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TRANSCRIPT OF PROCEEDINGS

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THE HONOURABLE R.R.S. TRACEY AM RFD QC, Commissioner MS L.J. BRIGGS AO, Commissioner

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

DARWIN

10.03 AM, MONDAY, 15 JULY 2019

Continued from 12.7.19

DAY 36

MR P. ROZEN QC, counsel assisting, appears with MR R. KNOWLES
MR B. CHARRINGTON appears with MR J. SEWELL for MiCare Ltd

COMMISSIONER TRACEY: Yes, Mr Rozen.

MR ROZEN: Good morning Commissioners. I appear with Mr Knowles and Ms Hutchins to assist the Commission, and I understand there's an appearance to be announced.

COMMISSIONER TRACEY: Thank you.

MR B.F. CHARRINGTON: If it please the Commission. My name is Charrington, initials B.F., of counsel. I am instructed by Mr Sewell of Mills Oakley lawyers. We appear pursuant to a grant of leave to MiCare, its officers and employees in the case study of Ms Aalberts.

COMMISSIONER TRACEY: Yes, you have leave to appear, Mr Charrington, thank you. I would like to start by acknowledging the Yirrganydji and the GimuyWalubarra Yidinji people who are the traditional owners of the land on which we meet today. And I would also like to pay our respects to the elders, past and present, and extend that respect to other Aboriginal and Torres Strait Islander people present today. Yes, Mr Rozen.

MR ROZEN: Commissioners, this is the second part of the Royal Commission's hearing which commenced in Darwin last week. We greatly appreciate the opportunity of being here in Cairns for this part of the hearing. We join the Commissioners in acknowledging the traditional owners of the land and paying our respects to other Aboriginal and Torres Strait Islander people who may be present here today. Commissioners, as outlined by Mr Peter Gray QC in his opening last week in Darwin, the focus of this public hearing of the Royal Commission is on, firstly, quality of care, secondly, quality of life for people receiving aged care and, thirdly, access to aged care for rural and regional Australians including Aboriginal and Torres Strait Islander people.

The hearing follows on from previous Royal Commission hearings which have explored these issues through examination of home, dementia, palliative and person-centred care. Last week in Darwin, we heard from many witnesses, both direct experience witnesses and clinical experts about the quality of clinical and personal care in Australia's aged care system. To summarise briefly, we heard that there are issues affecting the availability of aged care in the Northern Territory, which impact on clinical and quality of life outcomes particularly for the Aboriginal and Torres Strait Islander people of the Territory. We heard case studies which illustrated concerning examples of clinical and personal care relating to four older Australians in residential aged care, and we heard clinical experts who explained that these are not isolated or unusual incidences and that at a system level evidence based good quality care is not always being provided.

This week we will continue to explore the quality of aged care across Australia. First, we will call another case study highlighting issues in the quality of clinical and

personal care provided in an aged care home. I will shortly make some opening remarks about that case study. We will then examine the quality of food and nutrition in aged care and we will hear from expert witnesses about the impact this aspect of care has on clinical outcomes and quality of life. Lastly, we will hear from expert witnesses about quality of life in aged care including what it looks like in practice and we will hear different expert views about the tension between clinical care on the one hand and quality of life on the other in aged care and how a balance can be achieved.

Shortly, I will outline in further detail the witnesses that we will hear from over the next three days. Firstly, I again acknowledge the people of Cairns and traditional owners for having the Royal Commission here in Far North Queensland. Over the past month, the Commission has travelled to Broome and Darwin and heard about the distinct issues affecting aged care in parts of northern Australia. This week gives the Royal Commission an opportunity to continue to hear about the aged care experiences of northern Australians. After the hearing here in Cairns the Royal Commission will travel south to Townsville for a community forum.

To give context to the aged care experience in and around the Cairns Region Far North Queensland has a population of 283,785 people with 14.3 per cent aged 65 and older. There are 63 home support outlets, 34 home care service providers and 26 residential aged care providers which support 1992 residential aged care recipients. The rate of people receiving aged care in Far North Queensland compared to the rest of the state and the country is lower for residential aged care, home care package and home support. However, the occupancy rate in residential aged care in Far North Queensland is 86.9 per cent which is slightly less than the occupancy rate across the country which is 90 per cent.

Further, in Far North Queensland, Aboriginal and Torres Strait Islander people over the age of 50 comprise 7.8 per cent of the target population. This is more than five times the national average. However, there are no national Aboriginal and Torres Strait Islander flexible aged care programs in Far North Queensland. The community forum in Townsville later this week will give the Commissioners an opportunity to hearing directly from North Queenslanders about the state of aged care services in this part of Australia.

Structure of the hearing. Last week in Darwin, Mr Gray QC introduced the themes of this hearing and detailed the different categories of witnesses that we intend to call and therefore today I will not reprise his opening except to briefly outline the structure of this Cairns leg and the witnesses from which we will hear. I will make some closing remarks about the hearing overall including its Darwin aspects at the end of the hearing on Wednesday. Last week we heard from Lyndall Fowler and Anna Ng about the experiences of their mother receiving care that had failed to deliver positive outcomes for them. Today we will hear another case which highlights issues with clinical and personal care delivery in Australian residential aged care homes. We will hear the direct evidence which relates to the late Mrs Bertha, or Beth, Aalberts. Mrs Aalberts' daughter, Ms Johanna Aalberts-Henderson

will begin by talking about the experience of her mother receiving care under home care packages.

It is anticipated that she will explain how limitations with the packages ultimately formed part of the decision to move her mother into residential care despite her mother's preference being to stay in the comfort of her home, a theme that the Commissioners have heard on a number of occasions. Ms Aalberts-Henderson will then describe her late mother's experience residing at Avondrust, an aged care residential facility in south-east Melbourne owned and operated by MiCare Limited. Johanna Aalberts-Henderson will tell the Commission that her mother walked into Avondrust Lodge with the assistance of a walker, cognisant and continent and she died three months later. She will detail her mother's rapid deterioration, exacerbated by repeated falls whilst in the home's care.

The Royal Commission will hear responses from MiCare Limited, including from Mr Robert Van Duuren, its manager of residential services, and Ms Petronella Neeleman, MiCare's executive director. The Commission anticipates that it will hear also hear from a wound consultant who was involved in the care of the late Mrs Aalberts. Mr Gray explained in Darwin the procedure we intend to adopt for the case studies so I will not rehearse that again except to say that parties appearing in the case studies should be aware the comments may have been made by experts earlier in the hearings, specifically, I would refer to the evidence of wound experts Professor Sussman and nurse practitioner Haley Ryan in Darwin and, indeed, evidence may be led later in the hearing about issues that arise in the case studies and that evidence may be relied upon to support findings in the case study.

The quality and safety of aged care, whether provided in the home or in a residential setting, is of critical concern to this hearing as it is generally to the Commission. As explained in Darwin it's not possible to examine every aspect of care. Instead, we are concentrating on some elements of care that have a significant influence on clinical outcomes and quality of life. Last week, we examined incontinence care and heard from Dr Ostaszkiewicz and the Continence Foundation about how poor incontinence care can impact other care domains, creating more complex care needs, disability and pain. The Royal Commission heard evidence about the dramatic impact of pressure injury and wound care management from both direct evidence and expert perspectives.

This week we will examine food and nutrition in aged care to explore the substantial influence different domains of care have on clinical outcomes and quality of life, to illustrate the close relationship and interdependency between personal and clinical care and to recognise the role of all staff in aged care settings, to contribute to quality care and quality of life while still working within their own scopes of practice. The food and nutrition experts the Commission will hear from are, firstly, Dr Sandra Iuliano and the Dieticians Association of Australia who will describe the significant levels of malnutrition in aged care recipients across Australia, and they will explain how better nutrition can result in improved clinical and quality of life outcomes.

We will hear from a panel of chefs who have direct experience in preparing food in residential aged care facilities often working within tight budgets and other resource constraints. They will provide insight regarding aged care provider practices that promote positive food experiences for residents, and also those that do not. And thirdly, we will hear from Maggie Beer AM who will explain how and why she established the Maggie Beer Foundation. We will hear the foundation's views on the relationship between good food and clinical outcomes, that increasing enjoyment of food can lead to improved physical wellbeing and ultimately enhanced quality of life.

To further illustrate the connection between personal and clinical care, quality of life and the role of staff in all aspects of care, we will hear from two clinical witnesses. Dr Adrienne Lewis from the South Australian Dental Service will highlight how poor dental care can affect an older person's clinical outcomes and quality of life by impacting on chewing capacity, food choices and sense of taste. In addition, Dr Frances Batchelor of the National Ageing Research Institute will outline how physical deterioration and reduced muscle strength resulting from malnutrition, among other factors, can increase risk factors for falls. Dr Batchelor will also explain how the risk of falls should be effectively managed by aged care staff.

Quality of life in practice. In Darwin last week, we heard experts with experience in multiple clinical areas refer to quality of life as an aspect of, and perhaps the most important aspect of, care. While there's no universally agreed definition of quality of life, for many people, this concept extends beyond health and clinical outcomes. Many older people say it means staying independent, maintaining relationships with family and friends, pursuing interests and living in a homely environment. Last week, witnesses including Professors Gonski and Westbrook express the importance of enhancing quality of life through personalised care that accommodates individual preferences and allows older Australians to enjoy their later years.

This week we will further examine quality of life by hearing about new and established models of aged care that focus on personal wellbeing. This evidence follows on from that provided last week by Sally Hopkins about the Eden Alternative which prioritises a person-centred care approach over the traditional medicalised model of aged care. To summarise, we will from Natasha Chadwick, the CEO of NewDirection Bellmere, and Lisa Jones, house companion leader at Bellmere. They will discuss their new model of care that challenges the traditional model by improving quality of life. Bellmere, as you will hear, Commissioners, aims to ensure residents live a normal life as possible by creating a micro-town for residents. The Commission will also hear from Elsie Scott, a resident of Bellmere

Angela Raguz, General Manager of residential care at HammondCare, will explain the importance and challenges of providing a home-like environment in ensuring quality of life for residents. Last week, we heard agreement among clinical experts about quality of life as a critical domain of care. This week, we will explore some of the practical tensions that arise. To borrow from the evidence of Dr Trigg in the Perth hearing, the tension can be described as what she called the 3H dilemma. Should a residential aged care facility be like a hospital, or like a home, or like a

hotel? In describing their models of care, Natasha Chadwick and Angela Raguz will discuss the challenges of providing quality of life for residents and they will outline how they address the provision of clinical care in a home-like environment.

And to further explore these tensions, nursing professionals Dr Drew Dwyer, Dr Jennifer Abbey, Registered Nurse Angela Raguz and Nurse Practitioner Sandy Green will take part in a panel discussion on Wednesday afternoon. Dr Dwyer and Dr Abbey reject the conceptualisation of aged care facilities as home-like. They instead advocate for the primacy of clinical objectives. Similarly, Nurse Practitioner Green will speak of similar matters based on her extensive experience in aged care which has seen her rise through the ranks from personal care worker to an endorsed nurse practitioner. Registered Nurse Raguz, on the other hand, will explain the importance of prioritising the home environment over the medical model. This panel discussion will also explore the balance between safety and quality of life in aged care, or the concept that has been described by a number of witnesses as the dignity of risk.

I mention briefly the approach we are going to take in this hearing to document management. Exhibit 6-1 will continue to be the general tender bundle for this Cairns part of the hearing, just as it was for the Darwin part of the hearing. There are likely to be documents added to it as the hearing proceeds and we will keep the parties and the Commissioners updated. There will also be a separate tender bundle for the case study which I will now open.

Commissioners, we now turn to the third and final case study for the hearing in Darwin and Cairns. This case study concerns Avondrust Lodge Residential Aged Care Facility in Carrum Downs in suburban Melbourne. Avondrust Lodge is owned and operated by MiCare. It was formerly operated by DutchCare. We are particularly concerned with the experience of the late Mrs Bertha Aalberts at Avondrust. Mrs Aalberts was born in Holland in 1930 and she migrated to Australia in 1949. She married in 1951 and, like so many other post-war migrants, she worked hard, she raised a family of three; two girls and a boy. And we will hear from one of her daughters today, Johanna.

Mrs Aalberts' husband passed away in 2005 and she lived by herself till 2018 with the help of her children. However, as her health declined, more help was needed. She suffered from atrial fibrillation, congestive cardiac failure, psoriasis, scoliosis, oedematous legs and other conditions. Mrs Aalberts was accessed initially for a level 2 home care package and then, in March 2018, for a level 4 package. However, the family was distressed to be told that they would have to wait for at least a year for the high level of care to be provided as assessed under the level 4 package. They, therefore, reluctantly began to look at residential aged care options.

The late Mrs Aalberts was attracted to Avondrust, a Dutch home on the Mornington Peninsula. "Avondrust" is a Dutch word for evening rest. The late Mrs Aalberts began living at Avondrust Lodge on 24 May 2018. She walked into the facility with the aid of a walking frame. She was cognisant and continent. Seven days later, on 31 May 2018, the service was reaccredited by the Aged Care Quality Agency for the

maximum period of three years. An audit by the agency in April 2018 had found that Avondrust met 44 out of 44 expected outcomes, including human resource management, outcome 1.6; clinical care, 2.4. And specialised nursing care, 2.5. Mrs Aalberts died on 19 August 2018, less than three months later, with a chronic right lower leg wound and serious pressure injuries on her sacrum and right heel. Her death certificate describes her last illness as infection of ulcers and cellulitis, that is, infection of her wounds and skin.

By 29 August 2018, some 10 days later, a delegate of the Secretary of the Department of Health had imposed sanctions on Avondrust because there was an immediate and severe risk to safety, health or wellbeing of residents at the service. The delegate to the Secretary of the Department of Health found that MiCare had placed or may place the safety, health or wellbeing of 14 of its residents at serious risk. One of the residents identified by the delegate was the late Mrs Aalberts. In imposing sanctions, the Secretary's delegate referred to an audit by the Quality Agency which took place between 16 and 27 August 2018.

The audit identified systemic and pervasive failures to deliver appropriate care across the majority of the accreditation standards. The agency now found that Avondrust had failed to meet 13 of the 44 previously met expected outcomes. By January 2019, however, all the sanctions which were imposed at that time had been lifted, and Avondrust was again found to have met 44 out of the 44 expected outcomes. This series of events raises important questions about the effectiveness of the regulatory regime for residential aged care. That issue will be explored in the hearings of the Royal Commission in Brisbane in early August of this year. The circumstances of this case study may well be revisited at that time.

However, for the time being, our focus will be on the clinical and personal care afforded to the late Mrs Aalberts at Avondrust and her quality of life there. In that regard, we will hear evidence today from her daughter. Mrs Johanna Aalberts-Henderson, who at all times sought to take a central role in promoting her mother's welfare. We will hear evidence from Ms Jan Rice, a wounds consultant engaged by MiCare to treat the late Mrs Aalberts' lower leg wound. And finally, we will hear evidence from two senior officers of MiCare, Mr Robert Van Duuren, general manager of residential services, and Ms Petronella Neeleman, the Executive Director of MiCare.

Some of the matters that we expect will be the subject of that evidence are in summary as follows. First, the evidence will show – and we expect that MiCare will concede – that the late Mrs Aalberts' right lower leg wound was not managed effectively by staff at Avondrust. She had been transferred to hospital after a fall at the home on 3 July 2018 had resulted in a broken right wrist. That fall also likely caused the leg wound. These circumstances raised for consideration the adequacy of Avondrust's management of the late Mrs Aalberts' care after what was her third fall in the first seven weeks of her time at Avondrust.

On 11 July 2018, a few days after she had been hospitalised, the late Mrs Aalberts returned to Avondrust with her wrist in plaster and with her right lower leg wound. Despite the seriousness of her leg wound at that time, Avondrust did not involve the wound consultant, Ms Rice, with the magistrate of that wound until a fortnight later. By then, and against Avondrust's own wound management plan, requiring close and daily monitoring only by nursing staff, review of the leg wound had not occurred every day, and when it had occurred, it had been undertaken on four occasions by personal care attendants and not by qualified nurses. That task, we will ultimately submit, was plainly beyond the skills, training and expertise of the personal care attendants.

When the wound consultant, Ms Rice, first saw the late Mrs Aalberts on 25 July 2018, she debrided the wound, and at that time, in the words of the wound consultant, it was, "A very large hematoma." Despite that observation, Ms Rice only examined the late Mrs Aalberts once again on 6 August 2018, and on 13 August 2018 she went on leave for a month. The limited ongoing involvement of a wound consultant raises questions about the sufficiency of the treatment of the late Mrs Aalberts' leg wound. It also raises broader questions about the role of consultants who provide specialised clinical care at residential aged care facilities.

That limited involvement also raises questions about the treatment of the pressure injury sustained by the late Mrs Aalberts on her sacrum and on her heel. No wound consultant was engaged to treat those wounds, even though each of them was serious and painful in its own right. There are also deficiencies in assessing the late Mrs Aalberts' risk of pressure injuries and implementing strategies such as adequate repositioning and provision of a pressure-relieving air mattress to reduce that risk.

The late Mrs Aalberts was admitted to hospital again on 7 August 2018 for investigation of a suspected deep vein thrombosis in her upper right leg. It was only then that her daughter Johanna was made aware by hospital staff of the extreme seriousness of her mother's lower leg wound. By then, the wound was over 10 centimetres long and bone-deep. Mrs Aalberts-Henderson is expected to tell the Commission that when the wound was uncovered by staff at the hospital, she heard a collective gasp from the experienced nurses present when the size of the wound was revealed. She will tell you, Commissioners, that she was at that time in an ice-cold rage. Aside from the inadequacy of the wound care at Avondrust, the communication by staff with Mrs Aalberts-Henderson about her mother's rapidly deteriorating health was sorely lacking.

That lack of communication arose in other areas of Avondrust's management of the late Mrs Aalberts' care. In connection with her diet and nutrition, it was only in August 2018 that Mrs Aalberts-Henderson learnt of the substantial weight loss suffered by her mother whilst she was in the care of Avondrust. Although the late Mrs Aalberts had returned from hospital on 11 July 2018 with a broken right wrist that inhibited her ability to feed herself, it was not until some two weeks later, on 26 July, that staff identified that she had lost a substantial amount of weight and organised a review with a dietitian.

There's no record of late Mrs Aalberts being weighed by staff at Avondrust for seven weeks, since early June 2018, and over that time she had lost around seven kilograms. We will consider evidence about the nutrition and dietary choices at Avondrust. We expect to contend that a lack of proper monitoring of the late Mrs Aalberts' food and fluid intake, as well as a failure to provide her with protein supplements, undermined her ability to recover from the wounds.

We otherwise expect that in various ways, the evidence in this case study will show that the numbers and skill of staff at Avondrust at this time were simply insufficient to provide the late Mrs Aalberts with proper care. There were no registered nurses working at Avondrust during either the afternoon shift or the night shift for 65 high-care residents, many of whom, like the late Mrs Aalberts, required extensive clinical care on a daily basis. In this regard, we note that at the time of the audit by the Aged Care Quality Agency in August 2018, one week after the death of Mrs Aalberts, MiCare was unable to satisfy the agency that there were sufficient skilled staff to provide appropriate care and services to residents at Avondrust. Nursing numbers and hours were dramatically increased at Avondrust in January 2019, after the intervention of the regulator and, of course, after the calling of this Royal Commission.

Finally, as was the case with the Assisi case study that we examined in Darwin last week, this case study will examine what clinical governance measures were in place at MiCare to oversee and promote the provision of quality care for residents at Avondrust. In particular, we will look at the nature of reporting to the MiCare Board of Directors about standards of clinical care and personal care for residents and what board expertise existed to assess information obtained by any such reporting.

Mr Knowles will call the first witness, Mrs Aalberts-Henderson, to give evidence shortly. Before that occurs, I tender, in accordance with the practice described on the first day of the Darwin-Cairns hearing, the documents in the general tender bundle for this case study as a single exhibit.

COMMISSIONER TRACEY: Yes. The Avondrust tender bundle will be Exhibit 6-35.

EXHIBIT #6-35 AVONDRUST TENDER BUNDLE

MR ROZEN: If the Commission pleases. I should indicate the documents in the tender bundle are a selection of documents that were produced to the Commission by, firstly, Mrs Aalberts-Henderson; secondly, MiCare; thirdly the Commonwealth Government. Commissioners, Mr Knowles will now call the first witness.

COMMISSIONER TRACEY: Now, this is a separate tender bundle. I'm sorry, were you referring to a separate tender bundle or were you explaining what was in the - - -

MR ROZEN: I was just explaining what's in exhibit 6-35, sir.

COMMISSIONER TRACEY: Very well.

MR ROZEN: Thank you.

MR KNOWLES: Thank you, Commissioners.

COMMISSIONER TRACEY: Yes, Mr Knowles.

MR KNOWLES: I call Mrs Joanna Aalberts-Henderson.

<JOHANNA AALBERTS-HENDERSON, SWORN [10.30 am]

<EXAMINATION-IN-CHIEF BY MR KNOWLES

MR KNOWLES: Mrs Aalberts-Henderson, can you tell the Royal Commission your full name for the transcript.

MS AALBERTS-HENDERSON: My name is Johanna Aalberts-Henderson.

MR KNOWLES: Thank you. And you've prepared a statement dated 26 June 2019 that's been provided to the Royal Commission?

MS AALBERTS-HENDERSON: That's correct.

MR KNOWLES: Yes, and do you have a copy of that statement there with you.

MS AALBERTS-HENDERSON: Yes, I do.

MR KNOWLES: That is document WIT.0220.0001.0001. Have you read your statement lately, Mrs Aalberts-Henderson?

MS AALBERTS-HENDERSON: Yes, I did last night.

MR KNOWLES: Thank you. And do you have any changes to your statement.

MS AALBERTS-HENDERSON: No.

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

MS AALBERTS-HENDERSON: To the best of my knowledge, they are true and correct.

MR KNOWLES: Thank you. I seek to tender the statement of Mrs Aalberts-Henderson.

COMMISSIONER TRACEY: The witness statement of Johanna Aalberts-Henderson dated the 26th of June 2019 will be Exhibit 6-36.

EXHIBIT #6-36 WITNESS STATEMENT OF JOHANNA AALBERTS-HENDERSON DATED 26/06/2019 (WIT.0220.0001.0001) AND ITS IDENTIFIED ANNEXURES

COMMISSIONER TRACEY: Before you call this evidence, Mr Knowles, the Commission has been advised that the evidence will contain material that may be confronting to those viewing it either in the hearing room or online, and I simply provide a warning that when pictorial exhibits are called, those who are concerned that they may be adversely affected by viewing that material should look away. Yes, Mr Knowles.

MR KNOWLES: Thank you ,Commissioner, and I will endeavour to give specific warnings in relation to particular pictures that require it. Mrs Aalberts-Henderson, I would like to ask you a few questions about your mum's background. She was born on the 13th of November 1930.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: And that was in Holland.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: And she grew up there.

MS AALBERTS-HENDERSON: She did.

MR KNOWLES: Yes, and can I put up on the screen, now, the document that is tab 19 of the tender bundle, and that's a picture of your mother?

MS AALBERTS-HENDERSON: Yes. When she was 17, yes.

MR KNOWLES: So, at that stage, she was still living in Holland.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Yes, and she migrated to Australia in 1949.

MS AALBERTS-HENDERSON: That's correct.

MR KNOWLES: Yes, and tell us how did she meet your father, her husband?

MS AALBERTS-HENDERSON: My grandfather had advertised in a Dutch newspaper he wanted two young men to go to Tasmania and help him start a farm, and my father and his friend got the contract, so to speak, and they took them all on a plane to Australia, seven days it took, and mum and dad met on the plane, and mum married the farmer.

MR KNOWLES: Right. And they got married, was it, in 1951?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Can I bring up another picture. This is the picture at tab 18 of the bundle. Is that a picture of your - - -

MS AALBERTS-HENDERSON: Mum and dad, yes.

MR KNOWLES: - - - mother and father?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: When was that taken, to the best of your knowledge?

MS AALBERTS-HENDERSON: I think that was probably just after they got married.

MR KNOWLES: Yes, and then your mum and dad had three children including yourself.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: And you have one sister and one brother.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Yes. Okay. Now, can I ask you some questions about yourself. You've worked as a nurse in the past for about 30-odd years.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: And what kind of nursing was that?

MS AALBERTS-HENDERSON: I started my training at 17 and became what they call a Div 1 nurse by the time I was 20. Worked in medical wards, surgical wards, and at the end of my career, I was working in the anaesthetic and recovery room of the local hospital.

MR KNOWLES: And towards the end of that time, you returned to university; is that right?

MS AALBERTS-HENDERSON: I did.

MR KNOWLES: And what did you study when you returned to university?

MS AALBERTS-HENDERSON: I went and did a Bachelor of Theology at the United Faculty of Theology at Melbourne University, and then a few years later, I did my Master's Degree in Theology.

MR KNOWLES: Yes, and you, yourself, are married with four children; is that right?

MS AALBERTS-HENDERSON: Four children and two stepchildren, yes.

MR KNOWLES: Right. And you have six grandchildren.

MS AALBERTS-HENDERSON: Six boys.

MR KNOWLES: On the whole, how would you describe your life?

MS AALBERTS-HENDERSON: I'm blessed. I've got enough. I'm a very blessed lady.

MR KNOWLES: Can I bring up a photograph. This is at tab 240 of the tender bundle. Now, can you tell the Commission about that photograph?

MS AALBERTS-HENDERSON: That's my daughter Ruth, my youngest daughter. Mum – I think that was Mother's Day just before she went into Avondrust.

MR KNOWLES: Yes. Now, your dad passed away in 2005; is that right?

MS AALBERTS-HENDERSON: That's correct.

MR KNOWLES: But your mum continued living in the family home right up until 2018.

MS AALBERTS-HENDERSON: That's correct.

MR KNOWLES: And why was that?

MS AALBERTS-HENDERSON: Because - - -

MR KNOWLES: That was her preference; is that right?

MS AALBERTS-HENDERSON: Yes, of course, staying in the family home.

MR KNOWLES: Yes. Yes. And how did she keep the house?

MS AALBERTS-HENDERSON: I think I put in my statement, my mother was a neat freak.

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: She liked – she's very Dutch. Very clean, everything ordered. My mother had macular degeneration, so she was legally blind. So, it needed to be orderly, so she wouldn't – she knew where everything was.

MR KNOWLES: Yes. And I take it that you and your siblings supported her in that decision to stay in the home.

MS AALBERTS-HENDERSON: Yes, but as the time from dad's death to when she went into Avondrust, we needed to be there more often.

MR KNOWLES: Yes. What were some of the ways you did take action to try and allow her to stay in the home as long as possible?

MS AALBERTS-HENDERSON: Well, my sister cooked all mum's meals and brought them down once a fortnight. When my sister wasn't there, I would cook. My mother preferred my sister's cooking, and I was there two, maybe three times a week. Towards the end, I was there nearly every day because she became frailer.

MR KNOWLES: Had you undertaken any house modifications to assist her - - -

MS AALBERTS-HENDERSON: We put in - - -

MR KNOWLES: - - - staying there?

MS AALBERTS-HENDERSON: I put in an over toilet chair. I suggested a chair in the shower. She had a walking stick. She had a walker. She had a device to help her lift her legs in and out of the car. Her legs were quite oedematous and heavy, so that aided her getting in and out of cars.

MR KNOWLES: Yes, and were any carers employed to assist her?

MS AALBERTS-HENDERSON: Yes. Yes. She had a lovely carer who looked after her.

MR KNOWLES: Yes, and how often did they come to see your mum?

MS AALBERTS-HENDERSON: I think the carer came once a week.

MR KNOWLES: Yes, and for how many hours on that occasion?

MS AALBERTS-HENDERSON: Couple of hours. They could take mum shopping, clean the house. I'm not actually sure of the time, and I actually asked for a carer to come in more often to help mum with her meals, but, of course, she wasn't given the hours.

MR KNOWLES: Yes, and, in that, are you referring to - - -

MS AALBERTS-HENDERSON: The package, yes.

MR KNOWLES: The package. She was assessed and received a level 2 package.

MS AALBERTS-HENDERSON: Level 2, yes.

MR KNOWLES: And in March of 2018, was she assessed for a level 4 package?

MS AALBERTS-HENDERSON: She was assessed, and we were told by her case supervisor that she was level 4. We were delighted, but as the caseworker said, the money is not available in the government funds to provide those extra hours. So, we went from joy to sadness very quickly.

