. Sorry, it's WIT.0004.0001.0006. If we just to go the sixth page. In paragraph 24 there, about a quarter of the way down the page, you refer to the self-audit work instruction which was an internal Bupa work instruction which I don't think I need to take you to unless it would help you. You say:

> *The clinical governance framework which was in place throughout the relevant period –*

that is, in rough terms, 2016 to 2018 you were being asked about.

MS WESOLS: Yes.

MR ROZEN:

> *...was designed, as I understand it, to help the business to identify significant or high-risk areas of the business in conjunction with legislation and compliance with the Australian Aged Care Accreditation Standards. My understanding was and is that the purpose of the clinical governance framework was to monitor, check and evaluate care provided within the care homes.*

And I take it you're comfortable with that description that's included in your statement of the clinical governance framework.

MS WESOLS: Yes.

MR ROZEN: It sounds like it was a very important aspect of the overall governance structure at Bupa. Would you agree with that?

MS WESOLS: Yes.

MR ROZEN: And in general terms from your perspective, looking back on the period that we're examining, that 2016/2018 period, do you consider that the clinical governance framework operated to achieve those outcomes at Bupa South Hobart?

MS WESOLS: On preparation and reading the results of – are you referring to the mock audits, Mr Rozen?

MR ROZEN: Well, in part I am, yes.

MS WESOLS: Yes. It was clear that at times we certainly did not reach full compliance throughout those mock audits, but as part of that framework was also the response to it and the action planning, and the processes around to achieve compliance and care for those residents.

MR ROZEN: I will come back to that in a moment. Before I do, I just want to ask you about your understanding of what the mock audits were judging. You say in that paragraph that they're judging compliance with the Australian Aged Care Accreditation Standards. Was that your understanding of what the mock audits were doing?

MS WESOLS: Yes.

MR ROZEN: That is the 44 expected outcomes listed under the four different standards.

MS WESOLS: Yes, pre – under the old standard, yes.

MR ROZEN: Yes. Which, of course, have now been replaced - - -

MS WESOLS: Yes.

MR ROZEN: - - - on 1 July this year by the eight new standards. Ms Hechenberger, was that also your understanding of what was being assessed in the mock audits that were conducted?

MS HECHENBERGER: Yes, it is.

MR ROZEN: Now, Ms Hechenberger, can I focus on a particular time which is when you commenced as the regional director in August 2016. The evidence before the Commission is that in relation to Bupa South Hobart, there had been two mock audits conducted relatively recently before that time. One was in November 2014

and one was earlier in 2016 in February. Were those brought to your attention when you commenced working at Bupa?

MS HECHENBERGER: The 2016 audit was, yes.

MR ROZEN: The February 2016 one, was it?

MS HECHENBERGER: Yes, that's correct.

MR ROZEN: Okay. There was, of course, one later in 2016 as well which I'll ask you about - - -

MS HECHENBERGER: I'm sorry.

MR ROZEN: - - - in a moment. Are you referring – you're referring to one which had been conducted when you started?

MS HECHENBERGER: The February audit, yes.

MR ROZEN: The February audit. Perhaps if that could just be brought up on the screen. It's at tab 6 of the general tender bundle. Just while that's being brought up, in preparation for giving evidence here, you've had cause to go back and look at those documents again.

MS HECHENBERGER: I have.

MR ROZEN: Yes. And when you told us a moment ago that it had been brought to your attention when you started, were you provided a copy of the audit outcomes, do you recall?

MS HECHENBERGER: I don't directly remember but I would expect that I was, yes.

MR ROZEN: Yes. And you would have noted that the performance of the home in that audit indicated that there were some deficiencies, particularly in the clinical compliance area?

MS HECHENBERGER: That's correct.

MR ROZEN: Just so the Commission can get an understanding of this because if one looks at the bare figures, one sees that, for example, with standard 2 which has the 17 expected outcomes to do with health and clinical care, the audit found that only six of them was their full compliance. Are we to take that as an unusually low level of compliance for a Bupa mock audit? Are you able to inform us from your other experience of mock audits of Bupa homes?

MS HECHENBERGER: Homes vary greatly – in my experience they vary greatly in the areas and depth of compliance or noncompliance. I think it would be a general statement for me to compare that with other homes at this time. It was certainly alarming for me as a non-clinician. And it was of immediate attention and focus for both myself and the regional support manager.

MR ROZEN: That's your colleague, Ms Wesols; yes, okay. And we know that there was an improvement plan which was developed and implemented?

MS HECHENBERGER: That's correct.

MR ROZEN: Yes. And I will come to the next audit in a moment. Before I do that, just taking it in chronological order, we heard evidence yesterday from Dr Elizabeth Monks who was the GP at Bupa South Hobart at this time. Did you hear any of Dr Monks' evidence yesterday by any chance?

MS HECHENBERGER: No, I did not.

MR ROZEN: What about you, Ms Wesols?

MS WESOLS: Yes I did.

MR ROZEN: You did. All right. One of the things that Dr Monks was asked about was an email that she sent to you, Ms Hechenberger. Sorry, just perhaps before I go to that, if we could go to the second page of the audit document, please. Do you see the box that's next to risk calculator there, Ms Hechenberger?

MS HECHENBERGER: Yes, I do.

MR ROZEN: Yes. Correct me if I'm wrong about this, but as I read this, this is a very easy to understand summary of the audit outcome; is that right?

MS HECHENBERGER: I find it easy to understand.

MR ROZEN: Yes. That makes two of us then. What it seeks to do is code in relation to each of the four standards – so we see them listed down the left-hand column, standard 1, 2, 3 and 4, and then it gives a summary of the audit outcomes using a traffic light green, amber and red.

MS HECHENBERGER: Correct.

MR ROZEN: And where you fit in relation to those boxes is determined by the number of partly compliance – part compliances or non-compliances?

MS HECHENBERGER: That's correct.

MR ROZEN: And we see that in this audit, the February 2016 one. Of the four standards, three of them are rated red and one is amber?

MS HECHENBERGER: That's correct.

MR ROZEN: Because they exceed the number of non-compliances or partly compliances, respectively. And because there is more than one red, the overall risk is rated as red, as well.

MS HECHENBERGER: That's correct.

MR ROZEN: You were familiar with this type of description of an audit outcome at the time that you were the regional director?

MS HECHENBERGER: I was familiar with red ratings and with audit results. The compliance and non-compliance was something I familiarised myself with at a clinical level on my arrival at Bupa. And I became quite comfortable with it, yes.

MR ROZEN: Okay. You told us a moment ago that when you looked at the February 2016 audit you considered the results to be alarming. Do you recall saying that a moment ago?

MS HECHENBERGER: I do.

MR ROZEN: Was that in part informed by the rating of red? That's the highest rating of risk that was available, wasn't it, under the mock audits process?

MS HECHENBERGER: That's correct.

MR ROZEN: And, going back to my earlier question about providing the Commission with some contextual understanding of these, was it common at this time at Bupa at mock audit in early 2016 for the outcome to have three reds against the standards and an overall rating of red?

MS HECHENBERGER: I would not say common. There were other cases, though.

MR ROZEN: Okay. Ms Wesols, are you able to assist us from your experience?

MS WESOLS: As an RSM, I often did not receive the full country's mock audit results and involved with that. But I concur with Stephanie; you would see some homes with audit results such as this.

MR ROZEN: When you say "some homes", I take it that's a minimum – sorry – less than half of the homes that were audited would have .....

MS WESOLS: I'm sorry. I can't give - - -

MR ROZEN: You can't put a figure on it.

MS WESOLS: - - - an exact ..... but it's – yes.

MR ROZEN: Okay. And do you concur with Ms Hechenberger's description of this audit result as alarming?

MS WESOLS: It is alarming and it's concerning, yes.

MR ROZEN: All right. This type of risk calculator was introduced, as I understand the evidence, sometime after 2014. Are you able to assist, Ms Wesols, with that? Do you know when this risk calculator process was introduced?

MS WESOLS: I'm not. I wasn't involved with the development of the risk calculator .....

MR ROZEN: Okay. I ask - - -

MS WESOLS: Yes.

MR ROZEN: I'm sorry. I didn't mean to talk over you. I ask because in the earlier audit, mock audit from 2014, it doesn't include a box like that. So is it possible then that it was introduced sometime between those two audits?

MS WESOLS: I would suggest that, as well.

MR ROZEN: All right. Was there any process in place within Bupa that guided you, firstly, Ms Hechenberger, if I can start with you – that guided you as to how you would respond when the overall risk rating was red? Did you get any instruction from on high as to what the appropriate response is for a rating like this?

MS HECHENBERGER: My recollection is that the response was the same for varying levels of compliance and non-compliance. So by that I mean there was a standard process that was to be followed post a mock audit that included the creation of an action plan, which were, therefore, then more or less detailed depending on the findings of the mock audit. Those actions were to be sent through to the CSI team. They would review those actions, work with us to ensure that we had considered every possible rectification action, and then the action plan would be approved for activation. There was a further reporting process around the completion of the action plan. That was monitored by the CSI team. And if homes were not meeting those timeframes, the regional director would be notified that the timeframe had been overstepped.

MR ROZEN: All right. Now, I neglected to ask you about this, but the mock audits themselves were actually conducted by members of the clinical CSI team, weren't they?

MS HECHENBERGER: Yes. The CSI team had an audit team solely for the purposes of conducting audits in the homes.

MR ROZEN: Right. Now, I started to ask you about Dr Monks a moment ago. And I will ask that tab 9 in the tender bundle for Bupa South Hobart please be displayed on the screen. We heard some evidence about this yesterday. I'm focusing on the bottom of the screen there, the email that Dr Monks sent you on the 15th of September 2016. Are you able to tell us now – and I won't ask you to guess, but had you looked at the February 2016 mock audit before you received this communication from Dr Monks?

MS HECHENBERGER: I – given the date of 15 September, I was probably not in the – I would have been in the organisation less than a month.

MR ROZEN: Yes.

MS HECHENBERGER: I was still very much meeting my 10 general managers, my induction was still continuing at this time. I would say it's likely at this point in time that I have not in detail gone through these mock audit.

MR ROZEN: All right. You read the email that Dr Monks sent you?

MS HECHENBERGER: I did.

MR ROZEN: I take it?

MS HECHENBERGER: I did.

MR ROZEN: Yes.

MS HECHENBERGER: Yes.

MR ROZEN: And I take it you were concerned to see her references to the phrase "extremely worrying". Do you see that in the third line of the first paragraph?

MS HECHENBERGER: Yes, I do. And I was also alarmed by her email. My supplementary statement reflects the actions that were taken of – on receipt of this.

MR ROZEN: Yes. Did you note, if we can go over the page, please, there's a reference in the email that Dr Monks sent you – could you just excuse me a moment – to some quite specific concerns about wound dressings. Do you see that at the top of the page?

MS HECHENBERGER: I do.

MR ROZEN: Yes. And, in the second line:

Instructions from specialists health professionals – Sarah.

That's Sarah Gaffney, was it? Is that right? The clinical manager.

MS HECHENBERGER: Yes, that's correct.

MR ROZEN: Not being followed. There's a reference to inappropriate dressings. And then there's some discussion of falls. As you say, you detail in your supplementary statement – I don't need to go to the detail of that now – the steps that you took when you got this email. But, taken together, that is, the mock audit results from February 2016 and then these detailed concerns being raised by the general practitioner were presenting a picture of some serious clinical deficiencies at Bupa South Hobart. Do you agree?

MS HECHENBERGER: I agree.

MR ROZEN: By this time, that is, by September 2016, is the Commission to understand that the improvement plan that was put in place to address the February 2016 audit would have been completed?

MS HECHENBERGER: Yes. I believe I recall it was completed prior to my arrival.

MR ROZEN: If I can return to you, Ms Wesols, for a moment. You had, at around this time, become the acting manager of the Bupa South Hobart facility; is that right?

MS WESOLS: In October of that year.

MR ROZEN: In October of 2016.

MS WESOLS: ..... yes.

MR ROZEN: So just – in fact, it was you that requested the mock audit in October, was it not?

MS WESOLS: That's correct.

MR ROZEN: And was it the position that the previous facility manager, who we don't need to name, but I take it they left to go to some other job, did they?

MS WESOLS: They left to return to the mainland for family and other issues and they left abruptly.

MR ROZEN: Were you performs both your substantive role as Ms Hechenberger's clinical support manager, as well as this general manager role at South Hobart or only the general manager role?

MS WESOLS: My major focus was as a general manager at South Hobart, but on occasion I had to leave the facility.

MR ROZEN: Now, as you just told us, you requested that this further audit be conducted in October. Do we take it that was because you weren't satisfied the problems that had been identified in the earlier February audit hadn't been addressed?

MS WESOLS: That's correct.

MR ROZEN: And what was it that you found when you became acting facility manager that told you that, that led you to that view?

MS WESOLS: It was after my conversation with Dr Monks and Sarah Gaffney and also on reviewing the roster, in particular, when I arrived in the facility in October.

MR ROZEN: Can you explain that a little more to us. What was it about the roster that you examined that caused you concerns?

MS WESOLS: I reviewed immediately the registered nurse roster. And I saw significant gaps in permanent placements in that roster, which caused me concern.

MR ROZEN: That is, there were nursing positions which weren't filled on an ongoing basis; is that right?

MS WESOLS: Yes, that's correct.

MR ROZEN: And were they being filled by casuals or not filled at all or what was the position?

MS WESOLS: They were not being filled at all. There were not enough casuals - - -

MR ROZEN: I see. And - - -

MS WESOLS: - - - on the books to do that.

MR ROZEN: All right. And did you receive any explanation from anyone at the facility about why that had happened?

MS WESOLS: Not in particular. As I said, the general manager had left rather abruptly.

MR ROZEN: Okay. In your statement, Ms Hechenberger, you say – this is at paragraph 88 on page 16 – you say that:

The mock audit conducted in February 2016 demonstrated that Bupa South Hobart had a record of historical non-compliance. And then this one, the October 2016, highlighted continued compliance issues within the home.

One of the options that was available, firstly to you, Ms Hechenberger, in this situation, was for there to be a clinical governance review conducted. Is that something you're familiar with?

MS HECHENBERGER: I am familiar with that.

MR ROZEN: Yes. And without going to the work instruction, as I understand it, the clinical governance review was a specialised type of audit that would focus not generally on the 44 standards, but on the – sorry – 44 outcomes, but on the standard two outcomes, the clinical and personal care outcomes; is that right?

MS HECHENBERGER: That's correct. It's very similar to the mock audit, just much narrower in focus, clinical and continuous improvement only.

MR ROZEN: All right. Perhaps if the table which I handed up, which is RCD.9999.0263.0001, if that could be displayed on the screen. And just so that you understand, Ms Hechenberger and Ms Wesols, this is a document that's been prepared by the staff at the Royal Commission summarising the results of the mock audit on the right-hand side of the page. So you will see the four Bupa mock audits, November 2014 through to July 2018. And if we could just concentrate for the moment on the two in the middle, that is, the February 2016 and October 2016. And you will see there that the reds which indicate non-compliance and the amber or mustard colour is part compliance. Do you see that? And if you just can look at the results for February 2016 in that second column and then compare those to the results in October 2016, we see considerably more red in the October 2016 column. Would you agree with that?

MS HECHENBERGER: I would, yes.

MR ROZEN: And the reds seem to be particularly concentrated in relation to standard 2. Do you see that?

MS HECHENBERGER: They do, yes.

MR ROZEN: For example, clinical care is red, 2.4; medication management is red, 2.7; nutrition and hydration is red. Do you see that?

MS HECHENBERGER: Yes, I do.

MR ROZEN: And some of those, for example, nutrition and hydration, have been red for each of the audits. Do you see that? The one in November 2014, the one in February 2016 and the one in October 2016.

MS HECHENBERGER: I see that.

MR ROZEN: Yes. At this time, when you got the October 2016 audits, Ms Hechenberger, were you able to make this sort of comparison looking historically at the performance of the home? Was that information that was available to you?

MS HECHENBERGER: Not in such a succinct form as the team here have put this together. I could compare audits reports and I could do things myself to compare those, but this is a very succinct format to compare those in.

MR ROZEN: It's important to consider historical trends, is it not, in applying this sort of governance framework, to see whether you've got a systemic problem or one that's just arisen recently. Do you agree with that?

MS HECHENBERGER: Definitely.

MR ROZEN: And it is concerning, is it not, that a number of areas that were partially compliant in February 2016 have become not compliant in October 2016?

MS HECHENBERGER: It is concerning. To Liz's point previously, the clinical roster was in an unsustainable state when Liz entered the home as general manager. And the – a significant piece of work was undertaken to rectify that. Only through having clinical team being available would it be possible to provide sustained clinical care in line with our guidelines and also with the standards.

MR ROZEN: Now, in fairness to you both, as you explain in your statements and consistently with the evidence Dr Monks gave evidence yesterday, there were a number of initiatives taken, were there not, in 2017 in that regard?

MS HECHENBERGER: We had extensive initiatives. We were flying nurses in from New Zealand - - -

MR ROZEN: Yes.

MS HECHENBERGER: - - - to undertake shifts. We were paying our care managers on the mainland 30 per cent uplifts to relocate to Hobart for three months at a time. We were using every possible agency resource available to us. Liz worked tirelessly to fill that roster on a permanent basis. But we – initially, we had to plug holes in the meantime. And agency was the only way we were able to do that.

MR ROZEN: You detail some of those steps at paragraph 89 of your statement, Ms Hechenberger, that is, your ability to draw on resources within Bupa on the mainland; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN: And I take it that's one of the advantages of being part of a large organisation, that you are able to draw on those resources?

MS HECHENBERGER: It is.

MR ROZEN: It's not an advantage that's, obviously, enjoyed by a lot of smaller aged care providers.

MS HECHENBERGER: That's correct. And certainly South Hobart was impeded in that regard compared to our other homes on the mainland, not having another Bupa home nearby to draw resources from.

MR ROZEN: I understand that. And that's a point you also make. But, nonetheless, you were able at this time in the first half of 2017 to draw on these resources. And it achieved results, did it not, at Bupa South Hobart?

MS HECHENBERGER: It did in the short term.

MR ROZEN: Yes. For example, you mention – and this is at paragraph 93 of your statement – that in August 2017, so in the following year, the home met all the accreditation standards in a Quality Agency unannounced visit; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN: You also make reference to an award being given to Bupa South Hobart for innovation in palliative care.

MS HECHENBERGER: That's correct.

MR ROZEN: In 2017. We heard some evidence yesterday from Dr Monks about Bupa Model of Care 1 or BMOC1, she referred to it as. She described that as an initiative which included her employment at Bupa South Hobart, that is, embedding GPs. What other aspects of Bupa Model of Care 1 were you familiar with, Ms Hechenberger?

MS HECHENBERGER: I believe there are about four parts to BMOC1. It was the creation of a role called the clinical manager.

MR ROZEN: Yes.

MS HECHENBERGER: It was about having regular leadership team meetings in the home. And it was an increased frequency of resident reviews of care planning.

MR ROZEN: Ms Wesols, anything you would want to add to that from your perspective?

MS WESOLS: Yes. One of the other initiatives around that was the administration of medications by care staff and movement of medication to residents' rooms.

MR ROZEN: Yes. It's been described in one of the witness statements before us as an initiative intended to promote person-centred - - -

MS WESOLS: Yes.

MR ROZEN: - - - clinical care in Bupa homes. Do you agree that that was the purpose?

MS WESOLS: That's correct.

MR ROZEN: And from your perspective, Ms Wesols, how did BMOC1 work at Bupa South Hobart, in your experience?

MS WESOLS: It was in its infancy around when I got there as a general manager.

MR ROZEN: Yes.

MS WESOLS: But we certainly were holding regular leadership meetings, there were clinical statistics being conducted, resident reviews were being conducted. And the leadership team were settling, you know, into their roles.

COMMISSIONER PAGONE: Mr Rozen, might it be convenient to have a - - -

MR ROZEN: I was just about to say that. Yes.

COMMISSIONER PAGONE: All right. We might – we will have a slight break until half past.

MR ROZEN: If the Commission pleases.

ADJOURNED **[11.19 am]**

RESUMED **[11.33 am]**

MR ROZEN: Thank you, Commissioners. Before we broke for morning tea, Ms Hechenberger, if I could address this question to you: I was asking you some questions about what options were available to you as the regional director in light of the October 2018 audit results. Firstly, it's evident, is it not, that whatever improvement plans had been put in place in response to the February 2018 audit had not been successful.

MS HECHENBERGER: That's correct.

MR ROZEN: Yes. Part of the implementation of any improvement plan in response to a mock audit, there was a key role played by the general manager of the facility. Would you agree with that?

MS HECHENBERGER: That's correct.

MR ROZEN: And the – we heard earlier from Ms Wesols that the previous facility manager had departed around this time. Is there a relationship between those two events; without actually going into detail, was there a perception by you that at least part of the reason for the failure to address the February 2016 defects was because of the facility manager?

MS HECHENBERGER: That's correct.

MR ROZEN: All right. A new facility manager, Mr David Neal, was employed in – he commenced in January 2017.

MS HECHENBERGER: That's correct.

MR ROZEN: Did you employ him, Ms Hechenberger?

MS HECHENBERGER: I did.

MR ROZEN: And are you able to recall now how many applicants there were for the position?

MS HECHENBERGER: No, I don't recall that.

MR ROZEN: Doing the best you can, was it the case where there were, you know, only two or three applicants including Mr Neal or did you have a dozen or are you just not able to assist us?

MS HECHENBERGER: I really can't recall. Recruitment was really managed by HR in the application process.

MR ROZEN: Okay. Did you interview Mr Neal for the position?

MS HECHENBERGER: I did.

MR ROZEN: And why were you prepared to employ him as facility manager? In other words, what qualities did he display that convinced you that he was the right person for the role?

MS HECHENBERGER: He was currently working in the home as care manager, so that is a senior clinical position within the care home. Feedback from families and

from team members was positive about his leadership. He had previously managed a care home in Queensland. And so the continuity of having an internal applicant was favourable.

MR ROZEN: If we could have tab 10 from the tender bundle displayed, please, on the screen. That's the first page of the October 2016 audit. And once again, we see the risk calculator was very similar to the risk calculator for the February 2016 audit. Do you see that?

MS HECHENBERGER: From the table, yes, it's very similar.

MR ROZEN: Yes. Overall rating once again was red. From your experience, Ms Hechenberger, was it normal to have two mock audits within the one year at a Bupa home?

MS HECHENBERGER: No, that was very unusual.

MR ROZEN: The standard practice was to have one every three years in advance of an accreditation audit; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN: It might be better to direct this to you, Ms Wesols. The reason there were two in 2016 was largely because of you wanting to have the one in October; is that right?

MS WESOLS: Yes, that's correct.

MR ROZEN: And Ms Wesols, when you saw the results of the October audit, you would have been deeply concerned about the clinical performance of the Bupa South Hobart facility, I take it?

MS WESOLS: I was.

MR ROZEN: And it's important, isn't it, for us to understand that even though this is a paper process, ultimately, what's being measured is the care that's being provided to the residents; is that right?

MS WESOLS: Exactly.

MR ROZEN: So when we talk about a failure to comply, for example, with outcome 2.10, nutrition and hydration, when it boils down to it, that's feeding residents and giving them enough to drink; is that right?

MS WESOLS: It can be part of that, yes.

MR ROZEN: Yes. And for there to be a constant failure through three audits from November 2014 through February 2016, October 2016 in relation to that outcome, nutrition and hydration, that really does suggest a fundamental problem, does it not?

MS WESOLS: Yes.

MR ROZEN: I asked you earlier – I asked Ms Hechenberger but I will address it to you, Ms Wesols, an option that was available within Bupa's clinical governance framework was a clinical governance review; is that right?

MS WESOLS: Yes.

MR ROZEN: And as I read the instruction, such reviews are directed at cases of noncompliance with standard 2; is that right?

MS WESOLS: That's correct.

MR ROZEN: And wasn't that what you were looking at here with these two audits in February and October of 2016?

MS WESOLS: I was actually also interested in the overall compliance against all the standards - - -

MR ROZEN: Yes.

MS WESOLS: - - - as well as standard 2.

MR ROZEN: But the bulk of the non-compliances, the reds on that table were in standard 2, weren't they?

MS WESOLS: Yes, yes.

MR ROZEN: Yes. Did you give any thought to a clinical governance review being carried out, Ms Wesols?

MS WESOLS: I was asking for the mock audit because that was my understanding at the time of the correct way to go. Yes.

MR ROZEN: All right. Yes, I'm just trying to understand why you wouldn't avail yourself of such an opportunity, that is, a more specialised deeper dive, I think, is the way one of the witnesses refers to the clinical governance review. Why wouldn't you take advantage of that, in light of these outcomes?

MS WESOLS: My thinking at the time is across all of the standards as well as standard 2 because they all impact each other, and I do find that the mock audit did give me considerable information on our compliance or lack thereof against standard 2 amongst the other standards.

MR ROZEN: Ms Hechenberger, is there anything you can add to this. Did you consider whether a clinical governance review ought to be conducted?

MS HECHENBERGER: My understanding that a mock audit is far more thorough than a clinical governance review across standard 2. It also extends to include the other standards. It takes approximately three times as long to complete by the auditors. It is a – it supersedes the CGR in its capability to provide information to the home. It's a far more thorough audit than the CGR.

MR ROZEN: Okay. Now, if I can change topics and ask you some questions about Bupa model of care 2. We also have references to Project James in the evidence that's been provided to the Commission. Ms Hechenberger, are they the same thing or is there a subtle difference between Bupa model of care 2 and Project James as you understood it?

MS HECHENBERGER: My understanding is that Project James refers to a specific later part of the rollout of BMOC2.

MR ROZEN: Are you able to summarise for the Commission your understanding of what BMOC2, what it consisted of, what were the parts of BMOC2 that differentiated it from BMOC1?

MS HECHENBERGER: So there was the reduction in the clinical manager role, the removal of that from the organisation.

MR ROZEN: Can I just stop there. So previously under BMOC1 there was a clinical manager role and a care manager role; is that right?

MS HECHENBERGER: A number of care manager roles in the home, depending on the size of the home. Yes.

MR ROZEN: Okay. So can we just focus on Bupa South Hobart for the moment, which the Commissioners visited yesterday. It has got three buildings, two of which are attached and one is separate; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN: Are you able to tell us before BMOC2, firstly, how many clinical managers were employed there; was it just the one?

MS HECHENBERGER: Just the one, yes.

MR ROZEN: And what about care managers?

MS HECHENBERGER: There were three care managers.

MR ROZEN: One for each building.

MS HECHENBERGER: One for each building.

MR ROZEN: And the clinical manager role and the care manager roles were filled by registered nurses.

MS HECHENBERGER: That's correct.

MR ROZEN: And so part of BMOC2 was a reduction in – sorry, was the abolition of the role of clinical manager; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN: Okay. So that's a removal of one registered nurse professional from the home?

MS HECHENBERGER: That's correct. It should have also included a removal of a care manager role as well.

MR ROZEN: Yes. In its purest form it should have reduced the number of care managers at Bupa South Hobart to two.

MS HECHENBERGER: That's correct.

MR ROZEN: You, however, were concerned that that would have a deleterious effect on care.

MS HECHENBERGER: I was very concerned, yes.

MR ROZEN: Why was that?

MS HECHENBERGER: Historically, the home had struggled to have a pool of qualified registered nurses available. Clinical leadership had been something that had been lacking in the home and Liz and myself had been working very tirelessly to grow the capability of the leadership team. I believed very strongly that that was going to have an impact on, firstly, the leadership but also from time to time the care managers would cover a registered nurse role if we were unable to find a replacement, and I believed it was fundamentally important that we had resources within the home to ensure that clinical care was being provided safely.

MR ROZEN: All right. Now, BMOC2, according to the evidence we heard yesterday from Dr Monks, was essentially about saving money; is that right? For Bupa? Is that a fair summary?

MS HECHENBERGER: I think it's a large part of the summary. I certainly received additional information about the change in the model of care. BMOC stands for Bupa model of care and so it was – it also included a model of care

change, not just a financial benefit. But financial benefit was certainly part of its purpose.

MR ROZEN: I want to ask you about a couple of emails that you received and sent which seem to be relevant to this BMOC2 process. First one is tab 23 in the tender bundle. Whilst that's coming up, you will see it's an email from Ian Burge. He was your direct report; is that right? You were reporting to Mr Burge as the – is it the operations manager? Have I got the title right?

MS HECHENBERGER: Director of operations, yes.

MR ROZEN: Director of operations.

MS HECHENBERGER: Yes. That's correct.

MR ROZEN: Thank you. And we see this was an email that was sent to all general managers. So that would have included Mr Neal, for example, at Bupa South Hobart; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN: All regional support managers. So that would include you, Ms Wesols.

MS WESOLS: That's correct.

MR ROZEN: And all regional directors. That would include you, Ms Hechenberger. Is that right?

MS HECHENBERGER: That's correct.

MR ROZEN: And it was an email sent by Mr Burge, as we see, 9 May 2017:

> *Hi, everyone. Thanks for your time again this afternoon and yesterday. It's a bit out of cycle to have two calls in two days, but with Jan in Sydney –*

That's Jan Adams; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN:

> *…and now need to move with urgency to improve BACAs commercial position.*

BACA is Bupa Aged Care Australasia?

MS HECHENBERGER: That's correct.

MR ROZEN:

> *I felt it warranted another discussion on our current context and how we're going to move forward.*

Without going through this entire email, is it a fair description of this time in Bupa, that is, May 2017, that there was a clear direction coming from head office to the regions and to the facilities of the need to cut costs?

MS HECHENBERGER: Yes. That's correct.

MR ROZEN: And the way that was to be done is set out further down this email in a paragraph that starts halfway down the page:

> *The immediate ask while longer term options are looked at is to make a slight adjustment to shifts to claim accurately and to only spend where necessary.*

And then you will see three dot points, depending on the size of the home. If we could focus on the middle dot point, because Bupa South Hobart had 119 beds; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN: So it fitted into that second category:

> *If you're an 81 to 120 bed home, we ask you to save equivalent of at least two shifts, two by 7.5 hours a day.*

If I could just pause there for a moment. That's a reference to an initiative called Save a Shift under which a person – an employee who called in sick, for example, wouldn't be replaced for the day; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN: You say in your statement, Ms Hechenberger, and it's referred to in this email, that that was only to be implemented in circumstances where it would not have a deleterious impact on care; is that right?

MS HECHENBERGER: That was the directive, yes.

MR ROZEN: I want to ask you about that. That rather assumes, doesn't it, that a home would have to be overstaffed, for example, for it not to impact on care.

MS HECHENBERGER: It does.

MR ROZEN: Were many Bupa homes overstaffed in May of 2017, do you think?

MS HECHENBERGER: My recollection of the time is that occupancy was lower than expected. So it is likely in some homes that there were resident numbers lower than anticipated and rostered to. Yes.

MR ROZEN: So it would be only in a home where occupancy was less than in the high 90 per cent that that would apply. Is that what you're saying?

MS HECHENBERGER: It would depend on what the budgeted occupancy of that home was, yes, but if it was below budget in occupancy there would be an expectation there, yes.

MR ROZEN: I'll be corrected if I get this wrong, I'm sure, but at this time my reading of the document is that Bupa's occupancy rate was generally very high – sorry – South Hobart's occupancy rate was generally very high, around about 118 or 119, nearly complete occupancy?

MS HECHENBERGER: Yes. So when I started there were 13 residents below budget, but certainly by this time the home was now full. Yes.

MR ROZEN: Yes. So if that's right, then it wouldn't be possible, would it, to save a shift at Bupa South Hobart without having at least some impact on care. Do you agree with that?

MS HECHENBERGER: I agree with that.

MR ROZEN: Yet this was a directive that was being given to apply across the board within Bupa, wasn't it?

MS HECHENBERGER: It was, yes.

MR ROZEN: Were you, during this process, feeding any information up to the executive level raising concerns about how this initiative, or these initiatives, would impact on levels of care at Bupa South Hobart?

MS HECHENBERGER: Yes, certainly about my homes generally. Yes. So there were detailed discussions between myself and Mr Burge, sometimes daily, about the context of what was being requested of us and what that meant in impact on the ground.

MR ROZEN: And were shifts saved at Bupa South Hobart pursuant to this instruction?

MS HECHENBERGER: I don't recall a significant amount being saved. I think there might have been some savings in the laundry and possibly in cleaning, but I – I don't have any access to my records, so it's my best recollection.

MR ROZEN: All right. Returning then to that second dot point, after the reference to saving shifts, a $3 uplift per occupied bed day. That's a reference to increasing ACFI payments, is it?

MS HECHENBERGER: That's correct.

MR ROZEN: And am I reading that correctly? There was a directive, was there, from head office that there was to be a $3 uplift in ACFI payments for each resident in each bed? Is that right?

MS HECHENBERGER: I would say it was a directed goal.

MR ROZEN: How was that to be implemented, as you understood it, Ms Hechenberger?

MS HECHENBERGER: In my understanding it was for the general manager to lead a review of resident assessment in line with their care needs in the home to assess any care requirements above their current ACFI claiming and to ensure that assessments and claims were updated to reflect the resident care and to ensure that the organisation was receiving government funding for the care it was providing.

MR ROZEN: I'm just trying to understand that. So the ACFI payment could only go up if the care needs went up?

MS HECHENBERGER: Correct.

MR ROZEN: And if the care needs went up, then more care would need to be provided to the resident in line with the increased ACFI payment.

MS HECHENBERGER: It would sort of happen. In my experience, it would happen the other way. So, generally, care requirements would increase naturally. Care teams would provide increased care. And there was often a lag in the application for increased funding in the daily practice of a care home.

MR ROZEN: But, to the extent that the funding increased reflecting increased care needs, it would be incumbent on the homes to correspondingly increase the amount of care, would it not?

MS HECHENBERGER: If they were not providing that care, yes.

MR ROZEN: Yes.

MS HECHENBERGER: Definitely.

MR ROZEN: I'm trying to understand how that notion fits with the reduction in nursing staff, for example. Is there a tension there, do you think?

MS HECHENBERGER: In my experience, care is provided by people, so any shift in resourcing has a direct correlated impact on resident care.

MR ROZEN: We've already seen that the audit history at Bupa South Hobart indicated deficiencies in a number of areas of clinical care. Do you agree with that?

MS HECHENBERGER: I do, yes.

MR ROZEN: And we've seen that, at least in September 2016, Dr Monks was raising concerns along similar lines with you. Do you agree?

MS HECHENBERGER: I agree.

MR ROZEN: I'm trying to understand how, against that background, you would consider reducing nursing numbers at Bupa South Hobart. Are you able to assist me?

MS HECHENBERGER: So that was my point exactly with the retention of the extra care manager. That was what I was proactively and fiercely advocating for, was the retention of the third care manager.

MR ROZEN: Yes.

MS HECHENBERGER: And - - -

MR ROZEN: The clinical care manager was gone.

MS HECHENBERGER: That person stayed. The role was made redundant. Yes.

MR ROZEN: Yes. So can I just clarify that. So you're – putting the care manager situation to one side, you're immediately down a nursing position, are you not?

MS HECHENBERGER: A leadership position, yes.

MR ROZEN: Yes. And an important leadership position, according to Dr Monks' evidence yesterday, as one could imagine for the GP. Do you agree with that?

MS HECHENBERGER: I would agree that that's her opinion, yes.

MR ROZEN: But it's not just her opinion, is it? Doctors need nurses to assist them with their work, do they not?

MS HECHENBERGER: They do, yes.

MR ROZEN: So the Commission is keen to understand how it was considered to be an appropriate initiative to implement to produce a nursing position. And there was also subsequent reduction in nursing hours, was there not?

MS HECHENBERGER: Not during my time, no.

MR ROZEN: I see. That came after, did it?

MS HECHENBERGER: It did, yes.

MR ROZEN: All right. So how is it that the internal governance framework for clinical care at Bupa allowed reduction in a nursing position and then subsequently nursing hours, in the face of the audit results which we've talked about? Do you understand my question?

MS HECHENBERGER: I do understand your question. I'm just not privy to that information. I was not part of the ELT. I don't understand how that decision-making was arrived at.

MR ROZEN: I understand that. I'm not suggesting for a moment that it was a decision you made. But, ultimately, you were responsible for implementing it, were you not?

MS HECHENBERGER: I was, yes.

MR ROZEN: Yes. And did you convey – I withdraw that. You did convey your concerns about the reduction in care manager positions?

MS HECHENBERGER: I did.

MR ROZEN: Beyond that, did you raise any other concerns with your superiors, with Mr Burge, about the potential impact on care at Bupa South Hobart of Save a Shift and these other initiative that we've discussed?

MS HECHENBERGER: I would have on several occasions.

MR ROZEN: And what was the response?

MS HECHENBERGER: There was certainly a sense that all – that the group as a whole would adopt this and that that would have greater and lesser impact in the different homes. I was successful in my advocacy for retained team members in Hobart. I was able to communicate the need for that successfully. And, therefore, it was outside the clinical manager during my time, not impacted with any reduction in nursing hours.

MR ROZEN: Can we go to the next page of this email, please. About a-quarter of the way down you will see that Mr Burge wrote to you, in the first complete paragraph there:

There are no sacred cows and anything's possible. So when it comes to rosters, for example, the easiest way to save one, two or three shifts in relation to non-replacement of annual leave.

What did you understand to the reference to there being no sacred cows and anything's possible, Ms Hechenberger?

MS HECHENBERGER: I don't have a definition of what he meant when he wrote that.

MR ROZEN: Well, I suggest to you that what he meant was that, in Bupa's efforts to reduce costs and improve the commercial position, that it was, effectively, open slather, wasn't it? Isn't that what "anything's possible" means? Do what you need to do? Is that a fair description?

MS HECHENBERGER: I personally didn't take it as that, but I can understand that it could be read as that.

MR ROZEN: Well, you were, I suggest, Ms Hechenberger, a pretty enthusiastic implementer of this initiative within your region. Do you agree with that?

MS HECHENBERGER: No, I don't agree with that.

MR ROZEN: All right. Perhaps I will ask you to have a look at tab 24, please. This is an email that you sent two days after you received Mr Burge's email on the 11th of May 2017. It's addressed to region 4 general managers. Was that your region, Victoria/Tasmania?

MS HECHENBERGER: It was.

MR ROZEN: Okay. That's including Mr Neal at Bupa South Hobart?

MS HECHENBERGER: Yes. That's – at that time some of the people attached in that, my region is extended at that time. So I must have been caretaking a second region at that time.

MR ROZEN: Is that when you went from 10 to 14?

MS HECHENBERGER: No.

MR ROZEN: No?

MS HECHENBERGER: No. That was just an interim. Somebody would have been on leave. And there are homes listed in that email that are not part of my standard region. You see them attached as additional people in there.

MR ROZEN: I see. You wrote:

Hi, guys. Thanks so much for your contribution to the GMTC today.

That's general manager teleconference; is that right? Is that right?

MS HECHENBERGER: That's right. That might be my personal one.

MR ROZEN: Yes.

MS HECHENBERGER: Yes.

MR ROZEN:

I love working with you all, especially in this time of such great opportunity. Keep up the fantastic work you're doing.

And then in bold you wrote:

Remember, there are now two key KPI –

That's key performance indicators; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN:

…that you will be measured on: (1) Save a Shift, one, two or three; (2) ACFI uplift, $2, $3 or $4.

MS HECHENBERGER: That's correct. They were outlined in Mr Burge's email that we've reviewed previously.

MR ROZEN: Indeed. This was an email in which you were effecting the directive that you received from Mr Burge; is that right? Implementing it.

MS HECHENBERGER: It was a follow-up teleconference with my general managers, yes, post that call, and a reiteration of what they'd heard on that call, yes.

MR ROZEN: What did you mean when you said there are now two key KPIs?

MS HECHENBERGER: Well, they were the two KPIs that were noted on that call.

MR ROZEN: Perhaps that question wasn't clear. Are you suggesting these were now the only two KPIs that the general managers would be measured on?

MS HECHENBERGER: I don't believe so. No.

MR ROZEN: Okay. They were additional ones, were they, beyond their existing performance measures.

MS HECHENBERGER: Yes, I'm trying to draw my best recollection. I believe they were now the two clear KPIs that had just been given to us in that previous general manager call.

MR ROZEN: It's pretty clear, isn't it, from this email that you were asking the general managers to focus their attention and enthusiasm on these initiatives; would you agree?

MS HECHENBERGER: Focus their attention, definitely, yes.

MR ROZEN: You went on:

> *I'd like to be able to report to you each Friday on how we've gone saving a shift a day, so please fill out the following table each Friday and send it back to me each Friday every week.*

Do you see that?

MS HECHENBERGER: Yes, I do.

MR ROZEN: There's nothing there at all, is there, about only saving a shift if it doesn't reduce care? Do you agree with that?

MS HECHENBERGER: No, there's nothing in that. I'm not sure at the bottom of that email but I don't see it, no.

MR ROZEN: I ask you to accept there's nothing on the second page - - -

MS HECHENBERGER: Yes.

MR ROZEN: - - - that would suggest that. Why didn't you include that in this email?

MS HECHENBERGER: I'm not sure. I don't know why.

MR ROZEN: Can I suggest this, Ms Hechenberger: you knew that it was, for all practical purposes, impossible to save a shift without reducing care levels in the homes that you were responsible for, didn't you?

MS HECHENBERGER: I don't believe that I made that decision in writing that email to omit that on purpose for that reason.

MR ROZEN: No, I'm not asking you what reason you had for omitting it. I'm asking you whether it was your state of knowledge at this time that you knew you couldn't touch shifts without reducing care levels, didn't you?

MS HECHENBERGER: Possibly.

MR ROZEN: Yes. We already heard the evidence from Ms Wesols about the roster problems at Bupa South Hobart, that it wasn't full at least at the end of 2016; do you recall that?

MS HECHENBERGER: That's correct.

MR ROZEN: Yes. And I suggest to you that within Bupa at this time the clear directive that was being passed on to facility managers from the executive level was that people who went off sick, staff members who went off sick would not be replaced as a way of saving costs. That was the clear directive, wasn't it?

MS HECHENBERGER: It was.

MR ROZEN: Yes. And that could only exacerbate the problems with care and particularly clinical care that had been revealed in the audit history at Bupa South Hobart, couldn't it?

MS HECHENBERGER: Yes, that's correct.

MR ROZEN: I just want to ask you about one further email shortly after this. It's at tab 30, it's an email to you from Daniel Thomas. Mr Thomas was in the commercial finance team at Bupa; is that right?

MS HECHENBERGER: That's correct. He was my commercial business partner.

MR ROZEN: Yes. And that's where these initiatives were being driven from, isn't it, the commercial finance department at Bupa?

MS HECHENBERGER: They were our resource for commercial information, yes.

MR ROZEN: And they were driving BMOC2, Project James and Save a Shift.

MS HECHENBERGER: No, that's not correct. He was my commercial information provider. He was not involved in any operational decision-making or projects.

MR ROZEN: I see. Those decisions were coming from Mr Burge, were they; is that right?

MS HECHENBERGER: That's correct.

MR ROZEN: Okay. Thank you. And you will see that Mr Thomas wrote to you:

In response to concerns that you had raised –

perhaps if we start there on the second page of the email. You wrote to Mr Thomas copying Mr Burge on 27 June:

Hi Danny, thanks for sending this through and for all your work on it.

That was a reference to a proposed roster; is that right?

MS HECHENBERGER: Yes. This is actually separate to Save a Shift or BMOC, that is the – a discussion, an ongoing discussion about the rostering – the roster at Bupa South Hobart.

MR ROZEN: All right. And without reading all of your email to him, you were raising a concern that in the proposed roster it wouldn't save enough money.

MS HECHENBERGER: That's correct.

MR ROZEN: Yes. And that was a response by you to your understanding that that's what you were being required to do?