MR KNOWLES: Were you told when any money might be received in respect of the package?

MS AALBERTS-HENDERSON: About a year, we were told.

MR KNOWLES: About a year. Right. Now, in relation to that assessment for the purposes of seeking the level 4 package, was your mother's cognition assessed at that time?

MS AALBERTS-HENDERSON: Yes, and it was 10 – we were told 10 out of 10.

MR KNOWLES: Yes, and the assessment, was that in March of 2018?

MS AALBERTS-HENDERSON: I think that it was the 21st of March.

MR KNOWLES: Yes, and can I ask you, in terms of your mum's health, what was her health generally like at that time in 2018?

MS AALBERTS-HENDERSON: She had many comorbidities. So, she was deaf. She had congestive cardiac failure, oedematous leg. She had scoliosis, kyphosis, a lot of back pain, and she was legally blind. So, she sort-of had one illness on top of the other.

MR KNOWLES: And was she able to walk around the house?

MS AALBERTS-HENDERSON: Yes, with the stick, the aid of the stick, yes.

MR KNOWLES: Yes, and she had any falls while she was living at home?

MS AALBERTS-HENDERSON: Yes, she had one fall where she tripped over the rugs which I promptly lifted off the floor and, prior to that, she had a fall outside, but I think she more tripped over the scuffs, so we put her in better shoes.

MR KNOWLES: Yes. So, to your knowledge, she'd had a couple of falls.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: And when were the falls, roughly?

MS AALBERTS-HENDERSON: Gosh, the fall on the rug was about eight months, I would say, prior to her going into Avondrust, and the fall on the scuffs was three or four years prior.

MR KNOWLES: Yes. Okay. Now, by early May 2018, how were you and your siblings coping with providing for your mum's care needs?

MS AALBERTS-HENDERSON: I can only speak for myself, but I found it extremely difficult because I was there every day. I was worried. Just worried about mum, and she rang me one night to say, "I couldn't get my" – she couldn't lift her legs into bed. They were oedematous, and I said to mum, "Why didn't you ring me?" She said, "Oh, no, darling. I didn't want to disturb you." So, things were becoming difficult for her.

MR KNOWLES: Yes. And was it around that time that your family started looking into aged care facilities for your mum?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Okay. And you've said in your statement that your mum wanted to go to Avondrust - - -

MS AALBERTS-HENDERSON: Avondrust, yes.

MR KNOWLES: - - - Lodge in Carrum Downs. Can you explain to the Commissioners why that was so?

MS AALBERTS-HENDERSON: Mum dearly loved Australia, but her ethnicity is Dutch. So, I think she wanted to go into a home where she felt that Dutch community would care for her, and that's why she wanted to go there, yes.

MR KNOWLES: And what is the meaning of the word Avondrust in Dutch?

MS AALBERTS-HENDERSON: Avondrust is evening's rest.

MR KNOWLES: Right. And was the cultural setting in the facility one that emphasised those Dutch links?

MS AALBERTS-HENDERSON: Yes, I think it was quite marketed to the Dutch community. There's a windmill out the front of the facility. The home – the home had areas named – mum's area, I believe was Delftseplein. They had blue and white plates on the wall, clogs on the wall. We'd say in Dutch, it was gezellig. It was cosy. It was homey.

MR KNOWLES: Yes, and how did your mum feel at first about moving from the family home to Avondrust?

MS AALBERTS-HENDERSON: She wasn't happy. None of us want to leave our home, but she realised she had to make the change. So, if she had to go anywhere, it was going to be Avondrust, and she – as you can see from the photo of her stay, she was quite happy to be there, I think.

MR KNOWLES: Yes. Well, perhaps –can I take you to that photo. That's at tab 241 of the tender bundle. Is that the photograph that you're referring to?

MS AALBERTS-HENDERSON: Yes. That was taken on the 24th of May.

MR KNOWLES: Yes, and that was the first day that she - - -

MS AALBERTS-HENDERSON: That was the first day, yes.

MR KNOWLES: - - - entered Avondrust.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: And how did she enter Avondrust?

MS AALBERTS-HENDERSON: Well, she walked in on her – by herself. She was cognisant and continent.

MR KNOWLES: Yes. Now, can I take you to a picture of her room at Avondrust.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: That is at tab 7 of the tender bundle. Is that her room?

MS AALBERTS-HENDERSON: That's right.

MR KNOWLES: Yes, and how would you describe that, generally?

MS AALBERTS-HENDERSON: For my mother, gezellig.

MR KNOWLES: Cosy.

MS AALBERTS-HENDERSON: Yes, cosy. We were told we could set the room up any way we wanted, so that's how mum wanted it.

MR KNOWLES: Yes. Can I go back to tab 241 for the moment, thank you. Pardon me. Yes, that's – how did you, yourself, feel about your mum moving into Avondrust?

MS AALBERTS-HENDERSON: Selfishly, I was quite relieved. It took a huge load off my shoulders, a huge load of worry. So, I was quite happy that she went there. I thought it would be the best for mum, best for me.

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: And when you say you thought it would be the best for your mum, what did you mean by that?

MS AALBERTS-HENDERSON: Well, that someone could care for her. She would have her meals – she would walk to the dining room. We were told she could have meals in her room, that she would be watched 24/7.

MR KNOWLES: And at that time, had you known of anyone else who had gone to Avondrust?

MS AALBERTS-HENDERSON: My former father-in-law had gone to Avondrust. He was there for, I think, a couple of years, and he was well cared for, and my former mother-in-law, who I'm still close to, was very happy with the care he received.

MR KNOWLES: Yes. Now, once your mum entered Avondrust, how often would you visit her?

MS AALBERTS-HENDERSON: Initially, probably – look, the decline was so rapid. So, the day after she went in, I had looked after one of my grandsons. My 65th birthday was on the 26th, and my husband took me away for a couple of days. But she had her first fall, I had to come back on the Monday. So, from thereon in, it was once, twice and, of course, as Mum got sicker, I was there nearly every day, sometimes twice a day.

MR KNOWLES: Yes. So, it's your evidence, I take it, then, that in general, you were visiting your mother at least once a day.

MS AALBERTS-HENDERSON: At the end, absolutely, yeah.

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: Sometimes twice.

MR KNOWLES: Yes. And what about your two siblings? Did they - - -

MS AALBERTS-HENDERSON: My sister was there a lot. My brother was there as much as he could be, because he works full-time. He would be there twice a week.

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: And, of course, as Mum got sicker, our visiting rates increased.

MR KNOWLES: Yes. And what about – you say your sister was there a lot. Was she there - - -

MS AALBERTS-HENDERSON: She – we would often meet there together - - -

MR KNOWLES: On a daily basis.

MS AALBERTS-HENDERSON: - - - or she would go one day, yes, and I would go the next.

MR KNOWLES: Yes. Now, did you and your brother have power of attorney for your mother?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: He was primary, I think, and I was secondary. If he couldn't answer things, it was up to me.

MR KNOWLES: Yes. And what – did you and your brother have arrangements how you would deal with the power of attorney issues that might arise?

MS AALBERTS-HENDERSON: Yes, my brother felt that I should look after the medical side and - - -

MR KNOWLES: By reason of your background; is that right?

MS AALBERTS-HENDERSON: Background.

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: And my sister was also a Div 2 nurse.

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: So – and my brother looked after the financial, the fiscal side.

MR KNOWLES: Now, you mentioned earlier that soon after your mum entered Avondrust, she had a fall.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: That was on 26 May.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Yes. And can you tell the Commissioners what happened on that occasion - - -

MS AALBERTS-HENDERSON: Mum - - -

MR KNOWLES: - - - to the best of your knowledge.

MS AALBERTS-HENDERSON: Yes, from the best of my knowledge, Mum said at the time that she went to sit on a chair, but she misjudged it, so she fell between the chair and the wall or the chair and the table, I'm not sure. And she was picked up and put back in the chair, obviously.

MR KNOWLES: Was she badly hurt as a result of that fall?

MS AALBERTS-HENDERSON: No, not that I know from that first fall. I mean, I didn't go in there and check her legs or her bottom or – that's not my – I didn't think that was my job.

MR KNOWLES: No. Yes. And were you contacted by staff at the time?

MS AALBERTS-HENDERSON: Yes. Yes.

MR KNOWLES: Yes, and what did they say to you?

MS AALBERTS-HENDERSON: "Your mother had a fall. It was a small fall." And then, of course, I spoke to my mother when I got back on the Monday and she – I thought that fall was witnessed, but apparently it wasn't.

MR KNOWLES: Yes. And your mum then had a second fall.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: About a week later, was it?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: And so far, as you're aware, what happened on that occasion?

MS AALBERTS-HENDERSON: Mum said to me – she was with a young girl, and she turned quickly, and she said, "I rotated," and got herself caught up with her walking stick and fell.

MR KNOWLES: And - - -

MS AALBERTS-HENDERSON: She hurt herself – yes.

MR KNOWLES: - - - was she injured on that occasion?

MS AALBERTS-HENDERSON: Yes, split ear. And there's a photo, I think, of her bruised face.

MR KNOWLES: Yes, and was she otherwise injured in terms of her legs?

MS AALBERTS-HENDERSON: She had bruising on her left leg.

MR KNOWLES: Yes. And were you contacted by staff on that occasion?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: And what did they say?

MS AALBERTS-HENDERSON: They wanted to call an ambulance, but we had already made a decision not to go the do-not-resuscitate route, and Mum still had her own agency there. She said, "I do not want to go to hospital." So, we respected my mother's decision. We spoke, the three of us, and we decided Mum should stay in Avondrust.

MR KNOWLES: Yes. And that was something staffed agreed with.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Yes. So that fall, you say, was about a week after the first fall which occurred on 26 May.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: So, this was about a week after that date.

MS AALBERTS-HENDERSON: I think – I'm not very sure of the dates, but it's in the documentation.

MR KNOWLES: Yes. And then your mother had a third fall on 3 July 2018.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: And on that occasion, she was taken to hospital, wasn't she?

MS AALBERTS-HENDERSON: Yes. Yes.

MR KNOWLES: And did she – was there particular reason why she was taken to hospital on that occasion?

MS AALBERTS-HENDERSON: My mother had said to the girls, "I think I've broken my arm." She went to Peninsula Private and through the emergency department, and that's why she was transferred to hospital.

MR KNOWLES: Yes. And was she right about her arm?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: She had a broken right arm; is that correct?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Were there any other injuries that you learned of that she had sustained as a result of the fall?

MS AALBERTS-HENDERSON: I wasn't told at the hospital till a few days later that Mum had this very large haematoma, which is a collection of blood under the skin, and that's when I was told about her leg.

MR KNOWLES: Yes. And who told you that?

MS AALBERTS-HENDERSON: The nurses and the physician in charge.

MR KNOWLES: At the hospital.

MS AALBERTS-HENDERSON: At Peninsular Private, yes.

MR KNOWLES: And how did they describe that haematoma?

MS AALBERTS-HENDERSON: Just a haematoma.

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: A collection of – it looks awful.

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: But it was intact.

MR KNOWLES: Yes. And did you see that haematoma or that bruising at that time?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: You did. And you hadn't seen that before that time?

MS AALBERTS-HENDERSON: No.

MR KNOWLES: No. Now, did your mum have surgery for her broken arm?

MS AALBERTS-HENDERSON: She had a reduction under anaesthetic, so she had no surgery. It's a light anaesthetic and they pull and put everything into place. And then she had - - -

MR KNOWLES: Was it her wrist that was broken?

MS AALBERTS-HENDERSON: I'm not sure - - -

MR KNOWLES: Her lower arm?

MS AALBERTS-HENDERSON: Yes, lower arm - - -

MR KNOWLES: Yes?

MS AALBERTS-HENDERSON: - - - and a plaster of Paris.

MR KNOWLES: Yes. And how did that surgery go?

MS AALBERTS-HENDERSON: Mum was very disorientated, frightened, a bit paranoid, with moments of lucidity.

MR KNOWLES: And from your experience as a nurse, including a nurse who has had dealings with, as you said, surgery and anaesthesia, what do you attribute that to?

MS AALBERTS-HENDERSON: Anaesthetics sometimes make old people, as we say, go off with the pixies, and it happens with anaesthetics with older people.

MR KNOWLES: And was that something that was acknowledged by the hospital staff as having had occurred on this occasion with your mother?

MS AALBERTS-HENDERSON: Yes, well, because they rang me a few times to – "Please come to the hospital and help put your mum back to bed."

MR KNOWLES: And was attributed to the – as a reaction to the anaesthetic by the hospital staff.

MS AALBERTS-HENDERSON: Yes, because she was very – poor Mum. She was very disoriented. She didn't know where she was. She was confused. She wanted to get out of bed, go home. Just, she needed someone, usually me, to say, "Come on, Mum, we will put you back to bed. You will be right."

MR KNOWLES: And when you say that "she was trying to get out of bed and wanted to go home", where was home for her at that time?

MS AALBERTS-HENDERSON: I did say to her, "Mum, where do you mean 'home'?" I said, "Home back to your unit or Avondrust?" And she said, "I will go home to Avondrust."

MR KNOWLES: Yes. Now, you say that a couple of days after her entering the hospital, you had a discussion with her doctor - - -

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: - - - about the large haematoma on her right lower leg.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: What was discussed between yourself and the doctor at that time?

MS AALBERTS-HENDERSON: He suggested that my mother have skin grafts, and I was very opposed to that for a couple of reasons. My mother's INR, clotting rate, was very high. Graphs don't sit well on oozy sites. I was fearful of a second anaesthetic which I think would have exacerbated her confusion. No matter how I looked at it, if she had had the surgery or not, that's again dependent on the surgeon concerned, Mum would have gone back to Avondrust.

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: And I'm suggesting that what had happened would have maybe been delayed a week.

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: But she still had a broken arm.

MR KNOWLES: Yes. And you had earlier mentioned, I think, that she in her moments of seeking to get out of bed, expressed a desire to return there?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: And I felt if she got her mental state better, she would be more – you can't do a skin graft on a patient who is crawling over the bed rails. I mean, it would just dislodge. It would just again exacerbate this problem. Her disorientation for me was awful to see.

MR KNOWLES: So, your mum then returned to Avondrust - - -

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: - - - on 11 July.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: And she at that time, in terms of the injuries that she had sustained, had the broken arm and you say that was in a cast.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Was your mum right-handed?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: So, it was her right hand that - - -

MS AALBERTS-HENDERSON: Her dominant hand, yes.

MR KNOWLES: - - - would have been the subject of the arm break. And in terms of the leg bruising, that was a significant haematoma on her lower leg.

MS AALBERTS-HENDERSON: It was. It was - - -

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: - - - a very large haematoma.

MR KNOWLES: Now, after she returned, from your observations, how did your mum's broken arm affect her at Avondrust?

MS AALBERTS-HENDERSON: Well, it's the arm that she would use her walking stick with, lift herself up with, eat with. And I suggest to anyone, if you use your non-dominant arm to pour water, open a car door, go through papers, it's difficult, and I'm fit and relatively young. For Mum, she couldn't make that adjustment very

well. She couldn't feed herself, couldn't go to the bathroom. She was, in a way, trapped because of a broken hand, a broken arm.

MR KNOWLES: So, she became - - -

MS AALBERTS-HENDERSON: Bedridden, literally.

MR KNOWLES: And – well, of greater dependence on the staff.

MS AALBERTS-HENDERSON: Very much more. Very much more.

MR KNOWLES: Now, did you – or from what you understand, from speaking with your siblings, either of them see your mum receive physiotherapy for rehabilitation of her arm?

MS AALBERTS-HENDERSON: No, my – this was a big issue for me. The Dutch are a tall race. Mum was a tall woman. And we kept saying to the physio, "Mum needs to stand. She needs to have some mobility, some leg exercises or even arm-raising exercises." But the first thing he did, he wouldn't let her way her sling, which the surgeon said she must wear a sling, keep the arm raised. And my sister and I stood my mother at one point and said, "Mum can stand, if somebody could stand her up." But he said, "Oh, no, it will sub-lux the shoulders of the nurses." Now, that's admirable to look after your nursing staff, but the duty of care is to look after the patient as well.

MR KNOWLES: And was there equipment that could have been utilised to - - -

MS AALBERTS-HENDERSON: She had a - - -

MR KNOWLES: - - - assist with lifting your mum at any point?

MS AALBERTS-HENDERSON: Yes, there was a nursing – there was a lifting machine. If the machine was there, it was used. And I found her often in a wheelchair or in the princess chair or in the bed.

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: But she couldn't – no one was walking her, so the capacity to walk went very quickly.

MR KNOWLES: Yes. And with that reduced mobility, what efforts did you observe by people at Avondrust, that is, the staff, to prevent and minimise pressure injuries to your mother? Did you speak to nurses - - -

MS AALBERTS-HENDERSON: Yes, I did.

MR KNOWLES: - - - and personal care attendants - - -

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: - - - about repositioning your mother, for instance?

MS AALBERTS-HENDERSON: Yes, but I would often find her in a wheelchair and she would be crying. She's saying, "My back is so sore, my bottom is so sore." If the princess chair was available, they were good, they put her in the princess chair, but she was still resting on her back. She needed to be turned in a bed. I didn't see much of that. Pressure area care, two-hourly turns, which is old-fashioned, I know, but that's what I was taught. I just didn't see that. And, you know - - -

MR KNOWLES: Why do you say that's old-fashioned?

MS AALBERTS-HENDERSON: Well, it's - - -

MR KNOWLES: Was that something you were told?

MS AALBERTS-HENDERSON: Drummed into me when I was training as a nurse.

MR KNOWLES: But why do - - -

MS AALBERTS-HENDERSON: Because - - -

MR KNOWLES: Who told you it was old-fashioned?

MS AALBERTS-HENDERSON: Well, I was introduced as, "This is Johanna. She's a nurse. She's the old – she's not – she's an old nurse." So that – and I didn't – I wasn't offended by that because I am an old nurse, but it was – it's a tried and true way of care. You turn patients two-hourly, you rub their backs, you reposition all the time - - -

MR KNOWLES: Yes.

MS AALBERTS-HENDERSON: - - - so the pressure is not on one spot.

MR KNOWLES: And were you told by staff that they were not doing that?

MS AALBERTS-HENDERSON: I didn't see any evidence of it being done. It was – I think it was just too difficult for them. They didn't – they had a sheet on the rubber mattress. There was nothing underneath the sheet. There was no what they call Kylie sheet, which is a sort of protective third of an area sheet that you could actually quite simply lift, pull and turn a patient proper – it was – just wasn't on the bed.

MR KNOWLES: You mentioned that there was a rubber mattress on your mother's bed. Can you tell the Commissioners whether or not there was any attempts to obtain an air mattress for your mum to relieve the pressure on her.

MS AALBERTS-HENDERSON: I think that the high/low bed and air mattress was introduced at some point. I don't have the actual dates in front of me, but it was done – everything seemed to be done after the fact, do you know? "We have the fall, then we will fix it. We had something else go wrong, then we would fix it." There was no proactivity in Mum's care.

MR KNOWLES: By that - - -

MS AALBERTS-HENDERSON: It was reactive, you know?

MR KNOWLES: So, do you say in that regard, to the best of your recollection, the air mattress was obtained as a reaction - - -

MS AALBERTS-HENDERSON: To the - - -

MR KNOWLES: - - - to the existence of pressure injuries?

MS AALBERTS-HENDERSON: Yes, I would say so.

MR KNOWLES: Rather than an action taken to prevent them.

MS AALBERTS-HENDERSON: I can't answer for them. I'm very sorry, Mr Knowles.

MR KNOWLES: No, I understand. And you mentioned earlier your mum complaining of pain in her bottom and her lower back area.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Were you aware of any other pressure injuries that she had sustained at this time?

MS AALBERTS-HENDERSON: I didn't realise about the heel until she went to Beleura Hospital and I saw then.

MR KNOWLES: When you say the heel, what do you mean by that?

MS AALBERTS-HENDERSON: The heel, it must have been her right leg, yes, I think so. When I saw it at the acute care hospital it was sort of black, a big blister on her foot.

MR KNOWLES: Yes. So, I take it then certainly in the case of that heel injury you had no idea as to how serious - - -

MS AALBERTS-HENDERSON: No.

MR KNOWLES: - - - the pressure injury was that your mother had sustained - - -

MS AALBERTS-HENDERSON: No.

MR KNOWLES: - - - while at Avondrust.

MS AALBERTS-HENDERSON: No, not the heel. I knew that somebody had said to me, "Your mum has got a small pressure sore on her back", but I wasn't going to go in there and roll Mum over; I didn't. No one should have to go in and check their parent's wounds and dressings, and I didn't. I just assumed they would be giving good care. Wrongly.

MR KNOWLES: Do you think that the description of the pressure sore as a small one was accurate when - - -

MS AALBERTS-HENDERSON: No.

MR KNOWLES: - - - you ultimately saw it?

MS AALBERTS-HENDERSON: When I saw it, I was shocked.

MR KNOWLES: Do you consider that with your experience as a nurse, old-fashioned or otherwise, more could have been done to prevent the pressure injuries that your mother sustained?

MS AALBERTS-HENDERSON: Yes, I do.

MR KNOWLES: What do you say should have been done?

MS AALBERTS-HENDERSON: In a big facility like that, they should have perhaps a rolling team so two people come in for all the bedridden patients and turn them. Then they go to the next patient and turn them. That would make more sense to me. If they just had two people going in looking after these bedridden patients, rubbing their backs, making sure they're comfortable; it's not rocket science.

MR KNOWLES: Can you tell us a little bit about your observations of the food that was served to residents at Avondrust; was it prepared at Avondrust?

MS AALBERTS-HENDERSON: No, it was brought in. I remember seeing a lady bringing it in one day; it all seemed to be done in plastic containers. And she had soup a lot, which was okay but of course Mum had to feed herself; she couldn't feed herself. And one night – and I did complain to the nurse in charge – she had this noodle, they gave it some exotic name, but it looked like a fettucine and it had two pieces of capsicum in it. It was just appalling; how you feed someone that food and expect them to get sustenance out of it, I don't know. And I did speak to somebody about that.

MR KNOWLES: Yes. So, you had concerns about the quality of the meals?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Did you have concern about the quantity of the meals?

MS AALBERTS-HENDERSON: They have dining room tables so one night I was in there and they had cheeses on a platter. And soup was given to them. It looked like something out of Oliver. The people who could grabbed which cheese they wanted and there was Mum – obviously her dominant hand is plaster – couldn't get the cheese she wanted. So, I said, "Mum, I will get it for you". I am sure if she had asked but she didn't ask. I don't know if she had the wherewithal or the courage to ask for more of the cheese she liked, and that's just a little thing but - - -

MR KNOWLES: So, you had concerns then, do I take it, about the quantity of food as well?

MS AALBERTS-HENDERSON: The quantity, the quality particularly.

MR KNOWLES: When you refer to the quality, am I to take it you are also referring to the nutritional value of the food?

MS AALBERTS-HENDERSON: Well, that lovely Asian dish had no nutritional value at all.

MR KNOWLES: When you say "lovely", I take it you're being f - - -

MS AALBERTS-HENDERSON: I'm sarcastic, I do apologise.

MR KNOWLES: Now, did you consider, from your observations of your mum's experience that residents' individual food preferences were accommodated?

MS AALBERTS-HENDERSON: I think they may have tried but they didn't try for Mum.

MR KNOWLES: And in what way was that seen by yourself?

MS AALBERTS-HENDERSON: Well, my mother was a fussy eater. So, she would say I'm a vegetarian, but she did like lasagne or hamburgers, something like that. But one night I went in and one of the young nurses came up to me and she said, "I've just been reading your mum's notes. She is vegetarian, but we have given her pork" and she laughed. And I remember thinking this is not funny. This is just not funny.

MR KNOWLES: Now, in terms of managing your mother's nutrition and hydration at Avondrust, am I right in understanding you to say that after coming back from hospital your mum required assistance with feeding?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: And in that regard, what sort of assistance did you witness from staff in terms of your mum's feeding?

MS AALBERTS-HENDERSON: One of my concerns was I would go in very often, about 11, 11.30 and my mother was being fed breakfast. It was a little bit disingenuous for them to say your mother wasn't hungry at lunchtime. Of course, she wasn't, she had just been fed breakfast. I remember I went in one night and I am terribly distressed about this still. Poor mum was trying to eat soup with her arm in plaster. And I said to this young girl, "Mum's eating". She said, "Well, if you leave her long enough she will eat". You don't talk about somebody like that, you know.

MR KNOWLES: Did your mum require dietary supplements?

MS AALBERTS-HENDERSON: Yes, the wound care specialist very nicely said to me she had suggested to Avondrust that mum had dietary supplements.

MR KNOWLES: What was that for? What was the purpose of those dietary supplements, to your understanding?

MS AALBERTS-HENDERSON: I think – well, from what I understand the wound care nurse had debrided Mum's wound and felt that Mum needed extra nutrition, because nutrition aids in healing.

MR KNOWLES: And did you ever see your mum or were you aware of your mum receiving any dietary supplements at Avondrust?

MS AALBERTS-HENDERSON: I never saw that.

MR KNOWLES: Did anybody tell you that she was getting dietary supplements at Avondrust?

MS AALBERTS-HENDERSON: No.

MR KNOWLES: Did you become aware of your mum losing weight while she was at Avondrust?

MS AALBERTS-HENDERSON: Yes. Mum was a sort of well-rounded lady. I remember I went in there one day and she had kicked the blankets off. She was distressed, she couldn't get out of bed. And I thought, "Oh gosh, your legs are quite thin."

MR KNOWLES: When was that, do you have a rough estimate?

MS AALBERTS-HENDERSON: That was after she had broken her arm, so it was towards the end of her stay there. But I know that when she had the assessment on 21 March, I think her weight was 74 or 78 kilos, I'm not sure of the weight, but she looked to me like she had lost a substantial amount of weight.

MR KNOWLES: And had you been told by anyone at Avondrust about her weight loss?

MS AALBERTS-HENDERSON: No. No, it was never mentioned.

MR KNOWLES: Did you bring it to anybody's attention that you were concerned about weight loss at that late time?

MS AALBERTS-HENDERSON: I honestly can't remember, Mr Knowles.

MR KNOWLES: Yes. And did your mum ever talk to you about how after she returned from hospital and had difficulties with mobility her toileting was being managed at Avondrust by staff there?

MS AALBERTS-HENDERSON: You know, we teach children to be continent. It's part of growing up. Mum was put into an adult diaper and one nurse said, "Just poo in your pants" which was just so undignified for my very dignified mother, and in a way putting a continent into diapers infantilises them. For what purpose? It's inhumane, and of course they didn't want to stand her up, because they couldn't. It seemed it became a problem, a staffing issue. Did they have the staff that were tall enough or willing enough to bring in even a commode or even walk her to the bathroom. It wasn't going to happen. And she said to me one night she used the diaper and I said, "Mum, why didn't you ring the bell?" and she said, "I did ring the bell, but nobody came".

MR KNOWLES: Now, after your mum returned from hospital on 11 July, did you receive a call from Avondrust staff about a GP attending to the haematoma on her right lower leg?

MS AALBERTS-HENDERSON: Yes. They said the haematoma is quite ripe for bursting in a way, could they take some exudate out and I said "Yes, I give you permission to do that but do it in sterile conditions and can you please get a micro and culture which means you look at the exudate, if there's an infection in there. So, they went ahead and did that.

MR KNOWLES: When you say they, was that a general practitioner?

MS AALBERTS-HENDERSON: That was a GP, yes.

MR KNOWLES: And did you agree to it on any – you say you agreed to it on the condition of it being - - -

MS AALBERTS-HENDERSON: Sterile.

MR KNOWLES: - - - sterile. Also, that you required a test - - -

MS AALBERTS-HENDERSON: A micro and culture of the exudate.

MR KNOWLES: - - - of the exudate for micro and culture.

MS AALBERTS-HENDERSON: Culture.

MR KNOWLES: And did you have any other conditions on what they do in terms of the management of the wound at that stage by way of - - -

MS AALBERTS-HENDERSON: Obviously, dress it well and look after it, yes.

MR KNOWLES: And were you provided with the results of that test?

MS AALBERTS-HENDERSON: No, I had to ask for that and that was towards the end and I said by the way what was Mum's micro culture and they said, "It grew nothing". But they had to look through a few notes to find that.

MR KNOWLES: Yes. So, I take it from that, when you said there was nothing, there was no infection or bacteria - - -

MS AALBERTS-HENDERSON: No.