MS HECHENBERGER: Part of my responsibility was to improve the commercial operation in South Hobart. As noted in that email, staff costs were about – more than $650,000 a month. In the prior two months, that had been overspent by a further $175,000 per month, and we were looking to deeply understand how the cost generation of wages in that home was so excessive.

MR ROZEN: What we don't see in these emails, and perhaps you can direct me to where we might find it, is any consideration of the likely impact on care at Bupa South Hobart by these initiatives. Where was that consideration at this time?

MS HECHENBERGER: This was a fact-finding relationship with the commercial business partner. Danny was not involved in any way in either resident care or in operations in the home. So this was us exchanging information about how the roster had been built, where the excess hours were coming from and what we needed to do to enable this home that was losing money every month to come back from that position to a neutral position in the long term.

MR ROZEN: I understand that, but the Commission's concern is, of course, with the quality and safety of care that was provided at Bupa South Hobart. This is all occurring against a history of serious concerns about care levels, isn't it?

MS HECHENBERGER: Yes, it is.

MR ROZEN: And so where do we see in the records of the implementation of these programs you or anyone else raising a concern about the effect, the potential effect on care levels of these cost reductions?

MS HECHENBERGER: I don't have access to my emails or files from that time as I'm no longer at Bupa. There would be several communications with my urging strongly about the impact of this, and the ramifications for clinical care in the homes. Hence, the success in retaining the third care manager.

MR ROZEN: Yes. If we can just go back to Mr Thomas' response to you, so he's responding to your concern about not saving – not reducing costs enough and he wrote:

> *Hi, Steph. Yes, I completely agree and believe to truly achieve a result at South Hobart we need a new philosophy moving forward. The only philosophy I believe that will work is completely forgetting about BMOC roster.*

If I can just pause there, BMOC rosters, rather; that's a reference to BMOC1, I take it. Is that right?

MS HECHENBERGER: Yes, general BMOC rostering, yes.

MR ROZEN: Okay. And the evidence that we've heard, and I think you agreed with this, is that the BMOC rosters were implemented as part of a policy of ensuring person-centred care was provided to the residents in the Bupa homes.

MS HECHENBERGER: Yes, that's correct.

MR ROZEN: All right. And then going back to what Mr Thomas said, he said:

> *That sounds like a big call but if we want to save on staff costs we need essentially to cut hours gradually month on month. In my opinion, this is the only way forward, each month having used fewer hours than the month before.*

If I just pause there, that was just a recipe for disaster, wasn't it, Ms Hechenberger?

MS HECHENBERGER: Again, Danny is not involved in operations. He's in the financial commercial team. He's making commentary about the financial strategy rather than a resident-centred strategy.

MR ROZEN: So what's your evidence to this Commission? Having received this email from Mr Thomas on 28 June, did you seek to implement those suggestions?

MS HECHENBERGER: No. Danny's recommendations were not in any way considered to move away from BMOC. That's beyond my role. That's a – that was just something that would not be considered in Bupa.

MR ROZEN: I see. So that might answer my question about the last line where he asks you, at the very bottom of the email:

> *I hope this isn't too controversial. Happy to talk through whenever you're ready.*

Is your evidence to the Commission that it was too controversial?

MS HECHENBERGER: Yes, and it was not considered with any serious nature.

MR ROZEN: I see. Now, if we could move forward to a further communication you received from Dr Monks. This is at tab 36. Without going into the detail of this, you're familiar with this email, Ms Hechenberger, are you not?

MS HECHENBERGER: I am.

MR ROZEN: Yes. And once again Dr Monks was raising concerns similar to but perhaps not as strongly expressed as the ones in the September 2016 email to you.

MS HECHENBERGER: That's correct.

MR ROZEN: And in your supplementally statement, which I – I don't need to go to in detail but I note that you have addressed the response to this further email from Dr Monks. That's the case, is it not?

MS HECHENBERGER: That's correct.

MR ROZEN: And you turn to Ms Wesols for – to do some investigating of the concerns raised by Dr Monks.

MS HECHENBERGER: That's correct.

MR ROZEN: And Ms Wesols, you refer in your statement – this is at paragraph 75 of the statement on page 14 – to Ms Hechenberger having passed on to you the concerns that Dr Monks had raised; is that right? Do you see that in paragraph 75?

MS WESOLS: That's correct.

MR ROZEN: You were RSM and then perhaps 76 might be better; you refer to this email from Dr Monks, which had been passed on to you. And you carried out some investigations, did you not, to assess whether or not there was cause to be concerned?

MS WESOLS: That's correct.

MR ROZEN: And ultimately, it's the case, is it not, that you were able to confirm that some of – at least some of the concerns raised by Dr Monks were legitimate concerns about clinical care?

MS WESOLS: That's correct.

MR ROZEN: Now, there was a discussion at this time with the CSI team, Ms Tierney, is that right, Hechenberger?

MS HECHENBERGER: Yes. That's right.

MR ROZEN: Petra Tierney; she's from the CSI team.

MS HECHENBERGER: She is.

MR ROZEN: And she proposed, did she not, a clinical governance review in response to the history of audits and now these new concerns being raised by Dr Monks?

MS HECHENBERGER: That's not correct. I requested – we spoke at length about a CGR.

MR ROZEN: Yes.

MS HECHENBERGER: And she offered to do one, yes.

MR ROZEN: Yes. Okay. And were you willing for that to occur?

MS HECHENBERGER: Yes, absolutely.

MR ROZEN: I suggest to you it was probably overdue by this time, wasn't it? Do you agree with that?

MS HECHENBERGER: I'm just thinking of the timeframe. Previous to that we had had a visit from the accreditation agency with a compliant to 2.4 clinical care.

MR ROZEN: Yes.

MS HECHENBERGER: It was an appropriate to time to review again, yes.

MR ROZEN: All right.

COMMISSIONER PAGONE: Ms Hechenberger, perhaps I can ask you a more general question about this. I'm assuming that nobody really wants sanctions. With the benefit of hindsight, what do you think could have been done better?

MS HECHENBERGER: I have spent time thinking about that myself, and my experience in the home was that it was a regular process of failure, identification, rectification. What was missing was the onboarding of that process as a sustained process. So we – the home kept lapsing back into noncompliance, and a program to

have embedded that more deeply and more sustainably in the team was what was missing in the process.

COMMISSIONER PAGONE: And how would one have embedded it more deeply? I mean, you had any number of formal written policies about what should and shouldn't be done and obviously people have thought about the theory of what should or shouldn't be done and it was not quite working. So what was it that was the bit that was missing?

MS HECHENBERGER: Again, I believe the – the ability to grow that consistent capability in the team that retained over time.

COMMISSIONER PAGONE: Thank you.

MS HECHENBERGER: Thanks.

MR ROZEN: Can I perhaps pick up on Commissioner Pagone's question which politely suggested that the system wasn't working as well as it could have been, if I can paraphrase. It's worse than that, isn't it, Ms Hechenberger; this history demonstrates some fundamental failings of clinical governance.

MS HECHENBERGER: It does.

MR ROZEN: Do you agree with that?

MS HECHENBERGER: I do.

MR ROZEN: Because we know where all this ends; this ends with the audit in October 2018 which is the worst of all the audits and, of course, leads to sanctions. So from the Commission's perspective, we need to try and understand why. Why in a large organisation such as Bupa with access to not only resources in Australia but overseas, and with what looks like a really good clinical governance framework on paper, why didn't it work? I know you've had a go at answering that, but was it the structure that was inadequate or was it the way it was implemented or was it the people or some combination?

MS HECHENBERGER: I – as a non-clinician, I feel it was the assumption that the completion of an action plan meant that the home was going to remain compliant from that point on. And the completion of the action plan only rectified the errors up until that time and once that intensity was taken away, the teams would revert to poor practice.

COMMISSIONER PAGONE: So is that because the audit reports produced an action plan that people didn't know what they were supposed to do? Were the lines of communication and responsibility clear from the action plan? What – it's important to get a sense of why what looked like good strategies and systems cannot work.

MS HECHENBERGER: In Hobart it was particularly difficult with the moving of teams, team members and people within the organisation, and just providing consistent care. The amount of training that was provided to team members that three or four days later had reverted back to old practice. It was just constant.

COMMISSIONER PAGONE: But would people know what their responsibility was? And, when there was a movement in the team, did they know what – did the new person in the team know what his or her responsibility was?

MS HECHENBERGER: I don't believe clearly enough. And it's a 24 hour business, so many of the team members are there when there's no leadership in the home.

COMMISSIONER PAGONE: I see.

MR ROZEN: Can I suggest another reason, perhaps the elephant in the corner of the room. Against the background of audit failures and a doctor raising concerns, there was a strategy which was aimed at reducing staff, cutting particularly nursing staff, the very people who would be expected to address the concerns identified in the audit. That's got to be part of the problem here, doesn't it, Ms Hechenberger?

MS HECHENBERGER: I would agree with that completely, yes.

MR ROZEN: It was a completely misguided strategy, I suggest to you.

MS HECHENBERGER: It felt like that at the time, yes.

MR ROZEN: Ms Wesols, I think you're keen to add something there, are you?

MS WESOLS: I would agree with that comment. It was – Hobart has always been a challenging home, as Steph had said, its compliant and then reverting back, due to the constant changes in, you know, key personnel, leadership, clinical managers that have existed since I've been involved with the home.

MR ROZEN: Understand that. There's also the challenges of the building layout itself, aren't there?

MS WESOLS: Yes.

MR ROZEN: But all those things just really emphasise the point I'm trying to make, don't they? But you wouldn't just cut staff across the board without considering the likely impact on a particular home of doing that. Do you agree with that?

MS WESOLS: I would agree with that.

MR ROZEN: You're still there. Do you think that lesson has been learnt at Bupa?

MS WESOLS: I'm not still at South Hobart.

MR ROZEN: No. I understand that.

MS WESOLS: But with Bupa, yes, I do believe so, as seen by the – a number of initiatives and changes to how we do things.

MR ROZEN: Commissioners, they're the questions that I have for this panel.

COMMISSIONER PAGONE: Yes.

COMMISSIONER BRIGGS: So let's go back to those questions that you're both talking about – about leadership, staff moving constantly and so on. So am I correct in saying that the leadership was also moving and was unable to work sufficiently closely with a constantly turning over or churning workforce to embed the kinds of cultural and care changes you would expect to see to deal with the problems?

MS HECHENBERGER: Yes, I would agree completely with that.

MS WESOLS: Yes. I would certainly agree. And then you have the other challenge, Commissioner, when you've got a whole lot of new people coming into the home all of the time, who is budding them, who is training them. You're not getting that continuity of our ..... cultural aspects that we want to implement.

COMMISSIONER BRIGGS: So, fundamentally, the staff weren't being consistently supported and guided through the learning processes that would have been necessary to embed the kind of changes that you both sought to implement as a result of the audits?

MS HECHENBERGER: That's correct, yes. Training was provided extensively, but it was not having the impact that was required. And, again, the volume of change in the team members meant that the team members didn't understand deeply and innately the individual care needs of the residents and to be able to provide that person-centred care that was so – so important for the vulnerable residents.

COMMISSIONER BRIGGS: So can you explain to me why was that the case? Did the residents have care plans that were updated or was it just a constant churn of staff?

MS HECHENBERGER: Did they have care – sorry – can you repeat the question.

COMMISSIONER BRIGGS: Did the residents have care plans that were updated according to their particular and specific care needs or what was the problem that the staff didn't implement changes consistent with their care needs?

MS HECHENBERGER: In my experience, again, as a non-clinician, I would say that the care plans contained care detail that is about the health needs of the residents. The human-centred interaction that team members have with residents is about how they like things to be done, who they are as people, what's important to them at a human level. And that's very difficult to provide consistently on a transient workforce.

COMMISSIONER BRIGGS: Yes. Ms Wesols.

MS WESOLS: In my view, yes, there certainly were care plans. But with the churn, the constant movement, especially of clinical managers, care managers and leadership in the home, you need – care staff need to be supported, need to be, for want of a better word, monitored and practices discussed and open communication round that. So that leaves a – in my experience, quite a gap when you have inexperienced or new people constantly coming into that role. It's the supervision and support that really goes missing very quickly.

COMMISSIONER BRIGGS: And what was apparent from our visit to the home was not only that there's three separate buildings, but even within the one building it was hard to see or connect with anybody.

MS WESOLS: Yes.

COMMISSIONER BRIGGS: So the structure was a problem, as counsel said.

MS WESOLS: Yes.

MS HECHENBERGER: Yes. That's correct.

COMMISSIONER BRIGGS: Thank you.

COMMISSIONER PAGONE: Yes. Thank you. Well, thank you, both, for giving your evidence. It's been informative. And you are excused from further attendance.

MS HECHENBERGER: Thank you.

MS WESOLS: Thank you.

<THE WITNESSES WITHDREW [12.21 pm]

MR ROZEN: The next witnesses are Davida Webb and Linda Hudec. I think there may be an appearance to be announced for Ms Hudec.

MS F. McKENZIE: .....

COMMISSIONER PAGONE: Yes, Ms McKenzie.

<DAVIDA LEXIA WEBB, AFFIRMED [12.22 pm]

<LINDA RAE HUDEC, AFFIRMED [12.23 pm]

COMMISSIONER PAGONE: Do please feel free to sit down and make yourselves comfortable.

MR ROZEN: If I could start with you, Ms Webb. Could you please state your full name for the transcript.

MS WEBB: Davida Lexia Webb.

MR ROZEN: Thank you. And, Ms Webb, you have provided us with – provided the Royal Commission, I should say, with two statements; is that right?

MS WEBB: Correct.

MR ROZEN: There's an initial statement dated the 4th of November 2019, which is WIT.0608.0001.0001.

MS WEBB: Correct.

MR ROZEN: Have you had an opportunity to read through your statement dated the 4th of November 2019 before giving evidence?

MS WEBB: Yes.

MR ROZEN: Is there anything in it that you wish to change?

MS WEBB: No.

MR ROZEN: I tender the statement of Davida Webb dated the 4th of November 2019.

COMMISSIONER PAGONE: Yes. That statement will be 13-28.

EXHIBIT #13-28 STATEMENT OF DAVIDA WEBB DATED 04/11/2019 (WIT.0608.0001.0001)

MR ROZEN: Thank you, Commissioner. And you've provided another statement more recently, dated the 12th of November 2019, WIT.0608.0002.0001. Is that right, Ms Webb?

MS WEBB: Correct. Yes.

MR ROZEN: And is there anything you would like to change in that statement?

MS WEBB: No.

MR ROZEN: And are its contents true and correct?

MS WEBB: To my knowledge, yes.

MR ROZEN: I tender the statement of Ms Webb dated the 12th of November 2019.

COMMISSIONER PAGONE: That'll be exhibit 13-29.

MR ROZEN: And, Ms Hudec, is that the correct - - -

MS HUDEC: Yes.

MR ROZEN: - - - pronunciation? Thank you. You too have provided us with two statements, although the second one is a corrected version of the first.

MS HUDEC: Yes. That's correct.

MR ROZEN: For reasons that I don't need to go into with you, they will both be received. They've been separately coded, so we'll deal with them one at a time. The first statement which you signed was dated the 4th of November 2019. It's WIT.0610.0001.0001.

MS HUDEC: Yes.

MR ROZEN: And it's apparent from the further statement which has been provided to the Royal Commission this morning that there are some additional matters and some corrections to that statement that you wish to make.

MS HUDEC: Yes, that's correct.

MR ROZEN: Rather than going through those one at a time, which will take quite a while, because there are – there's a number of changes that you wish to make. And it's fair to say, isn't it, that that some of them are substantive, they're not correcting typographical errors.

MS HUDEC: No.

MR ROZEN: They're changes to your evidence. And so you would ask through your lawyers, I understand, for us to accept a revised version of that statement, which is dated the 14th of November 2019. And it's coded WIT.0610.0002.0001.

MS HUDEC: Yes, that's correct.

MR ROZEN: It's not an ideal situation, Commissioners. I think what is - - -

COMMISSIONER PAGONE: I think it's positively undesirable, isn't it?

MR ROZEN: I haven't had an opportunity to speak to my learned friend Ms McKenzie about what is intended. I gather what's intended is that that second revised statement replace the first.

COMMISSIONER PAGONE: That's right.

MR ROZEN: The difficulty is the first was signed and received by us.

COMMISSIONER PAGONE: No, but if there are errors in the first, it ought not be received and, indeed, if you ask the question, "Is the first an accurate statement?", the answer's going to be, "Well, no. It has to be changed."

MR ROZEN: I anticipate that's the case.

COMMISSIONER PAGONE: So unless you don't want the second one to go in, the preferable course is for the second one to go in, and if you think there are real errors in the second one, then you should put it in cross-examination.

MR ROZEN: No. I don't – I'm not of the view that there are errors in the second one. And, in those circumstances, the best course would just be to tender the second one - - -

COMMISSIONER PAGONE: I think so.

MR ROZEN: - - - and not receive the first one.

COMMISSIONER PAGONE: I think so. And there will be the lunchbreak. So if you're wrong about that, you can come back and fix it.

MR ROZEN: Yes.

COMMISSIONER PAGONE: But that would .....

MR ROZEN: I might glance down the bar table and see if Ms McKenzie is happy with that approach.

MS McKENZIE: Sorry, I'm having trouble hearing.

COMMISSIONER PAGONE: So the approach that's proposed is that the second statement go in and not the first statement.

MS McKENZIE: Yes. That's correct. That was what was intended.

MR ROZEN: Okay. Ms Hudec, you're the most important person in the room about this topic. Is that what you would like us to do, receive the second statement, disregard the first?

MS HUDEC: Yes, thank you.

MR ROZEN: The second statement, I take it, is true and correct with the amendments that you've made. In those circumstances I tender the second statement.

COMMISSIONER PAGONE: Thank you. Well, that will be exhibit 13-30.

EXHIBIT #13-30 STATEMENT OF LINDA HUDEC DATED 14/11/2019 (WIT.0610.0002.0001)

MR ROZEN: If the Commission pleases. And I think I read out the code for that. If I didn't, it's WIT.0610.0002.0001. Ms Webb, can I start with you and ask a little bit about your background. You're a nurse by training.

MS WEBB: Correct.

MR ROZEN: From the old pre-university training days.

MS WEBB: It's where I first started. Correct.

MR ROZEN: You did your training back in the early 80s?

MS WEBB: Correct.

MR ROZEN: And have been a registered nurse formally since 2003.

MS WEBB: Correct.

MR ROZEN: Okay. You've listed some other qualifications which I won't take you to in your statement at paragraph 8. And you are presently working as an aged care manager in Queensland.

MS WEBB: Correct.

MR ROZEN: And you've been doing that since September of this year.

MS WEBB: That's correct.

MR ROZEN: I notice in your statement you say that manage 15 homes in that role.

MS WEBB: Correct. Yes.

MR ROZEN: And, it being Queensland, I suspect they're spread out over quite a geographical distance, are they, or are they?

MS WEBB: Reasonably. Reasonably. Through Gold Coast and Brisbane is the biggest component, which they're about an hour and a-half drive, I suppose, in a radius. Then there's in Toowoomba and a couple further regional north.

MR ROZEN: Were you in the hearing room when the previous witnesses were giving evidence?

MS WEBB: Yes.

MR ROZEN: And they both made the point that the 10 to 14 homes that they were responsible for on a regional management level stretched them in ways that impacted on at least the care levels provided at Bupa South Hobart. In your current experience, are you able to assist the Commission? Are you able to fulfil your role satisfactorily across 15 homes?

MS WEBB: This role is quite different - - -

MR ROZEN: Is it?

MS WEBB: - - - in that as the aged care manager, I oversee them, but there's a team underneath me that works with me to do that. The team consists of an operations manager, a quality and governance person, a manager and three regional support/governance care coordinators that filter around those 15 homes.

MR ROZEN: I see.

MS WEBB: So they work about one to five; one might have been – one might have six and the other one has got four.

MR ROZEN: I understand. Now, you worked at Bupa between 2009 and 2018; is that right?

MS WEBB: Yes, '19, sorry, '19. Sorry.

MR ROZEN: '19. You worked in a number of roles which you've spelled out in your statement, which I won't take you to, but it culminated in being the head of operations between July 2018 and July 2019?

MS WEBB: Correct.

MR ROZEN: You also spent some time as a regional operations manager in Queensland for Bupa between 2013 and 2018; is that right?

MS WEBB: That's correct.

MR ROZEN: In your statement you describe the Bupa South Hobart home as a particularly serious or problematic case. Do you recall using that expression?

MS WEBB: I think – so from my – I didn't look after that home for a long time until I came into head of operations which it was – it came under – under my remit then. But with the operational meetings that we were having, we would have those monthly and – down in Sydney, and Hobart was one that was commonly mentioned in that as problematic.

MR ROZEN: And can you assist us with when was that was. Was that when you were performing a head of operations role?

MS WEBB: No, as regional director. Operations manager – so regional operations manager and regional director are the same role, different titles. So as regional director.

MR ROZEN: So this is when you're performing that role in Queensland; is that right?

MS WEBB: Yes. Correct.

MR ROZEN: Between 2013 and 2018.

MS WEBB: Yes.

MR ROZEN: Who was raising concerns about Hobart being problematic, do you recall.

MS WEBB: The operations manager at the time it would have been. When we had operations meetings monthly in Sydney, we would go through homes that were needing additional attention or any concerns.

MR ROZEN: And what forum is this that these discussions are make taking place in?

MS WEBB: So it was the operations meeting, it was classified as, which was led by the operations director, Mr Burge, and the regional directors of the time.

MR ROZEN: So that's Ms Hechenberger's level.

MS WEBB: Yes, yes.

MR ROZEN: Yes. Okay. She wouldn't have been there for a number of those years, of course.

MS WEBB: No.

MR ROZEN: But that's the level. Now, Ms Hudec can I just turn to you, briefly, and note that you are also a registered nurse by training.

MS HUDEC: Yes, that's right.

MR ROZEN: You have an MBA and other qualifications that you've listed.