MR KNOWLES: - - - in the wound at that time - - -

MS AALBERTS-HENDERSON: Of the exudate they took, yes.

MR KNOWLES: - - - of the exudate - - -

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: - - - at that time of that test - - -

MS AALBERTS-HENDERSON: That's right.

MR KNOWLES: - - - soon after she left hospital.

MS AALBERTS-HENDERSON: Yes, that's right, that's correct.

MR KNOWLES: And did you see your mum's lower leg wound around that time?

MS AALBERTS-HENDERSON: My daughter and I were there and one of the nurses was dressing it quite carefully, well, sterilely and she then wrapped it up after we left.

MR KNOWLES: And you actually physically saw your mum's leg?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Yes. And so, was that relatively soon after she had left the hospital on 11 July?

MS AALBERTS-HENDERSON: Look, I don't know the actual date that the GP came and done it, but I did see the wound.

MR KNOWLES: Is it right to say that it's within days?

MS AALBERTS-HENDERSON: I would say so. I'm so sorry, I don't know the actual date.

MR KNOWLES: That's all right. What did it look like to you when you saw it?

MS AALBERTS-HENDERSON: Well, obviously, the convex – the lump had gone, it had smoothed down, so it was still quite red and blue but there were some fine lines where obviously the doctor had removed the bulk of that pressure in that – that – like a blister.

MR KNOWLES: When you say there were some fine lines, how did they look to you, those fine lines?

MS AALBERTS-HENDERSON: Everything looked clean, everything looked healthy. It was looked after, at that time.

MR KNOWLES: And were you next contacted by Avondrust staff specifically in relation to your mum's lower leg when they called to propose that she see a wounds consultant?

MS AALBERTS-HENDERSON: Yes, and I was very happy for that, yes.

MR KNOWLES: And when was that?

MS AALBERTS-HENDERSON: I don't know the actual date, but it was obviously after the – after the - - -

MR KNOWLES: A couple of weeks or so, about two weeks?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Now, the records show, and I'm naming this person, they are a witness, that Ms Jan Rice saw your mum on 25 July. Had you been told prior to that time about any developments in respect of the wound by staff at Avondrust?

MS AALBERTS-HENDERSON: I spoke to Jan but, no, the staff didn't mention.

MR KNOWLES: Before Jan was involved - - -

MS AALBERTS-HENDERSON: No.

MR KNOWLES: - - - had you had any discussion with staff about the wound after the time when you had looked at the leg when it was being dressed?

MS AALBERTS-HENDERSON: No. Well, they rang me, and they suggested they get the wound-care specialist in, and that's the first I heard that it might need debriding.

MR KNOWLES: Yes. Yes, and what did she tell you when you spoke with Jan Rice?

MS AALBERTS-HENDERSON: She was terrific actually. She was professional. She was informative. She kept me in the loop. She sounded like a lady who knew what she was talking about.

MR KNOWLES: And what did she say about your mother's wound?

MS AALBERTS-HENDERSON: She said she debrided the wound – I don't think she said it was a large area – just debrided the wound, and she mentioned that she had asked the staff to give Mum nutritional supplements.

MR KNOWLES: Yes. And did she ever say anything to you about your mum going back to hospital for a skin graft?

MS AALBERTS-HENDERSON: I don't remember that at all.

MR KNOWLES: Do you think that's the sort of thing that – if she had said it to you, you would remember it?

MS AALBERTS-HENDERSON: I'm pretty sure I would have remembered it; yes.

MR KNOWLES: Now, since the time of seeing what you described as the clean lines of the wound around the time of the GP's treatment - - -

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: When was the next time you actually saw the wound?

MS AALBERTS-HENDERSON: My mother was transferred to an acute-care hospital, and I was there when the staff did an assessment of my mum's body.

MR KNOWLES: So that was when – was the next time; you heard nothing between – sorry. Pardon me.

MS AALBERTS-HENDERSON: No. Not from the staff.

MR KNOWLES: From the staff at Avondrust. There was no update as to the development of the wound.

MS AALBERTS-HENDERSON: No. No. They said they were dressing the wound and doing wound care, but I didn't actually see the wound till I got to Beleura, and what I saw - - -

MR KNOWLES: Yes. Yes. We will come to that in a moment, but you're saying that nothing that the staff had told you prepared you for what you saw at the hospital.

MS AALBERTS-HENDERSON: No. Nothing.

MR KNOWLES: Had you been told anything about how the wound had deteriorated?

MS AALBERTS-HENDERSON: No. No. They said they were – I think one of the nurses said, "We're still debriding it after the initial debridement by Ms Rice".

MR KNOWLES: Was there anything that Ms Rice had said that prepared you for what you saw when you went to the hospital?

MS AALBERTS-HENDERSON: No. No.

MR KNOWLES: Now, just prior to your mum actually going into Beleura Hospital again in the first week of August 2018 – it's around this time that, you say in your witness statement – that you were becoming increasingly concerned about the care being given to your mum by staff at Avondrust. You've described this situation in paragraph 50 of your statement. Could I ask you, please, if you don't mind, to read out that paragraph for the Royal Commission?

MS AALBERTS-HENDERSON:

> *Towards the end of Mum's time in Avondrust, I was there twice a day. I tried to be sure that I filled out the visitors' book, although there were times I didn't. I was on the lookout for something to go wrong. I was no longer a daughter. I became a supervisor. It is not the way I wanted to spend my time with my mother. I wanted to be the daughter, and I wanted her to be my parent.*

MR KNOWLES: Yes; thank you. And your mum, as you say in the following paragraphs of your statement, then went into hospital again. Now, can you tell the Commission what you were told as to why your mum had to go back to hospital?

MS AALBERTS-HENDERSON: One of the staff said Mum needed an X-ray of her foot, and I – X-rays are for bony things, and I couldn't make sense of it. I said to somebody, "Well, has she fallen or got herself caught up in a wheelchair wheel?". No. What they meant was actually an ultrasound, and when she had the ultrasound,

they found a deep-vein thrombosis in her leg, and I was given an option to be – have – "hospital in the home", they called it – or have Mum taken to Beleura.

MR KNOWLES: Did you talk with your mum about those two options?

MS AALBERTS-HENDERSON: I did – and my sister and brother. So, I rang my sister and brother, and they both said, "Get her to Beleura", and my mother still had her own agency; so, I said, "Mum, you know you can be treated in the home here or go to Beleura", and she just said, "Get me out of here".

MR KNOWLES: And given your mum's previous views about Avondrust that you described, when she wished to return to the home on the previous occasions, how did that make you feel, when she made those comments?

MS AALBERTS-HENDERSON: Yes. Awful, because she – there was such sort of hope and positivity from Peninsula Private to go back to Avondrust, and I think the sort of the despondency that – the way she said that, "Get me out of here", was – I was so shocked between the two different statements.

MR KNOWLES: And did you go with your mum to the hospital on the 7th of August 2018?

MS AALBERTS-HENDERSON: No; my husband actually met the ambulance there, and he texted me, and he said, "Your mum's legs are in a dreadful state". Now, he hadn't seen the dressings; he just saw the oedema, and I went about 4 o'clock, 4.30, just as they were assessing Mum's body.

MR KNOWLES: So, can you describe – you say they were assessing; do you mean - - -

MS AALBERTS-HENDERSON: The nursing staff.

MR KNOWLES: Nursing staff. And they were assessing her full body, were they?

MS AALBERTS-HENDERSON: Yes. So, I – it's the first time I saw her sacral-area pressure sore, the first time I saw the pressure area on her heel.

MR KNOWLES: Yes. And just pausing there, can you describe what you saw in respect of – and you've gone into some detail, but can you fully describe what you saw at each of those sites on her body and how you felt when you saw it.

MS AALBERTS-HENDERSON: I was shocked to see the black blister. It was size of a palm on her heel. I was shocked to see the size of the pressure sore and the attending redness on her sacral area and buttocks, but it's when they took down the dressing on her leg – it was covered with gauze; so, they took the gauze off, and there was more gauze, but they pulled this gauze out of this hole. There's no other

way to describe it. I have worked in an operating theatre. I've been a nurse, but everybody in that room went – it was unbelievable to see.

MR KNOWLES: And are you okay with that image being shown – of what was shown?

MS AALBERTS-HENDERSON: Yes. Yes. Yes. You better warn everybody. Yes.

MR KNOWLES: And again, this is where a specific warning should be made – about the image which will briefly be shown on the screen. Operator, if you could, bring up Tab 113. So, we see there the wound, and that is on her right shin.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: And there is a measuring-tape or stick at the bottom of the picture. That shows the wound is around 14 or so centimetres long.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Just if you can – what do you make of the green – what appears to be green parts on the wound from your experience?

MS AALBERTS-HENDERSON: Well, I'm not sure, but I'm pretty certain that in the Beleura hospital notes they've got a thing called pseudomonas, which is a bacteria. It was an infected wound, obviously, and deep, and the surrounding skin is in a very poor condition.

MR KNOWLES: How did you feel when you saw that wound?

MS AALBERTS-HENDERSON: As I said in my statement, I was in an icy-cold rage. How dare they.

MR KNOWLES: Did you have any idea about the severity of the wound?

MS AALBERTS-HENDERSON: No. No. None whatsoever.

MR KNOWLES: In terms of your mother's pressure injuries – and we can remove that image now; thank you, operator. Did you have any idea about the seriousness of those wounds?

MS AALBERTS-HENDERSON: No. No.

MR KNOWLES: Did you make a decision at that time that your mum shouldn't return to Avondrust?

MS AALBERTS-HENDERSON: We certainly did. I sent a photo that I took to my brother and sister. I spoke to the social worker at Beleura Hospital, and I said, "Mum is not to go back to that facility". We just agreed, all of us.

MR KNOWLES: What did the nursing – did you speak to the nursing staff at the hospital about that as well?

MS AALBERTS-HENDERSON: They said "That's a good idea"; so - - -

MR KNOWLES: What about your mum – did you speak with your mum about not going back to Avondrust?

MS AALBERTS-HENDERSON: I said to Mum, "Mum, I know you wanted to go to Avondrust". I said, "But we can't send you back there". And she said "Good; they're mean to me". That was really distressing for me to hear.

MR KNOWLES: Now, of course, at this time, your mum still had a broken wrist.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: And what happened to that injury when she was at Beleura?

MS AALBERTS-HENDERSON: From what I observed at Avondrust – there was no finger exercises or passive physiotherapy given to her that I observed. I was there the day the Beleura Hospital physiotherapist took the plaster off her arm. And she cried, and I said "Mum, what's wrong?". She said, "It's not working; nothing's working". I – yes; what can you say?

MR KNOWLES: Now, you subsequently had a discussion with a physician at the hospital about the ongoing care for your mum.

MS AALBERTS-HENDERSON: Yes. Yes. Yes.

MR KNOWLES: Can you tell us about that?

MS AALBERTS-HENDERSON: The physician took my siblings and I to a room, and he said "I think your mother's dying; she may live for three months – may live for six months. I don't think she'll even make three months". I think Mum had been – she'd been – not – figuratively speaking: beaten down; there was no more oomph. And he said, "She's dying". So, we, obviously, realised that, and she died on the 19th of August. Wasn't much longer after she'd been in there.

MR KNOWLES: Before I come to that, can I display one other photograph of the wound on your mum's leg?

MS AALBERTS-HENDERSON: Yes. Yes. Yes.

MR KNOWLES: And again, a warning that this image is quite likely to be seen by some as disturbing. Can I ask you, operator, to go to page .0033 in Tab 113. Now, that is a photograph you see – taken on the 14th of August 2018.

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Did you see the wound around that time as well?

MS AALBERTS-HENDERSON: No. I don't think so. But you can see that - - -

MR KNOWLES: But you did see this photograph.

MS AALBERTS-HENDERSON: Yes. I've seen the photograph; yes.

MR KNOWLES: And what's your impression from having regard to that photograph in your experience as a nurse?

MS AALBERTS-HENDERSON: There's some secondary intention. So, the skin is actually starting to grow back a little bit, and it's a clean wound. You can see the skin doesn't look good, but with good wound care, good nursing-care, it was better than when she came in.

MR KNOWLES: You said a moment ago that your mum passed away in the hospital. On the 19th of August, was it?

MS AALBERTS-HENDERSON: Yes.

MR KNOWLES: Yes, and what does her death certificate say about her illness at the time of her death?

MS AALBERTS-HENDERSON: I don't have it in front of me, but - - -

MR KNOWLES: Do you recall that it refers to infection of ulcers?

MS AALBERTS-HENDERSON: It said "infection of ulcers"; yes.

MR KNOWLES: And cellulitis; yes.

MS AALBERTS-HENDERSON: And cellulitis. Yes.

MR KNOWLES: Which is infection of skin.

MS AALBERTS-HENDERSON: It's the skin; yes.

MR KNOWLES: Now, in your statement you've spoken about your mum's final days, and that appears at paragraphs 58 to 63. Can I ask you, if you don't mind, to please read out those paragraphs from 58 to 63?

MS AALBERTS-HENDERSON: Okay. Final days.

It was a different environment in the hospital as compared to Avondrust. Mum got her longed-for vegetable meals, and the staff offered her puddings. I went to the hospital twice a day to feed her, but if I was ever late, I would find someone sitting with her and feeding her. I witnessed staff treating her with attention to detail and sensitivity. It made me feel confident that Mum was being cared for.

In my view, Mum's muscle wastage was because no one helped her stand or exercise. She was in constant pain to her back, her legs and her broken arm. We all die, and Mum was dying, but my anger and sorrow is in the manner of her death, which could have been much more dignified.

In the days leading up to her death, she was in pain every time she moved her legs. The doctors told me that she was in her final days, and they weaned her off her drugs and put her on morphine.

I can't unhear her cries, and I can't unsee what I saw. The aural assault is so difficult to forget.

I was there the day that Mum died. She slipped into unconsciousness 24 hours prior to her death. We buried Mum on the 24th of August 2018, three months to the day after she walked into Avondrust.

MR KNOWLES: Thank you, Mrs Aalberts-Henderson. Is there anything else that you would like to say to the Royal Commission?

MS AALBERTS-HENDERSON: No, just "Thank you" to the Commissioners and "Thank you" to the barristers, lawyers.

MR KNOWLES: I have no further questions for Mrs Aalberts-Henderson.

COMMISSIONER TRACEY: Mrs Aalberts-Henderson, we're very grateful to you for sharing what must be extremely difficult memories with us. They are, however, extremely important to our understanding of the degrees, good and, in your case, bad, of experiences of the treatment of elderly people in nursing-homes, and we thank you for sharing those experiences with us.

MS AALBERTS-HENDERSON: Thank you. Thank you.

COMMISSIONER TRACEY: Commission will adjourn until a quarter to 12.

ADJOURNED [11.31 am]

RESUMED [11.54 am]

COMMISSIONER TRACEY: Yes, Mr Rozen.

MR ROZEN: Thank you, Commissioners. I understand there was some problem with the sound. Can I just clarify if coming through loud and clear now.

COMMISSIONER TRACEY: Well, speaking for myself, much better.

MR ROZEN: Thank you. All right. Well, I express my gratitude to the technical staff that have achieved that. I call Robert Van Duuren.

<ROBERT VAN DUUREN, SWORN [11.55 am]

<EXAMINATION-IN-CHIEF BY MR ROZEN

MR ROZEN: Mr Van Duuren, could you please state your full name for the transcript.

MR VAN DUUREN: Robert Van Duuren.

MR ROZEN: And Duuren is spelled D-u-u-r-e-n.

MR VAN DUUREN: That's correct.

MR ROZEN: All right. I should just check and make sure that you can hear me okay.

MR VAN DUUREN: I can hear you fine, thanks.

MR ROZEN: All right. Terrific. Mr Van Duuren, you are a registered nurse by training.

MR VAN DUUREN: Correct.

MR ROZEN: And you've worked in aged care since 1992.

MR VAN DUUREN: That's right, yes.

MR ROZEN: In a variety of roles.

MR VAN DUUREN: That's right. Yes.

MR ROZEN: And for our purposes, you've worked for MiCare and the predecessor organisation DutchCare since 2007.

MR VAN DUUREN: That's right, yes.

MR ROZEN: And you are currently the general manager of residential services at MiCare.

MR VAN DUUREN: That's right, yes.

MR ROZEN: It's a position that you've held since 2014.

MR VAN DUUREN: That's right.

MR ROZEN: And can I ask you to clarify briefly the breadth of your responsibilities in that position.

MR VAN DUUREN: Very briefly, the role is a supporting one for the teams at four different sites – residential aged care sites in the – in the MiCare group.

MR ROZEN: Right. One of those four sites are, of course, Avondrust which we are - - -

MR VAN DUUREN: Yes. Yes.

MR ROZEN: - - - concerned with here.

MR VAN DUUREN: Yes, four – yes.

MR ROZEN: In your capacity as the General Manager of Residential Services, you're part of the senior management team.

MR VAN DUUREN: Yes. Yes, I am.

MR ROZEN: And do you report directly to the board or is there an intervening report - - -

MR VAN DUUREN: So, I report to Petronella Neeleman who's the Executive Director.

MR ROZEN: Yes, and Ms Neeleman in – reports to the Board.

MR VAN DUUREN: That's right, yes.

MR ROZEN: All right. She is, of course, our next witness - - -

MR VAN DUUREN: That's true.

MR ROZEN: - - - this afternoon. And part of your responsibility is – involves rostering and staffing matters.

MR VAN DUUREN: Day-to-day rostering, not so much. That's more a role for each site to have a key person that does that or has that responsibility.

MR ROZEN: Yes.

MR VAN DUUREN: Rostering in the broad sense of what sort of staff, what skilled staff may be part of that facility is – I have an input in that, yes.

MR ROZEN: Now, we understand from other evidence that Avondrust and, presumably, the three other facilities, each have a facility manager.

MR VAN DUUREN: That's right.

MR ROZEN: And is the structure at MiCare that those facility managers' report to you as the general manager?

MR VAN DUUREN: That's right, yes.

MR ROZEN: All right. You've also had a stint, haven't you, as facility manager at Avondrust?

MR VAN DUUREN: I did. So, prior to the restructure, which you mentioned before, I was the facility manager at Avondrust Lodge since 2007.

MR ROZEN: Right. And, sorry, you say you started in that role at 2007, and when did that go up to?

MR VAN DUUREN: To 2014, I think it was, yes.

MR ROZEN: Okay. You weren't the Manager during the period in 2018 that we are examining.

MR VAN DUUREN: No, I was not.

MR ROZEN: No, I was not. Mr Van Duuren, for the purpose of the Royal Commission, have you made two witness statements?

MR VAN DUUREN: That's right, one supplementary one, yes.

MR ROZEN: Yes, we will take them one at a time. The first one is WIT.0260.0001.0001, which will come up on the screen, or at least the first page of it. Is that the witness statement, the first one that you made on 2 July 2019?

MR VAN DUUREN: That's right, yes.

MR ROZEN: Have you had an opportunity to read through that statement before coming along and giving evidence today.

MR VAN DUUREN: I've read through the statement, yes.

MR ROZEN: Is there anything in it that you would like to correct?

MR VAN DUUREN: I don't believe so, no.

MR ROZEN: Okay. And are the contents of your statement true and correct?

MR VAN DUUREN: They are.

MR ROZEN: All right. I tender the statement of Robert Van Duuren dated 2 July 2019, Commissioners.

COMMISSIONER TRACEY: Yes, the witness statement of Robert Van Duuren dated 2 July 2019 will be Exhibit 6-37.

EXHIBIT #6-37 WITNESS STATEMENT OF ROBERT VAN DUUREN DATED 02/072019 (WIT.0260.0001.0001) AND ITS IDENTIFIED ANNEXURES

MR ROZEN: I would ask that Tab 225 from the tender bundle be briefly brought up on the screen, please, operator. You will see that that's a letter dated 8 July 2019, Mr Van Duuren, addressed to Jeff Sewell of Mills Oakley. That firm are MiCare's solicitors; is that right?

MR VAN DUUREN: That's correct, yes.

MR ROZEN: And is it the case that this letter was brought to your attention by Mr Sewell, or another employee of Mills Oakley and it was indicated to you that there were certain matters that were dealt with in your statement, which is Exhibit 6-37, that the Royal Commission wished to clarify?

MR VAN DUUREN: That's right.

MR ROZEN: In total, I will ask you to accept from me, that there were 18 matters in total that were addressed in the 8 July letter.

MR VAN DUUREN: That's right, yes.

MR ROZEN: You accept that. And the way that you responded to those matters was by way of provision of a supplementary statement; that's right?

MR VAN DUUREN: The recent one, yes.

MR ROZEN: If Tab 223 could please be brought up, WIT.0220.0004.0001. That does also bear the date 2 July 2019.

MR VAN DUUREN: I just noticed that. That's incorrect.

MR ROZEN: It in fact, should be 12 July, should it not?

MR VAN DUUREN: Yes.

MR ROZEN: We don't need to go to the last page but it's clear that you signed it on 12 July.

MR VAN DUUREN: That's right.

MR ROZEN: That's your supplementary statement responding to the letter of 8 July from the Royal Commission?

MR VAN DUUREN: Yes.

MR ROZEN: That's right. And have you read through your supplementary statement?

MR VAN DUUREN: I have, yes.

MR ROZEN: Is there anything in that you would like to correct?

MR VAN DUUREN: No.

MR ROZEN: Are its contents true and correct?

MR VAN DUUREN: They are true and correct.

MR ROZEN: All right. I would tender the supplementary statement as well, Commissioners.

COMMISSIONER TRACEY: Yes, the supplementary statement of Robert Van Duuren dated 12 July 2019 will be Exhibit 6-38.

EXHIBIT #6-38 SUPPLEMENTARY STATEMENT OF ROBERT VAN DUUREN DATED 12/07/2019 (WIT.0220.0004.0001)

MR ROZEN: Mr Van Duuren, if I could ask you a little bit about MiCare generally and Avondrust specifically. You've already told us that Avondrust is one of several aged care homes that are operated by MiCare.

MR VAN DUUREN: That's right, yes.

MR ROZEN: And how does Avondrust compare to the other three in terms of its size, firstly?

MR VAN DUUREN: So Avondrust has 72 beds. There are two sites in Kilsyth; one has 55 beds, the other 45. The one in Brisbane has 189 beds.

MR ROZEN: I've just been told that the microphone that the witness is using needs to be moved. Perhaps if that could now be done.

MR VAN DUUREN: Thank you.

MR ROZEN: Sorry, Mr Van Duuren, I think you were just telling us the comparison between Avondrust and the other facilities, and in trying to understand the note that was being passed to me, I missed what you said.

MR VAN DUUREN: Sure. That's okay.

MR ROZEN: Could I ask you to just repeat again.

MR VAN DUUREN: So Avondrust – Avondrust Lodge has 72 beds. There are two sites in Kilsyth, one is 45, the other has 55 beds. The one in Brisbane has 189 beds.

MR ROZEN: Thank you, sorry to make you repeat all that.

MR VAN DUUREN: No, that's fine.

MR ROZEN: Now, with the Avondrust facility that was constructed in 1992.

MR VAN DUUREN: Thereabouts, I can't tell you the exact date but that would be about right.

MR ROZEN: Approximately 1992 and it has capacity for 72 residents as you've told us. In the period during which the late Mrs Aalberts was a resident at Avondrust, that is between May and August of 2018, there were five vacancies during that time. Is that right?

MR VAN DUUREN: That's right, yes.

MR ROZEN: There were also two beds which were being used as respite beds.

MR VAN DUUREN: Respite. Correct.

MR ROZEN: And if we do the maths, there were 65 permanent residents that were there. In your statement you have said that the 65 residents were all residents that had high care needs.

MR VAN DUUREN: That's right.

MR ROZEN: Of course, we know Mrs Aalberts was one of that category. Are you able to indicate to the Commission and if you are not I don't ask you to guess but are you able to indicate how her care needs – her level of acuity, if I can describe it that way, compared to the remaining 64 residents. Was she one of the higher care needs, was she about average; how would you describe it?

MR VAN DUUREN: Okay. I guess I need to start with the fact I didn't have one-to-one with Mrs Aalberts, so I didn't meet her in person. From the documentation, I think the – at the beginning she would be at the lower end of care needs. She was cognitive. She was mobile. She was able to ambulate and make decisions and so forth, which is probably – no, it actually is more than what most other elders at that site would be capable of. In the end, when we approached, at the end of July, her needs have obviously increased significantly, particularly once she returned from Peninsula Private Hospital on 11 July. I would say at that point her needs were probably higher than other elders at that site.

MR ROZEN: Thank you. I perhaps should have clarified at the outset, and you've just indicated this, you weren't personally involved in the provision of care to the late Mrs Aalberts.

MR VAN DUUREN: No, I wasn't, no.

MR ROZEN: During the relevant time you held the position that you currently hold as general manager.

MR VAN DUUREN: Yes, correct.

MR ROZEN: And you no doubt received reports during the period generally from the facility manager at Avondrust.

MR VAN DUUREN: Yes, in general, yes.

MR ROZEN: Were any of those reports, to your recollection, specifically about Mrs Aalberts during this time?

MR VAN DUUREN: I can't recall any reports that would specifically deal with Mrs Aalberts. There might have been correspondence, but I don't recall.

MR ROZEN: There was, and I will take you to this presently, there was an emailed complaint that was made by her daughter, Johanna, in August.

MR VAN DUUREN: August 8th, yes.

MR ROZEN: And you were involved in responding to that. Prior to that, she wasn't a topic that had been raised with you; is that right – to the best of your recollection.

MR VAN DUUREN: To the best of my recollection, no.

MR ROZEN: You have prepared your witness statement and the evidence that you give today, based on your review of relevant documentary records about her care?

MR VAN DUUREN: That's right.

MR ROZEN: Have you also spoken to staff who were involved personally in the provision of care to the late Mrs Aalberts?

MR VAN DUUREN: I've spoken to one staff member in particular who was the team leader at that site in that particular household that Mrs Aalberts was residing in.

MR ROZEN: Okay. You say a team leader; they weren't the facility manager at the time.

MR VAN DUUREN: No, no, no. No.

MR ROZEN: All right. Can I ask you to identify for us, please, the name of that team leader that you spoke to.

MR VAN DUUREN: That's Linda Brown.

MR ROZEN: Linda Brown, thank you. She was an enrolled nurse, is that right at this time.

MR VAN DUUREN: She was an enrolled nurse, yes.

MR ROZEN: Thank you. I want to ask you about an aspect of your statement, if I could. It's on page 5 of the statement, if that could be brought up on the screen. I think you've got a hard copy in front of you as well, have you?

MR VAN DUUREN: I do. I will have a look at the screen.

MR ROZEN: You will see on the screen you are responding to question 3 with respect to paragraph 4 of the schedule to the notice, that was the notice served on you by the Commission, requiring your statement. You said:

I give the following information adopting the subparagraph numbering in the notice.

You were asked to describe the services offered by MiCare at Avondrust Lodge, and without going through each of those, one of the services that you identify there is the first one: nursing care. Do you see that?

MR VAN DUUREN: Yes, I do.

MR ROZEN: And you accept that amongst the range of services that Avondrust provided, nursing care was one of those services, obviously enough.

MR VAN DUUREN: Yes.

MR ROZEN: All right. Now, on the following page, if we could go to that, at the top of the page, you will see that you've written there:

There were additional services offered by external independent contractors and available on an as-needs basis.

And you've set out a number of those. I want to ask you about one, do you see (v), wound management. Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: What I want to try and understand from you, is at the relevant time, so between May and August of 2018, how did MiCare distinguish between the services it routinely provided that fell within that first descriptor, nursing services, and those which fall under the additional service category of wound management. What's the difference?

MR VAN DUUREN: So, wound management in general would be – common ones would be skin tears, for example, fairly routine, fairly – well within the scope of a normal registered nurse, a clinical care coordinator. Once they become more complex, as was the case with Mrs Aalberts, we would refer that on to an expert such as Jan Rice. That judgment call is based on their skill and confidence with the wound that's developing.

MR ROZEN: All right. So that is a judgment call that was left, what, ultimately to the nurse; is that right?

MR VAN DUUREN: Yes.

MR ROZEN: It's an important distinction, isn't it, Mr Van Duuren, because generally speaking, services in the former category, the nursing services are covered by the general fee paid for the bed? There's no additional charge for those?