MS HUDEC: I'm working towards an MBA.

MR ROZEN: Working towards. Okay. You started at Bupa in 2011.

MS HUDEC: Yes, that's correct.

MR ROZEN: You worked, firstly, as a general manager at the Wodonga home; is that right?

MS HUDEC: That's correct.

MR ROZEN: And general manager, facility manager; are they interchangeable?

MS HUDEC: Yes. Yes, they are.

MR ROZEN: You worked in a regional director role in Melbourne between 2016 and 2018.

MS HUDEC: Yes, that's correct.

MR ROZEN: And then you took over day-to-day management of the CSI team, is that right, in March of 2018.

MS HUDEC: Yes, that's correct.

MR ROZEN: And you continued in that role until January 2019.

MS HUDEC: Yes, that's correct.

MR ROZEN: And did you hear the description that was given earlier by Ms Wesols of the role of the CSI team in Bupa.

MS HUDEC: No, I'm sorry, I did not.

MR ROZEN: You weren't in the hearing room.

MS HUDEC: No.

MR ROZEN: Okay. Can you tell us briefly what you consider the role of the CSI team to have been during that period?

MS HUDEC: While I was head of clinical service improvement, the role of the CSI team was to conduct some of the internal audits, the mock audits and the CGRs, making recommendations to the operations team – so when I say operations team I'm referring to the regional managers, the head of operations, general managers and so forth – in terms of how to remediate those homes. Supporting the organisation with complaints management at a high level. We would offer advice and deal with some of the external to the home complaints that would come through via the Aged Care Complaints Commission or directly into the executive.

The actual investigation of those would sit with the operations, with the care homes. Providing reports to some of the committees, and quarterly reports to the board of Bupa, clinical governance committees, the risk committee and so forth. We supported with clinical education, auditing and assisting the care homes from an Aged Care Funding Instrument perspective, so we had a funding team that would help educate the care managers and help monitor the progress of the funding. And I mentioned education, didn't I?

MR ROZEN: You do - - -

MS HUDEC: Policy procedures, review of clinical policies and procedures.

MR ROZEN: You do detail a number of those matters in your statement and that's obviously part of the evidence.

MS HUDEC: Yes.

MR ROZEN: Did you catch the end of the evidence given by the previous witnesses, Ms Hudec?

MS HUDEC: Yes, I did.

MR ROZEN: You might have heard the questions that were being asked particularly by Commissioner Pagone about the extent to which the operations side and the CSI side, if I can call it that, of Bupa worked together and perhaps I can start by asking you a general question conveying to you both the impression I get from the evidence as a whole and from your two witness statements is that the clinical and care audit function, which is your responsibility, Ms Hudec, doesn't seem to have been particularly well integrated into the operational facility management side which was your responsibility, Ms Webb. Can I ask each of you in turn, how you would respond to that? Perhaps starting with you, Ms Hudec.

MS HUDEC: So I'm sorry, just so I can clarify, are you asking how the CSI team supported that - - -

MR ROZEN: Not so much supported, but the integration between the two and the context here - - -

MS HUDEC: Okay.

MR ROZEN: - - - is we've got this history of audits carried out by the CSI team and improvement plans but not much improvement on the ground; I'm paraphrasing and summarising. So I'd ask you to comment on your experience of the extent of integration at Bupa.

MS HUDEC: So the CSI team would undertake some of the auditing and we would provide advice, obviously. And in terms of the results from those audits the CSI team would meet directly with the general manager at the end of those audits and have what we refer to as an exit interview to give them a bit of an overview of what their findings were. Those reports would then be sent with recommendations of improvement initiatives to the general manager and the regional manager, and they would commence work in developing a continuous improvement plan to rectify those concerns. On – Davida and I worked very closely together. We sat in the same office so we would have lots of verbal conversations about things that we were seeing – seeing and hearing out there from an operational perspective. So that was one element of it.

When those action plans or those continuous improvement plans weren't completed within the timeframes that were set that would be reported through to the clinical – the monthly operations meeting with the regional managers to help understand why things hadn't been completed within that timeframe.

MR ROZEN: Could I just interrupt there because I think we may have reached a point where there may be a significant issue. So the audits are done by your team.

MS HUDEC: Yes.

MR ROZEN: A plan is prepared by your team or by the facility - - -

MS HUDEC: By the operations team.

MR ROZEN: By the operations team - - -

MS HUDEC: The CSI team make recommendations.

MR ROZEN: - - - to address the concerns raised by the audit team. The expertise – there's clinical expertise in the audit team – in the CSI team. After they come back and say, "We've carried out the improvement plan requirements, was there any further assessment by you of whether they were actually going to work?

MS HUDEC: At that point in time, no, there was not. And that was a – I felt was a fundamental flaw from the auditing process.

MR ROZEN: Okay. You've anticipated my next question. And because, of course, we've heard the evidence, in one case admittedly, at Bupa South Hobart of audit improvement plan and then a further audit only nine months later where things got worse, not better. So that would suggest at least in that case that what you've described as the fundamental flaw may well have played a role.

MS HUDEC: Yes. I feel that the – my view of the mock audit tool was that it was clearly not effective in what it was intended to do. The mock audit tool, to give you some context, it was intended to be – it was intended to assess the care home directly against the Aged Care Accreditation Standards.

MR ROZEN: Yes.

MS HUDEC: However, as it evolved – this is my understanding coming into the role last year – once we started to unpack that tool what we found was that the tool actually assessed the care homes directly against the working structures and didn't necessarily assess against the quality of care standards. So it kind of – it missed that key step and I think that was just how it evolved over a period of time. We became – we implemented work instructions many years ago which was a great improvement for Bupa to standardise and create repeatable processes. But over – over some years they seem to have evolved and became very cumbersome, difficult to manage work instructions, particularly for staff on the ground when they needed to know how to do a procedure very safely.

And it didn't always allow for clinical decision-making either because they were tied to these work instructions. Now, if there was one element missed in that work instruction it would be considered a partial compliance in the mock audit tool.

MR ROZEN: I see.

MS HUDEC: So if there were multiple steps that were missed in the work instruction it would be considered a noncompliance. And – you can stop me at any time.

MR ROZEN: No, go on. I will but not now.

MS HUDEC: Okay. There is probably a good example, and one of the things that I pointed to straight up was the mock audit in July 2018. Bupa South Hobart was considered compliant in the mock audit in 1.4, comments and complaints.

MR ROZEN: I will just ask that that be brought up so that we can follow this. So this is tab 69, I think. Yes, tab 69. Did you say July 2018?

MS HUDEC: Yes, that's correct.

MR ROZEN: Yes. And is there any particular – well, we see the first page there.

MS HUDEC: Page 4.

MR ROZEN: Page 4?

MS HUDEC: Yes.

MR ROZEN: So that would be page .8418. Thank you. What do you draw our attention to, Ms Hudec?

MS HUDEC: One of the key elements that I later felt was missing from this tool, given that it was assessing against the Aged Care Accreditation Standards is that it didn't have the guiding principles of each of the expected outcome. So the auditor who was undertaking the audit and the care home managers would look at this tool and look at the first column, and would potentially consider that if I have met those things and I'm considered compliant. And then in the third column it has the evidence that was used to evaluate against compliance of 1.4. It didn't appear to audit across the entirety of 1.4. I – my view is that any comprehensive audit tool should also consider clinical – critical observation.

So what are the auditors actually seeing on the ground. Staff interviews, resident relative interviews of what their experiences have been is a very key component and that wasn't included here. That would have drawn out a lot more information.

MR ROZEN: Could I just ask you to move a bit closer to the microphone. I'm being told - - -

MS HUDEC: Sorry.

MR ROZEN: Thank you.

MS HUDEC: I'll shift over this way.

MR ROZEN: Yes.

MS HUDEC: So they were some of the key components that once we began to unpack the usefulness or whether or not this tool was fit for purpose, they were some of the things that we considered.

MR ROZEN: So am I understanding you correctly to be saying in relation to the rating here of compliance with 1.4 which is concerned with comments and complaints that the investigation required to be conducted by the auditor to assess compliance with 1.4 was less thorough than it should have been.

MS HUDEC: Yes.

MR ROZEN: Because, of course, we know that in early 2019, so about six months after this audit, consultants were engaged by Bupa – Ms Wilson and Dr Webster – to look at this very issue, that is, the complaints handling process at Bupa South Hobart and they found it wanting in a number of respects.

MS HUDEC: Yes.

MR ROZEN: Are you aware of that?

MS HUDEC: I can't recall seeing their report, but I did see some of the evidence.

MR ROZEN: Okay. I'll ask you to accept that that was their conclusion.

MS HUDEC: Yes, yes.

MR ROZEN: That seems to make your point, doesn't it, that this sort of paper assessment doesn't get to the heart of what is necessary; is that right?

MS HUDEC: Yes. And there were other elements to it that I felt needed to be improved on as well. It was a singular item that we were using to assess care outcomes at a point in time, as opposed to drawing on a lot of other data and information and joining those dots to give a much bigger picture.

COMMISSIONER PAGONE: I think the evidence of both of you is that neither of you were given the July mock audit reports.

MS HUDEC: I cannot recall being given the mock audit.

COMMISSIONER PAGONE: So that's – I think – well, you both say that, I think, in your respective statements.

MS WEBB: Yes.

COMMISSIONER PAGONE: How can it be that neither the operations, nor the clinical bit of the organisation have got the audit report, the mock audit?

MS HUDEC: It wasn't necessarily considered standard that the manager of the audit team would escalate these things to me directly. As a standard, however, when I reflect on it now, and seeing those – the noncompliance, is it should have been escalated. But I am also reflective of the environment at that point in time in which we were operating in.

COMMISSIONER PAGONE: What's the point of the mock audit if not either to give it to the clinical services manager or to the operations manager?

MS WEBB: I would agree as well. Supporting what Linda has said that in reflection it should have been. I think we – we entered into the roles at the time

when it was really – you know, this was our fourth sanction coming into the business and I think that, you know, for myself personally I really feel I was probably firefighting – reactive instead of being, you know, more operative and strategic, I guess.

COMMISSIONER PAGONE: I may have sounded as though I was asking a rhetorical question but I was actually trying to get some information out of it. Presumably, somebody thought it was sensible and sound for the mock audit not to go to either of you. I'm curious to know what that actually was?

MS WEBB: I would agree. I would agree that it's a flaw that we didn't have – it was - - -

COMMISSIONER PAGONE: But what was the purpose of it, then?

MS WEBB: It went to the care homes and to the operations managers to enact an action plan and to remediate at the care home.

COMMISSIONER PAGONE: But not to the heads.

MS WEBB: No.

MS HUDEC: No.

MR ROZEN: Just before we break, Commissioner, if I can take up that issue briefly.

COMMISSIONER PAGONE: Yes, of course.

MR ROZEN: If we go back to the first page of this audit that you've drawn our attention to, Ms Hudec, we can see the risk calculator box which even I can understand is informing any reader of this in July 2018 that the overall risk rating was red.

MS HUDEC: Yes.

MR ROZEN: We can see that. And it was the third one in a row that had been done at Bupa South Hobart in a period of under three years that had achieved a red result. Wouldn't a pretty simple system be that when you get one or two or three, whatever seems the appropriate number of reds, that the case gets escalated to somebody at your level?

MS HUDEC: Yes, I would agree.

MR ROZEN: Might that be an appropriate time?

COMMISSIONER PAGONE: Well, I think you should ask the next question: and if that's so, what would be the appropriate number; one, two, three or 25?

MS WEBB: I would say one.

COMMISSIONER PAGONE: Yes. 2 o'clock?

MR ROZEN: Thank you, Commissioner.

ADJOURNED **[12.48 pm]**

RESUMED **[2.05 pm]**

COMMISSIONER PAGONE: One housekeeping matter, Mr Rozen. I think in my enthusiasm for marking exhibits I may have marked Ms Hudec's exhibit as 13-31 when it should have been 13-30. So if that correction could be made, please.

MR ROZEN: Yes. I think it was 13-31. Okay. Take that as 13-30. Now, before we start, Ms Hudec, I have a housekeeping matter, too, which is to ask you, please, to remember to keep your voice up and try and talk close to the microphone.

MS HUDEC: Yes.

MR ROZEN: People including your own counsel are finding it hard to hear you, I'm told, so - - -

MS HUDEC: Okay.

MR ROZEN: Thank you. Now, returning to the topic we were discussing just before the luncheon adjournment, Ms Hudec, Commissioner Pagone was asking you about whether you, in your capacity as head of the CSI team had seen the July 2018 audit at the time. And you told us that you hadn't and we had that discussion about what trigger might be appropriately in place to ensure that someone in your position did get that – did receive that information. The question that flows from that which I'd like to pursue with you is you've told us that part of your role was a reporting up role to the executive leadership team and to the board about clinical safety issues; is that right?

MS HUDEC: I reported only to the chief operating officer - - -

MR ROZEN: Yes.

MS HUDEC: - - - /chief nurse. My role as head of CSI was to provide reporting on behalf of CSI and the CSI team to the board or - - -

MR ROZEN: Yes.

MS HUDEC: - - - to the executive leadership.

MR ROZEN: Via the chief operating officer, is that the case, or directly?

MS HUDEC: Most of the reporting will go through the chief operating officer. Formalised reporting I would do with the clinical governance team in Bupa.

MR ROZEN: Yes.

MS HUDEC: And those reports will go to the board.

MR ROZEN: Okay. The question that I'd like to you consider is how you could fulfil those responsibilities appropriately and fully if you didn't get an audit report like this one in this case, when it's, you know, the third or fourth in a string of poor outcomes. If they're not coming to you personally, how are you keeping abreast of trends that you need then to be reporting up the line?

MS HUDEC: At the time I was head of CSI the monitoring of what was happening in care homes was done through a number of ways, one being mock audits, another being a high level overview of the clinical indicators that were coming out of the care homes, things such as number of falls, pressure injuries, infections and so forth.

MR ROZEN: Yes.

MS HUDEC: That would be aggregated up. And if there are anomalies, they would be discussed. We would also have a lot of informal conversations through the operations leadership team meeting.

MR ROZEN: Yes.

MS HUDEC: And my expectation was that the chief operating officer would be across the issues and disseminate that information with the executive leadership team.

MR ROZEN: So at paragraph 30 of your statement – perhaps if we could go to that. Just make sure it's the same in your amended statement. On page 8 of the exhibit 13-30, please. Sorry, I'm looking at the earlier version. It's the sentence that starts:

The mock audit would have been –

perhaps it's on the next page. Sorry, Commissioners. It is paragraph 30. Yes. So do you see you say there:

As set out in paragraph 26, the progress of any CIP –

that's the improve plan in response to the mock audit; is that right?

MS HUDEC: Yes, that's correct.

MR ROZEN:

> *…progress of any CIP arising out of the mock audit would have been discussed at the operations leadership team meeting which included the COO, but I do not have a specific recollection of the discussion.*

Now, if we can just unpack that.

MS HUDEC: Yes.

MR ROZEN: Were you a member of the operations leadership team?

MS HUDEC: Yes, I was.

MR ROZEN: Okay. So you don't recall any specific discussion of the July 2018 South Hobart audit?

MS HUDEC: No.

MR ROZEN: Okay. But you're saying, as I understand it, that you would expect that to have occurred based on your normal experience - - -

MS HUDEC: Yes.

MR ROZEN: - - - of the way things worked.

MS HUDEC: That's correct.

MR ROZEN: A request has been made of Bupa for the minutes of that – those meetings. I take it they were minuted; is that your experience?

MS HUDEC: Yes. That particular element of reviewing the CIPs was done on a separate Excel spreadsheet, which I can't recall whether or not that would normally have been included with the minutes.

MR ROZEN: Okay. So just so that the record is clear, the Commission has sought from Bupa any records of a discussion of the July 2018 South Hobart audit at the operations leadership team. And the response, "Well, no such minutes have been provided to the Royal Commission." So my question for you is: is it possible in those circumstances that this wasn't discussed?

MS HUDEC: It – the timeframe that it should have been discussed should have been around about October.

MR ROZEN: Yes.

MS HUDEC: Because what we discussed was the progress against the timeframes that those improvement plans were due to be completed. It may well be – and I'm only making an assumption here – that as the home had been sanctioned at that time, that perhaps that took precedence.

MR ROZEN: All right. Another aspect of the CSI team that I want to explore with you briefly is the evidence you give about cuts that were implemented to staff within the CSI team.

MS HUDEC: Yes.

MR ROZEN: Now, if I understand your statement, you're saying there was a restructure in 2017 which took effect from July 2018. Have I got that right or am I misreading?

MS HUDEC: There was a part – there was a restructure that occurred in November '17.

MR ROZEN: Yes.

MS HUDEC: And the second part of that restructure occurred in, from my recollection, July '18.

MR ROZEN: Okay. I don't want you to guess. Perhaps if we go to paragraph 17 of your statement, please. Is that the restructure that we were just talking about a moment ago that you're referring to?

MS HUDEC: That was, as I could recall it.

MR ROZEN: And are those positions that are listed there ones that were removed?

MS HUDEC: They were the new positions.

MR ROZEN: I see. And so what was the net effect of the restructure? Was it a reduction in members of the team?

MS HUDEC: So in November 2017, the – I, obviously, wasn't in that role then, but as I understand it there were a number of clinical educators. The clinical education team in particular was removed. I'm not sure if that was through redundancies or what occurred in that space, but there were a clinical educator allocated to each region and a clinical education manager.

MR ROZEN: Yes.

MS HUDEC: And that team was deleted, with the exception of one educator that remained in the CSI team as of when I took over the role.

MR ROZEN: And you may not be able to answer this, because I understand it was before your time there, but are you able to tell the Commission what the rationale was for those changes?

MS HUDEC: No, I cannot.

MR ROZEN: Perhaps I will put that another way. Do you know of anything which was put in its place which would achieve the same outcome of that clinical education role?

MS HUDEC: The clinical education consultant that I retained in the team, as I understand it, her role was to design and develop education – clinical education programs for our clinicians. And that was a move away from – previously the clinical educators, as I understood it, who were allocated to each region were allocated to deliver clinical education to the nurses in their region. That was to be managed by the homes, as I understood it when, those roles - - -

MR ROZEN: Okay.

MS HUDEC: - - - were removed.

MR ROZEN: I want to ask you a little bit about the introduction of BMOC2, Bupa Model of Care 2 and Project James. You were on a Project James committee.

MS HUDEC: A working group.

MR ROZEN: Working group. I'm sorry. Perhaps if tab 174 could please be brought up. And if we could go to page .0007, please. So we understand this to be the governance and team structure for Project James. Is that – is that correct, Ms Hudec?

MS HUDEC: Yes. As at – initially, Ian Burge also sat in that team, as well, prior to him leaving as director of operations.

MR ROZEN: I see.

MS HUDEC: But this was, obviously, after the Project James working group.

MR ROZEN: So we see on the top row underneath ANZ exec we see that Maureen Berry was the sponsor of the project. Is that right?

MS HUDEC: Yes, that's correct.

MR ROZEN: And then, under her in the green middle box, we see yourself and Ms Tierney from the CSI team.

MS HUDEC: I was representing as regional director from an operations perspective only.

MR ROZEN: I see.

MS HUDEC: Not as Clinical Service Improvement.

MR ROZEN: And Ms Tierney was she your predecessor in the CSI team?

MS HUDEC: Yes, she was. She had a director role before it changed it to "head of".

MR ROZEN: Okay. So if we look at the right-hand side, the writing under the heading Working Group – and that's the working group you referred to a moment ago that you were a member of; is that right?

MS HUDEC: Yes. That's correct.

MR ROZEN: So the tasks there for the working group, I just want to ask you briefly about the first one:

> *To seek feedback, consult where relevant, to gain relevant information on process, risks and issues.*

The reference there to risks would encompass risks to clinical care as a result of the implementation of the project, would they?

MS HUDEC: I would expect that that would be the purpose of that, yes.

MR ROZEN: And you, and perhaps more so Ms Tierney, would have been key people who would have been able to advise - - -

MS HUDEC: Yes.

MR ROZEN: - - - the project team .....

MS HUDEC: I mainly gave advice from an operational perspective, but I did also provide advice, from my view, from a clinical perspective.

MR ROZEN: And do we see that documented anywhere – or would we be able to see it documented anywhere from your recollection of what happened?

MS HUDEC: I can't recall any minutes or actions being circulated as a result of these meetings.

MR ROZEN: Okay.

MS HUDEC: I'm not sure if there were. I simply can't recall.

MR ROZEN: Yes. So it seems to – from perhaps the naïve perspective that I have of these things, it seems to be likely, to put it mildly, that a reduction in numbers of nurses and nursing hours could have a deleterious impact on clinical care in nursing homes. Would you accept that as a general proposition?

MS HUDEC: Yes, I would. Can I expand on that?

MR ROZEN: Please do.

MS HUDEC: So, initially, the Bupa Model of Care that was initially implemented between, from memory, 2015 to 2017 - - -

MR ROZEN: BMOC1.

MS HUDEC: BMOC1.

MR ROZEN: Yes.

MS HUDEC: You might refer to it.

MR ROZEN: Yes.

MS HUDEC: Yes. That was the original model of care.

MR ROZEN: Yes.

MS HUDEC: Made substantial investment into the business in terms of creating a preventative and proactive approach to care delivery for our residents – for Bupa's residents.

MR ROZEN: Yes.

MS HUDEC: My experience – I was general manager at Bupa Wodonga when the pilot project rolled out for that and there was a research project, as I believe, was done by University of Tasmania to collect evidence and demonstrate the benefits of having a proactive model in place. So it included employing GPs, where possible, adding on clinical managers who would support the GPs in their role. It streamlined some of the processes initially for the care managers. And it streamlined the way that the leadership meetings happened, so quality of care – quality improvement and work health and safety and so forth were bundled into one meeting, but done on a regular basis - - -

MR ROZEN: Yes.