MR VAN DUUREN: No, there's not. So, I think just going back to that previous bit that we brought up, the nursing services are considered your registered nurses, your enrolled nurses. We have a lot of personal care attendants, so PCAs that I wouldn't class within that, that category of nursing. Generally, if we were to look at getting a nursing – other nursing involvement, we would look at, say, an in-reach service that is established with a hospital, they would come in for additional support, advice and recommendations, assessment if we found things were a little bit difficult from a clinical perspective.

MR ROZEN: Perhaps if we can move from the general to the specific. Here, we know that on 11 July, and I will take you to this in a bit more detail in a moment, as we've heard from the evidence this morning, were you in the hearing room whilst Ms Aalberts-Henderson was giving evidence?

MR VAN DUUREN: Yes, I was.

MR ROZEN: All right. You would have heard her describing her mother's return to Avondrust after being in hospital with her arm being attended to, and there was a haematoma on her right leg.

MR VAN DUUREN: Yes.

MR ROZEN: And we know from the evidence that that was dealt with solely by the staff at Avondrust for a period of about a fortnight after that, and then a specialist wound consultant was called in.

MR VAN DUUREN: That's right.

MR ROZEN: Is that an example of the distinction between the nursing services which were provided during that fortnight by staff at Avondrust, and then a decision was made to bring in an external expert to look at the wound because, presumably, the staff felt they needed that assistance in managing it. Is that right?

MR VAN DUUREN: That's right. So, when I read through the progress notes, it indicates that the clinical care coordinator was concerned and that it was deteriorating from what it was when she returned from hospital. So, she suggested to Johanna to have a wound consultant come in. I think that was the 24th, and on the 25th Jan Rice came to have a look at that wound.

MR ROZEN: Yes. Now, it's the case, isn't it, that the notes record that part of the discussion was the need for an additional fee to be paid by Mrs Aalberts-Henderson.

MR VAN DUUREN: Yes. That's actually – the notes are correct but there was actually no requirement and we've never charged for a wound consultant previously.

MR ROZEN: You anticipated my next question. Sorry, it wasn't just in this case that that fee was waived; it's not normally charged.

MR VAN DUUREN: It's just normally not charged. I'm not sure where that came from.

MR ROZEN: I see. Okay. Leaving your statement for the moment, we know that the Avondrust home was accredited for a period of three years in April of 2018.

MR VAN DUUREN: That's right.

MR ROZEN: Was part of your role to oversee the processes of accreditation? Is that part of your role as general manager?

MR VAN DUUREN: I'm sorry, yes, it is. Yes.

MR ROZEN: And that essentially involved auditors from quality – what was then called the Quality Agency coming and having a look and examining documents and the like, and reaching a conclusion about whether or not the home met the standards - - -

MR VAN DUUREN: That's correct.

MR ROZEN: - - - and, if so, which ones. And you got a very good pass mark in April 2018. You met 44 of the 44 standards.

MR VAN DUUREN: That's right, yes.

MR ROZEN: Right. And that provided you with the accreditation for the maximum period of three years.

MR VAN DUUREN: That's right.

MR ROZEN: All right. I will come back to that, Mr Van Duuren, because, of course, later in the year, there was a different outcome – a different - - -

MR VAN DUUREN: In August.

MR ROZEN: - - - result, wasn't there? Alright. Now, if I can ask you a little bit about the late Mrs Aalberts. It's right, isn't it, that she moved into the home on the 24th of May?

MR VAN DUUREN: That's right.

MR ROZEN: And it's also correct that she was both cognisant and continent when she first came to Avondrust.

MR VAN DUUREN: Yes. That's – the documentation suggests that, yes.

MR ROZEN: Yes. She needed a walker to get around.

MR VAN DUUREN: Yes.

MR ROZEN: But as you've told us, she – within the range of residents who were high care, she was towards the lower end of the spectrum initially. And the room that was identified in the evidence this morning was, in fact, the room that she was in when she was at Avondrust; is that right?

MR VAN DUUREN: That's my understanding, yes, 17.

MR ROZEN: She was assessed, due to her poor mobility, as being a high falls risk when she came into Avondrust; is that right?

MR VAN DUUREN: Yes, that's right.

MR ROZEN: And she was also considered a high risk in relation to skin integrity.

MR VAN DUUREN: Yes.

MR ROZEN: A number of care plans were prepared for her. That was standard practice, I take it?

MR VAN DUUREN: It is standard practice, yes.

MR ROZEN: And I won't go to each of those. They are numerous and they're in the documented material in the tender bundle, but one of them was a physiotherapy care plan. Have you seen that in your examination of the documents?

MR VAN DUUREN: Yes, I have.

MR ROZEN: And it was noted there that it would be necessary or appropriate for her to do active exercises as per program to build up her strength.

MR VAN DUUREN: Yes. That's – it's a wording that's generated through AutumnCare which is the documentation system that we use.

MR ROZEN: Yes.

MR VAN DUUREN: The physio explains that these type of exercises are within attendance of – activities of daily living care by staff as they attend to her during the day.

MR ROZEN: Yes. No, I understand that. I'm not, at the moment, asking you anything other than that when she arrived, there was a physiotherapy care plan and it did identify the need for active exercises. And you would know, from your own experience in aged care, about the importance of maintaining mobility as part of an approach to try and reduce the incidence of falls.

MR VAN DUUREN: Of course. It's – it's a strong indicator to minimise risks of falls and incidence of falls, so, yes.

MR ROZEN: Yes. Now, we know also, don't we, that Mrs Aalberts had a number of falls, three different falls, whilst she was at Avondrust?

MR VAN DUUREN: That's right, yes.

MR ROZEN: And the first of those was within a couple of days of her arrival, wasn't it, the 26th of May?

MR VAN DUUREN: That's right, yes.

MR ROZEN: And just, once again, based on your general experience, it's a sad fact of residential aged care, isn't it, that it's not unusual for residents to have a fall, particularly where they have poor eyesight and they find themselves in a new and unfamiliar environment?

MR VAN DUUREN: Absolutely. So, when a person, particularly with vision problems, goes from a large – presumably larger home to a small room, often, it's disorientating and items, furniture are not in the position that they expect.

MR ROZEN: Yes. And I take it, with Mrs Aalberts in particular, that in circumstances where she has had a fall upon moving in, you're aware that she has been assessed – when I say "you" - - -

MR VAN DUUREN: Mmm.

MR ROZEN: - - - Avondrust is aware that she has been addressed as a high falls risk and it's understood that she has quite poor eyesight, that there needed to be some specific attention paid to dealing with the falls risk. Would you agree with that?

MR VAN DUUREN: That's right.

MR ROZEN: All right. Now, we know that after a second fall, which was on the 8th of June 2018, there was an internal discussion about her falls risk on 12 June. Perhaps I will ask you to have a look, if you could, at the progress notes, and I will just ask you a little bit about this document. It's behind tab 126, which will come up, I hope, on the screen in front of you. And if we could just see the very top line, just to orient yourself with this document. You may be familiar. Sorry, if we could just scroll up a tiny bit, please, Operator, and see the document number in the top right corner. It's a document that you refer in your statement a number of times. You refer the Royal Commission to these notes as a documented record of a certain issue that you want us to be aware of. Do you agree with that?

MR VAN DUUREN: Yes. That's right.

MR ROZEN: And can you just explain to the Commission, please, how this document is structured. We can see that it bears the date the 19th of August 2018 in the top left-hand corner. Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: Now, that, of course, is the date that Mrs Aalberts passed away.

MR VAN DUUREN: Okay.

MR ROZEN: That's the evidence we've heard today, and so we need to read this document back to front, I think, do we not?

MR VAN DUUREN: Yes, that's how the report comes out.

MR ROZEN: Yes, that's what I'm trying to clarify with you. So, we don't need to do this, but if we scroll to the very last page which happens to end in the numbers .0123, that's actually the beginning of the record. Have I - - -

MR VAN DUUREN: That's right, yes.

MR ROZEN: - - - got that right? Okay. So, we understand the chronology. So that's the very last – if we scroll to the bottom of the page, I think that will be the very first entry is that one there on the 15th of May, some 10 days or so before Mrs Aalberts moved in.

MR VAN DUUREN: Mmm.

MR ROZEN: Do you see that?

MR VAN DUUREN: That's right.

MR ROZEN: And maybe if you can just talk me through this. So, we see Mrs Aalberts name and then a number 17.

MR VAN DUUREN: Yes.

MR ROZEN: Can you help us with what that indicates.

MR VAN DUUREN: It's exactly what it says. Its Mrs Aalberts is a new resident to be admitted on the 25th of May and coming into room 17.

MR ROZEN: So, the 17 is the room number.

MR VAN DUUREN: That's right.

MR ROZEN: Thank you, and then we've got note date, 15 May 2018, 11.27 am. Is that – what does that signify?

MR VAN DUUREN: So that means the entry was made on that date.

MR ROZEN: Okay. So, what's the next line then, "Created," same date, same time. Does that tell us something else?

MR VAN DUUREN: It's the same – same, same, basically.

MR ROZEN: Okay. On some of the records, we then see a different entry – perhaps if you see that entry in the middle of the page there, the one made at 1.13 pm on the 24th of May. Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: That's it. It's got another entry of "Modified, 25th of May 2018," a different time. Can you help us with that what means?

MR VAN DUUREN: I can't help you with that. I tried to find out what that actually means. Suffice to say that there's no way of editing the notes at all. So, it's – it's a system – a glitch in the system, I suspect, but I haven't had time to find out exactly why that's the case.

MR ROZEN: Okay.

MR VAN DUUREN: It might be – no, I won't - - -

MR ROZEN: I won't ask you to speculate. I might ask you to do a little bit of homework for us, though. Do you think it would be possible for you - - -

MR VAN DUUREN: To work that out yes.

MR ROZEN: - - - to indicate to us what modified means there? If we look at the right-hand side of the record, "Created by," and then we see a name there. I won't ask you to read that out, but that would suggest that that's the employee who entered the data; is that right?

MR VAN DUUREN: That's correct.

MR ROZEN: "Modified by," once again, subject to what that means, that was done by a different individual.

MR VAN DUUREN: That's correct.

MR ROZEN: Okay. And this is a computerised record keeping - - -

MR VAN DUUREN: System.

MR ROZEN: - - - system that you've got operating at Avondrust, and I take it that the document, the one that is behind tab 126 in the tender bundle, was a print-out of all the progress notes that were made by various employees at MiCare and consultants, as we'll see in a moment, that relate to Mrs Aalberts?

MR VAN DUUREN: That's correct.

MR ROZEN: And this is the document that you have used as your primary source document for the evidence that you've been able to include in your witness statement; is that right?

MR VAN DUUREN: That's right. It shows a timeline.

MR ROZEN: Thank you. If I can ask you to focus on a record which is on the 8th – I'm sorry, the 12th of June and it's at page .0107. That's it, thank you. And it's the entry which is about a third of the way down the page, "12th of June 200 – sorry, 2018, created" – so we have got a note date 1.37 pm, and created same date, but a little bit later. Does that suggest – and I may be testing the limits of your knowledge about the system, but does that suggest that "note date" and "created" actually record different things, given that there are different times there? Do you know, Mr Van Duuren?

MR VAN DUUREN: I don't know.

MR ROZEN: Okay. I don't think anything turns on it in relation to this particular entry. Once again, though, if I could ask you to clarify that for the Commission, please, we'd appreciate it.

MR VAN DUUREN: Sure.

MR ROZEN: Now, the substance of the note there has S, and then:

Unwitnessed fall over the weekend.

Do you see that? Elder found on floor in room.

MR VAN DUUREN: Mmm.

MR ROZEN:

Elder found on floor in room. Stated she has new slippers which she tripped on when getting up to answer her door. Upon review today, elder denies pain, stating she has some swelling on her left knee –

or L-knee. Do you see that?

MR VAN DUUREN: That's right.

MR ROZEN: And then there's O/E is on examination? Is that what that - - -

MR VAN DUUREN: Sorry, yes.

MR ROZEN: - - - abbreviation means?

MR VAN DUUREN: Yes, it is.

MR ROZEN: All right. I won't go through all of that, but then we've got the letter "A",.

MR VAN DUUREN: Yes.

MR ROZEN: Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: And are you able to help us with what A is an abbreviation for there?

MR VAN DUUREN: I believe that means assessment and what strategies to implement.

MR ROZEN: Okay. We can see that this particular entry was made by the physiotherapist. Am I reading that correctly?

MR VAN DUUREN: That's correct, yes.

MR ROZEN: Okay. And the physiotherapist has recorded, after A for assessment:

> *Have discussed elder's fall risk and recommended the use of a bed mattress sensor.*

And I won't read out the rest of it there, but there's a discussion about the conversation that took place between the physiotherapist and Mrs Aalberts. She's the elder in that note; is that right?

MR VAN DUUREN: That's right, yes.

MR ROZEN: All right. Now, despite those efforts and whatever happened in response to that, we know that Mrs Aalberts had another fall on the 3rd of July.

MR VAN DUUREN: 3rd of July.

MR ROZEN: Is that right?

MR VAN DUUREN: Right.

MR ROZEN: And if we could go to the notes at page .0102, we see a reference to that, do we not, in the middle of that page or about a third of the way down, again, a note created at the 3rd of July at 8.33 pm. Do you see that?

MR VAN DUUREN: Mmm.

MR ROZEN: And the entry reads:

> *Elder had fall in bedroom coming from toilet. Elder found on the ground, swollen right wrist on left-hand side. Has existing cyst on right side. C/O –*

complained of, is that right?

MR VAN DUUREN: Yes.

MR ROZEN:

> *Complained of pain on movement. Can't flex up and down without pain. Elder stated, "I think it's broken." X-ray requested.*

Do you see that?

MR VAN DUUREN: That's right, yes.

MR ROZEN: And as it turned out, Mrs Aalberts' hunch was right: she had broken her wrist. That was diagnosed when she eventually got to hospital.

MR VAN DUUREN: Correct.

MR ROZEN: Is that right? And she went, as we've heard, to Peninsula Private Hospital.

MR VAN DUUREN: That's right.

MR ROZEN: The information that came back, and I won't take you to the record of this, was that the wrist that was fractured was her right wrist which, of course, was her dominant hand.

MR VAN DUUREN: That's right.

MR ROZEN: And that would have, I suggest, necessitated some consideration to how she would have been able to attend to basic living, toileting, eating and so on when she returned.

MR VAN DUUREN: It affects many parts of daily living, yes.

MR ROZEN: Yes. And was it the practice at Avondrust at this time that there would be a reconsideration of the care plan in such circumstances?

MR VAN DUUREN: In such circumstances, there were quite a number of changes and care plans that should be created, reviewed.

MR ROZEN: From your examination of the documents, are you satisfied that there was an adequate response to the increased needs of Mrs Aalberts in relation, for example, to eating as once she returned to Avondrust on 11 July?

MR VAN DUUREN: In terms of eating when she returned - - -

MR ROZEN: Yes.

MR VAN DUUREN: - - - from hospital, there are many notes suggesting that staff assisted her with – with meals and varying degrees, mostly that she did eat. Another way we probably – no, well, what we could have done is set up a fluid – a food and fluid balance chart which indicated – which would indicate or at least assess how much she was eating, what her – what her tolerance was to – to eating food. That wasn't implemented.

MR ROZEN: I'm sorry, I missed that?

MR VAN DUUREN: That wasn't implemented.

MR ROZEN: No. That was a step that could have been implemented - - -

MR VAN DUUREN: Yes, it could have.

MR ROZEN: - - - that wasn't. And we know, of course, that there was some considerable weight loss by Mrs Aalberts after her return from hospital. And if I understand the evidence you've just given, you accept that whilst we do see some records of assistance at different times, it wasn't done in a particularly systemic way by, for example, using an eating diary or I think you used another expression for such a thing, a - - -

MR VAN DUUREN: I can't recall what expression I used but, essentially, a chart - - -

MR ROZEN: Yes.

MR VAN DUUREN: - - - that would indicate what she did and didn't eat and what her, I guess, compliance, for want of a better word, might have been with food and fluid.

MR ROZEN: Yes. I want to talk to you about the circumstances when Mrs Aalberts returned after having her wrist set because, of course, the leg wound that

she had when she came back from hospital became the most significant aspect of her care needs over the ensuing weeks, did it not?

MR VAN DUUREN: Yes, it did.

MR ROZEN: There seems to be a little bit of uncertainty – and it may be in the end not much turns on this – whether when she went to hospital on the 3rd – on 4 July, whether she actually already had the leg wound. Have you been able to ascertain from the records that you've looked at whether she had that injury when she was admitted to hospital?

MR VAN DUUREN: From what I've seen, there was no indication of the haematoma that she had upon return from the hospital. Having said that, she did have the fall which obviously led to hospitalisation in the first place, and it's – I think we can safely suggest that that's when the haematoma was caused.

MR ROZEN: Yes. I mean, obviously, given that she broke her wrist in the fall, it must have been quite a significant fall that she had.

MR VAN DUUREN: Mrs Aalberts was on warfarin, and it's common for people on an anticoagulant to develop severe bruising from what is otherwise seemingly minimal impact. When she has a significant fall such as the one that she did have, the warfarin treatment certainly would have exacerbated the haematoma and the size and the shape and the severity of it.

MR ROZEN: Yes. If I can ask you to look in the progress notes at the page that ends .0098, please. If that could be brought up with the screen. We can see in the entry at the bottom of the page, on 10 July, the very last entry on that page, we can see under the various formal parts of it, the body of it says:

S/W –

so "spoke with"?

MR VAN DUUREN: Spoken with.

MR ROZEN:

Spoke with daughter Johanna this afternoon, who stated that Beth –

Beth being her mother?

MR VAN DUUREN: Mother.

MR ROZEN: Yes:

…should be returning tomorrow morning as per hospital communication with family. This is yet to be advised to the facility.

Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: And then I won't read the next eight lines or so, but four lines from the bottom – or five lines from the bottom, I should say, you see it says:

Johanna also stated that Beth has become somewhat confused since going under sedation for her reduction surgery.

That is the wrist operation. That's right?

MR VAN DUUREN: That's right.

MR ROZEN:

She is eating very little and may need assistance with feeding when she returns.

And that's relevant – if I can just pause there in the reading, that's relevant to the discussion we were just having, isn't it, that - - -

MR VAN DUUREN: Correct, yes.

MR ROZEN: - - - that was a record of the need for particular attention to be focused on that, and I think you've agreed with me that that could have been done better in hindsight.

MR VAN DUUREN: We could certainly have done better.

MR ROZEN: Yes. Going back to the note, it says:

Johanna also stated that Beth is very bruised from the fall and has a rather blister –

Perhaps a word is missing there. "Rather large blister" maybe:

…on her right leg which will need to be looked at when she returns.

Do you see that?

MR VAN DUUREN: That's right, yes.

MR ROZEN: So, I suggest to you that the day before Mrs Aalberts returned from the hospital where she had had the wrist surgery, that it was clear to the staff at

Avondrust that she was coming back with a particular concern with her leg that needed attention.

MR VAN DUUREN: That's right.

MR ROZEN: There was also a discussion between a general practitioner associated with Avondrust and the geriatrician at the hospital about that subject, was there not? Perhaps I will ask you if you could look at the entry on the next page, page .0097, there's an entry on the same date, 11 July. Do you see that?

MR VAN DUUREN: That's a bit small.

MR ROZEN: The one in the middle of the page there.

MR VAN DUUREN: Yeah.

MR ROZEN: It should say:

1.43 pm.

We see that's created by – and we don't need to read out the name, but then it says "GP" in brackets. That's general practitioner?

MR VAN DUUREN: That's right. No – yeah, sorry. Yep.

MR ROZEN: Yes. So, do we understand, then, from these reports that it was – the record system was utilised not just by direct employees of MiCare, people working at Avondrust – that was one category of people who could input data. Is that right?

MR VAN DUUREN: That's correct, yes.

MR ROZEN: Presumably, agency staff, nurses and care workers could also use the record-keeping, but this doctor, presumably, didn't work full-time at Avondrust, or do you know?

MR VAN DUUREN: No, it's unusual for GPs to work full-time - - -

MR ROZEN: Yes.

MR VAN DUUREN: - - - at any aged care facility.

MR ROZEN: Yes.

MR VAN DUUREN: Generally, GPs will come and visit or do home visits for a group of residents or elders at a facility that they, I guess, have and liaise with, yeah.

MR ROZEN: And this GP, I take it, fell into that category of a visiting GP who was looking at residents, one of whom was Mrs Aalberts, it would seem. Is that right?

MR VAN DUUREN: Correct. Yes. That's right, yes.

MR ROZEN: And we can see from the entry there that the GP has made – and that's what has happened here, the visiting GP has made a record in MiCare's records about what he has done in relation to Mrs Aalberts.

MR VAN DUUREN: That's right.

MR ROZEN: He might have had his own – or she – might have had their own record-keeping as well, but it was important, presumably, from your perspective for the records to be included in your record-keeping. Is that right?

MR VAN DUUREN: That's right, yes.

MR ROZEN: Yes, so that they could be looked at by anyone who was subsequently involved in the care of Mrs Aalberts.

MR VAN DUUREN: It's a tool of communication, yes.

MR ROZEN: Okay. And you will see from the entry that the doctor recorded that – that the doctor had had a conference with her doctor at the hospital, a Dr Bhalla. Do you see that, B-h-a-l-l-a?

MR VAN DUUREN: That's right.

MR ROZEN: And Dr Bhalla, we know, was the geriatrician employed at the hospital, working at the hospital.

MR VAN DUUREN: Yes. I'm not sure he was a geriatrician, but I take that, yes.

MR ROZEN: Okay. I will ask you to accept that because there is a letter from him - - -

MR VAN DUUREN: Sure.

MR ROZEN: - - - that says that he was.

MR VAN DUUREN: Thank you.

MR ROZEN: And then if we just – we don't want to read out all of that, but you will see about 10 lines from the end, or nine lines from the end of that entry, it says:

> *He didn't want her discharged like this, but the family said they want her back in the RACF asap.*

Do you see that line?

MR VAN DUUREN: Yes.

MR ROZEN: I think it has been highlighted there - - -

MR VAN DUUREN: Thank you, yeah.

MR ROZEN: - - - for you. Do you see that? And the "he" that's being referred to there is Dr Bhalla from the hospital.

MR VAN DUUREN: Yes.

MR ROZEN: And it went on:

He also said that she has two bullae –

A bullaeis a large blister. Is that right:

…on her right lateral lower leg, 1.10 –

it says "am". Perhaps that should be "cm":

…by five cm.

Do you think that might be an error there?

MR VAN DUUREN: I think that's an error, yes, cm.

MR ROZEN: Yes:

Dr Bhalla wanted to get it surgically debrided and skin graft, but the family denied and now he says he –

perhaps it should be "it":

…will end up in a chronic wound.

Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: And then it goes on:

As Johanna is a nurse and her husband was an anaesthetic –

or anaesthetist - - -

MR VAN DUUREN: Anaesthetist.

MR ROZEN:

- - - they want her to be in RACF and no surgical interventions.

And then finally, the GP wrote:

Dr Bhalla also said that he is happy to take her back in case she gets any bad –

maybe that should be "any worse":

…or her delirium increases.

Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: And I suggest to you from that day, which happens to be the day she came back – 11 July Mrs Aalberts came back to Avondrust – it was always open to Avondrust in the event that there was any concern about the ability of the staff to deal with this leg wound for her to be sent back to Dr Bhalla as he suggested could be done. Do you agree with that?

MR VAN DUUREN: I agree with that.

MR ROZEN: Yes.

MR VAN DUUREN: Can I add to that?

MR ROZEN: Of course.

MR VAN DUUREN: So, the progress notes, documentation that I've seen indicates that staff, that Johanna on a number of occasions have reiterated no surgical interventions and she didn't want Mum to go back to hospital. So, I guess that's just the context under that statement.

MR ROZEN: You say in your statement when you address this question that you empathise, I think is the word you use, don't you, with the dilemma faced by Johanna?

MR VAN DUUREN: It's a tough dilemma for the family, yes.

MR ROZEN: Yes. There was no obvious – or there was no necessarily right or wrong answer. She had made a judgment call – and we heard her explanation for it in her evidence this morning – about the concern of a further anaesthetic, and, as you

say, you empathise with that. And I assume that's a dilemma. That's not the first time you would have heard of a family having to deal with such a dilemma.

MR VAN DUUREN: No, and we need to respect whatever the decision is that was made by the family or the resident themselves if they make that decision. We respect it, we move on and we do what needs to get done, whatever the context of that decision might bring.

MR ROZEN: Just before completing the picture that presented itself to Avondrust on the 11th when Mrs Aalberts came back, if I could ask you to look at a letter at tab 67 in the tender bundle. This is a communication from Dr Bhalla. Do you see this is a letter sent to the GP that we were just discussing, Dr Nar?

MR VAN DUUREN: That's right.

MR ROZEN: And on the same date, 11 July, this is the date that Dr Nar made the entry in the MiCare - - -

MR VAN DUUREN: Progress notes.

MR ROZEN: - - - progress notes. And we can see that Dr Bhalla there is described as consultant physician and geriatrician.

MR VAN DUUREN: Yes.

MR ROZEN: And he was working at the hospital.

MR VAN DUUREN: Yes.

MR ROZEN: And we don't need to go through this entire letter, but if I just draw your attention to the third paragraph there in the letter that Dr Bhalla wrote:

> *There's a large bullae on her right leg which has potential to burst and form a chronic wound. Johanna does not want any surgical intervention. She does understand this has the potential to burst and cause a chronic wound and risks of infection. She wants it to be managed non-surgically with protective dressing.*

Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: And that letter which was sent to Dr Nar was also sent to Avondrust, was it not?

MR VAN DUUREN: I can't - - -

MR ROZEN: Do you know?

MR VAN DUUREN: - - - confirm that. I don't know that, no.

MR ROZEN: All right. If we look at the very top of the page, we can see that it bears a code which indicates that it was provided to the Royal Commission by MiCare. Do you see that, MIC?

MR VAN DUUREN: Okay. Sure.

MR ROZEN: Yes. You don't suggest otherwise - - -

MR VAN DUUREN: No.

MR ROZEN: - - - that this document came to us from there? It would be good practice, presumably, for such a communication to be provided not just to Dr Nar but also to Avondrust.

MR VAN DUUREN: To the facility.

MR ROZEN: You would be disappointed if it didn't come to you, I would imagine.

MR VAN DUUREN: I'm - - -

MR ROZEN: Is that right? You would be disappointed if it didn't come to Avondrust.

MR VAN DUUREN: Absolutely, I would be, yes.

MR ROZEN: Yes. And I suggest to you that a combination of the note made by Dr Nar and the letter from Dr Bhalla were making it pretty clear to MiCare that that there was a difficult medical issue to be dealt with in relation to Mrs Aalberts.

MR VAN DUUREN: Correct. I think that's pretty clear.

MR ROZEN: Yes. And in your statement, if I could just ask you to look at that, your first statement at page 23, at .0023, do you see in the third complete paragraph there, a paragraph that starts:

> *In hindsight, MiCare may have considered not accepting Mrs Aalberts back to the facility from Peninsula Private Hospital based on the continued acute care required as outlined by Dr Bhalla, in particular, the haematoma on the right leg, post- anaesthesia delirium and iron deficiency.*

Do you see that?

MR VAN DUUREN: Correct, yes.

MR ROZEN: The continued acute care required as outlined by Dr Bhalla is, I suggest, the letter that we have just been discussing. That's where he outlined those concerns.

MR VAN DUUREN: That's right, yes.

MR ROZEN: What do you mean, Mr Van Duuren, when you say in hindsight MiCare may have considered not accepting Mrs Aalberts back to the facility?

MR VAN DUUREN: I think that's an option to discuss not returning a resident back to a facility. It does happen occasionally. Very rarely; in fact, I can't recall another case. It's exactly what it states.

MR ROZEN: Well, perhaps if we could just tease that a little bit if you don't mind, please.

MR VAN DUUREN: Sure.

MR ROZEN: Are you suggesting that it was open in the circumstances for MiCare to refuse to accept Mrs Aalberts back at the facility, whether by agreement or not?

MR VAN DUUREN: No, it has to be by agreement.

MR ROZEN: Yes.

MR VAN DUUREN: But I guess it's a consideration of what the care needs and clinical needs might be. As I point out in that paragraph, aged care facilities are not acute settings and in that regard can't always supply the services that are required, the clinical services. And the support, the clinical support, the clinical expertise that a hospital can provide.

MR ROZEN: Sure. But that, of course, is all hypothetical, isn't it - - -

MR VAN DUUREN: Yes, it is hypothetical.

MR ROZEN: - - - because Avondrust did accept Mrs Aalberts back.

MR VAN DUUREN: We did.

MR ROZEN: And do you accept that, based on the information that you received, particularly from the geriatrician, Dr Bhalla, that it was incumbent on Avondrust to ensure that the specialised nursing care needs that had been identified were met for Mrs Aalberts?

MR VAN DUUREN: Ultimately with Jan Rice visiting, yes. But it was too late – not too late but she could have been engaged much earlier than what - - -

MR ROZEN: We will come to that in a moment as to how Avondrust went about meeting the needs. But whether it was done directly through staff at Avondrust or by bringing in external consultants, you accept, don't you, that under the Aged Care Act and under the agreement that led to Mrs Aalberts being a resident at Avondrust that it was incumbent on Avondrust - - -

MR VAN DUUREN: Of course.

MR ROZEN: - - - upon her return meeting her specialised nursing needs.

MR VAN DUUREN: Yes, it is.

MR ROZEN: And it was also incumbent, was it not, on MiCare and Avondrust to ensure that there were appropriately qualified staff to address those needs. Do you agree with that?

MR VAN DUUREN: Yes.

MR ROZEN: Okay. I will come back to that question presently, Mr van Duuren. For the moment, though, can we just complete the picture about information that was provided by the hospital because they were pretty thorough, were they not, in informing Avondrust about not only what the problem was but about methods that were available to address the particular wound. Do you agree with that?

MR VAN DUUREN: I agree.

MR ROZEN: Yes. There was a discharge report, if we could look at that, at Tab 70, please. Without going to that in any detail, we see on the right-hand side of the document, there's an entry in the – it's three-quarters of the way along the page, if I can describe it that way. Do you see it says "specialty specific information" in a box with some handwriting?

MR VAN DUUREN: Up the top, yes, sorry.

MR ROZEN: It has been highlighted for you now.

MR VAN DUUREN: Yes, thank you.

MR ROZEN: And you will see, in the bottom half of that it says:

Please see instructions re wound on right lower leg.

And then if we can go to Tab 71 please, operator, part of the paperwork that came to Avondrust from the hospital was a wound worksheet in relation to the wound on the right lower leg and that's this document, is it not, Mr van Duuren?

MR VAN DUUREN: That's right.

MR ROZEN: And we can see without going into detail about it, that it contains instructions about how the wound ought to be cared for. Do you agree with that general proposition?

MR VAN DUUREN: The way they've treated it, yes.

MR ROZEN: Yes.

MR VAN DUUREN: Yes.

MR ROZEN: The way they've treated it.

MR VAN DUUREN: Yes.

MR ROZEN: And sorry, do you say that's how we're to understand this. This is a record of the work that was done at the hospital?

MR VAN DUUREN: That was on the 11th so that's the day she came back and that's the work they did. That's how I read that.

MR ROZEN: I see. But they were suggesting to you, weren't they, by providing this to you that that was a pretty good guide for your staff to follow in relation to the care of the wound. Do you agree with that?

MR VAN DUUREN: Yes, it's a good guide, yes.

MR ROZEN: It doesn't appear to have been filled in beyond 11 July. Do you see that? Was a decision made not to use this, do you know?

MR VAN DUUREN: I don't know that. I'm quite certain there's a wound chart that was commenced on 12 July.

MR ROZEN: There is. I suggest to you, though, that it's not as detailed as this work sheet.

MR VAN DUUREN: No, it's a different worksheet.

MR ROZEN: Do you agree with that?

MR VAN DUUREN: Yes. It's a worksheet that's an automated one through our Autumn Care system.

MR ROZEN: So, this is a handwritten record.

MR VAN DUUREN: Yes.

MR ROZEN: You're suggesting there was a - - -

MR VAN DUUREN: Electronic.

MR ROZEN: - - - if not an equivalent then there was an alternative way of assessing the wound which was included in the records.

MR VAN DUUREN: Yes.

MR ROZEN: The progress records.

MR VAN DUUREN: That's right.

MR ROZEN: I think I know what document you're talking about and we will come to that. But to the extent that the approach in relation to the wound departed from the template that had been provided by the hospital, are you able to tell the Commission whether that was a deliberate decision that was made at Avondrust?

MR VAN DUUREN: No, I can't. I don't know that.

MR ROZEN: All right. It would be good practice, I suggest to you, to follow what the hospital proposed pretty carefully; do you agree with that.

MR VAN DUUREN: I agree, too. It's a great guide, yes.

MR ROZEN: And just while we're looking at the documents that came back with Mrs Aalberts, if you could go to Tab 72, please. This was another document included in the material records that came back from the hospital; do you agree with that?

MR VAN DUUREN: That's right, yes.

MR ROZEN: As we can see, it's a pressure injury prevention and management plan. Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: And without going into the detail of the document, this was not continued to be used at Avondrust. We can see that. There's records on 10 July which presumably were made at the hospital.

MR VAN DUUREN: Yes.

MR ROZEN: And then nothing.

MR VAN DUUREN: No. So, we don't have a practice where we use the hospital documents to continue the treatment that they used within their hospital setting, I guess. It gets transferred over to the facility documentation system, and I guess that's the next question, is was that – we don't have records of a pressure injury,

pressure area care charting that was done. There is references within the progress notes that it was attended, the care plan was updated, a new assessment was done. But in terms of a tick sheet as the one we're looking at, that didn't exist.

MR ROZEN: No. And it, or something along those lines, should have been utilised, should it not, for Mrs Aalberts?

MR VAN DUUREN: I think there was enough indication for that to be in place. Her needs, in my opinion, should have had a pressure injury, pressure area care chart in place. It's a gap that we acknowledge.

MR ROZEN: Yes. We know, from the evidence given by Ms Aalberts-Henderson this morning that she in fact did develop in this intervening period between the two hospitalisations a pressure injury on her lower back at the sacrum.

MR VAN DUUREN: On the sacrum, yes.

MR ROZEN: Yes. And similarly – not similarly, but another pressure injury developed on one of her heels.

MR VAN DUUREN: Right heel.

MR ROZEN: Yes. And you don't take issue with the evidence given by Mrs Aalberts-Henderson that by the time she returned to hospital in August 2018, that those two injuries were quite significant.

MR VAN DUUREN: I don't know if it was significant. That's how it has been described by the hospital, yes.

MR ROZEN: All right. And you accept, don't you, that whether it was done on this document or some other record-keeping that there wasn't a systematic approach in place to prevent pressure injuries.

MR VAN DUUREN: For Mrs Aalberts?

MR ROZEN: Yes.

MR VAN DUUREN: No.

MR ROZEN: What plan was in place to address the significant right leg injury? What are you able to point the Commission to, to say that's where we had a plan in place to address the injury?

MR VAN DUUREN: I don't recall the number, document number, but the wound care plan that was developed on the 12th would show that it was identified and attended.

MR ROZEN: I will see if I can turn up the one that you have in mind. Perhaps if Tab 98 could be brought up, please. Just to assist you, it's a four-page document. If we could just bring up each page one at a time and see if this is what you have in mind.

MR VAN DUUREN: That's – that's the one I'm thinking of.

MR ROZEN: That's the one. And the next page which we don't need to go to, has a number of photographs, the first of which was taken according to the document, on 24 July. You would expect to see photos of the wound in such a record, I would imagine?

MR VAN DUUREN: Yes. In the past it's not been utilised; certainly, for Mrs Aalberts it was.

MR ROZEN: Now, we can immediately see from this document that it doesn't contain anything like the detail in the document that was provided by the hospital, does it?

MR VAN DUUREN: No.

MR ROZEN: It's not that AM, PM every day make a record of the condition of the wound, the colour and so on. We just don't see that level of detail in this document, do we?

MR VAN DUUREN: This document is about whether the wound care was attended to.

MR ROZEN: All right. But, other than this, there is no wound management document in relation to Mrs Aalberts' right leg injury, is there? This is it in the records.

MR VAN DUUREN: This is it. I'm not sure what you mean, what you're looking for there.

MR ROZEN: Well, my question of you was what plan was in place when Mrs Aalberts returned from hospital on 11 July.

MR VAN DUUREN: Sure.

MR ROZEN: And you agreed with me that the hospital document wasn't used as the plan and you said but there was a wound management plan in place, and I asked you if this was it and as I understand your evidence, you say, yes, this is the wound management plan.

MR VAN DUUREN: Yes

MR ROZEN: Is that right?

MR VAN DUUREN: That's it. Yes.

MR ROZEN: Okay, thank you. Based on the report that came back from Dr Bhalla, I suggest to you that it would've been appropriate, to have been in touch with a wound consultant pretty well straightaway – that Mrs Aalberts returned.

MR VAN DUUREN: I agree; yes.

MR ROZEN: It didn't happen until the 24th of July, that contact was made with a wound consultant; that's 13 days later. And we know – don't we – that in the mean time the condition of the wound deteriorated - - -

MR VAN DUUREN: I believe that was the trigger for the Clinical Care Coordinator to contact Jan Rice.

MR ROZEN: Indeed. Can you explain to the Commission, as you sit there now, Mr van Duuren, why that didn't happen earlier?

MR VAN DUUREN: I can't explain that. I don't know why the clinical-care co-ordinator didn't engage a wound consultant upon return from the hospital. I think all the indications there lead to the need for that to have happened.

MR ROZEN: Can I ask that you look at Tab 217, please, if that could be brought up on the screen. And just to orient you: this is the final report that was prepared by the Aged Care Quality and Safety Commission in relation to the complaint made to that body or its predecessor, the Complaints Commission, by Mrs Aalberts-Henderson in relation to her mother's care. Do you understand what I'm talking about?

MR VAN DUUREN: Sure.

MR ROZEN: And you'll see that this letter went to Mrs Aalberts-Henderson on the 4th of April 2019. Do you see the date at the bottom of the page? And as is normal practice, a copy of this report went to MiCare, did it not?

MR VAN DUUREN: Yes.

MR ROZEN: There's no doubt about this, is there, Mr van Duuren? That you got a copy of this?

MR VAN DUUREN: No. No.

MR ROZEN: And I suggest to you it makes for pretty sobering reading. Doesn't it?

MR VAN DUUREN: Certainly does.

MR ROZEN: Yes. All of Mrs Aalberts-Henderson's complaints were upheld by the Complaints Commission.

MR VAN DUUREN: Yes.

MR ROZEN: Yes. And one of them was that the home did not adequately assess or manage her mother's leg wound, resulting in its substantial deterioration. Do you agree with that?

MR VAN DUUREN: Yes; that is one of the statements.

MR ROZEN: Yes. We go to page .1008, native page 2 of the report. It's set out issue by issue, the various concerns that Mrs Aalberts-Henderson raised. You see the first one is as I've just read it out to you. And I want to ask you about what appears – without going into detail about it, I want to ask you what appears – about what appears on page .1010, native page 4. Top – first paragraph there, top of the page, which will be highlighted for you – the records confirm – just pausing the reading; that's MiCare's records as examined by the Quality and Safety Commission. Do you agree with that?

MR VAN DUUREN: Yes.

MR ROZEN:

> *The records confirm that personal care attendants, PCAs, completed documentation and wound records indicating they provided the wound management on 14, 15, 20 and 22 July 2018.*

Do you see that there?

MR VAN DUUREN: Yes, I do.

MR ROZEN: So, the finding there is that personal care attendants did that work on those four days, which, of course – in that period between Mrs Aalberts return on 11 July and the wound consultant being engaged on the 24th of July. Do you agree?

MR VAN DUUREN: Yes.

MR ROZEN: Going back to the document – the Quality Commission wrote:

> *This is at a time when the haematoma had been aspirated by the doctor, blood was increasing in volume in the haematoma and compression bandaging was required. This required close monitoring by nursing staff and was beyond the scope and skill of a PCA.*

And I suggest to you that's right, that given the nature of this wound, that work was beyond the scope and skill of a personal care attendant. Do you agree with that?

MR VAN DUUREN: I agree with that.

MR ROZEN: How is it, Mr van Duuren, that this work was done by PCAs and not nurses at Avondrust?

MR VAN DUUREN: I can't explain that. That should have been done by the CCC, Clinical Care Coordinator.

MR ROZEN: The Clinical Care Coordinator.

MR VAN DUUREN: Yes.

MR ROZEN: That's the term you use for a registered nurse.

MR VAN DUUREN: Registered nurse or an enrolled nurse.

MR ROZEN: It's completely unacceptable, isn't it? That that work was being done by personal care attendants and not a nurse.

MR VAN DUUREN: That wound needed or that haematoma needed to be attended to by someone that has the scope of practice that can manage that well.

MR ROZEN: You know – don't you, Mr van Duuren – that on the afternoon shifts during the period that we're talking about there was no registered nurse working at Avondrust. Was there.

MR VAN DUUREN: On that – I can't tell you about those dates, but our structure has a Clinical Care Coordinator at Avondrust on a daily basis, starting at 8, finishing at 4 or 5, depending – so it was a dayshift rather than a morning or an afternoon and, certainly, not at night. They were on call any time they weren't on site.

MR ROZEN: Well, can we just clarify that, please. When the Quality Agency audited Avondrust in April of 2018 – that led to the accreditation – one of the standards that they were assessing compliance with was the standard that related to human resource management. Do you agree with that?

MR VAN DUUREN: That's right. 1.6.

MR ROZEN: 1.6, and as you know, the expected outcome is there appropriately skilled and qualified staff sufficient to ensure that services are delivered in accordance with these standards and the residential care services philosophy and objectives. You are aware that is what 1.6 says.

MR VAN DUUREN: True. Yes.

MR ROZEN: And of course, it reflects a provision in the Aged Care Act which is in similar terms – about having suitably qualified - - -

MR VAN DUUREN: Staff.

MR ROZEN: Staff, and in evaluating the home's compliance with that requirement, they asked for data about staffing arrangements. Didn't they.

MR VAN DUUREN: Yes. Yes.

MR ROZEN: And were you the person who provided them with the data, as in – you personally? Was that part of your role? Do you recall?

MR VAN DUUREN: I may have. I can't recall whether I specifically did that. I will have a record of it though, that I – that it's done.

MR ROZEN: Okay. Probably not much turns on whether it was you or someone else, but whoever it was was authorised, presumably, to provide the information.

MR VAN DUUREN: Yes. Yes.

MR ROZEN: We could have a look at Tab 28, please, in the tender bundle. This is the audit report that was provided to MiCare by the Quality Agency that led to that April re-accreditation. Do you agree with that?

MR VAN DUUREN: Yes.

MR ROZEN: And you can see it's based on an audit; we don't need to go into the details, but if we could go to page .1393, please, you see there in the middle of the page there's a discussion of the home's compliance with standard 1.6, human resource management, and then towards the bottom of the page we see a heading, "Additional information, personnel working in the home during the week, Sunday to Saturday the week before the visit". So just to orient you: the visit was in April of 2018, a month or so before Mrs Aalberts start residing at Avondrust. And then there is then set out in tabular form, with the table starting at the very bottom of the page there, morning shift, a.m. Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: Yes. And then we've got, reading from left to right, personnel and then the days of the week, and then if we go over to the following page, we see that morning shift, which is described as "a.m." – there's an RN; is that a registered nurse?

MR VAN DUUREN: That's correct; yes.

MR ROZEN: And then we see "7.5"; is that 7.5 hours?

MR VAN DUUREN: That's right. Yes.

MR ROZEN: That's a shift, is it?

MR VAN DUUREN: That's a shift. Yes.

MR ROZEN: Right. On each of those seven days. Then we see "EN" – that's enrolled nurse – "care personnel, other professional personnel" and then "other personnel". Do you see that down the left-hand side?

MR VAN DUUREN: That's right.

MR ROZEN: Just focussing your attention on the registered nurses – they're the CCCs in MiCare parlance. Yes. So, we've got a registered nurse for the morning shift, and then if we go down to the next section, about a third of the way down that page, we see a table headed "Afternoon shift". Do you see that, "p.m."?

MR VAN DUUREN: Yes. Correct. Yes.

MR ROZEN: And just so that I can understand: what times are we talking about? What's the morning shift at Avondrust, at MiCare?

MR VAN DUUREN: So, the instructions that come with this table from the Quality Agency back then is that you need to make it fit within their table.

MR ROZEN: Yes.

MR VAN DUUREN: So, the allocated hours for the RN, CCC, was put in the morning table. If that makes sense - - -

MR ROZEN: It does, but I don't understand what you're conveying or what MiCare is conveying by the reference to morning shift, a.m. What hours are we talking about?

MR VAN DUUREN: For the CCC?

MR ROZEN: Yes.

MR VAN DUUREN: It can vary a little depending on what the needs are to reflect the residents that are at the site and what their needs may be from a clinical perspective. However, a general day would be starting at 8, finishing at 4 or 5 o'clock.

MR ROZEN: Okay. So, it's seven and a half hours, which includes a break, presumably – does it? Starting from about 8 o'clock. So that's mid-afternoon finish, 3.30, 4 o'clock, something like that.

MR VAN DUUREN: Something like that; it's an eight-hour shift minus half-an-hour break.

MR ROZEN: All right. Without getting too hung up on the precise hours, I suggest to you that the information that was being conveyed to the quality agency is that in a 24-hour period – let's just take Monday as an example.

MR VAN DUUREN: Sure.

MR ROZEN: That there was an RN at the premises for seven and a half of those 24 hours.

MR VAN DUUREN: That's right.

MR ROZEN: That's right. And we see from the reference to afternoon shift – and it's repeated, night shift – for the remaining 16 hours or so, there was not an RN at the premises; is that right?

MR VAN DUUREN: Not on the premises; no.

MR ROZEN: No; the RN was on call?

MR VAN DUUREN: That's right.

MR ROZEN: And are you able to tell us what an RN on call was paid per hour compared to an RN that was actually working at the premises? What are we to understand by "on call"?

MR VAN DUUREN: So, an on call allowance – I don't know the exact figure for that – is paid over a 12-hour period. So there two on-calls paid each day; if they were - - -

MR ROZEN: But they're not – I'm sorry. I didn't mean to cut you off.

MR VAN DUUREN: Sorry. If they were to visit on site, they were to be paid for three hours minimum at their rate; yes.

MR ROZEN: Okay. Putting aside there being one of these on call nurses being asked to come in and work, the summary from all of this is that, as at April 2018, there was a sizeable proportion of each day, two thirds, in fact, where there wasn't a registered nurse at Avondrust.

MR VAN DUUREN: On site; no.

MR ROZEN: On site at Avondrust.

MR VAN DUUREN: That's correct.

MR ROZEN: And was that decision not to have a registered nurse at Avondrust for that period of each day a decision that was made by you as part of your role determining rostering that we discussed earlier?

MR VAN DUUREN: Okay; so – yes. Ultimately I have input into that. It is a model of care that's – we've had at Dutch Care ever since I've been there, since 2007. It's a home model, an Eden facility as described by Sally Hopkins recently. So, it's a non-clinical-focussed home essentially.

MR ROZEN: You can't have a non-clinical-focussed home when you've got 65 high-needs residents there, can you, Mr van Duuren?

MR VAN DUUREN: It's a balance, I guess, about having quality and a home life, and, yes, I think a few more RN hours would have been useful, and we have since increased our RN hours significantly to reflect that.

MR ROZEN: We'll come to that in a moment. But I suggest to you there's no mystery about why the PCAs doing this work, Mr van Duuren. It's a direct result of a lack of nursing resources being there, isn't it? Is there any other way the Commission can understand this phenomenon?

MR VAN DUUREN: The RNs are supported by the enrolled nurses also, and as you can see, there's coverage throughout the day for EN roles.

MR ROZEN: Commissioners, I'm about to go on to another topic. I wonder if it would be an appropriate time to have a break.

COMMISSIONER TRACEY: Yes. Is that a convenient time?

MR ROZEN: It is for us, sir; thank you.

COMMISSIONER TRACEY: Very well. The Commission will adjourn until 2 pm.

ADJOURNED **[1.15 pm]**

RESUMED **[2.03 pm]**

COMMISSIONER TRACEY: Yes, Mr Rozen.

MR ROZEN: Commissioners, just a word of explanation: to accommodate the next witness who is in Papua New Guinea, we have decided to interpose her with the agreement of our learned friends. I call Jan Rice.

COMMISSIONER TRACEY: Very well.

MR ROZEN: I call Jan Rice.

<JAN CHRISTINE RICE, AFFIRMED [2.03 pm]

<EXAMINATION-IN-CHIEF BY MR ROZEN

MR ROZEN: Ms Rice, my name is Peter Rozen, I am Senior Counsel Assisting the Royal Commission here today. Can you hear me okay?

MS RICE: I can. There's a very, very slight time delay but, yes, I can hear you quite clearly. Thank you.

MR ROZEN: Okay. Thank you. Firstly, could you state your full name for the transcript?

MS RICE: My full name is Jan Christine Rice.

MR ROZEN: Thanks, Ms Rice. And you are initially a registered nurse, have been since 1973?

MS RICE: Correct.

MR ROZEN: And, without going through your CV in detail, after a period of nursing generally, you moved into wound management as a specialty.

MS RICE: Correct. I first did plastic surgery for 15 years and that led me into wound management of which I've been doing for many years since then.

MR ROZEN: You have a Masters in Wound Management?

MS RICE: Correct.

MR ROZEN: And can I ask, from which institution you obtained that qualification?

MS RICE: Monash University.

MR ROZEN: You've also been a lecturer at Monash University.

MS RICE: Yes, and La Trobe University.

MR ROZEN: And more recently at La Trobe; is that right?

MS RICE: Yes. So, 1994 for 14 years at Monash University and then up until 2013 at La Trobe university. So, it's about 2007 to 2013 at La Trobe University.

MR ROZEN: Yes, I take it you were lecturing in wound management.

MS RICE: Correct. I ran an organisation called Wound Foundation of Australia with Monash University and World of Wounds with La Trobe University. So yes, all focused on wounds.

MR ROZEN: And the student cohort to whom you were lecturing, were they nursing students or students studying to be doctors or both?

MS RICE: The majority of attendees to the lectures were registered nurses.

MR ROZEN: Yes.

MS RICE: The majority. There were occasionally occupational therapists and physiotherapists, occasionally student doctors and in evening lectures there were many general practitioners.

MR ROZEN: I take it from that that you are a sessional rather than a full-time lecturer at the two universities.

MS RICE: No, I was actually full-time at Monash University and at La Trobe University four days a week. And since then I'm a sessional lecturer at Monash University.

MR ROZEN: Okay. In 2013 you set up your own wound consultancy service.

MS RICE: Correct.

MR ROZEN: And you primarily provide those consultancy services to aged care facilities?

MS RICE: Yes.

MR ROZEN: And can you tell the Commission is there any particular process or accreditation that one needs to be a wound consultant to aged care facilities?

MS RICE: So no, there is no formal documentation required. As somebody with experience I would say that without a doubt it would be ideal that any candidate doing that type of work would at least have a masters and would also at least have a broad experience. So, I have a very broad experience in both acute trauma, that's what I'm up here for, and so acute trauma and chronic wound care. You haven't mentioned but whether you were going to, I also run a clinic in general practice and have down that since 2006. So, I think that anyone who goes into aged care as a wound consultant would need to have a broad experience both of acute, chronic and community wounds.

MR ROZEN: Thank you. But ultimately as things stand, the market determines whether or not one can be successful at being a wound consultant in the aged care sector.

MS RICE: Yes. Because there is no – I don't call myself a wound nurse practitioner because I'm not. That's a protected title as a nurse practitioner. So, I could be a wound nurse consultant, that is my title. And the reason I can give you background as to the reason why we put the consultant on is because in the very early days when nurses saw you coming, they said, "Here's the wound nurse", and they would go and have a cup of tea and expected you to do the dressing. And that was not my role, I was not going to be in aged care doing the dressings every day, so my role was to teach them how to do the dressings and therefore we adopted, like any other consultant who comes in, makes a recommendation and leaves with them doing what the consultant has requested.

MR ROZEN: All right. Thank you. Ms Rice, for the purposes of the Royal Commission, you have made two witness statements; is that correct?

MS RICE: Correct. Yes, correct.

MR ROZEN: Yes, thank you. And the first of those is a statement or it's really in the form of a letter to the Commission and I'm not making any criticism of you, but that's the form and it's dated 29 June 2019; does that accord with your understanding?

MS RICE: I believe so, yes.

MR ROZEN: Yes. For our purposes, it bears the document record WIT.0278.0001.0001. Do you have available to you there in Papua New Guinea a copy of that statement?

MS RICE: No, I don't. I discovered that it is actually on another computer and it's not on the computer that I've brought with me, so I don't.

MR ROZEN: We might be able to email it to you, if need be. Would that be of assistance to you?

MS RICE: It's on the screen now.

MR ROZEN: It is.

MS RICE: But if you wanted to email – yes, it's on the screen now. It was a reply that I sent following some questions that were asked. So yes. I'm happy – you can leave it on the screen if you want and I will speak to it, or if you want to email it, you could email it. I have a computer to my left.

MR ROZEN: All right. I think we will do it on the basis that it's on the screen, unless you tell me that you would be assisted by us emailing it to you. Do you understand?

MS RICE: Yes, I'm happy to go with it on the screen, then.

MR ROZEN: All right. Now, have you had an opportunity to read through that statement before giving evidence this afternoon?

MS RICE: No.

MR ROZEN: Okay. Well, you might be able to answer my next question even though you haven't. If you can't please let me know.

MS RICE: Yes.

MR ROZEN: We need to establish here whether you are content that the contents of the statement are correct or whether there's anything you wish to change. Are you in a position to inform the Commission of that, whether its contents are correct?

MS RICE: I believe I am because when I received the notice to give, I went to my file and I had a look at my rough notes, which you have a copy of my rough notes.

MR ROZEN: Yes.

MS RICE: And I behave – I know what those notes mean to me. There's more depth in them to me than there is to an outsider reading them. So, I do believe what I have documented there is the complete recollection and the complete truth, as far as I can recall.

MR ROZEN: I understand. There is one – and you signed the document, of course, on 29 June 2019, didn't you, that you sent in to us.

MS RICE: Yes.

MR ROZEN: Yes. There is one what looks like an error which I will just draw your attention to. It's quite a minor thing. It's at the top of the fourth page which will be brought up on the screen in front of you. Do you see there, right at the top of the page there's a heading in bold

5) Your dot point 7.

Do you see that?

MS RICE: Yes.

MR ROZEN: You will see in the first line you've written:

If the haematoma developed on the 3 July and no intervention tales place - - -

should that be "takes" - - -

MS RICE: Takes. Yes, it should.

MR ROZEN: Yes. All right.

MS RICE: Well – yes.

MR ROZEN: Yes. So, with that change, are you content that the contents of the statement are true and correct?

MS RICE: Yes.

MR ROZEN: I tender the statement, Commissioners.

COMMISSIONER TRACEY: Yes, the witness statement of Jan Rice dated 29 June 2019 will be exhibit 6-39.

EXHIBIT #6-39 WITNESS STATEMENT OF JAN RICE DATED 29/06/2019 (WIT.0278.0001.0001) AND ITS IDENTIFIED ANNEXURES

MR ROZEN: Thank you, sir. After you provided that statement to the Commission, Ms Rice, did you receive a further formal notice seeking the answers to three further questions?

MS RICE: Yes, I did. I thought they were two questions, but one question was broken into two parts.

MR ROZEN: Indeed.

MS RICE: From recollection, but yes.

MR ROZEN: Okay. And just to confirm for the record here that those questions were detailed in correspondence dated 8 July 2019 in a notice to give numbered 0298. You may not recall the number. I will just ask for it to be brought up on the screen so that I can confirm with you that we're talking about the same thing. It's tab 244. Are you able to confirm that's the notice that was sent to you after the Commission received your first statement?

MS RICE: Yes. Yes, that is.

MR ROZEN: Thank you. And in response to that, you sent a further communication dated 10 July 2019, and I ask that that be brought up on the screen, WIT.0293.0001.0001. Are you able to see that letter to - - -

MS RICE: Yeah.

MR ROZEN: - - - the Commission dated 10 July 2019, Ms Rice?

MS RICE: Yes, thank you.

MR ROZEN: And can you please confirm for us that that's the letter you sent in response to that request that I was just asking you about.

MS RICE: Yes, it is the letter that I sent on 10 July in response to the second notice to give.

MR ROZEN: Yes. And are the contents of your letter of 10 July 2019 true and correct?

MS RICE: Yes, they are.

MR ROZEN: I tender the letter from Ms Rice to the Commission dated 10 July 2019, Commissioners.