MS HUDEC: - - - more regular than what had occurred before. And six-weekly resident review meetings where certain elements of a resident's changing care needs could be captured and reviewed in a multidisciplinary approach much earlier. I felt – I was quite passionate about that model, and from my experience in one home, I could see the benefits that that provided the home. We didn't have the – we weren't fortunate enough to have a GP employed, however, we, as a result of that, had created some really great relationships with local GPs to make sure they could still influence the way that that model worked effectively.

Anecdotally, I saw a decrease in the number of complaints, hospital admissions. The quality of care, I felt, improved. Incident – medication incident reporting did go up but I felt that was actually as a result of better reporting rather than – rather than actually the number of incidents going up, and we had better visibility of things like polypharmacy and so forth. So I was quite passionate about that. In 2017, approximately – and I'm guessing just from memory, that it was perhaps about August, I was approached to join the Project James working group which, as I understood it, was initially to look at reviewing the care manager hours and looking at what was the opportunity there.

And now there was a survey that I believe was circulated from memory to nurses and care managers and general managers about how they viewed the model of care and the effectiveness of it, and there was feedback that came out as a result of that, that there was opportunities to improve the model of care and streamline some of the processes. It was felt that that – that those – that there were certain tasks that care managers and clinical managers were both doing on top of each other. So there was a little bit of role ambiguity that had crept into the model, so there was doubling up of tasks so there was opportunity to reduce the workload so that there wasn't those things happening in the homes and they could focus on one handover instead of three, for example, on that day.

So there was opportunity to look at improving that. When I was asked to join the working group, as I understand it, it was because my experience with the model of care previously as well as my operational experience to provide that advice. And the purpose, as I understood it, was – from memory, was to look at saving money for the business.

MR ROZEN: Yes. I understand that. My question of you is: were you or anyone else with your level of clinical expertise raising concerns about the impact of the saving money initiative on clinical care?

MS HUDEC: Yes. Initially, with the clinical care manager element of it, I felt comfortable with that. And when it progressed to look at registered nurses, the – initially where we started with those registered nurses I felt there was some opportunity with some of the homes, not across the board, it wasn't a broad brush approach but generally what should a model look like, but that was also taking into consideration that the CSI team had provided feedback that things such as leadership team meetings would be structured to reduce time, resident review meetings didn't

necessarily have to occur as regularly as six weeks, that a clinical – electronic clinical documentation system would be rolling out which would create more efficiencies for our registered nurses. So with those things in mind there were, I felt, opportunity for it to be done safely in some homes.

That model was then continued. It was clear that it wasn't meeting the target that had been set for the home and they continued to look at the staffing as a result. I did raise my concerns in a working group, several times, about the clinical implications if the model continued to trim staffing hours. I did at one point – I believe it was perhaps around about November '17, only going off memory which isn't great, I did actually specifically request that my concerns be documented because I felt so strongly about it. There was a reference group of a number of general managers who were representing homes of different sizes, and there were – some of those general managers with certain sized homes did voice their concerns about it as well. Eventually it was a – I felt that it was a majority rules attempt and this is what we had to do.

MR ROZEN: Yes.

MS HUDEC: And after being reviewed by Maureen Berry with her specific experience and background in the CSI space along with her being the chief nurse and Petra Tierney in that role, advocating along with these other contingencies such as electronic clinical documentation systems and there was also opportunity to revisit how the hours would be structured. There was opportunity for homes to put in exceptions so that if their footprint, for example, was going to be an issue, then you could put in an exception to not use the model. If registered nursing recruitment was challenging in a home, in a town or skill mix was not ideal, you could put in an exception. And it was also built on the contingency that enrolled nurses in some of these cases would be quite difficult to have in a home based on their scope of practice because the additional workload and clinical supervision that the registered nurse would be able to make.

MR ROZEN: Ms Hudec, I understand all that. There was a debate and a discussion but at the end of the day the project was largely implemented albeit with some exceptions, as we've heard, for example, at Bupa South Hobart.

MS HUDEC: Yes.

MR ROZEN: The project as you've told us was essentially about cost-cutting and was implemented despite the concerns you and others raised about the effect on care.

MS HUDEC: Yes, it was.

MR ROZEN: Is the Commission to understand that there's a link between the cost-cutting and the reduction of nursing positions and nursing hours and the extensive non-compliances that were identified at various Bupa homes that were the subject of - - -

MS HUDEC: I think it's – I think it's one of many factors.

MR ROZEN: What are the others?

MS HUDEC: Culture became problematic in Bupa, in that there was large – significant turnover of general managers and care managers. There was various restructures which made it difficult at times for people within the business to understand how to or who to report to and escalate up concerns that they might have had. Not having an electronic clinical documentation system has been a concern for some time. I'm not sure if that's in place now since I left, but it was certainly – had been raised for many years and there had been a team working on that to put something in place. As well with the medication electronic system, which I believe when I left was in the process of being rolled out across Bupa as well.

MR ROZEN: And - - -

MS HUDEC: Sorry.

MR ROZEN: Sorry. Thank you. Ms Webb, you've been sitting there quietly and patiently. Can I ask you, in light of the evidence we're hearing about culture and the organisational concerns that have been raised by Ms Hudec, in hindsight what could Bupa have done to better assess these organisational culture issues and monitor them so that they didn't become so problematic?

MS WEBB: Look, I think that's a good question. I think that for me the leadership in a care home is essential. I think they can lead the culture in the care home. A leader who sits behind the desk trying to lead a care home from there will inevitably have a culture that isn't accountable out on the floor. So I do think that in cases where perhaps we're slow to act, slow to respond when it became evident that there was a culture in a care home that needed a better oversight. So I think there is a learning in that space that, you know, to be on top of that, to understand it better and to have a clearer picture of the culture in the care home.

MR ROZEN: Ms Hudec, anything you would like to add to that?

MS HUDEC: I certainly agree with Davida. I think one of the challenges that certainly I had visibility of coming into the head of CSI role particularly after a couple of months in, when I was attempting to get my feet on the ground, was the volume and the sheer size of the amount of turnover that we were seeing from general managers. We had a lot of vacancies and not having that stability in care homes was – is – has always been a risk in a home. And general managers who are engaged with their workforce and engaged with their residents and relatives, in my experience, have always been much more successful at homes as a result.

MR ROZEN: What's the role of the executive leadership in an organisation like Bupa to foster improved culture and the sort of loyalty that is needed to keep people

in their positions and provide that stability? What are the lessons that the Commission - - -

MS HUDEC: I think from my perspective, leadership is – the role of an executive in any organisation is to inspire and motivate and engage their workforce. And that is about role modelling. That is about creating inspiration. It's about sharing your vision, understanding what the strategic direction is and telling a story and engaging your workforce with that in a way that wins their hearts and minds and bringing those teams on their journey for that.

MR ROZEN: Now, I want to ask you just a couple of questions about the post-sanctions period which you've both dealt with in your statements, and in other material. If tab 163 could please be brought up. This appears to be an email exchange between you, Ms Webb, and Dr Maggie Haertsch who was the nurse adviser that was appointed to assist with responding to the sanctions that were imposed on Bupa South Hobart. And if we start halfway down, we see that Dr Haertsch was writing to yourself and Mandy; that appears to be Amanda Woodorth. She was the general manager at Bupa South Hobart; is that right?

MS WEBB: Correct.

MR ROZEN: She's recently left that role. And we can see that she wrote:

> *Dear Mandy and Davida, as administrator and adviser, John –*

that would be John Engeler –

> *and I have looked at the proposed staffing numbers carefully and strongly recommend the current staffing cover remains the same without modification for the next three months for the following reasons.*

And then if we skip over 1, you will see point 2:

> *This period of transitioning from a sanction environment is particularly important. We know other homes who have quickly gone back into sanctions when the home could not maintain the level of care and support for residents. The staffing changes proposed are likely to significantly impact on the increased needs for residents living on level 1 of The Lodge. There is a need to have a minimum of three staff on both shifts. The industrial implications of the staff changes is likely to affect the staff morale and much work has been done to create a positive culture.*

And it goes on. Do you recall getting this email, Ms Webb?

MS WEBB: I do.

MR ROZEN: What is the reference to the "staffing changes proposed" in point 2 there, do you know?

MS WEBB: I believe it was – from recollection, I believe it was regarding the Project James model still.

MR ROZEN: Yes.

MS WEBB: We had put a lot of hours back into the care home and I understand that that request was to say can we leave those hours – the additional hours that we put in to manage the sanction to assist on the care home to leave those in place for a period of three months, obviously, from this email.

MR ROZEN: Yes. So – okay. Was someone proposing that those additional hours be stripped back? Is that what we're to understand from this email?

MS WEBB: I'm not quite sure. I can't recall that. But I think it was because we had added in initially.

MR ROZEN: Yes.

MS WEBB: And perhaps there was conversation about when do we change that to be brought back in line with the occupancy. So Maggie clearly was saying that it would be good to leave it in there for another three months at least.

MR ROZEN: The reason I'm raising it with you is it seems to suggest that there is this almost irresistible desire to reduce staffing numbers at Bupa South Hobart as soon as an immediate problem has been overcome, in this case the sanctions, then we see re-accreditation, and then apparently a desire to reduce staffing numbers again. Am I missing the point or am I – is that correct?

MS WEBB: No, look, I can see how you can think that through this. But there was – with the roster changes that were made back in 2017, where I was a regional director the role was to actually implement that roster. Coming into the head of operations particularly and then that role with the roster, I remember – I recall a time when I – I myself went into Bupa Hobart, looked at their roster for some reason when I think the admin might have brought it to me to ask if they could have another staff member. I looked at that and thought this needs to have additional staff because of the layout of the building.

So I sought approval for that from the chief operating officer at the time – I can't remember, I think it was Caroline Cooper – who absolutely approved that. I then asked Ms Cooper if we could look at the roster in its entirety and try to come up with the science behind the roster in terms of developing a roster that we know has got some basis behind it rather than just trying to keep plucking numbers out and putting numbers in a place.

MR ROZEN: Is that the 2.5 hours per residents per care roster?

MS WEBB: Yes. For direct care only, yes.

MR ROZEN: Yes. We understand that was based on some industry benchmarking that had been done by Bupa; is that right?

MS WEBB: So industry benchmarking but I personally felt that that wasn't going to be enough because we continued to talk about benchmarking, so I was trying to find a way that we could incorporate the ACFI tool into determining how that would look. My theory behind it was that the ACFI tool was a tool that was based on care needs of a resident and assessment needs and that if we worked backwards we should be able to find out what the Medicare government concept was behind what should be delivered.

MR ROZEN: Do you accept that there's a danger in trying to apply a one-size-fits-all number of hours of care across an organisation as large as Bupa?

MS WEBB: I do, and so because we have different layouts of the buildings and for that reason Ms Cooper came up with what she called a warranted variation which was a way of managing that. So if a care home, for example, like South Hobart has three buildings they had a warranted variation because that model would need to be adjusted to fit that building.

MR ROZEN: Just a clarification of the terminology. The evidence from Ms Cooper is that Project James was paused in September 2018. This is now 2019. This is a different rostering concept, isn't it, the 2019 roster that Ms Cooper developed; is that right?

MS WEBB: Correct. Towards the end of, probably middle – round September, I guess, would be it. Just trying to think of the dates but, correct, in that we went back in and we had a look at it to try and get some validity behind it.

MR ROZEN: I've been asked to ask you to step back a little bit from the microphone, if you don't mind.

MS WEBB: Sorry.

MR ROZEN: It's just that there's interference.

MS WEBB: Sorry.

MR ROZEN: We can't win with the microphones. If I could just ask finally both of you, we've, I think, benefitted greatly from the observations that you've been able to make about the experience particularly at Bupa South Hobart. Ms Hudec, you firstly, is there any other message that you have for the Commissioners, the work that they are doing and the recommendations they're considering making?

MS HUDEC: Look, I think I believe – or I know I believe really strongly in making sure that all the information is gathered and one of the things that I did do in my role before I left Bupa was to design a new risk profiling tool so that it didn't just identify current risk but was able to predict emerging risk by joining all of those dots such as culture, morale, engagement from both staff and consumers. It looked at staff turnover, vacancy rates – vacancy rates in terms of staff vacancy rates, not just clinical indicators as a standalone tool. It was also – excuse me – it was also important to consider previous history as well. There was a fairly subjective element to that tool also that involved a roundtable conversation as to what were some of the other things or perhaps themes that we were seeing in homes, external to the home complaints – numbers of those, who they were being escalated to.

It was a much broader range of data, I guess, that we considered as a result and the hope was that that continued to identify emerging risk much earlier on. And that was purely from experience of the – Vanessa Lane, the clinical governance director, as well as my own experience from an operational perspective, sitting back and thinking about as a regional director, what do I look for in a home that might present some early warning signs such as a recent change in leadership and so forth. So that's probably one of the biggest learnings that I certainly took away, the importance of looking at all of the data that we have access to and not just individual components to that.

MR ROZEN: Thank you. And Ms Webb, you're now in a new role. You've got a significant responsibility in terms of a number of homes. What have you learnt from your experience at Bupa that you can share with the Commission that you're using in your new role?

MS WEBB: I've learnt so much from this actually. To Linda's point, with the early warning system tool that Linda started working on and developing, I've taken that away, a risk assessment tool, on every care home incorporating things such as staff turnover, vacancies in leadership teams, feedback that we're getting from customers. The other thing I took away from it is that we never really had an itemised structure for a regional director operations manager when they go into a home so there was nothing to say you need to look at this, this or this.

Towards the end of my time at Bupa they had developed and was developing a care home assessment tool for the operations managers to use in their care homes. So I think that's critical in terms of making sure you – because that way you're checking up, you're talking to customers, talking to residents, talking to staff, reviewing files, progress notes, and that sort of thing so to capture – to capture those things a lot quicker.

MR ROZEN: They're the questions that I have, Commissioners, for the two witnesses.

COMMISSIONER PAGONE: I think I've only got really one broad question to ask you. Obviously, operations and clinical, when you put the two together, make up

pretty much the whole of the operations or the whole of the enterprise. And the smaller the operation, the more likely that those two elements will not be separated. The bigger the outfit, the more likely that they will be separated and the bigger and bigger it gets, the more likely the two won't be talking to each other. And yet they are two aspects of an integral whole. Operations presumably include things like staffing and care obviously includes staffing. So that's a simple example of two.

Have you got anything to say about how in largish organisations like Bupa but not necessarily Bupa, might ensure that as those two functions of the same thing get separated, they nonetheless keep talking to each other?

MS WEBB: Thank you, Commissioner. I completely agree, and I think that one way I suppose would be with the assessment tool that's in place is making sure that the operational components are linked in with that as well because you've got to have the communication in order for that to be together. I think also perhaps thinking about the role definitions, for the clinical people in the care homes and the operation people in the care homes in terms of bringing those roles closer together so that the boundaries get a bit further blurred so people are working across both and incorporating both together.

MS HUDEC: As I was listening to Davida then, I was reflecting back on the structure that Bupa had in 2016 and previously, prior to that where there was a managing director and a director of operations and a director of CSI. I – at that point in time I didn't have close insight as to how those relationships worked but my reflections would certainly be that when I look back to that structure, and how the director of operations and the director of CSI work together, we didn't appear to have some of these issues then. They worked closely together. They were both in the head office. But at the same time the director of operations had intimate knowledge of every care home in Bupa. And an element of that I think was lost when he left the business. So I think there needs to be some consideration about how do we capture that experience and knowledge in a way that we don't lose it.

So fundamentally I think part of it is about making sure that the infrastructure is there to support from a reporting system so that we have visibility of that is one thing. But certainly creating those collaborative relationships are key to, I think, any good organisation, small or large, who in teams that actively collaborate well together, notwithstanding that last year from when I came into the role we were already seeing compliance issues to a degree that Bupa had never seen before, so the business was at that – in all intents and purposes in chaos from that point onwards, so the structure did not support that along with all of the ongoing restructures that continued to occur as a result.

COMMISSIONER PAGONE: Thank you. Thank you to each of you. Your evidence has been helpful. We're grateful for what you've said, and you're free to go.

MS HUDEC: Thank you.

MS WEBB: Thank you.

<THE WITNESSES WITHDREW [2.45 pm]

MR ROZEN: We need five minutes, I think, to establish a video link for the next witness.

COMMISSIONER PAGONE: All right. So you would like us to vacate for a moment or two?

MR ROZEN: Yes.

COMMISSIONER PAGONE: All right. We'll adjourn temporarily.

ADJOURNED [2.45 pm]

RESUMED [2.57 pm]

MR ROZEN: Thank you, Commissioners. I should just check, Ms Wiles, that you can hear me clearly.

MS WILES: I can. Thank you.

MR ROZEN: Okay. There's a little bit of a delay at our end. Are you also getting a little bit of delay from me?

MS WILES: I can't see you speaking, so I – it's difficult to gauge that.

MR ROZEN: Okay. All right. Anyway, we will – we have contact, so I think we can press on. Now, Ms Wiles, can you please, for the purposes of the transcript here, state your full name.

MS WILES: Tiffany Clara Wiles.

MR ROZEN: And that's C-l-a-r-a?

MS WILES: Correct.

MR ROZEN: And you have made a witness statement for the Royal Commission dated the 8th of October 2019?

MS WILES: Yes.

MR ROZEN: And, for the purposes of our transcript, the code for that is WIT.0499.0001.0001. Have you had an opportunity to read through a copy of your statement before giving evidence this afternoon?

MS WILES: I have.

MR ROZEN: And is there anything in your statement that you would like to change?

MS WILES: No.

MR ROZEN: Just before I ask you the next question, was the witness sworn? I'm not sure if that occurred.

COMMISSIONER PAGONE: No. That has not yet occurred.

MR ROZEN: Do we - - -

COMMISSIONER PAGONE: We should.

MR ROZEN: We should.

COMMISSIONER PAGONE: Yes.

MR ROZEN: Yes. My apologies for starting without it being done. Do we have that capacity, Mr Associate? Yes.

COMMISSIONER PAGONE: There should be somebody at the other end.

<TIFFANY CLARA WILES, AFFIRMED [2.59 pm]

<EXAMINATION BY MR ROSEN

MR ROZEN: My apologies, Ms Wiles, for not allowing that to occur before I started asking you questions. I think we had reached a point where I asked you if the contents of your statement were true and correct.

MS WILES: Yes.

MR ROZEN: And they are.

MS WEBB: Yes. Thank you. Yes.

MR ROZEN: I tender the statement of Tiffany Wiles dated the 8th of October 2019, Commissioners.

COMMISSIONER PAGONE: That will be exhibit 13-31.

EXHIBIT #13-31 STATEMENT OF TIFFANY CLARA WILES DATED 09/10/2019 (WIT.0499.0001.0001)

MR ROZEN: Ms Wiles, you are the director of a company called Key2Care Proprietary Limited?

MS WILES: Yes.

MR ROZEN: And Key2Care Proprietary Limited was established in 2013; is that right?

MS WILES: That's right.

MR ROZEN: And the company provides support and management services to the aged care industry.

MS WILES: Yes.

MR ROZEN: And I take it that part of that is what might be described as pre-emptive support and management services, that is, before there's any question of sanctions having been imposed on a care home; is that right?

MS WILES: Yes.

MR ROZEN: And - - -

MS WILES: There is – we do do that.

MR ROZEN: Yes. And, in addition - - -

MS WILES: Yes.

MR ROZEN: - - - you're available to perform the role of adviser under the Aged Care Act - - -

MS WILES: Yes.

MR ROZEN: - - - for homes that have been sanctioned. Is that right?

MS WILES: Yes.

MR ROZEN: And is the company also able to perform the role of an administrator under the Aged Care Act for homes that have been sanctioned?

MS WILES: We don't have the capacity to do that at this point in time.

MR ROZEN: I see. Just out of interest, they're, obviously, quite different roles, with an administrator being more concerned with corporate governance and business operations aspects of an approved provider's service provision. From your perspective, for the company to be able to provide that sort of service and be appointed as an administrator, what sort of expertise would you be looking for to be able to do that?

MS WILES: I would be looking to outsource somebody who's had experience in that role, firstly.

MR ROZEN: Yes.

MS WILES: Somebody who has a higher level skill, certainly a higher level skill set than I have capacity for, and, you know, definite experience in governance, and forward level advice, I suppose.

MR ROZEN: Yes. So when you say a higher level skill, you don't mean higher level clinical skills; you mean different skills such as those.

MS WILES: No, different skills.

MR ROZEN: Those involved in governance.

MS WILES: That's right.

MR ROZEN: I see. Thank you.

MS WILES: Yes. No. Not necessarily higher level clinical skills. I think there's a difference – certainly a different role as administrator.

MR ROZEN: Yes.

MS WILES: Clinical skills wouldn't go astray, obviously, but certainly it's not something that I have the capacity to do at the moment.

MR ROZEN: All right. Now, I neglected to ask you, but you are a registered nurse.

MS WILES: Correct.

MR ROZEN: And you also have postgraduate qualifications in gerontology.

MS WILES: Yes.

MR ROZEN: Where did you obtain your postgraduate qualifications?

MS WILES: It was a hospital-based qualification in – it was the Woden Valley Hospital in Canberra, which is now the Royal Canberra Hospital.

MR ROZEN: I see. And excuse my ignorance, but they're postgraduate qualifications in nursing; is that right?

MS WILES: It's in – gerontology is a specialty in nursing around care of the elderly.

MR ROZEN: Yes. But it is a specialty within the nursing area?

MS WILES: Yes.

MR ROZEN: Yes. I understand.

MS WILES: Yes.

MR ROZEN: Prior to performing the role as adviser at Bupa South Hobart, you had one previous experience of being an advisor at a home in 2018, a home called – in a place called Jimbelunga, if I'm correcting pronouncing that.

MS WILES: That's right.

MR ROZEN: And over what duration were you appointed in that capacity?

MS WILES: For their timetable for improvement, over a six-month period.

MR ROZEN: All right. Now, I want to ask you some questions about the time that you spent at South Hobart. So you were - - -

MS WILES: Yes.

MR ROZEN: You were appointed adviser there, nurse adviser, on the 1st of November 2018.

MS WILES: Yes.