COMMISSIONER TRACEY: Yes, the additional statement of Jan Rice dated 10 July 2019 will be exhibit 6-40.

EXHIBIT #6-40 ADDITIONAL STATEMENT OF JAN RICE DATED 10/01/2019 (WIT.0293.0001.0001)

MR ROZEN: Thank you, Commissioners. If we can go back to your first statement, please, exhibit 6-39, if that could be put back up on the screen so that you can see it. And you will see that your – towards the bottom of the page there's a heading 2, Your Dot Point 4.

MS RICE: Yes.

MR ROZEN: You've written there:

> *I have provided wound consultancy services on a fee-per-consultation basis to both the MiCare, formally DutchCare, Aged Facility since 1995.*

Do you see that?

MS RICE: Yes.

MR ROZEN: Who was responsible – who has been - - -

MS RICE: I do.

MR ROZEN: I'm sorry, Ms Rice, go on.

MS RICE: No, sorry, I was just responding. There was a delay and I didn't think you heard me.

MR ROZEN: No, I do. So, you're agreeing that's correct. When you say - - -

MS RICE: Yeah.

MR ROZEN: - - - "both the MiCare aged care facilities", can I clarify which two you're talking about, because the evidence here is that there are four that are operated by MiCare.

MS RICE: I have been to MiCare in Kilsyth and in Carrum Downs. They're the only two facilities that I have dealt with.

MR ROZEN: Yes. And the one in Carrum Downs is called Avondrust; is that right.

MS RICE: Correct.

MR ROZEN: Yes.

MS RICE: Now, yes, it is. Yes.

MR ROZEN: Yes. And - - -

MS RICE: I'm unaware – I was unaware that there were two other facilities, so I don't service those.

MR ROZEN: Okay. That's fine. You say that you do it on a fee-per-consultation basis. Who's responsible for your fee when you provide those services?

MS RICE: Do you want current or past?

MR ROZEN: Well, perhaps we will deal with each. Past?

MS RICE: Past, if the resident was graded as low care and I was called in, then the resident or the family would pay.

MR ROZEN: Yes.

MS RICE: Now, most people are acknowledged in aged care to be high care. It is the facility that pays for all the consultations presently, unless the request comes as a direct consultation from a family member and that the facility has deemed that they don't need my assistance, but I'm needed to – for the family. So, if it's a family request, the family pay. If it is a facility request, the facility pay.

MR ROZEN: Thank you. And the evidence that the Commission is considering, as you know, relates to the care that was provided to the late Mrs Bertha Aalberts at the Avondrust home between May and August 2018. You understand that, Ms Rice?

MS RICE: I do.

MR ROZEN: And we understand the position to be that you consulted twice with the late Mrs Aalberts: once on 27 July 2018 and again on 6 August 2018. Is that right?

MS RICE: They were the face-to-face consultations, yes; however, there were phone or email consultations in between that.

MR ROZEN: Yes. We will come to those in a moment. When you were providing those services, both face-to-face and otherwise, what was your understanding about how many registered nurses were working for MiCare at Avondrust?

MS RICE: I have never inquired as to how many registered nurses work in the facility.

MR ROZEN: The - - -

MS RICE: I was accompanied by nurses to the patient's bedside, though, and generally that is the case. I'm accompanied by a registered nurse to the bedside of the client that I'm seeing.

MR ROZEN: I take it that for the sort of wound that you're attending to here, your expectation would be that once you leave the premises, that the management of that wound would be carried out by a registered nurse; is that right?

MS RICE: Most definitely. In this situation, yes.

MR ROZEN: Yes. You, I think in your statement, describe this wound as a large haematoma; is that right?

MS RICE: Correct, yes.

MR ROZEN: You do say that in your extensive experience that you've seen similarly serious wounds on many occasions.

MS RICE: I have, sadly. I've seen – probably the worst I've seen is a 23-centimetre haematoma being dealt with in an aged care facility - - -

MR ROZEN: Right.

MS RICE: - - - which is – but, yes. So, yes, I have seen large haematomas.

MR ROZEN: Yes. But whilst this might be the worst, it was certainly, you would agree, a very significant wound by the time you got there on 25 July.

MS RICE: Correct.

MR ROZEN: Would it concern you if prior to your arrival on 25 July personal care attendants had been managing that wound on at least some of the days prior to 25 July?

MS RICE: I think it – that discussion would come about as to whether it was a closed haematoma or an open haematoma.

MR ROZEN: Yes.

MS RICE: So once the haematoma had opened and there was a drainage and an opening at one end, then it probably should have been the registered nurse who would do dressings such as that because there needed to be more work and observations to be carried. When it was a closed – skin, I think had been delegated or still have been required twice-weekly vision or follow area.

MR ROZEN: Would it surprise you to know from your experience of the aged care sector, Ms Rice, that there was only one registered nurse working at Avondrust on any given day, and even then they only worked one shift. There were two other shifts, a period of about 16 hours, where the evidence is there was no registered nurse on the premises. Does that surprise you?

MS RICE: No, it doesn't surprise me ..... major, major problem in aged care, and, no, it does not - - -

MR ROZEN: If it doesn't surprise you, does it concern you? Do you think that a facility - - -

MS RICE: Absolutely.

MR ROZEN: Sorry, again, I will - - -

MS RICE: It does ..... It does ..... me that we don't have more reg nurses in aged care caring for our most vulnerable people who are admitted with complex health issues.

MR ROZEN: Just confining ourselves to this particular case, it's necessarily the case, isn't it, Ms Rice, that Mrs Aalberts' care was a partnership, essentially, wasn't it, between yourself as the consultant and the workers at Avondrust who would then look after the wound in between any input by you?

MS RICE: I – no, I think as a ..... be other consultants, they will offer advice, the facility ..... take that advice on ..... for an external consultant in, so they will take that ..... and then I would imagine that – yes, there's a partnership.

MR ROZEN: Yes.

MS RICE: Yes.

MR ROZEN: You're necessarily reliant on the workers there to carry out your recommendations, are you not?

MS RICE: And I can add where any concerns, my briefing always is that if you have any – wish to change things – for example ..... might be removing the dressing, required the dressing to stay intact for two ..... then they would call me, have a relationship with ..... and due to the ..... that recent understanding that I ..... phone or email.

MR ROZEN: I'm not sure if you are hearing me now as clearly as 10 minutes ago. But you're breaking up at this end, Ms Rice, I fear that you're not really doing yourself justice.

MS RICE: I'm sorry.

MR ROZEN: It's not your fault. I'm just wondering - - -

MS RICE: No.

MR ROZEN: - - - if – and I'm looking around to see if there's a - - -

MS RICE: Please - - -

MR ROZEN: - - - technical explanation or if it would be – if we were to redial the line, whether that might improve.

MS RICE: No, I think my telephone – my phone is going off. I will turn my phone off, if you just excuse me.

MR ROZEN: Sure.

MR ROZEN: My phone is with me here, so that's probably what's happening. I will just turn it off.

MR ROZEN: Thank you.

MS RICE: Okay. Done.

MR ROZEN: Okay. Sounds better already. If I could just go back to something we were talking about a moment ago, and I asked you about personal care workers being responsible for management of the wound. At least on four of the days prior to your involvement, you understand that Mrs Aalberts returned from hospital on 11 July, a fortnight before you saw her. That was made clear to you when you got involved, I take it?

MS RICE: Yes. It was made clear to me because when I ..... the haematoma, my immediate – the lady needed to go to have surgical intervention. But when I ..... further or inquired more about the proposal, I was informed ..... had returned from ..... where no surgical ..... was planned.

MR ROZEN: Yes. Was it explained to you that the basis of that was a concern on the part of the daughter, who herself is a very experienced nurse, about the possible effect of an anaesthetic on her mother?

MS RICE: It wasn't explained. But it goes without saying that the lady ..... and there certainly was the risks, so I fully understood that. Working in aged ..... it's not uncommon to be provided with this, that consultation has been sought, recommendation for surgery has been made. However, the family have declined - - -

MR ROZEN: Yes.

MS RICE: - - - on the basis ..... worried. So, this is not ..... thing for me and I didn't inquire further into it. It was quite obvious to me that Mrs Aalberts was not a .....

MR ROZEN: Yes. Sorry, we are still having difficulty with the line despite your best efforts with your phone. I'm told it's not going to get better. So, we will persevere. If you don't understand anything I'm asking you, please let me know, and at this end we will do our best to understand the answers that you're giving us. If the evidence before the Royal Commission was that the – this haematoma was open from soon after Mrs Aalberts' return to Avondrust from hospital on 11 July, then I take it you would be concerned if personal care attendants rather than nurses were attending to the management of the wound.

COMMISSIONER TRACEY: I think the other way around.

MR ROZEN: I'm sorry, personal care attendants rather than nurses were attending to the management of the wound. That would be a concern for you if it was the case that the wound had become open.

MS RICE: Yes. Once you have a haematoma, there are multiple ..... involved, and you require a level of ..... manage that haematoma if it's not going to be managed

surgically. There is a large amount of clot that needs to be eventually evacuated, so, yes this is a nurse's job.

MR ROZEN: Yes. But the fact this wasn't going to be attended to surgically for the reasons that we've discussed meant that the home and anyone involved in looking after the wound had quite a difficult clinical task to undertake. Would you agree with that?

MS RICE: And I think – I would agree, and I also think that non-experienced might struggle ..... are you hearing me?

MR ROZEN: I am. I think what you just said was that even a non-experienced nurse would struggle. Is that right?

MS RICE: Yes. This is not, you know – haematomas such as this are not everyday occurrences. So, if you have junior nurses who are not experienced in this area, it can be daunting. So, it's the job of a registered nurse, for sure.

MR ROZEN: All right. You say in your statement that your normal approach is to indicate that you aim usually to visit within four days of being contacted by an aged care facility to attend to a wound.

MS RICE: That certainly is my goal. If I have a referral on a Friday, then it's my goal to be there at least by Monday.

MR ROZEN: Yes.

MS RICE: - - - If I have referrals on Monday, I – I'm seeing them before the end of the week or certainly, worst scenario, at the beginning of the next week. In that case, I will always now – for the last few years, I've been asking, "Send me a photo, and I will tell you what to do until I get there."

MR ROZEN: All right. Is that what happened here? The evidence is that you were contacted on 24 July and that you attended the following day, on the 25th. There doesn't seem to be any evidence of a photo having been provided to you. Do you now recall whether one was?

MS RICE: I wouldn't expect a photo. If I received a call or an email on the 24th and I was able to see the wound the next day, I would not have expected a photo to tell them what to do. The photo is requested when I can't see it within a few days or ..... that I suggested. If it's a request on a Wednesday but I cannot see it till Monday, I will ask for a photo, but ..... I had a look at my calendar and was able to accommodate the next day.

MR ROZEN: Yes.

MS RICE: So, there was no need for a photo to .....

MR ROZEN: I understand. Quite apart from photos being provided to you, the Commission has heard considerable evidence that taking regular photographs of a wound is good practice in relation to the management of a wound. Would you agree with that as a general proposition?

MS RICE: I do. It has been – we've taught it for many, many years that photographs are wonderful. An instructor, I would certainly have said that it's never been caught in a court of law. We're not sure how good photographs will turn up in a court of law, given you can photoshop. No one has ever challenged us yet, but photographic ..... in their records is what we would ask for, and the general premise is take a weekly photo of a wound that you're aiming to heal or take a fortnightly to monthly if it's a malignancy which you have no healing. So weekly photographs are the recommendation.

MR ROZEN: A fortnight had passed since Mrs Aalberts' return from hospital. By the time you arrived on 25 July, do you recall now whether there had been any photos taken of the wound during that two-week period?

MS RICE: No, I don't recall. And it is my normal practice to go into a wound assessment implementation chart ..... writing progress notes, and I don't generally access assessment documentation unless I'm specifically ..... something. And I do not recall actual photographs - - -

MR ROZEN: All right.

MS RICE: - - - on this visit.

MR ROZEN: When you were contacted by the Royal Commission to provide a statement about this case, did you have an independent recollection of the work that you had done at Avondrust in relation to Mrs Aalberts?

MS RICE: I did. There are cases that ..... out. So, as I just said before ..... for every not normal, so we don't see a lot of ..... so I remember distinctly the case ..... haematoma at Avondrust. So, yes, it immediately made my recollection.

MR ROZEN: Right. Because of the size of the haematoma?

MS RICE: Because of the size and because it was open and I taught the staff how to milk the haematoma out. So I remember my instructions showing them how to gently press that – that residual clot out over – we weren't going to do it all in one sitting. And so, yes, there were – at each dressing change, I expected the nurse to do some gentle milking of the remaining clot. So that's what I recall.

MR ROZEN: You were also assisted by the notes that you had made at the time; is that right?

MS RICE: My rough notes?

MR ROZEN: Yes.

MS RICE: Yes.

MR ROZEN: And they're attached to your first witness statement, are they not?

MS RICE: They are.

MR ROZEN: Yes. Perhaps if they could be brought up. It's page 8. Can you see that on the screen there, Ms Rice?

MS RICE: I can.

MR ROZEN: And that's a copy of your notes with some redactions with some personal information about some of the people involved; is that right?

MS RICE: Yes.

MR ROZEN: Okay. And am I right in understanding this is the extent of the notes that you had available to you about this case when you came to make your statement?

MS RICE: Yes. I don't have extensive notes. The notes ..... because of my practice I know what – why I ordered ..... etcetera. So they're my notes. They're not normally ..... anyone else .....

MR ROZEN: No, I - - -

MS RICE: ..... on the note written in the progress notes - - -

MR ROZEN: Yes.

MS RICE: - - - at the facility.

MR ROZEN: I want to ask you about those, but before I do, I just want to clarify something in your statement. This appears on page 4 of your first statement under the heading Your Dot Point 9. Do you see that? It's the last paragraph, the last major paragraph on that page. Do you see that?

MS RICE: Yes.

MR ROZEN: And you say there:

> *I've printed off the email trail of the two conversations with MiCare staff, and, although totally irrelevant to the Commission as my notes are just for my eyes only, but given I'm asked to produce them, my brief notes to myself about the case.*

Do you see that?

MS RICE: I do.

MR ROZEN: And that's a reference to the notes that I've just been asking you about; is that right?

MS RICE: Correct.

MR ROZEN: What do you mean your notes are "totally irrelevant to the Commission"?

MS RICE: Well, because I figured that ..... really understands the depth that's ..... they look they brief, but they mean ..... to me because ..... for example ..... read about bacteria because ..... an ..... I know that "S" means normal saline. But that in..... means that they're in. So it means something to me, but they may not mean anything to ..... reading them because they're brief notes.

MR ROZEN: Yes, I understand. I - - -

MS RICE: ..... to explain the brevity of .....

MR ROZEN: I see. You didn't really mean they're irrelevant to us, did you? Did you mean without some explanation they would be difficult to understand?

MS RICE: Correct. That - - -

MR ROZEN: Is that right?

MS RICE: That's exactly what I'm – they're brief notes. So try – show ..... without some explanation, they would not have been very relevant ..... worried as to how you would interpret them because they're so brief.

MR ROZEN: All right.

MS RICE: So, yes, explanation, should you – be needed, I would write them out .....

MR ROZEN: Now, when you agreed to take on this case at Avondrust on 25 July, you knew, didn't you, that you were going on leave on 13 August?

MS RICE: Absolutely, yes.

MR ROZEN: And was it the case that the leave you had planned – and I don't need to know where you were going or why you were going, but it was for a four-week period, was it not?

MS RICE: Correct.

MR ROZEN: Did it occur to you, once you had seen the wound, that there was the potential for, or rather – I withdraw that. There might be a need for you to have ongoing involvement at least for a few weeks into the future in this case?

MS RICE: No. This case, I saw the lady ..... August prior ..... and I had an email ..... with the facility on the ..... August and a photo was sent to me, and the ..... very good, and I was comfortable ..... would leave the ongoing care to the staff as planned with the knowledge they could reach me via phone or email and, if necessary, as usual, if I ..... feeling ..... photograph ..... colleague to go and ..... facility. It's normal practice. So, no, I believe that there was ..... information for staff to go on with and follow up for this – the wound continued to ..... as you will see by the photograph, and ..... the good granulation was going well. There was no need to ..... It was going to be a long ..... everything was in place. I was available via .....

MR ROZEN: Can I just clarify with you, please, what the photograph is that you are referring to? You said you were sent - - -

MS RICE: I don't have them here ..... have them in the wound assessment documentation file, and you – five photographs. So if you have that up on the screen, I will show you which. It's the second-last photograph in the file that was sent.

MR ROZEN: Can I just clarify - - -

MS RICE: Wound - - -

MR ROZEN: You don't say anything in your statement about having been sent a photograph, do you?

MS RICE: No.

MR ROZEN: But you say now that you were; is that right?

MS RICE: Yes. It was in email follow-ups. So ..... the email trail of the conversations.

MR ROZEN: This is email follow-ups between you and Avondrust?

MS RICE: Right. Correct.

MR ROZEN: Right. Is there any reason why you didn't refer to that – having received that photograph in the statement or either of the statements that you made to the Royal Commission?

MS RICE: Well, I ..... haematoma ..... I thought that I had covered it within the notes that I've written back. And if you have a look in my handwritten notes, you will see that I made an email and a phone call, followed up with ..... call saying

everything was all right. So in the phone call, they – I will have asked for a photograph and sent me the photograph and I've documented that it all looks good. Can – so if you want to go back to the handwritten note .....

MR ROZEN: Yes, well, perhaps we will ask if that be put up. It's page 8 of your statement. Is there a particular part of that that you draw the Commission's attention to?

MS RICE: So the 1st of August, the "P" in brackets means ..... time from that phone call going ..... so that was 10 days following review of the client and to say all is – and the photograph that I saw ..... well.

MR ROZEN: Just while that - - -

MS RICE: So that's what that "P" and the 10 on the seven going well means.

MR ROZEN: Just see if I can understand.

MS RICE: I've seen – I've seen – I've seen pictures. So – yes, I've obviously been sent a photograph, I've looked at the photograph and I've replied to them:

Yes, it's going well as planned. Continue.

MR ROZEN: Perhaps whilst those nets are there, if we can just clarify, so the first entry is 25.7. Do you see that?

MS RICE: I do.

MR ROZEN: Yes. And that's the date where you first attended Avondrust on Mrs Aalberts?

MS RICE: And underneath you will see one on 52.

MR ROZEN: Yes, we will just - - -

MS RICE: .....

MR ROZEN: - - - perhaps take it one line at a time, if we could, Ms Rice. The next entry is:

Right-leg haematoma.

MS RICE: Yes.

MR ROZEN:

Debrided.

MS RICE: Yes.

MR ROZEN: Yes. And then some further words about bandages which I won't trouble you with. And then the next line is:

Ring 1/52.

MS RICE: Yes.

MR ROZEN: Which presumably means "ring in one week"?

MS RICE: Yes.

MR ROZEN: And then we have got:

1/8.

MS RICE: Yes.

MR ROZEN:

P ring.

What does "P" stand for there?

MS RICE: Phone call. I made a phone call.

MR ROZEN: Yes.

MS RICE: I made the call.

MR ROZEN:

Ring.

And then:

10/7.

What does "10/7" mean?

MS RICE: Ten over seven means in 10 days.

MR ROZEN: I see and then going well. Is going well a record of what you were told on 1 August; is that right?

MS RICE: I believe so. I believe that I probably received a photograph on that day.

MR ROZEN: Well, that's what I'm just trying to clarify with you. If it assists you, in the progress notes there is a reference to a conversation between Avondrust and yourself on 1 August, and it broadly confirms that you were told the wound was going well. But there's nothing there about you having been sent a photograph. Do you understand?

MS RICE: I understand, yes.

MR ROZEN: Nor is there anything in your notes about having received a photograph. Do you agree with that?

MS RICE: I do.

MR ROZEN: Nor is there anything in either of your statements about you having received a photograph. Do you agree with that?

MS RICE: I do.

MR ROZEN: Okay. But nonetheless your evidence now is you recall receiving a photograph on 1 August. Is that right?

MS RICE: I'm stating I believe my normal practice, normal everyday practice. So when I make these calls, I often will ask for a photograph to be sent. I am quite confident that when I wrote "going well" was before a photograph and I just remember that photograph showing ..... tissue.

MR ROZEN: Is it - - -

MS RICE: So, yes, I believe that I have seen a photograph of healthy granulation tissue and in my statement that's what I'm saying, and I think if you have a look at the photographs in the progress notes you will be able to find a photograph that shows healthy granulation tissue.

MR ROZEN: All right. Is it possible that you are mixing up your usual practice with your recollection about what happened on this occasion? Or rather you are assuming that your usual practice was followed?

MS RICE: I'm assuming that my usual practice is followed.

MR ROZEN: All right. You don't have any specific recollection of having received a photo, as you sit there now?

MS RICE: I wouldn't write the words "going well" if I hadn't actually seen a picture, more than likely I would not have written those words. But the nursing staff have written that I said the wound is going well, which makes me think that, yes, I did get a photograph and I said, "All is going well."

MR ROZEN: All right. I will read to you what the entry in the progress notes says, and I think we might have sent you this page. It's a page that ends in the number 74 in the top right-hand corner and the entry reads:

> *Jan Rice rang to inquire regarding wound process. She is happy for us to continue current regime. Will contact us in 10 to 11 days.*

Does that help jog your memory about the conversation on 1 August?

MS RICE: I think I've expressed what I remember of the day so I'm not going to change what I've said now.

MR ROZEN: Okay.

MS RICE: I rang, inquired. You know, I might have said, "What does the tissue look like?" I might have asked what the exudate looks like. I might have asked her what her pain was. I made a phone call to follow up how she was going, and I do remember being sent a photograph. Now, whether it was on the 1st or the 6th of the 8th, I do remember receiving a photograph showing granulation tissue and that was our aim. So therefore that is why I wrote "going well" and then you see on the 6th "doing fairly well". So I'm confident that I have viewed a photograph post my visit on 25 July.

MR ROZEN: Would it be your ordinary practice to retain such a copy of a photo in your files, Ms Rice?

MS RICE: No. For confidentiality reasons it has been very difficult for nursing staff to actual send photographs. There are some organisations that won't let the photographs go out, etcetera. So I delete all – all emails that have photographs in them as much as I can from my computers, etcetera. I don't retain photos. They are in the records of the patient at the facility. That's their records. I do not keep them.

MR ROZEN: Now, do you have in front of you the extracts from the progress notes that were sent to you this morning, Ms Rice?

MS RICE: I will find them. I have a computer here so I will - - -

MR ROZEN: I will ask for it to be put up on the screen. You tell me if you need anything in addition. It's the page of tab 126 that ends in .0068. Do you see that in front of you?

MS RICE: Yes.

MR ROZEN: If I could draw your attention to the last complete entry on that page, 3.39 pm which I think is being highlighted, it's the one just above that. Do you see the entry that has been highlighted on your screen that starts "Review of Bertha".

MS RICE: Yes.

MR ROZEN: Now, the person that has entered that record is described as "health specialist".

MS RICE: Yes.

MR ROZEN: I suggest that that was you. Did you enter this record at Avondrust on their facility?

MS RICE: The signature looks like my signature, Jan Rice, wound nurse consultant, phone number, email address so yes that will be me. The reason it will be under the heading of health specialist is because I don't have own login code in that facility.

MR ROZEN: Yes, I understand but it accords with your memory of entering data on the records at MiCare?

MS RICE: Yes.

MR ROZEN: And you will see that in the record you wrote "review of Bertha" and:

I'm happy with the progress of the wounds.

The plural wounds there - - -

MS RICE: Yes.

MR ROZEN: - - - were you also looking at the wound on her left leg; is that why we see a reference to wounds plural.

MS RICE: Yes, because I do mention that, so yes.

MR ROZEN: Yes. It goes on:

The foot is a concern, hot and swollen and has an unusual reddened area but ultrasound for exclusion of DVT and X-ray are being attended and she commenced on clindamycin; is that right.

MS RICE: Correct

MR ROZEN: Okay. That's an antibiotic, is it?

MS RICE: Yes.

MR ROZEN: It goes on.

The haematoma wound is liquefying the blood clot and fat and actually looks quite clean.

Do you see you wrote that there?

MS RICE: Yes.

MR ROZEN: Those indications of the foot being hot, swollen and reddened; they're indications of infection, are they not?

MS RICE: An infection, a sprain when she had a fall, something else could have happened. She had had falls frequently. So I'm not the diagnostician here and that is why the other things are being done. There's no mention of her being febrile which is something that you would look for if she had systemic infection. So this could be a localised issue and that's why the X-ray and the DVT were being ordered, I imagine.

MR ROZEN: Indeed. I'm not saying they're a complete picture of an infection but they're consistent with the presence of an infection, aren't they?

MS RICE: They add to your concern and that's why I'm imagining that the doctor started her on clindamycin.

MR ROZEN: Yes. That's also consistent with the possibility of the presence of an infection; isn't it?

MS RICE: Correct.

MR ROZEN: If we go back to your first statement please, Ms Rice, on page 3, if that could please be brought up on the screen. And the second paragraph, if that could be highlighted, it starts paragraph 48. Do you see that?

MS RICE: Yes.

MR ROZEN: Just to clarify, you were sent the statement that had been provided to the Commission by Ms Aalberts-Henderson, the late Mrs Aalberts' daughter.

MS RICE: Yes.

MR ROZEN: And that's what you are referring to there when you refer to paragraph 48?

MS RICE: Yes. Within that document that I was sent, yes.

MR ROZEN: Yes. And then without reading out that entire paragraph, could I draw your attention to the fifth last line, with the sentence that starts:

We took precautions against any infection –

do you see that?

MS RICE: Yes.

MR ROZEN: And it goes on:

... by using antimicrobial dressings daily and when I attended Bertha on both occasions, there was no evidence to me of infection in the haematoma, no redness, no malodour, no foul tissue, just dead tissue and blood clot.

Do you see that?

MS RICE: Yes, I do.

MR ROZEN: That's not consistent with the record that you made on 6 August, is it, the second time that you attended?

MS RICE: It is, because you will note that I was referring to the haematoma there, not the foot.

MR ROZEN: I see.

MS RICE: Debrided some of the haematoma; I was referring specifically to the haematoma, the size of the haematoma. All of that paragraph dealt with the haematoma. So that's what I have concentrated on my answer there. It wasn't about her everywhere else. It was the haematoma.

MR ROZEN: I see. You didn't consider that the redness of the foot might potentially be related to an infection in the haematoma?

MS RICE: It's not mentioned in paragraph 48 that that's what the concern was and so no I have not addressed it in this reply.

MR ROZEN: All right. But now - - -

MS RICE: This is about the haematoma.

MR ROZEN: As you sit there now, do you accept that the redness that was present in the foot might have been an indicator of an infection in the haematoma?

MS RICE: It might have. It might not have. I don't have any more specifics on the case.

MR ROZEN: All right.

MS RICE: I don't know what was going on down there. I know that we were investigating it. I have no other information on what was happening with her foot. I don't – I have never seen any hospital admission records when she went to hospital, etcetera, so – to Beleura, so I cannot answer that question for you. There's a level of suspicion of infection. There's a level of suspicion something is going on and that is why all those tests were being ordered but to directly relate the haematoma to the – the redness of the foot to the haematoma is a presumption and I'm not going to make that presumption.

MR ROZEN: Thank you. One final matter, Ms Rice, if I could ask you about the next paragraph that appears on that page, it starts paragraph 49. Perhaps if that paragraph could be highlighted, please. Do you see that now, Ms Rice?

MS RICE: I do.

MR ROZEN: You've written there:

Paragraph 49 –

once again that's a reference to Ms Aalberts-Henderson's statement, is that right?

MS RICE: Correct.

MR ROZEN: You've written:

> *Paragraph 49 mentions that Johanna did not see the extent of the wound. I rang Johanna after the first visit and informed her that it was a significant haematoma and that ideally she would be in hospital and have a skin graft but I have noted that family wanted it managed in the facility.*

Do you see that?

MS RICE: I do.

MR ROZEN: You don't have a note of what you discussed in any phone conversation with Johanna, do you, Ms Rice?

MS RICE: No, I don't record phone conversations. I knew I was speaking to a nurse, so I knew that I was comfortable to mention words like haematoma, etcetera, with her. I mentioned to her that it was ideal to have a skin graft and I had noted that in the file the family wanted it managed in the facility.

MR ROZEN: Johanna has given evidence in the Commission this morning that she can't recall at all, she said, you telling her that her mother would best be treated or ideally be treated in hospital. And she told us that if it had been said to her it's something that she would expect to remember. Is it possible that you're mistaken, Ms Rice, about having said that to Johanna?

MS RICE: No, it's not. I make a promise if I am asked to contact family, I will contact family. I make phone calls either directly from the office in the facility so that the nursing staff can hear me make the phone call or I make the phone call when I'm in my vehicle. I distinctly remember walking to my vehicle. I do remember ringing Johanna. The phone number is in the bottom corner of my page. I never file documents until I have phoned, if I have promised to phone and the phone call number is there. So I would swear on a stack of Bibles that I definitely phoned Johanna. So I'm sorry that she doesn't recall it.

MR ROZEN: No one here is disputing that you phoned her, Ms Rice. The focus here is what you said. Do you understand?

MS RICE: I do understand it but I do distinctly remember explaining the size – I didn't – in fact, I probably did, because I remember that she was a nurse and that I did want to her to know the size of it, and the extent and ideally it is managed in a hospital.

MR ROZEN: All right. It's only that bit that I'm asking you about. Is it possible that you are mistaken about having said to her that it would ideally be treated in hospital?

MS RICE: No.

MR ROZEN: So you're confirming that you said that to her. Are you able to tell the Commission what she said in response to that?

MS RICE: She was – I do recall that she was shocked when I told her it was at least 10 to 12 centimetres long. I recall also that I told her I had expressed out a good half a cup of clot. So I do recall those two things mentioning to her because it's a significant haematoma. But, no, I'm not going to be able to say exactly what her words back to me are, or were.

MR ROZEN: You don't say anything in your statement about having told her the specific dimensions of the haematoma, do you?

MS RICE: No, I didn't recall that I was being asked that specifically, so no.

MR ROZEN: And you don't say anything in your statement about having told her about squeezing out any of the exudate, do you?

MS RICE: No, I don't say that.

MR ROZEN: Nor have you made a note about either of those two things, have you, Ms Rice?

MS RICE: No.

MR ROZEN: Is it possible it's the case that they're the sorts of things that you might ordinarily say to someone but you don't have a specific recollection of having said them in this case?

MS RICE: No. I've got a very good memory. I recall patient interactions. I recall significant conversations. I recall this event. I didn't need much coaxing to go and find the file, etcetera, because I recalled it. So I trust my memory, and I know my normal procedure and I was speaking to a nurse and I do remember discussing the case with her.

MR ROZEN: I've no further questions for Ms Rice, Commissioners.

COMMISSIONER TRACEY: Thank you very much for your evidence, Ms Rice. We will now break the link to Papua New Guinea.

<THE WITNESS WITHDREW [3.02 pm]

MR ROZEN: Commissioners, if it's convenient, I will recall Mr Van Duuren and hopefully we will finish him perhaps before an afternoon break, if that's the intention.

COMMISSIONER TRACEY: That sounds good.

<ROBERT VAN DUUREN, ON FORMER OATH [3.03 pm]

<EXAMINATION-IN-CHIEF BY MR ROZEN

COMMISSIONER TRACEY: Please sit down, Mr Van Duuren. You remain under your former oath or affirmation.

MR VAN DUUREN: Thank you, Commissioner.

COMMISSIONER TRACEY: Yes, Mr Rozen.

MR ROZEN: Mr Van Duuren, before we broke for the luncheon adjournment, I had got to the point in the chronology where Ms Rice, the wound consultant was engaged. Do you recall that I was asking you about that earlier?

MR VAN DUUREN: Yes.

MR ROZEN: And I think you've already told us that in hindsight your clear view is that she should have been engaged earlier.

MR VAN DUUREN: Correct.

MR ROZEN: Have any steps been taken at MiCare to ensure that if there was a repeat or a similar case such as this in future that a wound consultant would be engaged earlier?

MR VAN DUUREN: Other than stepping up our number of RN hours we've had some training. We have had workshops with our RNs with the administrator who was in place following the August visit. Yes.

MR ROZEN: So is the upshot of that, that the assessment that has been made internally is that the failure to engage the wound consultant earlier is something that can be explained by the paucity of registered nurses working; is that what it amounts to?

MR VAN DUUREN: To some extent. Also the experience of those two RN CCCs. It's obviously lacking in terms of their timing for that call to be made. I can't explain for the two CCCs that were employed at the time.

MR ROZEN: Just before leaving the topic of the staffing levels, you recall that I was asking you about that earlier, from the table that we were discussing, would you agree with me that if you were to express the number of registered nurses working at Avondrust at that time, in April of 2018, as an FTE figure, a full-time equivalent figure - - -

MR VAN DUUREN: Sure.

MR ROZEN: - - - that it would be one FTE per week. Is that correct?

MR VAN DUUREN: Well, one FTE per week would be five days a week.

MR ROZEN: Yes.

MR VAN DUUREN: They were actually there seven days a week.

MR ROZEN: So it's one and - - -

MR VAN DUUREN: 1.4.

MR ROZEN: 1.4, is that right? Maths was never my strong suit but I think that's right, isn't it.

MR VAN DUUREN: Yes.

MR ROZEN: Something like that, a bit over one, anyway. Well under 2. Do we agree on that?

MR VAN DUUREN: Yes. True.

MR ROZEN: Were you involved in the preparation of the submission that was provided to this Royal Commission in February of this year in which MiCare answered a number of questions that were asked of it about incidents of substandard care and complaints and staffing levels and so on. Do you know what I'm talking about?

MR VAN DUUREN: I do know what you're talking about and I had some contributions to make to that.

MR ROZEN: There was a bit of a discussion at board level, wasn't there, about whether or not, given it was a voluntary process whether or not MiCare should actually put in a submission. Do you recall that discussion at the board level?

MR VAN DUUREN: I don't attend the board meetings so I haven't heard it firsthand but that's what I understand happened.

MR ROZEN: All right. In any event ultimately the decision was made to send in the submission.

MR VAN DUUREN: Correct, yes.

MR ROZEN: And the input that you had, did that extend to the staffing number data that was included in the submission, do you now recall?

MR VAN DUUREN: I can't recall whether I did or not.

MR ROZEN: Do you remember now what the Royal Commission was told about the number of FTE registered nurses at Avondrust that were working in February of 2018?

MR VAN DUUREN: No, I don't.

MR ROZEN: Would it concern you to learn that the Royal Commission was told that the number was greater than four FTE registered nurses working at Avondrust?

MR VAN DUUREN: Yes, four is not a reflection, no. Four FTE for registered nurses or registered and enrolled?

MR ROZEN: No, registered nurses. That would concern you if that's what the Royal Commission was told?

MR VAN DUUREN: Yes, just on the surface, yes. It doesn't seem right.

MR ROZEN: In fairness to you, Mr Van Duuren, is it possible that in calculating what that number was, that some attempt has been made to factor in those on-call hours as well? Is that possible, do you think?

MR VAN DUUREN: I don't know. I don't know.

MR ROZEN: As you sit there now do you know how the figure was arrived at that was communicated to the Royal Commission in terms of FTE registered nurses in the submission?

MR VAN DUUREN: No, I don't, no.

MR ROZEN: Just excuse me a moment. Sorry, Commissioners. Were you in the hearing room when Ms Rice was giving her evidence about the consultancy fee arrangement with Avondrust. Did you hear that evidence earlier?

MR VAN DUUREN: I heard most of her input but I ducked out for the bathroom, I don't remember hearing about her – about that.

MR ROZEN: If I can summarise her evidence, it was to the effect that there had been a change in the way her consultancy fees were struck, that at one time if it was a low-care resident that the fee was - - -

MR VAN DUUREN: Sure, sorry, I did hear that yes.

MR ROZEN: - - - that it would be paid for by the resident. Do you remember hearing that?

MR VAN DUUREN: Yes.

MR ROZEN: As I understood her evidence, she said it had changed in line with the higher acuity residents that are at Avondrust; do you recall that? Do you have any knowledge yourself about any such change?

MR VAN DUUREN: With high care we have never charged for those sorts of wound consultants or other external consultants' fees.

MR ROZEN: So do you know, as you sit there, whether there has been any change in the way that consultancy fees are organised, as between Avondrust and Ms Rice? Do you have any knowledge about that?

MR VAN DUUREN: My understanding is that we paid that consultancy fee in January to her.

MR ROZEN: Alright. Now, I was asking you a moment ago about your submission and in fairness to you I should ask for it to be put on the screen, its Tab 239. Sorry, perhaps before that goes up. If we could start at tab 236 so we've got some context

here, Mr Van Duuren. That's the covering letter. Do you see that on the screen there?

MR VAN DUUREN: Yes.

MR ROZEN: And you will see it's a letter from your boss, Ms Neeleman, the executive director, to the Commission explaining the circumstances in which the submission has been prepared. And in fairness to you I should point out the fourth paragraph of the letter. Do you see it says:

> *This response has been prepared in good faith following MiCare Limited undertaking as extensive investigations into its records as has been able to occur in the very short period of time allowed in order to comply with the Commission's request.*

Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: And we all know that this was done over the Christmas/New Year period, this work. I'm sure you can recall that. And then attached to that letter were a number of documents, I won't take you to all of them, but the one I want to ask you about is at tab 239 and you will see from the heading that this is information relating to Avondrust Lodge, the facility that we've been talking about. Is that right, in Carrum Downs?

MR VAN DUUREN: That's right yes.

MR ROZEN: You will see the last entry, if you look down the left-hand column:

> *Number of full-time equivalent direct care staff including staff on paid leave in the following categories as at 30 June 2018.*

Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: And then we've got nurse practitioner .2, registered nurse, 4.23. Do you see that?

MR VAN DUUREN: I do, yes.

MR ROZEN: And was that an accurate figure as at 30 June 2018?

MR VAN DUUREN: 30 June 2018 – we had, as that table showed, a CCC RN on one day per – well, every day for seven days a week. That doesn't equal 4.23.

MR ROZEN: No, that equals 1.4, doesn't it?

MR VAN DUUREN: Yes.

MR ROZEN: Now, in fairness to you that table was April 2018.

MR VAN DUUREN: It hasn't changed.

MR ROZEN: No, we know the equivalent table in August 2018 was provided to the reaccreditation process, wasn't it?

MR VAN DUUREN: That's correct.

MR ROZEN: And it hadn't changed, at least in terms of RNs. There might have been a tiny change but it was still one shift per day for morning shift, wasn't it?

MR VAN DUUREN: Yes, that's right.

MR ROZEN: So this figure is wrong, isn't it, 4.23?

MR VAN DUUREN: To me that seems wrong, yes.

MR ROZEN: Can you offer any explanation to the Commission about how such a significant error was made?

MR VAN DUUREN: No, I can't. I don't know.

MR ROZEN: Is that something that you would be able to investigate and through your solicitors provide an explanation to the Commission?

MR VAN DUUREN: Sure. We can do that.

MR ROZEN: We would ask you to do that, please. Now I want to ask you about a complaint that was made to MiCare by Mrs Aalberts-Henderson on 8 August. It's at tab 114, if that could be placed on the screen. You will see this is an email sent to Ms Neeleman, copied to a number of others, including yourself, on 8 August. Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: And it's headed To Those Concerned Without Prejudice, and Mrs Aalberts-Henderson wrote:

> *I'm compelled to write to you all with a problem that has arisen whilst my mother was in Avondrust's care. There's a lot to speak of, but I think the photos will alert you to a real and horrible problem.*

Do you see that, Mr Van Duuren?

MR VAN DUUREN: I do.

MR ROZEN: And she wrote:

> *You are understaffed. Your team of carers – and I use that term reservedly – your meals and general attitude leave me with a bitter sense of failure that I left my mother in your facility.*

And she goes on to give credit to one employee, Ms Brown, and then I won't read you through the rest of that but it did attach a photo, which I won't ask to put up on the screen but you will recall that it had a particularly gruesome photo attached to it of the wound along the lines of what we saw this morning. And then you then made inquiries of the staff at Avondrust to enable you to provide a response to that complaint; is that right?

MR VAN DUUREN: Correct, yes.

MR ROZEN: And without going into each of the emails, which are all in the tender bundle, I just want to ask you about the response, and that's at tab 115, if that could please be brought up. And that's an email from you back to Mrs Aalberts-Henderson on 9 August 2018, the following day; is that right?

MR VAN DUUREN: Yes.

MR ROZEN: And you refer in the first paragraph to it being a distressing time, and then you say:

> *We would like to express that we always strive to provide the best care to meet the elders at times; however, there are opportunities to improve, as there is in this case.*

There's the next paragraph I want to ask you about. You wrote:

> *Our staffing levels meet legal requirements and department expectations. It is at all times a reflection of Commonwealth Government funding income, hence is continually reviewed and adjusted in line with changes.*

If I could just pause there in the reading. It was true that your staffing levels had been given the imprimatur of the regulator in April of 2018, but it's the next sentence I want to ask you about. What you're saying there to Mrs Aalberts-Henderson is that the government funding that you receive essentially, what, ties your hands as to staffing levels and the difference sorts of staff? Is that the point you're making?

MR VAN DUUREN: So certainly from a baseline roster, we use a figure of roughly – I think that was at the time 88 per cent. It might have been 86 per cent of the

recurrent funding, which is, from an industry point of view, fairly high. So that's the basis. Having said that, it's not unusual for us to employ a staff member, a carer, when there are issues or challenges such as quality of care or behaviour issues, other areas of, I guess, immediate need for some more time resources by care staff. So we do that along the way. But, yes, the levels of staffing have been, I guess, provided to our auditors from the Quality Agency every visit, and that's always been transparent and we've not had feedback to suggest that from a clinical hours point of view we were – or from a staff in general point of view that we were below par.

MR ROZEN: You were seeking to justify the staffing arrangements which saw there being a registered nurse only on the premises for that one shift per day, weren't you?

MR VAN DUUREN: No.

MR ROZEN: You certainly weren't conceding there was an inadequacy, were you?

MR VAN DUUREN: Not at that point, no.

MR ROZEN: No. You do now, don't you?

MR VAN DUUREN: Well, we've already shown that we've improved our registered nurses' hours and input - - -

MR ROZEN: Yes.

MR VAN DUUREN: - - - significantly, so yes.

MR ROZEN: And you've been able to do that within the same funding envelope, have you not?

MR VAN DUUREN: Yes. Well, we've had to rebalance the whole roster to do that, yes.

MR ROZEN: It's all about priorities, isn't it, Mr Van Duuren?

MR VAN DUUREN: It is, yes.

MR ROZEN: Yes. After the sanctions were imposed by the department following on from the audit in August 2018, an administrator had to be appointed by MiCare - - -

MR VAN DUUREN: Correct.

MR ROZEN: - - - to fulfil certain obligations with a view to becoming - - -

MR VAN DUUREN: Compliant, yes.

MR ROZEN: Compliant, yes. And the administrator was an organisation called Ansell Strategic; is that right.

MR VAN DUUREN: That is correct, yes.

MR ROZEN: Can I ask you to have a look at tab 211, please. This is a report that was provided by Ansell Strategic to Ms Neeleman, your boss:

> *Re MiCare Avondrust Lodge observations of potential sanctions causation factors report draft.*

Do you see that?

MR VAN DUUREN: Yes, I do.

MR ROZEN: And what they were engaged to do was to give some advice to the organisation about how the organisation found itself to be in breach of the standards that were identified in August; is that right?

MR VAN DUUREN: Yes, that's part of their brief. Yes.

MR ROZEN: Yes, and can I ask you to look at the third page of that which ends – it's a very long code – .0752_0002. There's a reference to the Eden model at the top of the page, which I won't ask you about. I understand Ms Neeleman will be asked about that later. But it's the heading Clinical Care Needs? Do you see that? Four?

MR VAN DUUREN: Yes.

MR ROZEN: And then the second paragraph, the consultants wrote:

> *Seven of the 13 noncompliances were in relation to standard 2, health and personal care and, therefore, formed a focus for the nurse adviser and administrator team. There were a number of reasons for these noncompliances, but an underpinning reason appeared to be the ongoing belief that care staff were effective in identifying and addressing clinical issues. This belief did not reflect an understanding or consideration for the increasing acuity of the residents.*

Do you see that?

MR VAN DUUREN: I do.

MR ROZEN: To use a colloquialism, the consultants were telling you that you had dropped the ball, weren't they? You hadn't kept pace with the increasing acuity of the residents that you were taking on.

MR VAN DUUREN: Yes, I suppose that could be understood from that. Yes.

MR ROZEN: Yes. And they went on, under the heading Capacity for Effective Clinical Management – it's the second paragraph I want to ask you about:

> *The CCCs –*

that's the clinical - - -

MR VAN DUUREN: Care coordinator.

MR ROZEN: - - - care coordinators, which is the registered nurses, essentially:

> *…were rostered for approximately 55 hours per week, equating to less than seven minutes per resident per day.*

Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: And that's just a straight maths calculation, isn't it, taking into account the 65 residents?

MR VAN DUUREN: That's right.

MR ROZEN: And they went on:

> *This was insufficient time to effectively assess and manage the clinical needs of elders, complete effective and defensible reporting, develop and review care plans and provide adequate guidance and oversight of the practices of staff in addressing such issues.*

Do you see they wrote that?

MR VAN DUUREN: Yes.

MR ROZEN: And they were absolutely right, weren't they?

MR VAN DUUREN: They were right, yes.

MR ROZEN: And that calculation, which results in seven minutes per resident per day, is a calculation that you could easily have done. You didn't need a consultant to come in and tell you that, did you?

MR VAN DUUREN: That's true, yes.

MR ROZEN: Is that information that had been discussed at a board level, as far as you know, within Avondrust, that that's what your staffing levels meant for your residents?

MR VAN DUUREN: Seven minutes a day? I can't tell you if that was discussed at board level, no.

MR ROZEN: I mean, we only have to think about Mrs Aalberts, don't we, and her various conditions to realise that seven minutes a day of nursing attention is woefully inadequate, isn't it?

MR VAN DUUREN: That's an average per elder, yes. So not every elder is going to need as much time as what Mrs Aalberts needed.

MR ROZEN: But they're all high-care?

MR VAN DUUREN: They are all high-care. I'm not defending it, by the way. We're just saying we've increased the RN hours in reflection to that figure.

MR ROZEN: Yes. No, we know that, and that's acknowledged, but my question is really a different one, and that is how could a large organisation like yours, with four significant-sized homes and a long history of involvement in the industry, have allowed this to occur? Can you assist us at all?

MR VAN DUUREN: Our model of care reflects empowerment of staff, competencies of staff, and with that we have always increased responsibilities and abilities through training with staff on the floor. Clinical needs, they need to be assessed by enrolled nurses or RNs. We've had ENs on every day, every shift. So there's, I guess, the compromise in – or support for the RNs is our ENs.

MR ROZEN: Now, can I ask you about one last matter, and that's - - -

MR VAN DUUREN: Sure.

MR ROZEN: - - - the further audit that the Quality Agency carried out in August of 2018. And we know that after that email exchange between yourself and Ms Aalberts-Henderson that I asked you about earlier, she went to the external regulator, didn't she? You're aware of that.

MR VAN DUUREN: She did, yes.

MR ROZEN: Raised her concerns. And we've seen the outcome of that - - -

MR VAN DUUREN: Correct.

MR ROZEN: - - - in that report of April this year that I asked you about earlier. In the meantime, we know from the documents provided to the Commission by the Commonwealth Government that there was a decision taken to carry out a further audit, to revisit the accreditation status of MiCare, and you're aware of that. You wrote to Ms Neeleman, if I can ask you about this, tab 124. There's an email from you to her, reporting on this further review. It's the bottom email on that page. Do

you see you wrote to her on 16 August, subject Avondrust Visit? Do you see that, Mr Van Duuren?

MR VAN DUUREN: I do.

MR ROZEN: And you wrote.

> *Hi, Petra. We've had the lunchtime chat with the two officers. They confirmed this is a review audit as a follow-up to the Aalberts complaint.*

And you go on and explain what they said, and you said:

> *They explained that it is early stages at the moment and there's little to say, but nothing concerning has been found. They will be at AL –*

that's Avondrust Lodge. Is that right?

MR VAN DUUREN: Correct, yes.

MR ROZEN:

> *…tomorrow, but Saturday is not out of the question. They explained that the result of a review audit could be anything from needing to action minor findings to sanctions. Anything, in other words. Sanctions are very rare.*

Do you see you wrote that?

MR VAN DUUREN: Yes.

MR ROZEN: Of course, we know that ultimately sanctions, rare or not, were imposed in this case; is that right?

MR VAN DUUREN: Correct, yes.

MR ROZEN: I want to ask you about one aspect of the audit that led to those sanctions being imposed. The audit report is behind tab 123. If that could be brought up, please. Do you see under the heading Scope of This Document:

> *A review audit against the 44 expected outcomes of the accreditation standards was conducted from 16 August 2018 to 27 August 2018.*

MR VAN DUUREN: Yes.

MR ROZEN: Yes. And that date, that first date, 16 August, that's the same date as that email that you sent to Ms Neeleman that I just asked you about.

MR VAN DUUREN: First day.

MR ROZEN: So you were saying, "They're here, and this is the process." Yes?

MR VAN DUUREN: Correct, yes.

MR ROZEN: They examined compliance with all of the 44 standards; do you agree, Mr Van Duuren?

MR VAN DUUREN: That's right.

MR ROZEN: And one of those, of course, is human resource management. I want to ask you about that, which is on page – it ends in .0010. You will see that on the screen. It follows the pattern of the April audit that I asked you about before the luncheon adjournment. And you will see that it includes a table once again on the bottom of the following page, page 11.

MR VAN DUUREN: Yes.

MR ROZEN: And the table, whilst not identical to the one that was provided for the April audit, for our purposes, in relation to registered nurses, is identical. Do you see that? 7.5 hours - - -

MR VAN DUUREN: Yes, I see that.

MR ROZEN: - - - for am shift. And then if we can go to the following page, it's still on call for the afternoon shift and on call for the night shift. Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: Yes. There are some minor differences in some of the other figures. I don't want you – I don't want to give the impression that it's identical, but so far as the nursing hours, registered nursing hours, do you agree that it is identical?

MR VAN DUUREN: Yes, it is.

MR ROZEN: But, of course, the outcome was the complete opposite of what you had received in April, wasn't it? This time you were found not to have met this standard.

MR VAN DUUREN: Correct, yes.

MR ROZEN: Did you ask the agency how they came to the opposite conclusion to the one that they came to in April based on the near identical data?

MR VAN DUUREN: I don't recall asking them about that specifically, no.

MR ROZEN: It would have seemed a bit perplexing to you, I imagine.

MR VAN DUUREN: It was. We've operated under that model for many years, as I said earlier.

MR ROZEN: Do you know if anyone from MiCare asked the Quality Agency for an explanation for what had changed so far as they were concerned?

MR VAN DUUREN: I don't recall but perhaps Petra might be able to help out.

MR ROZEN: Okay. Do you recall having any discussion with her about the topic?

MR VAN DUUREN: Yes, we've had – I know that we have discussed it. I can't remember the specifics of how that discussion went but certainly it would have been raised.

MR ROZEN: And so far as you know, no explanation has been sought from the Quality Agency.

MR VAN DUUREN: Not from what I know.

MR ROZEN: We know that those nursing hours were significantly increased after this report was provided and the sanctions were imposed, don't we?

MR VAN DUUREN: We do. When we had the administrators in we worked together with them and increased the RN hours significantly.

MR ROZEN: The extent of that increase is set out by you in your first statement; if we could go back to that, please. You set out the increased numbers. You inform the Commission that Avondrust now has 24/7 registered nursing coverage.

MR VAN DUUREN: That's right.

MR ROZEN: And the actual figures, if I can find them, are set out in your statement – excuse me, Commissioners – page 8, I think, if that could be brought up, please. Do you see the second heading Overall Registered Nurse Staffing Increase.

MR VAN DUUREN: Yes.

MR ROZEN: There has been an increase of 148.25 registered nurse hours per week and an increase from 54 hours per week. Are we to understand it has gone up from 54 to 148 or has it gone up from 54 to 54 plus 148?

MR VAN DUUREN: Just trying to do a quick calculation. We now have – no, it has gone up by the 148. There are two RNs on in the morning at that time.

MR ROZEN: Yes.

MR VAN DUUREN: One in the afternoon and one in the – not for the night shift.

MR ROZEN: So it's now in excess of 200, in other words. And we asked you whether or not that increase has been sustained, didn't we, in that correspondence that followed this letter. Do you recall that?

MR VAN DUUREN: Correct, yes.

MR ROZEN: And you've set out some figures in your second statement, and broadly speaking, that increase has been sustained.

MR VAN DUUREN: Correct.

MR ROZEN: So it's something that you can manage within the existing funding?

MR VAN DUUREN: Yes, we have had to use a lot of agency staff originally while we went through a recruiting process.

MR ROZEN: Yes, we can see that from the figures that over time the extra agency hours reduced.

MR VAN DUUREN: Reduced.

MR ROZEN: And the bulk of the nursing hours are now employee registered nurses.

MR VAN DUUREN: That's right.

MR ROZEN: One other matter that we asked for some clarification on concerned training. Do you recall being asked about that?

MR VAN DUUREN: Yes.

MR ROZEN: Just a bit of context here. In your first statement at page 24, you provided the Commission with some information about the training that had been provided to care staff, including registered and enrolled nurses and personal care workers that were working during the period that's the subject of this case study. Do you see that at the top of page 24, the heading 11.

MR VAN DUUREN: I do yes.

MR ROZEN: I just want to ask you little bit about that. You've set out a number of topics we can see, falls, skin care, wound care, medication management and so on. Just focusing for the moment on wound care, you've informed the Commission training conducted in March 2018, 21 staff attended a one-hour session. Do you see that?

MR VAN DUUREN: Yes.

MR ROZEN: If we look at mobility a bit further down the page, paragraph (g) the information provided is that there were 50 staff that attended but is that explained by there being two training sessions; is that right? It's 50 in total or how are we to understand (g)? Do you know, Mr van Duuren?

MR VAN DUUREN: So (g) is about mobility.

MR ROZEN: Yes. And are you telling us that 50 staff attended each of those sessions, one in February and one in March or is it a total of 50 that attended the two?

MR VAN DUUREN: They're two different sessions. And I'm trying to recall that mobility may have been provided or mobility training sessions may have been provided over a series rather than just one.

MR ROZEN: Okay. I'm just curious that the numbers for some of the sessions seem very small. For example, nutrition and hydration; training that you would think would apply to all of the staff, really, only attended by four. Is that right?

MR VAN DUUREN: That would be right, yes.

MR ROZEN: And can you explain that? I mean is that through a lack of interest or is that availability or what's the issue there?

MR VAN DUUREN: I can only make assumptions here but we've been through a lot of training, a lot of training is provided, and staff tend to pick and choose what they show up to in terms of what they need and would prefer.

MR ROZEN: Well, isn't it really the employer's responsibility to decide what the employees need by way of training?

MR VAN DUUREN: That's true. So we do have mandatory training sessions.

MR ROZEN: But the training that you've identified there would not seem to be mandatory; is that how we're to understand that?

MR VAN DUUREN: It's important, yes. It doesn't fit in with, say, manual handling, fire and emergency training, infection control.

MR ROZEN: They're mandatory training, are they?

MR VAN DUUREN: Training sessions.

MR ROZEN: These ones – the employees have a choice.

MR VAN DUUREN: You can always argue every training session is important. When you prioritise them that's how it would fall.

MR ROZEN: Now, we are also followed up on that information with a question that you have summarised in your second statement on page 11. If that could be brought up please, it's paragraph 14 in your statement. You've set out the question that was asked, which is the Commission wanted information about who provided the training, including the details of any external providers. Do you – sorry, I think it might – page 11 of the second – sorry, I think the numbering might be out in mine. It's actually page 13, I'm sorry, if that could be brought up. Do you see the question that you've set out at the top that you were asked?

MR VAN DUUREN: Sure, yes.

MR ROZEN: And are we to understand the response to the question who provided the training, is set out in the third column of your table?

MR VAN DUUREN: That would be right, yes.

MR ROZEN: You would agree with me, wouldn't you, that other than the training on 15 June where an individual is identified, we are otherwise none the wiser, aren't we, about who provided the training. We have just got a designation of a position, haven't we, CCC.

MR VAN DUUREN: Sorry, that's Nina, yes. That's correct. So there's two clinical care coordinators. One is Nina and the other is Juliana and it doesn't stipulate which did the training session, correct.

MR ROZEN: So the others, it could be either of those two.

MR VAN DUUREN: Yes.