MR ROZEN: And that was, what, about a week or so after the sanctions had been imposed on Bupa?

MS WILES: I believe so. I was approached by George – well, I was approached by Bupa on the recommendation of George Siraho, who was the contact person in DOHA during my period of support to Jimbelunga. He then transferred, I understand, to work for Bupa.

MR ROZEN: And DOHA is, of course, the Commonwealth Department of Health. Is that right?

MS WILES: Yes.

MR ROZEN: Yes.

MS WILES: Sorry.

MR ROZEN: Now, if I can ask you about some of the observations that you have included in your witness statement about Bupa South Hobart when you started working there. One of the issues you identify – and this is page 6 of your statement, if it helps. So you were asked about barriers that you encountered while acting as an adviser of Bupa South Hobart. And you refer in a couple of places - - -

MS WILES: Yes.

MR ROZEN: Firstly – it's actually page 5; I'm sorry. Paragraph 15.

MS WILES: Yes.

MR ROZEN: You talk about a disengaged Bupa general manager, who we understand to be Mr Neal at that time; is that right?

MS WILES: Correct.

MR ROZEN: And you make the point that he at that time had already resigned; is that right?

MS WILES: Yes.

MR ROZEN: But was working at - - -

MS WILES: My understanding.

MR ROZEN: Working at quite a lengthy period of notice.

MS WILES: That's right.

MR ROZEN: Some two months, I think, as it turned out. What was the difficulty there that you encountered?

MS WILES: I had felt that David had actually, like I said, disengaged. Once you make a decision to leave a position, it's very difficult to work out such a lengthy notice period and remain engaged, because you're looking to the future. So I think it was a very difficult position for him to be in.

MR ROZEN: All right. You make a broader point on the following page, as I understand it, in the first main dot point. It's about a-third of the way down the page, if you can see that. You say:

> *There was a lack of proper on-site management and leadership at Bupa South Hobart.*

Is that a broader point than just the one you've raised about the disengagement of Mr Neal personally?

MS WILES: Yes. I think that there was also a disconnection between the area support strategies and people and Mr Neal, and – that didn't have any coherence, really, around a strategic approach to resolution.

MR ROZEN: I just want to ask you an aspect about the audit report that led to the sanctions. I'm not sure if you have access there to all of the documents that we can display. So it's tab 85. And what I'm asking to you look at here, Ms Wiles, is the evidence record of the re-accreditation audit that was conducted in October 2018 by the Quality Agency. We know that Bupa South Hobart did not meet 32 of the 44 expected outcomes. You understand that?

MS WILES: Yes.

MR ROZEN: One of the outcomes it did meet, though, was planning and leadership. If you have a look at the third page of the document, which is .2086. Do you see that? Outcome 1.5 is planning and leadership.

MS WILES: Yes.

MR ROZEN: And the statement there, very brief as it is:

> *The home meets the expected outcome.*

And then, evidence considered:

> *The team was not presented with any evidence indicating that the expected outcome is not met.*

Did you have cause to consider what appears to be perhaps a conflict between your observations about leadership and the outcome of the Quality Agency? And can you help us reconcile the two?

MS WILES: I think that the agency are looking at a snapshot in time and presented with evidence that they have in front of them. And my statement is based on information over time - - -

MR ROZEN: Yes.

MS WILES: - - - and my total experience.

MR ROZEN: All right. And, beyond that, you probably suggest we ask them how they came to that conclusion?

MS WILES: Absolutely.

MR ROZEN: Now, another matter you raise in the course of your statement was concerns that were raised with you by families. And I just want to ask you about that. Firstly, what was the nature of the concerns that were raised with you?

MS WILES: There are multiple concerns raised, and even to the point after I had been at the residents – initial residents' meeting, I was overwhelmed with contact from families. And so I set up a situation where I would allow each family to have some time to spend with me to voice their concerns. A lot of issues around food, pain management, general basic cares, some skin care issues. I can't remember specifically all of the things, but everything that was discussed was documented through the – Bupa's quality system, the feedback mechanisms where I document them, made recommendations and put them to Bupa for entering into their risk management - - -

MR ROZEN: Sure. I'm not so much concerned - - -

MS WILES: - - - program.

MR ROZEN: - - - to ask you about the detail what was raised with you. I'm more interested in a broader question, which is whether that experience of being apparently inundated by requests from families and concerns being raised with you, whether that told you something about the culture of the organisation.

MS WILES: Absolutely. I think that people had raised issues to local management and they haven't been heard or there wasn't a resolution achieved that they were satisfied with. And they still felt that their relatives were at risk, I suppose.

MR ROZEN: And, from your perspective and based on your experience, what would you identify as the hallmarks of good practice of complaints and concerns in an aged care home? What would you be looking for?

MS WILES: I'm sorry. Can you repeat your question?

MR ROZEN: Sure. I'm asking you a broader question, based on your experience at Bupa South Hobart and based on your experience generally of the aged care industry. What are the hallmarks of good practice in relation to resident and family complaints and concerns handling by an aged care facility?

MS WILES: Certainly being listened to. Having an avenue, a structure, a form to be able to be heard, firstly. To have some structure around that so that they have a

process, even if it's a step-by-step process where there's full disclosure, as well, and that families are advised of any resolutions or changes, particularly in response to their initial complaint, or compliment.

MR ROZEN: Yes. Feedback, if we can use a neutral term, perhaps.

MS WILES: Yes. Thank you.

MR ROZEN: All right. Now - - -

MS WILES: Yes.

MR ROZEN: - - - at paragraph 17 of your statement you note that a review of staffing was conducted on your initial arrival at Bupa South Hobart. Do you see that?

MS WILES: Yes.

MR ROZEN: What did that review of staffing involve? How did you do it?

MS WILES: It was actually in collaboration with the administrator. Anchor Excellence and Key2Care work very closely together.

MR ROZEN: Yes.

MS WILES: And we looked at the number of staff, the locations, the difficult location of the site, being three buildings over multiple floors. And that – just the logistics of that makes staffing levels – the need for staffing higher, I thought.

MR ROZEN: Yes.

MS WILES: But there was a rationalisation of staffing as well. Particularly around the clinical care managers, there was a rationalising of – based on the number of residents in the home, they decided that two care managers would be sufficient.

MR ROZEN: Rather - - -

MS WILES: My observation is three buildings with two care managers means that there's going to be a deficit somewhere.

MR ROZEN: And as we have seen, it's not just three buildings, but the buildings have several floors and lots of corners, don't they?

MS WILES: Yes.

MR ROZEN: It's not an easy place to get around.

MS WILES: No.

MR ROZEN: Is that relevant from a staffing point of view?

MS WILES: Look, I think it is. As a visitor to the site, it was actually very difficult to navigate the site. And I think for residents – if you've got staff allocated to one building and they're attending to residents on one floor, they can't leave that floor to attend residents on another floor, or anybody who's calling somewhere else. So it does make it very, very difficult.

MR ROZEN: And what was the outcome of your review that you conducted together with Anchor Excellence? What did it lead to?

MS WILES: That was an increasing in staff hours. They had actually put in 35 – an additional 35 hours a day which was very responsive. The challenge with it was though having the staff to fill those hours was – I don't think that they ever had a day that those additional hours were filled. So even they – they put a strategy in to remedy, but it wasn't – it was, you know, it was almost impossible to get those – the number of hours filled.

MR ROZEN: Right. And you also make a reference to the training of the staff, the inadequacies of training. Can you expand on that? What was the problem there that you encountered?

MS WILES: Look, I think that there were – we had offered some behaviour management training and customer support training specifically during our tenure. The challenge was releasing staff to actually attend the training. There seemed to be a priority to provide care, obviously, than to allow people to come to training. It was actually quite – the behaviour management training was well attended. The customer service training, not so. The challenge of releasing people over a difficult site with multi levels and multiple buildings means that it's not going to be a priority.

MR ROZEN: In - - -

MS WILES: ..... the care was the priority over and above the training because of not being able to release people.

MR ROZEN: I understand. Paragraph 21, you were asked to identify what you considered to be the key contributing factors that led to the safety and quality issues with care at Bupa South Hobart. You've already talked about a number of these, but I want to ask you about the last dot point in paragraph 21.

MS WILES: Yes.

MR ROZEN: In quotes you've got "profits before people".

MS WILES: Yes.

MR ROZEN: What are you seeking to convey to the Royal Commission there?

MS WILES: I think that I wanted to say that the way – I can only compare it to my own ethics.

MR ROZEN: Yes.

MS WILES: I – every interaction that I go into, needs to be a win-win interaction. Whether – if it's a win for you and not for me, it's a no-deal and if it's a win for me and not for you then it's a no-deal. There has to be a shared goal, I think, but I felt that with Bupa South Hobart there was an interest in cutting costs rather than caring for people. That's a very broad statement, obviously, but my general feeling was that, yes, the financial KPIs were very important beyond the care KPIs.

MR ROZEN: And are you making that observation about the period that led up to the sanctions being imposed or are you talking about the period when you were there between November and February of 2019?

MS WILES: I can only comment on the time that I was there. What happened prior to that is really speculation on my behalf.

MR ROZEN: Do you think that there was a proper and thorough understanding of the nature of the deficiencies that you found on the part of Bupa – the Bupa senior managers that you dealt with?

MS WILES: No. I don't think so. I think there was – we had made a lot of recommendations and suggestions and, of course, as advisers the – they're not obliged to take our advice.

MR ROZEN: Yes.

MS WILES: So it – it's up to them to make a decision. I know that some of the things that we did suggest have been now embedded into their systems which is a good thing. I'm not sure if I've answered your question. Do you need to ask me - - -

MR ROZEN: No. Thank you. And the final matter I want to ask you about is the circumstances of the termination of your appointment. That occurred on 11 February 2019, so some three months after you were appointed, a little over three months; is that right?

MS WILES: Yes. Yes.

MR ROZEN: Was it originally envisaged by you that the appointment would run for longer than the three months?

MS WILES: Yes, a six month period for the duration of the timetable for improvement. I actually had a contract for that.

MR ROZEN: Yes, for the sanctions period?

MS WILES: Yes.

MR ROZEN: You say at paragraph 19 of your statement that the services of Key2Care were terminated when you were contacted by Ms Davida Webb of Bupa management.

MS WILES: Yes.

MR ROZEN: And you say you were not told why, and no complaints or issues had been raised about the services; is that right?

MS WILES: That's correct.

MR ROZEN: All right. Ms Webb has dealt with this issue in a witness statement that she's provided that is now part of the evidence before the Royal Commission, and if I can summarise what she says about that, she says that your contract was terminated because of your poor performance and that she had been told by others, who she identifies, that you were often absent from the site and unable to be contacted. Would you like to respond to that evidence that Ms Webb has given, Ms Wiles?

MS WILES: Absolutely. Our contract was only ever for five days a fortnight, and we actually attended the site – either I or a representative attended the site for a lot more than that. So it could be a misunderstanding of the terms of our contract, firstly.

MR ROZEN: Yes.

MS WILES: And, secondly, all emails and telephone calls were responded to within a business day, on the same business day.

MR ROZEN: All right. Commissioners, they're the questions that I have for Ms Wiles.

COMMISSIONER PAGONE: Yes. Thank you. Ms Wiles, thank you very much for giving evidence remotely.

MS WILES: Thank you.

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

MS WILES: I appreciate the fact that you've been able to give me the remote access related to my family circumstances. Thank you.

COMMISSIONER PAGONE: Thank you.

MR ROZEN: Thank you, Ms Wiles, I think we can end the link.

MS WILES: Thank you.

<THE WITNESS WITHDREW [3.23 pm]

MR ROZEN: The final witnesses for the day, Commissioners, are a panel of three from Anchor Excellence. I call John Engeler and Cynthia Payne and Dr Maggie Haertsch.

MR D. LLOYD: Commissioners, while the witnesses are coming up - - -

COMMISSIONER PAGONE: Yes.

MR LLOYD: May it please the Commission, my name is Lloyd. I appear for the three witnesses with Ms Beange, instructed by Sparke Helmore. I understand that leave has already been granted.

COMMISSIONER PAGONE: Yes. Thank you, Mr Lloyd.

<CYNTHIA ROMONA BRENDA PAYNE, SWORN [3.25 pm]

<JOHN PATRICK ENGELER, SWORN [3.25 pm]

<MARGUERITE HAERTSCH, SWORN [3.25 pm]

COMMISSIONER PAGONE: Do feel free to sit down. Make yourselves comfortable.

MR ROZEN: Thank you, Commissioners. If I can start with you, Ms Payne. I will ask you, please ,to state your full name for the transcript.

MS PAYNE: Cynthia Romona Brenda Payne.

MR ROZEN: And, Ms Payne, you have made a witness statement for the Royal Commission dated 6 October 2019; is that right?

MS PAYNE: That's correct.

MR ROZEN: It has the code WIT.0467.0001.0001. Have you had an opportunity to read through your statement before giving evidence this afternoon?

MS PAYNE: Yes, I have.

MR ROZEN: And is there anything you would like to change in your statement?

MS PAYNE: No.

MR ROZEN: And are its contents true and correct?

MS PAYNE: Yes. That's correct.

MR ROZEN: I tender the statement of Cynthia Payne dated 6 October 2019, Commissioners.

COMMISSIONER PAGONE: That's exhibit 13-32.

EXHIBIT #13-32 STATEMENT OF CYNTHIA PAYNE DATED 06/10/2019 (WIT.0467.0001.0001)

MR ROZEN: Mr Engeler, if I could turn to you, please, and ask you to state your full name.

MR ENGELER: John Patrick Engeler.

MR ROZEN: Thank you. And Mr Engeler, you too have made a witness statement for the Royal Commission bearing the same date, 6 October 2019?

MR ENGELER: That's correct.

MR ROZEN: And the code for your statement is WIT.0468.0001.0001.

MR ENGELER: That's correct.

MR ROZEN: You have had an opportunity to read through that statement, have you, before giving evidence.

MR ENGELER: I have.

MR ROZEN: Anything you would like to change?

MR ENGELER: No, there's not.

MR ROZEN: The contents are true and correct?

MR ENGELER: True and correct.

MR ROZEN: I tender the statement of John Engeler dated 6 October 2019.

COMMISSIONER PAGONE: That's exhibit 13-33.

EXHIBIT #13-33 STATEMENT OF JOHN ENGELER DATED 06/10/2019 (WIT.0468.0001.0001)

MR ROZEN: And lastly Dr Haertsch – I hope I'm pronouncing correctly.

DR HAERTSCH: You are, Haertsch. Yes.

MR ROZEN: Sigh of relief. You have made a witness statement dated 4 October 2019 for the Commission.

DR HAERTSCH: Yes.

MR ROZEN: And it bears the code WIT.0466.0001.0001.

DR HAERTSCH: Correct.

MR ROZEN: And there are three corrections that you have identified for us through your lawyers that you would like to make to the witness statement; is that right?

DR HAERTSCH: That's correct, yes.

MR ROZEN: All minor matters but important nonetheless. The first is in paragraph 5; is that right?

DR HAERTSCH: That's correct.

MR ROZEN: And there are actually two changes in that paragraph. Firstly, you would like it noted that your PhD was awarded in the year 2000; is that right?

DR HAERTSCH: Correct.

MR ROZEN: So if at the end of the first sentence after Newcastle we were to write "in 2000", would that meet that concern.

DR HAERTSCH: Correct. Yes, please.

MR ROZEN: And the second change is in the very last line: "1977" should, in fact, be "1988".

DR HAERTSCH: That's correct.

MR ROZEN: The second change that you would ask us to make is in paragraph 10 on the second page of the statement.

DR HAERTSCH: Yes.

MR ROZEN: And it's the time during which you have provided support for the Bupa home in Bendigo that you would like to amend.

DR HAERTSCH: That's correct.

MR ROZEN: Would your concern be met if we deleted the words "(four weeks)" after Bupa Bendigo and inserted "9 September 2019 to 20 October 2019"?

DR HAERTSCH: Yes. That's correct.

MR ROZEN: The next matter is actually not one that you've identified for us but I think it may need amending. I'm sorry, it is one of yours. Paragraph 42 on page 8.

DR HAERTSCH: Correct.

MR ROZEN: In the first line there's a reference to the behaviours of dementia patients. You would like us to delete the word "patients" and insert before the word "dementia" people "living with". Is that right?

DR HAERTSCH: It should be referred to as people living with dementia, rather than dementia patients.

MR ROZEN: Yes.

DR HAERTSCH: Yes.

MR ROZEN: Yes. So we delete "patients" and it will now read "behaviours of people living with dementia,".

DR HAERTSCH: Correct. Thank you.

MR ROZEN: Thank you. I think there are also a couple of dates which have accidentally been incorrectly typed. Would you have a look at paragraph 43 on page 9. That date 9 April 2018, I think, should be 2019.

DR HAERTSCH: That's correct, yes.

MR ROZEN: And, equally on paragraph 53, same issue:

I attended at Bupa South Hobart nearly every week from 9th of April 2018 –

should be 2019.

DR HAERTSCH: That's correct.

MR ROZEN: And with those changes, are the contents of your statement true and correct?

DR HAERTSCH: Yes, they are.

MR ROZEN: I tender the statement of Dr Haertsch.

COMMISSIONER PAGONE: That's exhibit 13-34.

EXHIBIT #13-34 STATEMENT OF DR HARGUERITE HAERTSCH (WIT.0466.0001.0001)

MR ROZEN: Now, just so that the Commissioners understand the respective roles that you had in relation to Bupa South Hobart, you all come into the picture post the sanction period, if I can put it that way.

MR ENGELER: Correct.

MR ROZEN: None of you had any role before that time. The transcript will recall that you've all shook your heads at that point. And your appointment, Ms Payne, was as administrator. And it was from the date of 6th of November '18.

MS PAYNE: That's correct.

MR ROZEN: And you performed that role at Bupa South Hobart until you were appointed the national administrator of Bupa in March 2019.

MS PAYNE: Yes, that's correct.

MR ROZEN: All right. And just so that's understood, when I say appointed to the position of administrator, it's an appointment under the Aged Care Act, isn't it?

MS PAYNE: Yes. It's directly connected to a sanctions notice - - -

MR ROZEN: Yes.

MS PAYNE: - - - issued by the Department of Health.

MR ROZEN: So the sanctions notice, as is commonly the case, informed Bupa that it was required as a condition of staying open during the sanctions period that it appoint an administrator and an adviser.

MS PAYNE: Yes, that's correct.

MR ROZEN: And the administrator role is one that is focused on corporate governance and the business operations of the provider; is that right?

MS PAYNE: That's correct.

MR ROZEN: And are those matters of which you had had experience prior to the appointment on the 6th of November?

MS PAYNE: As – specifically as an administrator no, but in the general course of my working career.

MR ROZEN: And can you just summarise what that experience was, relevantly, for this role.

MS PAYNE: 15 years having operated as the chief executive officer for a New South Wales-based aged care provider, Summit Care.

MR ROZEN: Yes.

MS PAYNE: And, prior to that, roles as leading aged care services such as being the director of Care Village manager, working as a registered nurse and having been involved in a peak industry body.

MR ROZEN: Now, you were selected for this role by Bupa; is that right?

MS PAYNE: That's correct.

MR ROZEN: And it's the case, isn't it, that there's no list of people who are eligible to be administrators that's maintained by the Department of Health.

MS PAYNE: Yes. My recollection is that there used to be a panel list and at some earlier point there was a decision to not maintain the panel.

MR ROZEN: Without going into the pros and cons of that decision, do you think that having a list would be a good idea, from the point of view of the industry?

MS PAYNE: Yes, I do. I think it is.

MR ROZEN: Why is that?

MS PAYNE: Because I think that there is a mechanism in which the skills and the qualifications of the individuals can actually be screened, they can be made public and they can be available to the approved provider. There is a – I think I make a point in my statement, there is a short period of time in which the Department of

Health expects the approved provider to be able to make those appointments. And - - -

MR ROZEN: Generally within a week, isn't it, at most.

MS PAYNE: It's a very quick turnaround. I think it's technically two weeks - - -

MR ROZEN: Yes.

MS PAYNE: - - - but, obviously, they then need to be able to identify the requisite person that might fit their requirements. And a list, obviously, would help with that.

MR ROZEN: Do you know whether there is any vetting by the Department of Health of the identified administrator by a provider? In other words when the provider says "We want to appoint Cynthia Payne", is there any process by which the department vets that appointment or is it just - - -

MS PAYNE: I'm not included in that process, but I believe that when the approved provider makes a nomination to the Department of Health, the Department of Health accepts that nomination. So I believe that they do need to satisfy the Department of Health, but I do not believe that that is specified anywhere.

MR ROZEN: Okay. Mr Engler, if I turn to you, because you took over the role that we've been discussing with Ms Payne when she became the national administrator. Is that right?

MR ENGELER: That's correct, yes.

MR ROZEN: And how did that appointment come about? In other words, it wasn't done just in-house at Anchor Excellence, was it? It was a separate appointment that was made by Bupa.

MR ENGELER: Yes, indeed. And I had previously been appointed as an administrator in another standalone facility, not another Bupa facility, in another territory in Australia and had performed that role well. I became available then to be nominated as a possible administrator to replace Cynthia substantively on the 20th of March when she took over the national role.

MR ROZEN: Yes. And do you have anything to add to the observations that Ms Payne made about the notion of some register or a list of approved administrators or approved people able to be appointed as administrators?

MR ENGELER: Most certainly. I think we've been firm in our understanding both as an organisation and as an industry of the need to really bed down and secure the skills, experience and qualifications that would be needed for administrators and advisers to be effective and monitored, evaluated, reviewed and understood more

broadly as part of remediation or any – but particularly sanction activity, but in terms of improvement and quality in aged care generally.

MR ROZEN: And, finally for the moment, Dr Haertsch, you were appointed an adviser - - -

DR HAERTSCH: Yes.

MR ROZEN: - - - to Bupa South Hobart with effect from the 9th of April 2019.

DR HAERTSCH: That's correct.

MR ROZEN: Were you in the hearing room when we heard from Tiffany Wiles, the previous - - -

DR HAERTSCH: Yes, I was.

MR ROZEN: ..... you actually replaced her, did you not, as the advisor.

DR HAERTSCH: I think there was a period where – I think it wasn't directly straight after. I think ..... which was – did a period before that. I'm not – I'm not completely clear about the history - - -

MR ROZEN: Okay.

DR HAERTSCH: - - - or the logistics involved behind that. I can only verify my start date.

MR ROZEN: I understand.

DR HAERTSCH: So – yes. Because we work as a company, which is also, I think, somewhat unique, there's a lot of collaboration that happens as a result of that and handover, as well.

MR ROZEN: In a situation where there's been an adviser in place and you come in either immediately after or shortly after they finish, do you think it would be beneficial to have some handover-type discussion? I'm assuming there wasn't one here or was there?

DR HAERTSCH: Well, as I said, we work very collaboratively, so John was already in place in terms of being administrator. So I could get a lot of information through – through our own internal process. But, absolutely, having handover is really essential. And getting all the correct documents on time to be able to help prepare you for the role as and when they come through from the organisation itself is, in fact, essential.

MS PAYNE: Do you mind if I explain that in the process of Bupa making the decision to cease the contract with Key2Care - - -

MR ROZEN: Yes.

MS PAYNE: - - - there was a request made of me of whether or not there was an ability to provide an adviser service. In between, there was an internal incumbent, Tina Doyle, who is part of the clinical services team that was actually implemented, I think for about three weeks. And on the 28th of February Karla Beheron was with John and I as part of an orientation and handover. Subsequent to that, a sanction notice was issued to Bupa which related to the national appointment. So there were, I guess, two streams that occurred in a short period of time.

MR ROZEN: Okay. Mr Engeler, if you could just be careful not to get too close to the microphone - - -

MR ENGELER: Sure.

MR ROZEN: - - - because it leads to feedback. I'm sorry I have to raise that with you, but that's a problem. I want to ask you some general questions, because one of the focuses of this week's hearing is on governance within aged care providers and what the Commissioners can learn from the evidence they're hearing and what sort of recommendations might potentially be made that will improve governance within the aged care sector. So perhaps if I can start with you, Ms Payne, given that you can draw on not only your experience generally - - -

MS PAYNE: Yes.

MR ROZEN: - - - but experience you've had at Bupa South Hobart and then, more recently, as national administrator. If you can identify some key areas that you think need to be improved in relation to governance in the aged care sector, what would they be?

MS PAYNE: So if I start at the global level of the standard itself, I would say to you that the standard at the moment has quite an input focus.

MR ROZEN: Standard 8 are you talking about?

MS PAYNE: Standard 8.

MR ROZEN: We might bring that up on the screen, because I think it would help us. It's in the documents already tendered tender bundle. And it's document 2.2, I think. Just bear with us while that's brought up on the screen, Ms Payne. I'm about to be told if I'm right. Sorry, Commissioners. We're just – yes. Thank you, and if we could go to standard 8 which is on dot – yes, thank you. And if we could go to standard 8, which is on – yes. Thank you. That's the standard 8, organisational governance, that you're referring to, Ms Payne.

MS PAYNE: That is correct.

MR ROZEN: If we can just get that right-hand side of the page blown up to assist with your reading of it, perhaps all the way down to the bottom of the page, please. Thank you very much. So we can see, as with all of these standards, divided into consumer outcome, but organisation statement and the various specific requirements that are imposed by the standard. What do you draw our specific attention to, Ms Payne?

MS PAYNE: So if I start by looking at the organisational statement.

MR ROZEN: Yes.

MS PAYNE: The organisation's governing body is accountable. What I would point to the Commission is we don't actually talk about performance. I think that's a key word that's actually missing.

MR ROZEN: Yes.

MS PAYNE: And when we move down to the requirements, the requirements in themselves are all very important, but they don't necessarily speak to an organisational context in, from my perspective, a small organisation right through to a large organisation. So if I reflect on the conversations that the Commission has heard so far, we've talked about some really key elements that I actually touch on in my submission around segregation of duties as one element. Clinical governance, obviously, is another element. Consumer engagement. Now, if we look at 8.3 (a):

> *Consumers are engaged in the development and delivery and evaluation of care and services and are supported in that engagement.*

That doesn't necessarily connect to the organisational context. It – there's a piece of ambiguity that I think the new standards, which I must say, Mr Rozen, it is very positive that we have a governance standard.

MR ROZEN: Yes.

MS PAYNE: But my point is, I think, that where it's at at the moment it's bedding down in the system. So I would say that the Aged Care Quality and Safety Commission is working through how it is assessing those. And I think there will be a learning cycle since the implementation in July as we move forward to better understand what this means in a broad context.

So if I can just speak specifically to something that's very important, is data and knowledge, and the measurement component. Measurement is broader than an internal review. I think the term used this morning was a mock audit. And there are indicators, clinical indicators, other business indicators, and a robust system, from my perspective, needs lead indicators, lag indicators, quantitative measures and

qualitative measures. Now, at the moment, if I look at that organisational governance standard, the connection of performance and measurement in terms of the organisation, that's not really apparent.

MR ROZEN: Can I just ask you about 8(3)(a), please, Ms Payne, this notion of consumers being engaged in development, delivery and evaluation of care and services, is there a place, from your point of view, in a governance standard that goes beyond that and requires a provider to engage in some form of consultation with families and residents? For example, in implementing a significant exchange? Would you see that as being a constructive requirement to impose?

MS PAYNE: I would say to you that that is best practice.

MR ROZEN: Yes.

MS PAYNE: That you would want to include in the process – this is for the elders living in an aged care home, it is their – it is their home. And so the first priority obviously is to the elder and I do say I prefer that term to consumer. And then the representative is a separate matter. What I'm very happy about in these new standards is that they are consumer-facing in the way that they are, first and foremost. And I think that that is quite a challenge for every aged care organisation as it's adjusting itself to the new standards. There has been in the past, in my view, a more of an emphasis towards the representative voice and that could be the family member, it could be the nominated decision-maker. But, actually, what that is saying is that we are engaging elders and their representatives in the development and delivery and the previous standards did not require that.

MR ROZEN: Mr Engeler, can I ask you a slightly different question by focusing on 8(3)(d) which we see on the right-hand side of the screen:

> *Effective risk management systems and practices including but not limited to –*

and then they've set out –

> *...managing high impact or high prevalence risks, identifying and responding to abuse and neglect, supporting consumers to live the best life that they can.*

So under the standard, an organisation is required to demonstrate those matters. Is that an important aspect of good governance from your perspective and why, if it is?

MR ENGELER: Most certainly, and I hope the volume is okay, Mr Rozen. Yes, most certainly. And I must say in the case of Bupa, their own risk management system which identifies partly feedback is a standard process of being able to identify risks and how they would be dealt with. What, for example, in their feedback system though, it talks about a complaint, a compliment or a recommendation; we would go further, using this standard 8, organisational governance which has been enhanced, to say you can actually do that earlier. You can actively seek a process of early

engagement with residents to make sure that they're very involved, whether it's the resident, the elder or their representative, particularly where there's capacity that has been impacted so the representative is, in fact, the voice of the elder.

So to Bupa's credit it already had a baseline risk man, it's called – risk management system that identified some of those things. Our take on it would be – and certainly the case of Bupa South Hobart, and I've got a couple of examples – we would say that could be enhanced or applied even further so – and it might be more applicable to some of the other elements of standard 8. But, for example, when we talk about engagement of residents and decisions that affect them, we, for example, as part of our broader administrator adviser role, and certainly with Dr Haertsch's assistance, set up a resident committee, engage residents, for example, in the interview on new staff, suggested that residents, if they were so qualified or interested, wanted to review and sit in on training as part of the assessment.

So some quite practical things, even I think nominating to be part of the work health and safety committee. So there's a number of quite practical things that can happen. We've certainly got the theory and to reinforce what Cynthia said, standard 8 certainly is a much greater improvement on what we had under the previous system. There are only four standards. This new Single Quality Framework gives us the basis, but we would say, particularly with our lived practical experience at Bupa South Hobart, there's a lot more other things that could happen as well to flesh that out or to give it some sort of materiality.

MR ROZEN: Can I just follow up on one matter which is in a way it's the sort of central paradox in this case study and it's this: if one examines on paper the clinical governance framework that was there, if you just took a snapshot in the middle of 2018, went in to do an audit, there's a range of committees which appear from the description of the work of those committees to be addressing many of the matters that you would require under standard 8, but what we've seen in the examination of the evidence – and the witnesses from Bupa have all largely conceded this – for one reason or another, that didn't really work to ensure quality and safety outcomes at Bupa South Hobart.

You've all been in there. You've looked at the evidence that I'm talking about and you've looked at the governance framework. Are you able to assist the Commission in understanding from your perspective, starting with you, Mr Engeler, why didn't it work in this case?

MR ENGELER: If I could start most broadly about the industry and I've thought about this. Generally, as an industry we've certainly seen an increase of residents coming into aged care with much higher acuity, effectively staying in our homes months not years. Usually with a high level of either documented cognitive impairment in terms of dementia and/or heading towards a later stage of life if not formal palliation. I think that what's generally happened – and it's just part of the context, and certainly my reflections on South Hobart would reinforce this – is that we weren't able to adjust our framework, however, the Single Quality Framework

has now remedied that to identify high impact risk clearly enough as urgently enough as it needed to be.

So in effect and, again, this is clear of all of Australia, we've lost the distinction between high care and low care. Most of our residents, particularly our new admissions into aged care residential settings now require a level of risk analysis that we had better call high impact risk. There are some absolute elements that need to be measured more frequently, more quickly, almost in a 24-hour seven-day a week cycle. Things that could happen at 3 o'clock on a Friday afternoon now can't wait until Monday till they're picked up, particularly if you had a long weekend in there. That's the sort of sense that I get and the confidence that I get from the new standard 8 organisational governance about how the risk management system needed to be more finely tuned, more calibrated to the high impact residents that we're getting. I might let Cynthia or Maggie to that.

MR ROZEN: I might get Dr Haertsch involved in the conversation. You've been patiently quiet down there.

DR HAERTSCH: That's all right.

MR ROZEN: From your perspective, working as an adviser and the experience you've had in the aged care sector - - -

DR HAERTSCH: Yes.

MR ROZEN: - - - would you like to add anything to Mr Engeler's observations?

DR HAERTSCH: Yes, I think that it's very important that there's a deeper understanding of the chronic disease conditions that are coming through now as we're seeing people living longer, the higher levels of cognitive impairment as well and adjusting to reflect individual needs that are required. So that whole concept of high impact clinical risk is a very important one. It's something that we've done a lot of work on around clinical handovers, so on a shift change, it's three times a day you're actually having these conversations and adjusting the lens of the clinicians to understand where are all those risks and where do you need to guide your care teams. And it's incumbent on the registered nurses to really understand that. And there's a lot of training that we've done around this, and I think that actually that's made a difference.

I'd like to think that that's made a difference in the homes that we've been in and certainly within Bupa. It's like having a triage focus; it's like when you go into an emergency department. I don't want to be alarmist here because I don't want aged care to be seen as all about ill health and frailty, quite the contrary. I think our focus needs to change off that. But in relation to risk and clinical risk I think this is quite an essential area of focus, yes, understanding that and training your thinking every day. It's like airline pilots. It's like going through your check list, making sure that

everyone on your plane or inside your residential care home has got the needs that they need to have met at that time.

MR ROZEN: I understand that at the general level. I wonder if I could just sort descend a little bit to the specific of the Bupa situations, how it's the apparently robust governance framework which was there that doesn't seem to have held up in this instance, and what we're trying to explore is from your perspective you're able to help us to understand why. Was it not as robust as it looks or was it a function of, you know, a failure of information flow? What do you think we should be focused on in trying to understand it?

DR HAERTSCH: Thank you, Mr Rozen. I understand what you're asking here and I think that it's multifaceted. It's multifaceted in the sense that information exchange in a timely manner from a big corporate right down to the grass roots doesn't necessarily flow easily. I think that it would be fair to say – and I think, you know, this is true in Bupa but I think it's true in other sanctioned environments that it's a new concept relatively for the industry. We've never seen so many sanctioned homes happen. And so there's a sense of wanting to hang on to business as usual. A failure to understand the need to remedy quickly. So therefore, you need more resources, you need more focus, you need to have that leadership.

I would say also that to cut through everything around whatever documents there are or work information systems there are, to speak to the residents themselves, to actually understand about the lived experience, to me is a central pillar for how we need to operate in the industry now with these standards and going forward into the future. Whilst we have these governance structures and we might have a lot of clinical risk management system we're failing still to really develop a robust way of understanding the lived experience and quality of life because quality of life can be measured and it can be measured very – in a sophisticated way and is being done internationally.

MR ROZEN: You draw our attention to some of those measurement tools in your statement, don't you?

DR HAERTSCH: I do. And I think – and I had tried with the Department of Health when they were looking at these standards to ask them to pay attention to this, because that is after all the reason why we have aged services, is to enable, not necessarily care for, but enable people to have the independence and that ability to live a long fulfilling life right up until the end. And I think what we've done, we're still seeing – and a lot of what we've heard over these last couple of days is the issues around high impact risk and the lack of the basics of just getting care right.

We need to balance that and we need to be able to understand about the experience because people will have pain but if they know they're going out for the day to do something they enjoy, that pain has to get managed. Like a lot of this comes as – if you change the way in which someone can have a good life, then all those other

clinical matters have to be addressed. They just have to be addressed. You can't go out the door with a weeping wound, for example.

MR ROZEN: Ms Payne, can I test a proposition with you and then invite your colleagues to make any observations they want. One of the things that comes out of this case study, at least some of the evidence, is that there was a heavy emphasis on cost-cutting in the implementation of certain programs and apparently less concern about the potential impact on care outcomes of the implementation of those policies. I'm talking about – there's Project James and there was the Bupa model of care 2 which were introduced in 2017.

The proposition I would like to test with you is would it be beneficial from the point of view of care recipients – the elders, to use your term – for those on the boards of approved aged care providers to have a positive duty to consider quality and safety outcomes in their decision-making processes, and I'm thinking of an analogous position we find under workplace safety law where directors, people like yourselves, in organisations have a positive duty, a due diligence duty to consider health and safety aspects of the running of the business. Do you see a role for that potentially in aged care legislation?

MS PAYNE: The best way I can answer that is to even think about 10 years ago – and I think this is related, it was not uncommon in the board structure of governance that typically you might have a treasurer and anything to do with the financial management of whatever that governing body would oversee, there might be a deferring to the treasurer. And the industry and the profession of governance recognised that that was actually not correct, and many organisations removed their treasurers because the general consensus was the whole board actually needed to understand financial management. I put to you that just like that circumstance, clinical governance equally needs to be understood by all board members.

So there's a skills mix and a capability that I think these new standards is absolutely impacting. So some organisations I'm aware of didn't necessarily have someone that had a clinical or an operations management background on their board and I truly can't speak for Bupa, I don't know the answer to that and I don't know the answer to those prior circumstances because obviously you mentioned BMOC1 and Project James. I've heard of them since I've been connected to the organisation but clearly I don't know what they are. But it is behoven on the board to understand the business that it is governing and so the skills matrix actually a quite an important element of that.

MR ROZEN: We don't – that notion of a skills matrix is often referred to in governance guidance material. We don't see that in standard 8, though, do we?

MS PAYNE: Not explicitly.

MR ROZEN: No.

MS PAYNE: So and if I revert back to my earlier point to you, Mr Rozen, about performance. Performance isn't just necessarily about the standards. Organisations have strategic imperatives, vision, missions, higher order purposes. So the performance is actually about that. So our metaframe that we use as a business is business excellence, as well as the aged care standards.

MR ROZEN: Mr Engeler, if I could turn to you and you can make any observations about that question. But I would also like to ask you some questions about organisational culture, because that seems to be a very important aspect of the notion of governance and the ethical responsibilities of people involved in running aged care service provision. Do we need – or what should this Commission be considering in relation to that? Is there a need for policy development, legislative change, improved standards? What would you advise us?

MR ENGELER: I will just go back to reaffirm what Cynthia said about the prior question. Absolutely there needs to be a more direct link between the skills on various boards or governing body, particularly with the business of residential aged care - - -

MR ROZEN: Yes.

MR ENGELER: - - - because they need to be linked into those. In terms of the culture question – and there's that old adage about, you know, culture eating strategy for breakfast – it's most important that organisations – and we enjoy working with these new standards, we enjoy working with the more comprehensive standards under the new single quality framework. I think it would be fair to say that they are, if you like, halfway there.

The cultural aspect, we're trying to capture, whether it's policy or legislation or behaviour or a system of star rating, whatever, the way in which those governing boards, the decision-makers are linked in directly back to the consumer experience. And I think whatever – we would be open to whatever situation, whether it's comparing from overseas or from other industries, what ways that's done. But certainly we, I think, are part way down the journey. There's certainly a long way to go. Sorry. Just ask me the question again, Mr Rozen, about - - -

MR ROZEN: Yes. It was this somewhat vexed question, really, of organisational culture, which is – I mean, it's almost a cliché in some ways and yet it's hard to think of anything else that captures the idea of ethical operating, which in the aged care sector would seem to be a very important aspect of good governance, given what's at stake if governance is poor. So it's really how to promote that sort of good organisational culture. Whether that's an internal thing or whether there's a role, perhaps, for the regulator in some way to assist in the promotion.

MR ENGELER: I mean, in terms of operators for managers being involved, I think we could all personally attest, those of us who enjoy working in aged care, working with our elders, nothing can replace the experience of sitting one-on-one with a

resident and talking to them. That very subjective way of understanding how someone has lived in real experiences is very informative. So even at a – it sounds a bit tokenistic. But even the requirement of operators to spend time within their facilities, spending time with residents, some sort of formalising of the arrangement or the way that is communicated up and down, not just with their local centre, but with the actual lived experiences of the residents - - -

MR ROZEN: Yes.

MR ENGELER: - - - or their representatives I think would be welcomed. I'm sure there's a myriad of other ways. Absolutely. Anything that links back in, not necessarily in a punitive way, but more in a way of promoting the engagement in a cultural way, would be absolutely welcome, I'm sure.

MR ROZEN: More carrot than stick .....

MR ENGELER: Absolutely.

MR ROZEN: Dr Haertsch, is there anything you would like to add to - - -

DR HAERTSCH: I completely support what my colleagues are saying. I just only add that the modelling of culture needs to be at the top. So the way in which you want to care, be compassionate, to really connect with the core reason why you have that business in the first place, you need to model that behaviour and be genuinely interested and be authentic in the way in which you operate from at a board level right through down to the grassroots.

So I think culture is very much essential. A positive, supportive, caring, compassionate culture is really what's needed to be promoted. And you can have all the models, work instructions or anything, till the cows come home, but you're going to have a lot of problems with motivating staff if, for instance, they're afraid of their jobs, it's a punitive environment. And I think that there's a role, perhaps, for the regulator to have a slightly different approach that really does support more of a learning organisations than ones that are kind of being – where there's punitive action that happens. I think that needs to be a balance that's struck around there.

MR ENGELER: Can I just jump in there and give, again, a practical example. In aged care, again, at the moment we're talking about specifically for our experiences residential aged care. But I would be surprised at the infrequency with which any operators spend time in their residential facilities, to the extent to which – and I'm privileged to be sitting beside two of my colleagues who have done this most recently – spend a night in the facility – and I know it may be last night or most recently the night in the dementia or the memory support unit.

Again, that might seem a bit odd and at one level almost tokenistic, but it's absolutely important that that level of genuine real engagement is at least thought of or entertained by people, that they would go to that extent, not just visiting, but living

the experience, seeing what it's like to be resident overnight in one of those homes. Again, I think practical examples like that could really benefit the industry.

MR ROZEN: Perhaps I can explore that with you. We've had evidence of CEOs who have not only spent a night in an aged care facility, but sat down, shared meals, that very practical, tangible, you know we're in this together-type statement. Is that the importance of that? Is that why that matters?

MR ENGELER: Absolutely. It informs. And I suppose what's good about it, it can't be manufactured. It's absolutely authentic. Not only is the information there, but it's real and lived from your own experience. You absolutely know what a noisy trolley sounds like at 4 in the morning or you know what it's like for someone to knock on your door to check how you're going with a torch at, you know, 3 in the morning. Those sorts of things I think we can often – you know, there's an old saying, "I live in someone else's workplace." The way in which a lot of our task-focused processes and systems are really geared around the work requirements, rather than the lived experience of the resident in a home setting is something that commitment to authentic participation could really improve.

MR ROZEN: I sense, Ms Payne, that you want to contribute something?

MS PAYNE: No. I really echo the importance of those concepts, because our success as an organisation supporting this compliance remediation - - -

MR ROZEN: Yes.

MS PAYNE: - - - area is directly connected to these concepts, how you help bring forward the voice of the experience in that home. And the timing of the new standards actually is very good, because it means that in this changed management or transformation process, people like us are able to enable – and the key word there is enable – a speed up of connection. So I would say to you in an organisation the size of Bupa I don't question motives of people. I think culture is just the way we do things. And transforming, when you're in that environment and that's what you know, it's very hard to disrupt yourself.

Whereas, when you have people like us that actually come in and we are a fresh pair of eyes and we help unleash that consumer experience in a really constructive way, that helps enable that through the organisational systems and processes. I mean, the things we do in terms of educating and mentoring and coaching and putting in the basics like high impact risk, being able to get the hygiene factors, mobilise the teams that are there, because it is quite overwhelm when a home is initially sanctioned. There's a period of shock, there's a period of, "What have we done wrong" And to move into a mobilised phase you've got to get a plan together and you've got to help people understand what are the priorities. And I think that's a really important part of what we do.

MR ROZEN: Mr Engeler, can I just take you up on the carrot/stick divide. Lawyers love sticks, but I'm sure there's a place for carrots, too. What do they look like in this area? What can a regulator do to encourage improved governance, better organisational culture and so on? What do you think?

MR ENGELER: My off-the-cuff comments around this would be – I've not reported on this in my submission, but at the moment we have a very brutal tool; it's either on or off, you're either met or you're not met.

MR ROZEN: Yes.

MR ENGELER: I think there needs to be a sophistication. Cynthia has mentioned the business excellence framework. There are a number of other accreditation systems that exist around the world or in other industries that are more nuanced in terms of – say there's eight standards. You need to get a certain minimum number in two of the four clinical, but you need to get a score of 75. I think in aged – sorry – I think in childcare, for example, in this country we talk about exceeding, met, developing, some sort of way that we can graduate the way in which operators are complying and actually reward ones that are better than just met - - -

MR ROZEN: Yes.

MR ENGELER: They're excellent. So I think that more nuanced way in encouraging people. Ultimately, I think you're right, you need both carrot and stick. But I think if the carrot is old and gnarly enough and you hit it over someone's head, it becomes like a stick anyway. So I think that we can get both.

MR ROZEN: Your reference to childcare I saw brought a smile to Commissioner Briggs' face, because she has considerable experience. Might prompt a question in due course. One final matter from me. And it's more a prosaic sort of factual matter that I want to explore with you. If tab 163 could please be brought up on the screen. You might have been in the hearing room when I asked Ms Webb about this email change between you, Mr Engeler, and you, Dr Haertsch, and the manager of the home, Ms Woodorth and Ms Webb, who was the operations manager.

Without going into the detail, it seems pretty clear from the content of the email that, as at July 2019 – so that's July this year in the post-sanctions period – there was a proposal, presumably from within Bupa, to implement some staffing cuts at Bupa South Hobart, a proposition that you two were resisting strongly, as I read it. Have I got the narrative right?

DR HAERTSCH: Yes.

MR ROZEN: And where was the push to reduce the staffing coming from, as you understood it? Are we to assume it was Ms Webb, because that's who you're writing to, or is that too simplistic?

DR HAERTSCH: Yes. It was a request for support from the general manager - - -

MR ROZEN: Yes.

DR HAERTSCH: - - - after receiving a request, as I understood it, from – I think it was from Davida. The request was to write to Davida to try and get support to have the – this not adjusted. I sat with the general manager and looked at the staffing. We laid it all out. An she was trying very hard to fulfil a request that was more of a centralised request from Bupa.

MR ROZEN: Yes.

DR HAERTSCH: And I wholeheartedly could see the problem. And we discussed this. So, therefore, this was the email.

MR ROZEN: This might be a bridge too far, and tell me if it is, but does it tell us something that, after this entire saga, the sanctions, they come out of the sanctions period, and then it seems to be back to, "Let's reduce staff to reduce cost." Is that too simplistic?

DR HAERTSCH: I do think it's a little simplistic, because when you look at aged care generally there is a really serious issue around viability of aged care homes currently.

MR ROZEN: Yes. Yes.

DR HAERTSCH: And I think that Bupa is like other homes, where they've got to be responsible around, you know, how they manage the financial aspect to this. So I think it was a consideration, for sure, but the response was met positively to say no. And I think in a way it was helpful for us as an independent body to provide some additional line of sight - - -

MR ROZEN: Yes.

DR HAERTSCH: - - - for the consequences that could happen, that if otherwise were to happen again, it's exactly laid out in that email as we saw it.

MR ENGELER: Can I just add to that, if that's all right, Mr Rozen.

MR ROZEN: Please.

MR ENGELER: So I think that the line that we haven't yet read in the email, which is at the top, that says:

> *Maggie, are you and John both able to continue at South Hobart for the transition period of three months?*

So that's predicated around Bupa generally, and particularly for Davida, understanding that although the formal sanction period was due to end, ie, the legislative requirements have an administrator and advisor - - -

MR ROZEN: Yes.

MR ENGELER: - - - but certainly at another level, more strategically, there was definitely – the penny had well and truly dropped in terms of understanding that, despite not needing to – no compunction to have to keep on administrator adviser, good homes would see that you needed a transition plan and you might as well keep going with the people that you've got. That would be the best way to get sustainability.

MR ROZEN: I understand. And they're to get some credit for that is what you're saying to us.

DR HAERTSCH: Yes. That's right.

MR ENGELER: Yes. I would have to agree.

MR ROZEN: I understand. Now, finally, you have very kindly through your lawyers provided us with a document which is in the form of some key recommendations for reform. I don't think we're in a position to put this up on the screen. I'm looking around me. We are? No, we aren't. Okay. Do you have copies of this document in front of you?

MS PAYNE: Not in front of us.

MR ROZEN: I think we have some hard copies which we can distribute in the old-fashioned way, including two for the Commissioners, if we have them. Thank you. Your name appears first, Ms Payne so I will get you, just if you could, briefly, to explain what this is, why you've given us this.

MS PAYNE: I would say to you that there's an opportunity given that we are in a point in time as part of industry reform and transformation to reflect on what are the constructs that exist at the moment. And if it's okay, if I could just speak to the first point.

MR ROZEN: Please.

MS PAYNE: The terms administrator and adviser, we think should be replaced to a new term called compliance remediation specialist. And this comes from an experience that in every situation it is initially very difficult for the approved provider, the key personnel of the home to actually understand what is the role of adviser and administrator because in some instances it is not as clean and black and white as one would assume. They're a different skill mix. So if I use an example of the three of us sitting before you, we bring different elements to bear and it's

important, I think, that when an approved provider is selecting a compliance remediation specialist, they're able to understand what those skills are and I think the current term adviser and administrator don't help that.

MR ROZEN: Yes.

MS PAYNE: And we think that the Aged Care Act does need to have a clear definition of the duties and obligations of a compliance remediation specialist, and that they should be required to undertake some specific training and be certified because of the complex nature of the work involved. We think it's a good idea that there is a register caused that makes available a record of our skills, our experience and our track record, and that that register be centralised with the regulator, knowing that from 1 January 2020 the functions move fully into the Aged Care Safety – Quality and Safety Commission.

MR ROZEN: Yes.

MS PAYNE: And there are questions around how that might work and I'm sure those senior policy-holders are working through that because there is no direct connect at the moment with the Aged Care Safety and Quality Commission except in the course of interactions at an assessment visit. On the Department of Health's side there are weekly calls, and phone calls that happen between the home, the adviser administrator and the approved provider. And that there should be some standardising of the reporting obligations. This is particularly relevant, I think, for Bupa South Hobart that in the circumstance when an accreditation is expiring, the Act doesn't allow for any continuance during a compliance remediation period and it's important to note that Bupa South Hobart, its accreditation expired in the first three months of its compliance remediation period which is not enough time.

It underwent an old standard accreditation visit. It achieved six months, and whilst it was still in its sanction period it underwent a second accreditation audit against the new standards. And that is an enormous amount of work and pressure in a very short period of time. We believe that once the home is remediated a review audit is caused by the regulator and a reset button for the accreditation going forward. And we think that an assessment framework to track the improvements and the approved provider's performance during the sanctions period. At the moment it's predominantly through a phone call with the Department of Health and then, obviously, through the assessment visits that are conducted by the Commission.

We believe that a compliance remediation plan should form the basis of the relationship between the compliance remediation specialist and the approved provider in order that it sets out the connection to the training plan, and that is checked in a different way to the home being assessed by the – an assessment visit.

MR ROZEN: Thank you, Ms Payne. I should tender that document, Commissioners.

COMMISSIONER PAGONE: I suppose.

MR ROZEN: I'm in your hands. I mean, it's one way of being able to identify it if need be. It's really only for that purpose.

COMMISSIONER PAGONE: Certainly we should receive it. I don't know if it needs specific tendering. It's not evidence. It's a helpful submission.

MR ROZEN: Yes.

COMMISSIONER PAGONE: We will receive it. We will receive it with great thanks, I might add, but I don't think it needs to be tendered.

MR ROZEN: I'm content with that. I should just perhaps add, if I may, on behalf of the Commission that if you were minded to put in a more detailed document - - -

MS PAYNE: Yes, happy to.

MR ROZEN: - - - than this then that would, I'm sure, be welcomed by the Commissioners as well.

COMMISSIONER PAGONE: I think we can positively add to that. Some of these suggestions are interesting, although the degree of interest might depend upon some of the details.

MS PAYNE: Yes.

COMMISSIONER PAGONE: So I mean, for example, just to take something off the top of the list, where you're talking about specific training, well, I would be really interested to know what that training would be and whether there's anybody that you think at the moment is providing that training, because otherwise we would be making a recommendation that wouldn't go very far.

MS PAYNE: If I may answer; I think at a minimum you would expect that the compliance remediation specialist has undergone a robust training in the aged care standards.

COMMISSIONER PAGONE: And who does that that you currently know that does it well - - -

MS PAYNE: Well, I would be looking to the Aged Care Safety and Quality Commission, that they would provide a specific program that connects into this area.

COMMISSIONER PAGONE: Anyway, that's - - -

MS PAYNE: It doesn't exist at the moment, Commissioner.

COMMISSIONER PAGONE: Precisely. That's the point. So that's why further thoughts would be really good. It's a really great idea. I really echo the thanks that I said earlier on, and that Mr Rozen foreshadowed on our behalf. We're delighted to have a submission like this. And every time we do, we sort of ask more questions so feel free to add to it.

MR ENGELER: Okay.

DR HAERTSCH: Yes, we will. Thank you.

MR ROZEN: Perhaps if I could just add to that, Commissioner Pagone, the Commission could learn from other related areas so, for example, there are approved environmental auditors under environmental protection legislation with a register. There are processes under which health and safety regulators provide training for health and safety representatives, for example, so there's a range of other regulatory environments that perhaps could be drawn upon by this Commission. I see you're all nodding.

MS PAYNE: Yes.

MR ROZEN: Getting tired. Very good. They're the questions that I have for the panel.

COMMISSIONER BRIGGS: Thank you for your - - -

MR ROZEN: Sorry, I'll come to that.

COMMISSIONER BRIGGS: Thank you for your evidence. It's quite interesting to hear these comments. Can I ask, in the work that you've done, at least for Bupa South, has the CEO or the board of the organisation sought to engage with you direct?

MS PAYNE: I will answer that, Commissioner. In the capacity of my national role one of the remits that I have undertaken is providing key personnel training and that included the entire BVAC board. All of the key personnel that operate across the support office and very pleasingly, we have more of that training scheduled so even this coming week in Melbourne, that key personnel training is being done together with a legal specialist, and we're looking to provide more training. So that key personnel joining the organisation – because there still continues to be change within the organisation to make sure that those approved provider obligations and those key personnel understandings, what is compliance remediation, and how does it fit within the Bupa context is the focus of that training.

And I have reported twice through to a steering committee called the Ruby Steering Committee which the CEO and the managing director both sit in on and I have interacted through that mechanism through progress reporting, both on the compliance remediation plan, the corporate plan for continuous improvement, plus

other observations as we've been supporting the organisation through its transformation.

COMMISSIONER BRIGGS: In most organisations on a generalised basis, they look at the situation of a Bupa South Hobart or a Southern Cross, as we heard earlier in the week, and they go, "Well, we're doing all right." And they walk away. And I think the evidence that at least I've heard over the course of the year lends me to the view that it's very easy for an organisation to fall into, for want of a better word, disrepair.

And so I want to ask you a question around a thing that I would call loosely a health check. So the regulator comes in and does an audit. Where's the health checking in this system? Do you see much of other organisations or facilities actually going through a reasonably rigorous process of either internal or external review about their performance against the standards and the expectations under the Act?

MS PAYNE: I would answer that Commissioner by saying the agile aged care organisations that is actually part of their DNA. So in that quality management system and having a whole of business approach, it is indicators, it is internal review, we advocate for third party audit. And what that means is not only external review, but also benchmarked indicators. And being able to compare your performance with a larger pool of aged care providers is actually very important for both clinical governance and governance in general, but it also provides information to the managers of the service, as well, because they get to collaborate and do process benchmarking, for example.

You create a whole dynamic of data, translating through knowledge into information and action,. And that's what's kind of at the heart of it all, is making sure that you're not just insular, you're not looking just at yourself. You need to have external. And I think in a sanctions process that's why the success of a transformation, in what is actually a relatively short period of time, six months, sometimes longer, having people like ourselves being able to mobilise and enable that change is quite helpful, because we are a separate pair of eyes.

COMMISSIONER BRIGGS: So how often do you see that kind of agile approach?

MS PAYNE: In organisations I've been connected to, it can be as frequently as every six months organising an internal review. To do that, you need to have a good understanding of your own quality management system. What does good look like for you? And when you know what good looks like, the boards know what good looks likes, senior management knows what good looks like, management at the home level knows what good looks like, you can create an alignment. And, therefore, the feedback that comes back into the organisation doesn't then become one of blame or defensiveness; it's one of genuine continuous improvement, because you embrace that feedback in the spirit that it's provided, which is to keep improving.

MR ENGELER: Can I just add there that it would be one thing for organisations like Bupa, despite its size, to be able to compare itself with its peers in aged care. But Cynthia had made mention previously of the business excellence framework. The real test is whether you can compare yourself to other industries, whether it's banking or telecommunications or councils or whatever. It is a standardised approach using a business excellence framework, which has finance and people and outcomes, all sorts of measures. You, really, then can absolutely fully objectively see how well you're doing, how well you're performing. So not just against other aged care, but against other industries, both locally and internationally.

COMMISSIONER BRIGGS: Thank you.

COMMISSIONER PAGONE: I see that your document has got up on the screen. I don't know who's given it that name, but we might perhaps change the name to Anchor Excellence Recommendations.

MR ROZEN: Recommendations.

COMMISSIONER PAGONE: and I know how Mr Rozen loves to have things recorded in all sorts of places. I'm sure it's a childhood carryover. So why don't we put that in your tender bundle. Would you be happy with that, Mr - - -

MR ROZEN: I'd be thrilled. Thank you.

COMMISSIONER PAGONE: I thought you might be.

MR ROZEN: Before the witnesses are excused - - -

COMMISSIONER PAGONE: Yes. Before that I'm going to ask them a question, if I may.

MR ROZEN: Yes.

COMMISSIONER PAGONE: Unless you want to do something before that?

MR ROZEN: No.

COMMISSIONER PAGONE: In this – in the context of the Commission, I've not yet seen very much of what I see in other contexts. And it may just be that, as is public knowledge, I haven't been involved in the Commission for as long as it has been going. But in other contexts, it's common for corporations as part of the auditing process to have a detailed management report. So the auditors will be appointed and the auditors at the end of the day need to simply provide a report, which is often in very general terms and it's qualified or unqualified. And if you read the auditor's report of most companies, you would be left wondering how they justified their fee.

But before the report is given, there's often a management – a detailed management report that the managers of the corporation get and the directors of the company get. Now, I'm not sure whether something like that, but for the quality of care, might be something that you think would be appropriate. It really picks up the point that Commissioner Briggs asked about the health check and also her question about how frequently the health check should be undertaken. Do you wish to say anything about that, any of you?

MS PAYNE: You go first. We've always got something to say.

COMMISSIONER PAGONE: Yes. Well, I feared that.

MR ENGELER: I think the three of us certainly are used to working in organisations where that monthly board reporting, both of management, but then gets teamed with, generally, the financial statement or the financial – you know, the books as it were, every month. And then annually that gets looked at, obviously, by external auditors for the financial sign-off. But I think that's an absolute – it's a no-brainer, but it's a natural conclusion.

And, again, a maturity of, I think, standard 8 of the current standards of the single quality framework would require some type of qualitative monthly, quarterly, whatever it was, rolled up report that showed how well each particular, in this case, home was doing against the others and, again, benchmarking against other industries – sorry – against other0 aged care providers and then ultimately other industries. I think that's a natural conclusion that we will come to.

COMMISSIONER PAGONE: So presumably, so consistent with what you said before, that would need to be done by somebody external and independent?

MR ENGELER: Well, I think it's both. I think it's monthly by the internal staff, as in a normal company has its monthly board reports, and then it gets audited annually. And I think you're right; in the same way that we assess financial – you know, the financial performance annually, that, similarly, we'd look at the quality and the outcome of performance based on outcomes, not just inputs, around care. And the quality that's provided would also be audited in a similar way.

MS PAYNE: My reflection on that, Commissioner, is I think having a statement of quality and safety that could be made available to elders that articulates what the actual organisation does as part of its quality management system and how it goes about informing itself that its systems are working and how it engages consumers in that process and having, for example, the Aged Care Safety and Quality Commission reviewing those elements to give feedback to the approved provider would be enormously helpful. And I think it would also help consumers to better understand the organisation that they interact with.

COMMISSIONER PAGONE: Well, you see, there's the beauty of the, detail because the model that I was putting to you was an external auditors model, going in

and doing the health check that Commissioner Briggs talked about. But an alternative to that might be the kinds of thing that one sees actually much more actively in America, but even in Australia as school councils of a consumer group. As between those two, do you have a preference? And, if so, why?

MS PAYNE: I'm going to defer that one to Maggie.

DR HAERTSCH: I think that there's an added complexity, Commissioner, around the higher levels of cognitive impairment people are experiencing when they come into residential care. And it takes a particular type of approach that I think is very important, that we develop a system that's inclusive of their feedback and their views. I know I've raised about quality of life, but I do know that there's very well established models in the UK and internationally, and I have it in my submission, where there's a mixed methods approach of going in, collecting a lot of data, and it's quite efficiency how it can be done. And that can be compiled around really good quality of life outcomes for – that can be benchmarked not only nationally but internationally.

And I think that there's huge merit to look at this. You've heard evidence from the Whiddon Group, you've heard evidence from others that have used various parts of this model called Ascot. I think it's very well worth looking at that again, because if we're going to tie governance to the resident experience, and that's what then guides the quality and safety of care, then we need to link that in an appropriate way.

COMMISSIONER PAGONE: Yes. So my experience in – outside of the aged care sector is that to have users group as the mechanism for the health check is a recipe for disaster, that you end up having the users group captured by particular people with an axe to grind and it produces distorted outcomes. But I'm keen to have your views about that in the context of the aged care sector and whether you think it would be better there, rather than an independent kind of external auditor model, which I had thought you were hinting at with the one pager.

DR HAERTSCH: Look, just to continue with my thoughts about this, is that it does – I would actually separate the regulator around safety and have an independent body that's around quality. I think that it's very hard to marry safety and quality together into one organisation. And I think that if it's the government's role to make sure that in the public interest everyone is safe, then that's what it should be looking at in terms of minimum standards and compliance.

But when we're actually missing a whole area around innovation and a whole opportunity to be, you know, amazing with the way we provide aged care, we're currently very bogged down in a sense around the regulation side. So if we look at the way in which we engage with residents, I think your point of the users group as such, I think it's more around sampling, shall I say, around how you set that up within each of the homes. And we've been doing a lot of that. And that just naturally evolves. I think it can become – I think there's a method in which that

could be done and you can safeguard against, I guess, that going into a sort of an axe to grind type of scenario. Yes.

COMMISSIONER BRIGGS: The regulator in their work now is doing this with 10 per cent of residents in homes.

DR HAERTSCH: Yes.

COMMISSIONER BRIGGS: And they say they're learning all the time how to improve it. From my angle, one of the things you're really talking about is transparency.

DR HAERTSCH: Yes.

COMMISSIONER BRIGGS: And this industry, like many other industries in this country, has been reluctant to have transparency, I think. So do I take that as one of your key messages or have I got that wrong?

MS PAYNE: I think you are 100 per cent correct that transparency is the foundation around what we've discussed with you today.

COMMISSIONER BRIGGS: Thank you.

COMMISSIONER PAGONE: Now, finally, all this is good and well for a big organisation, but what about a small organisation in some rural area?

MS PAYNE: Well, I mean, South Hobart is actually regional, so even though it is part of a large organisation, we have supported - - -

COMMISSIONER PAGONE: But - - -

MS PAYNE: - - - standalone small organisations, as well.

COMMISSIONER PAGONE: But small organisations that don't have the Bupa backing, whereas a standalone with nobody behind it might be a different kettle of fish. Any thoughts about that?

MR ENGELER: I would probably argue in the reverse, in that sometimes if a standalone facility has its board that literally meets and has its boardroom in the facility, they can't help but have active engagement. There's actually a perverse or a closer understanding the smaller you are. Sometimes the size and scale of organisations, particularly who are represented in rural, remote and regional areas who have various head offices in different cities sometimes with different functions, that's a very difficult beast, to make sure that the governance line that's drawn between the top of the organisation right through to one person's experience is – you know, they have a lot of energy.

I think sometimes the small organisations, as I say, because of environment or geography, where their board meets in that building, where their officers are meeting in that building every month, they cannot help but be a lot more closer to the action. I think that's somewhat ironic, that the smaller organisations can in fact be quicker at adopting and adapting to this.

COMMISSIONER PAGONE: Thank you. Mr Rozen, you had wanted to say something a little while ago.

MR ROZEN: Just one final, small question, more a clarification, really, I've been asked to make with Dr Haertsch. And that is just to clarify with you that, whilst you're a doctor, you're not a registered nurse presently.

DR HAERTSCH: This is correct. I, sadly, let my registration go in 2012, so – and when you referred to me previously as nurse adviser in relation to this email, I'm very careful to make sure I'm not considered as a nurse anymore.

MR ROZEN: Okay. I understand. Thank you for that clarification.

DR HAERTSCH: It's still in the blood, but - - -

MR ROZEN: Yes. I'm sure. They're the questions that I have for the panel.

COMMISSIONER PAGONE: Yes. Thank you. Thank you for coming to share your views with us and your enthusiasm, I must say. It's infective – infectious, I should say. Thank you very much. And I - - -

DR HAERTSCH: Thank you, Commissioner.

MS PAYNE: Thank you, your Honour.

COMMISSIONER PAGONE: - - - formally excuse you.

<THE WITNESSES WITHDREW [4.40 pm]

MR ROZEN: Thank you. That concludes the evidence for today.

COMMISSIONER PAGONE: Yes. Adjourn till 9.45 tomorrow, please.

MATTER ADJOURNED at 4.40 pm UNTIL FRIDAY, 15 NOVEMBER 2019

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