MR ROZEN: Is there any reason why you didn't specify who?

MR VAN DUUREN: I didn't source this information, I asked for it from the Facility Manager so that was what was on record there.

MR ROZEN: Commissioners, I think it just remains for me to tender the second statement which I'm reminded I neglected to do. That's WIT.0260.0004.0001.

COMMISSIONER TRACEY: I think it is already in as 6-38.

MR ROZEN: I shouldn't doubt myself. With that attended to, they're the questions that I have for Mr van Duuren, Commissioners.

COMMISSIONER TRACEY: Yes, thank you for your evidence, Mr van Duuren. You are excused from further attendance.

MR VAN DUUREN: Thank you, Commissioner.

COMMISSIONER TRACEY: The Commission will adjourn until five minutes to four.

<THE WITNESS WITHDREW [3.40 pm]

ADJOURNED [3.40 pm]

RESUMED [3.58 pm]

COMMISSIONER TRACEY: Yes, Mr Knowles.

MR KNOWLES: Thank you, Commissioners. Ms Neeleman is in the witness box to give evidence.

<PETRONELLA DOROTHEA NEELEMAN, AFFIRMED [3.59 pm]

<EXAMINATION-IN-CHIEF BY MR KNOWLES

MR KNOWLES: Ms Neeleman, can you state your full name for the Royal Commission.

MS NEELEMAN: Petronella Dorothea Neeleman.

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

MS NEELEMAN: I have.

MR KNOWLES: Yes. The first statement dated 2 July 2019.

MS NEELEMAN: That's correct.

MR KNOWLES: And that is WIT.0260.0002.0001, and a copy of that statement has been brought up on the screen. Have you got a copy of with it you before as well, Ms Neeleman?

MS NEELEMAN: I do.

MR KNOWLES: And have you read that statement lately?

MS NEELEMAN: I have, this morning.

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

MS NEELEMAN: This statement is true and correct. There is a correction to Robert's statement which contains the information about the Board, and I realised when I was looking through his statement earlier that we missed a board member of that statement.

MR KNOWLES: Sorry, you wish to comment on Mr van Duuren's statement; is that correct?

MS NEELEMAN: Mr van Duuren's statement on, which I also rely. And I don't go into details of it, but there is a board member missing from the list of directors.

MR KNOWLES: I see. Can we come to that in just a moment.

MS NEELEMAN: Sure.

MR KNOWLES: Yes. So that's your first - - -

MS NEELEMAN: My statement is correct.

MR KNOWLES: The first statement, 2 July 2019, you don't wish to change anything and the contents of it are true and correct in every particular.

MS NEELEMAN: That's right.

MR KNOWLES: Yes. I seek to tender the statement of Petronella Neeleman dated 2 July 2019, Commissioners.

COMMISSIONER TRACEY: Yes, the statement of Petronella Dorothea Neeleman dated 2 July 2019 will be Exhibit 6-41.

EXHIBIT #6-41 STATEMENT OF PETRONELLA DOROTHEA NEELEMAN DATED 2/07/2019 (WIT.0260.0002.0001)

MR KNOWLES: And do you recall – I should ask at the outset, you've been in the hearing room throughout the evidence today and, in particular, the evidence of Mr van Duuren?

MS NEELEMAN: I have.

MR KNOWLES: Yes. And do you recall he was asked questions about his second statement, that it was a response to correspondence from the Royal Commission seeking further information?

MS NEELEMAN: That's correct.

MR KNOWLES: And the same can be said in respect of your second statement, albeit it only goes to two of the 18 questions in that correspondence from the Royal Commission; do you agree?

MS NEELEMAN: I agree.

MR KNOWLES: Yes, and that is a statement dated 11 July 2019.

MS NEELEMAN: That's correct.

MR KNOWLES: And it's document numbered WIT.0260.0003.0001. And have you read that statement recently?

MS NEELEMAN: I have.

MR KNOWLES: Yes, and it has some 62 pages of attachments to it.

MS NEELEMAN: That's correct.

MR KNOWLES: Yes, and they are generally documents created by the Board or committees associated with MiCare?

MS NEELEMAN: That's correct.

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

MS NEELEMAN: They are.

MR KNOWLES: Yes. I seek to tender that statement as well, Commissioners.

COMMISSIONER TRACEY: Yes, the supplementary statement of Petronella Dorothea Neeleman dated 11 July 2019 will be Exhibit 6-42.

EXHIBIT #6-42 SUPPLEMENTARY STATEMENT OF PETRONELLA DOROTHEA NEELEMAN DATED 11/07/2019 (WIT.0260.0003.0001)

MR KNOWLES: Thank you, Commissioners. Now, Ms Neeleman, before proceeding any further, you wish to say something about the evidence of Mr van

Duuren in respect of a particular matter going to the composition of the Board; is that correct?

MS NEELEMAN: In his statement, there is a list of directors and we have missed Mrs Pamela Bridges who was a director up until October 2018. And – yes.

MR KNOWLES: Okay. Thank you. And what was Ms Bridges' background?

MS NEELEMAN: She was a registered nurse. She worked as the principal nurse adviser for Aged Care Queensland and LASA.

MR KNOWLES: Okay.

MS NEELEMAN: She was previously a board member of the Netherlands Retirement Villages, so when we merged she came on board.

MR KNOWLES: Okay. Ms Neeleman, unlike Ms Bridges, you yourself, as you've said in paragraph 2 of your first statement, don't have any training of a clinical nature, do you?

MS NEELEMAN: No, I don't.

MR KNOWLES: Yes. You have never trained as a nurse or a doctor.

MS NEELEMAN: No, I have not.

MR KNOWLES: You, rather, have accounting qualifications by way of your background; is that right?

MS NEELEMAN: That's right.

MR KNOWLES: Yes. And you've had work experience in, broadly speaking, managerial positions, would it be fair to say?

MS NEELEMAN: That's correct.

MR KNOWLES: Now, can I just ask you a couple of questions about MiCare. MiCare, was it formed when DutchCare and New Hope Foundation merged?

MS NEELEMAN: MiCare was a change of name from DutchCare Limited. We then merged with the New Hope Foundation, and subsequently to that we merged with the Netherlands Retirement Villages Association.

MR KNOWLES: Taking each of those steps at a time, when was the name changed from DutchCare to MiCare?

MS NEELEMAN: I don't know. I think we provided that evidence, but I don't have the exact date.

MR KNOWLES: Right. Have you got a year?

MS NEELEMAN: It would have been 2016, I think, from recall.

MR KNOWLES: And what about the merger with New Hope Foundation?

MS NEELEMAN: It would have taken place 2016, from memory.

MR KNOWLES: As well?

MS NEELEMAN: Yes.

MR KNOWLES: And then the subsequent merger that you've referred to - - -

MS NEELEMAN: Was 2017.

MR KNOWLES: Right. I see. Now, your title is Executive Director of MiCare. Am I right to think that that is not a position that involves being a director of the board of directors as such?

MS NEELEMAN: I have an executive – yes, I am a Director.

MR KNOWLES: You area a - - -

MS NEELEMAN: I am a board member.

MR KNOWLES: Right.

MS NEELEMAN: And I guess the bigger part of my role would be seen to be the CEO.

MR KNOWLES: Yes.

MS NEELEMAN: Chief Executive.

MR KNOWLES: So you're both a member of the Board as well as the most senior managerial position at MiCare.

MS NEELEMAN: That is correct.

MR KNOWLES: Yes. And you've held a position of that nature for MiCare and its predecessors, what, since 1991?

MS NEELEMAN: Since 1991.

MR KNOWLES: All right. And so you are part of the Board but also report to the Board.

MS NEELEMAN: That's correct.

MR KNOWLES: And some of the documents that you've attached to your supplementary statement are documents containing your report to the Board that you give on a routine and monthly basis; is that right?

MS NEELEMAN: We meet mostly two-monthly.

MR KNOWLES: Two-monthly.

MS NEELEMAN: Yes.

MR KNOWLES: Right. So you prepare a report to the board every two months; is that right?

MS NEELEMAN: That's correct.

MR KNOWLES: And in terms of the clinical matters in that report, do you prepare that yourself, or does somebody else write that and then you review that?

MS NEELEMAN: It's prepared by – each of the general managers would give me the input into my report, and then I collate them and add as needed.

MR KNOWLES: Yes.

MS NEELEMAN: Or seek clarification as needed.

MR KNOWLES: Right. But you, obviously, as you've already indicated, don't have clinical training yourself, so you're relying on the managers reporting that to you?

MS NEELEMAN: That's correct.

MR KNOWLES: Of the facilities.

MS NEELEMAN: Well, the report would come to me through Robert, so the manager's report to him, and then Robert would report it in to me and I would use that document for the board papers.

MR KNOWLES: The manager at Avondrust in 2018 and presently doesn't have nursing qualifications by way of background?

MS NEELEMAN: We have a new manager. The Manager at Avondrust Lodge resigned in August. She had had a heart attack in July, and we then, in part of the

process of looking at who were we going to be as an organisation in the future, with what the sanctions brought and everything that was revealed was, "Where do we take that from here?" And our decision was that we would have a registered nurse as the facility manager in all our facilities. We've recruited – in Prins Willem Alexander Village we have one who's a registered nurse, and we're in the process of still recruiting someone for our Kilsyth facilities, which because they are co-located, will be one person over the 100 beds that are in Kilsyth.

MR KNOWLES: Just to be clear, in relation to Avondrust - - -

MS NEELEMAN: Avondrust, she is a registered – the new Manager is a registered nurse.

MR KNOWLES: And when was she appointed?

MS NEELEMAN: She started in February. It may have been January.

MR KNOWLES: Right. So prior to that time and throughout 2018, the Manager of the Avondrust facility was not a registered nurse?

MS NEELEMAN: Up until August, the Manager was an enrolled nurse. From August onwards, Robert took on that role and we backfilled his position as Manager of general – of residential services with another registered nurse.

MR KNOWLES: And I take it he took on that role given the imposition of sanctions that occurred in August as well.

MS NEELEMAN: We wanted to put all the resources in that we could to rectify that situation.

MR KNOWLES: So coming back to your role, is it fair to say that you're a key link between staff and management on the one hand, and the board on the other? You're the key.

MS NEELEMAN: I think that's pretty accurate, yes.

MR KNOWLES: Yes. But you've also said – and this is in your first statement, if we can return to that – on the third page of the statement, paragraph (g), which is just before the middle of the page, you've described your position and your position summary is the ED is responsible for the day-to-day operations of all MiCare services within the bounds of policy.

MS NEELEMAN: That's correct.

MR KNOWLES: So ultimately, you have, in a managerial sense, responsibility for each of the facilities. You have a responsibility for the day-to-day operations at Avondrust.

MS NEELEMAN: Yes, I do.

MR KNOWLES: Yes. And above you, though, or including you, there is the Board and the Board has ultimate responsibility, though, for what happens at places like Avondrust; would you agree?

MS NEELEMAN: Yes, collectively, we do.

MR KNOWLES: Yes. Now, in terms of your responsibilities that you've described a couple of lines down, there's a number of headings, Management, Planning and Policy development; do you see those?

MS NEELEMAN: Yes.

MR KNOWLES: And over the page, at the top of the page, one of those responsibilities is:

> *To initiate and direct the development integration of services and programs wherever appropriate to ensure the continuity of quality care for the clients at MiCare Limited.*

MS NEELEMAN: That's correct.

MR KNOWLES: There's also, obviously, Quality Assurance that appears a little bit further down the page:

> *Ensure compliance with the Commonwealth Department of Health and Aged Care and the State Department of Human Services, ensure quality assurance programs are initiated and that appropriate performance standards and monitoring procedures are established in order to achieve and maintain appropriate accreditation standards.*

Now, obviously, having regard to the evidence that has been heard today, I take it you would accept that insofar as they were your responsibilities, you failed to meet them for the late Mrs Aalberts and her family?

MS NEELEMAN: I have.

MR KNOWLES: Now, in that regard, that brings me to the next part of your statement. There is on the next page, from paragraph 4 onwards, an apology, I take it, and that is – really, takes up the rest of this first statement, doesn't it, Ms Neeleman?

MS NEELEMAN: Yes, it does.

MR KNOWLES: Now, can I ask you this: have you at any prior time, you or anybody else, the Board of Directors, somebody else in management, has anyone provided a written apology directly to the late Mrs Aalberts' family in the past?

MS NEELEMAN: We have not. I - - -

MR KNOWLES: And there's no good reason for that not having occurred by way of giving a written apology at some stage in the past, is there?

MS NEELEMAN: Well, we were in contact with the complaints people, and I had, on several occasions, asked the person that we were dealing with whether we could meet or whether there was some way in which we could offer an apology, and her advice to me, on several occasions, was, "It is not yet the time for you to do that."

MR KNOWLES: Well, the - - -

MS NEELEMAN: And I think I say that in my statement.

MR KNOWLES: The complaint was finalised in April.

MS NEELEMAN: Yes.

MR KNOWLES: Had you planned to make any move to provide a written apology directly to the late Mrs Aalberts' family from the board or management at any time since April of this year?

MS NEELEMAN: No, I had not.

MR KNOWLES: Now, on the same page of your statement, at paragraph 8, you've said:

> *No excuses can be made that will ever make up for the pain and suffering experienced by Mrs Aalberts and, because of this, her family.*

And I take it when you say, "no excuses can be made", you mean excuses for delivering – for not delivering proper care to her and, effectively, as a result of that, there being an adverse effect on her quality of life.

MS NEELEMAN: Absolutely, that's what I mean.

MR KNOWLES: Now, at paragraph 10 of the statement, do you see that there is a reference there to staffing issues that existed at Avondrust and about halfway through the paragraph, you have said:

> *There had been several staff changes because long-term staff were retiring and the team was struggling to accept new people. In addition, there were several times when gaps were identified and these issues were not reported through to*

senior managers and myself, as appropriate, as staff were protecting other staff.

That seems to be in the nature of seeking to cast some blame in all the circumstances on staff for not reporting identified gaps and the like to managers, would you agree?

MS NEELEMAN: It has some element of blame. I can't – I mean, obviously that's written that way. We wouldn't talk about it in terms of blame within our MiCare culture; that we would talk about it in terms of coaching. I often talk to staff and just recently in talking with almost 100 per cent of the staff in our organisation, I talk about it is like playing tennis, we call fault, and then we go back and look at what's causing this problem, and how can we work together to correct this. And, unfortunately, what we weren't hearing until probably some time in February, were that there were issues between staff and not – the clinical staff and the management staff who were not clinicians, were having difference of opinions on how care should be delivered.

MR KNOWLES: So I take it they're matters that really go to culture and leadership at MiCare, aren't they?

MS NEELEMAN: They are.

MR KNOWLES: And they're matters, as well as the day-to-day operations that you've referred to earlier, that are ultimately your responsibility.

MS NEELEMAN: They are.

MR KNOWLES: And then obviously the board is above you. Now, can I take you to paragraph 13 of your statement. You see there you say:

We met 44 outcomes in the review audit in April 2018 and as with our financial audits we rely on the evidence collected by the Aged Care Accreditation Agency to confirm our own internal findings.

Again, it seems there that you really tried to cast the blame on the regulator in the sense that there's not an acceptance that it's really your responsibility and I should say when I say "your", I mean MiCare's responsibility to ensure the quality and safety of the care that's provided to residents at its facilities.

MS NEELEMAN: We would normally, in any accreditation visit, get feedback from assessors if they had found any gaps in our care. And on this occasion we did not get any feedback that there were gaps or improvements that we could be making. We had addressed several issues that we identified in February or at least thought we had addressed and this would just confirm that we're back on track.

MR KNOWLES: Sorry, this February is a reference to February 2018?

MS NEELEMAN: 2018, yes.

MR KNOWLES: And the previous February was previously 2019, was it?

MS NEELEMAN: Sorry, I'm talking about the issues we found in 2018 in February. We then had worked – had given staff feedback about where things needed to be improved. We then had the visit in April 2018 where the feedback from the assessors appeared to be, well, was in evidence, that they did not find any issues that we should be concerned about.

MR KNOWLES: But you do accept, don't you, that ultimate responsibility in terms of provision of quality clinical and personal care rests with the approved provider, not the regulator.

MS NEELEMAN: Absolutely, yes, that's true.

MR KNOWLES: And paragraph 13 of your statement seems to be putting that responsibility at the regulator's feet, to some extent.

MS NEELEMAN: To some extent, yes.

MR KNOWLES: Now, can I take you to paragraph 19 of your statement.

MS NEELEMAN: Yes.

MR KNOWLES: And the first sentence there, you say:

The funding does not cover the cost of delivering the care required.

MS NEELEMAN: That's true.

MR KNOWLES: Now, is this another instance in which despite having said earlier that there are no excuses, you seem to be looking to apportion some blame on the lack of funding for deficiencies in the care at Avondrust for the late Mrs Aalberts.

MS NEELEMAN: I think it's extremely difficult in the current funding regime where the funding doesn't meet the requirements of accreditation or care and we are not alone in speaking out about the level of funding where almost 50 per cent of providers today are not making any surpluses and are in fact losing money and I don't think the funding is keeping up with the complexities of care that we're seeing in our residential aged care facilities and funding received by hospitals is more than five times what we get every day for providing that care.

MR KNOWLES: Are you saying, though – is paragraph 19, or the first sentence in that paragraph, in effect a statement that a lack of funding was the reason why the late Mrs Aalberts didn't receive the care that she should have?

MS NEELEMAN: No. No, there should be no excuse.

MR KNOWLES: Now, can you go to paragraph 22 of your statement.

MS NEELEMAN: Yes.

MR KNOWLES: And you see in the second sentence of that paragraph you refer to increased regulation. Now, is this another instance where you're making a reference to some issue that you've confronted by way of – despite having said there's no excuse, by way of excuse for what has occurred?

MS NEELEMAN: No, because I'm actually talking about standards that have come in from 1 July and part of those new standards require us to educate residents in particular when they're making – taking risk, and family members also, they are the decision making but what I'm just purely saying is that when we allow people to make decisions, we are still held accountable for those decisions in the new system. And it will be a period of time before the industry is able to see how that is interpreted.

MR KNOWLES: So are you, in effect, saying that what appears in paragraph 22 is not really relevant to the apology that you have given to the late Mrs Aalberts' family?

MS NEELEMAN: No. And I guess - - -

MR KNOWLES: You agree with me.

MS NEELEMAN: I agree with you. I guess what I'm saying is I respect people's decision-making ability. So we respect that people make a decision not to have treatment or - - -

MR KNOWLES: Do you agree that despite having said that no excuses can be made, in paragraph 8 of your statement, you then proceed to continue, perhaps not with paragraph 22 but in other respects to seek to make excuses for what occurred.

MS NEELEMAN: It was not my intention to.

MR KNOWLES: Thank you. Now, just on what you've said about respecting people's choices, that's part of the philosophy of the Eden Alternative, isn't it?

MS NEELEMAN: Absolutely.

MR KNOWLES: And you are a founding member of Eden in Oz.

MS NEELEMAN: That's correct.

MR KNOWLES: So that's the Australian and New Zealand incarnation of the Eden Alternative; is that right?

MS NEELEMAN: Yes. That's right.

MR KNOWLES: Now, I take it, despite being a founding Director, you are no longer a Director of Eden in Oz.

MS NEELEMAN: That's correct. I'm no longer a Director, and haven't been since about 2007.

MR KNOWLES: Thank you. In your statement at paragraph 16 on the page which is presently displayed on the screen, you say that we, and I take that to be MiCare, works within the Eden philosophy.

MS NEELEMAN: Yes.

MR KNOWLES: Can you just tell the Royal Commission what your understanding is of the Eden philosophy?

MS NEELEMAN: The Eden philosophy is, from my point of view is all about relationships. It is about empowering, firstly, staff to work with residents to be able to make decisions. I know that Sally talked about resident-directed care and so we would subscribe to that, that's really, we want to be hearing from the resident about the care that they want to receive and we would respect that. That even those living with forgetfulness would be able to determine – tell us in various ways what they want and what they don't want and we need to be listening to that. It doesn't mean that – and principle 7 talks about medical treatment being the servant of good quality of life, not its determinant. I would never say we should not be delivering good medical care. I think that's absolutely so important.

MR KNOWLES: So the philosophy obviously doesn't permit less than proper quality clinical care.

MS NEELEMAN: Absolutely it doesn't. No.

MR KNOWLES: That's a baseline expectation - - -

MS NEELEMAN: That is a base – it really is about the relationships that we have.

MR KNOWLES: Yes. And in that sense I take it you would say it's directed to quality of life.

MS NEELEMAN: Absolutely. It's about – and it's about giving people the ability to continue in their decision-making, because so often when we come into aged care we just lose everything. Anything that we have been able to do at home we are no

longer able to do in the new home that we are being – that we're in. And it should just be, as Sally said, a change of address.

MR KNOWLES: So in that regard, and accepting those admirable aspirations, you acknowledge though, as you said a moment ago, that good person-centred clinical care is a vital underpinning of good quality of life and that goes to the question of perhaps that's the way that, that underpins the Eden philosophy as well. You would accept that?

MS NEELEMAN: Yes.

MR KNOWLES: Now, you are an Eden associate.

MS NEELEMAN: That's right.

MR KNOWLES: What did you have to do to become an Eden associate?

MS NEELEMAN: It's a three-day training. Subsequent to that, though, because of my position on – as a board member, I also did further trainings with Bill Thomas and in fact led trainings on the Eden Alternative over a period of five or six years while I was chairperson.

MR KNOWLES: Did that lead you to becoming an Eden mentor?

MS NEELEMAN: An Eden mentor is, I guess, a sign of respect. I would work with other organisations in helping them develop their Eden principles and the way forward.

MR KNOWLES: Right. So do I take it from that, that you would regard yourself as something of an expert in implementing the Eden philosophy?

MS NEELEMAN: Yes, every organisation does it differently but certainly I understand the Eden principles at hand. I'm confident that I can teach those.

MR KNOWLES: You've mentioned a few times now the evidence of the Eden in Oz chief executive officer, Sally Hopkins, that was given to the Royal Commission last Thursday in Darwin.

MS NEELEMAN: That's right.

MR KNOWLES: And you know that her evidence also was that Avondrust no longer appears on the Eden in Oz website as a registered home.

MS NEELEMAN: That's correct.

MR KNOWLES: And, effectively, as I took her evidence to mean she was saying that it was no longer fully registered by Eden in Oz as an Eden accredited home.

MS NEELEMAN: That's right.

MR KNOWLES: Do you recall also that in her evidence she essentially made clear that for the purposes of Eden, the Eden Alternative, accountability begins and ends with the leaders: the board and senior management.

MS NEELEMAN: Yes.

MR KNOWLES: And I take it you would embrace that proposition?

MS NEELEMAN: Absolutely.

MR KNOWLES: Now, in those circumstances, where there has been that removal of Avondrust from the Eden website, how does that reflect on your status as an Eden associate and an Eden mentor?

MS NEELEMAN: At this stage, I haven't been advised that there's any change in my status with Eden, that our other homes in Kilsyth still remain fully accredited Eden homes and that we would need to restart the Eden process again at Avondrust, no different than we will be doing with our facility in Queensland. And we've just put through 95 per cent of our staff on two-days training in relation to what the Eden principles mean, in relation to the new standards, because I think they work very much hand-in-hand, and I've worked alongside one of the Eden trainers in re-enforcing that with staff.

MR KNOWLES: Perhaps I wasn't very clear in my question, but how do you think it reflects on your status as an Eden associate and Eden mentor, that Avondrust has been removed from the Eden in Oz website?

MS NEELEMAN: I am – I'm very saddened by the fact that Avondrust has been taken off. I don't believe it challenges my belief in Eden or the fact that I can give good advice on Eden.

MR KNOWLES: Now, can I take you to the document at Tab 226 in the tender bundle. Now, that's a page from the MiCare website that refers to MiCare being committed to the Eden alternative. Now, in respect of Avondrust, which is no longer on the Eden in Oz website as a registered home for the purposes of that accreditation that is given by Eden in Oz – do you think this might suggest some association that otherwise presently doesn't exist?

MS NEELEMAN: It doesn't – whilst we're not accredited for Avondrust Lodge, it doesn't mean that we've moved away from the principles at that facility. I think we're still working very hard at returning to those principles and meeting all the required outcomes for Eden. I don't think, as an organisation, we've moved away from it. I think we lost some of the structure that we needed to maintain Eden, and I think we're very sorry that that's happened. But I think it's where we want to be again at that facility.

MR KNOWLES: I think you mentioned a moment ago for instance that there has been a recent two-day training for 95 per cent of staff. Was that at Avondrust or generally across MiCare?

MR KNOWLES: Across MiCare, all of MiCare, and also staff from Avondrust attended that training. It's being attended by managers, senior managers, the whole organisation, including our settlement-services people, which is another arm of our business, because I believe that that's the way forward for us, that at the end of the day, relationships are the most important thing when we are delivering care, whether that's in settlement services, residential aged-care or home care, that if you have a relationship with someone, then you actually care better for them. And so having that relationship is really important, and I think in this industry we so often struggle with professional boundaries, don't get too close, and yet the very thing that is left in the lives of our elders is their story, what is, what was their life, and the more we get to know that story, the better our care is for them. I don't – I'm not saying that it should be any less, but if you are able to understand what's important to someone, then – I think that's essential for delivering good care, like I believe that being able to speak the person's language is absolutely essential, because if you can't speak the language, you don't know what they're saying. Body language, similarity in words do not purvey what the person is actually saying.

MR KNOWLES: Mrs Neeleman, I was just asking you about training.

MS NEELEMAN: Sorry.

MR KNOWLES: And in that regard, you will recall that you received a report from Ansell in February of this year, in which, talking about the Eden philosophy and Eden training, they reported to you that most staff hadn't received training in respect of Eden matters for the past few years. Do you recall that?

MS NEELEMAN: I do recall the report. I actually don't believe that's the case, because there were regular learning circles held at the facility, which is where we share Eden information. But I don't – people had not done a three-day training, which is what we would call the associate training. And I think that there's a difference there.

MR KNOWLES: Now, can I ask you – I think you've already answered some questions about provision of clinical care and the fact that that's something that is an essential part of providing residential aged-care. You've agreed with that proposition. And that's something that occurs by, principally, doctors and nurses. So they are the people with expertise in the provision of such clinical care; you'd agree?

MS NEELEMAN: Yes.

MR KNOWLES: And I think you mentioned earlier that you have had a registered nurse on your board, Ms Bridges.

MS NEELEMAN: That's right.

MR KNOWLES: And when did she join the board?

MS NEELEMAN: Well, she came on to the board from Prins Willem – from Netherlands Retirement Villages Association. So – at the merger in 2017.

MR KNOWLES: I see. And she resigned last year.

MS NEELEMAN: Due to ill health.

MR KNOWLES: Yes. And so at that time how long had she been on the Board?

MS NEELEMAN: 12, 18 months.

MR KNOWLES: So she might have attended six to nine meetings?

MS NEELEMAN: That's true, but I was also in contact with Pam at the Netherlands, because I was a board member there as well, and we would often have discussions about matters pertaining to clinical – broad-brush clinical matters.

MR KNOWLES: Very informal discussions, I take it.

MS NEELEMAN: Yes, informal, as colleagues.

MR KNOWLES: Yes. So she was the sole person with any clinical experience on the Board.

MS NEELEMAN: Peter Vat is a provider of medical equipment to the hospital sector but through his business is also an infection-control expert. He deals in infection-control matters all the time.

MR KNOWLES: He's got a bachelor of applied science; he's not a doctor or a nurse. Is he.

MS NEELEMAN: No, he's not.

MR KNOWLES: He doesn't have clinical expertise.

MS NEELEMAN: No.

MR KNOWLES: Now can I take you to tab – anybody else by the way that, you say, has any clinical expertise on the Board other than Ms Bridges, who's no longer there?

MS NEELEMAN: No.

MR KNOWLES: So present and since – when was it? October 2018? You haven't had a person on the Board with clinical expertise.

MS NEELEMAN: That's correct.

MR KNOWLES: Is that something that's been of concern to the Board?

MS NEELEMAN: The Board is actively trying to recruit someone with clinical expertise.

MR KNOWLES: And when did they start doing that?

MS NEELEMAN: They are now.

MR KNOWLES: When did they start, though, seeking to do that?

MS NEELEMAN: With – prior to Pam leaving the Board, but we haven't found a person .....

MR KNOWLES: So sometime last year.

MS NEELEMAN: Yes.

MR KNOWLES: Okay. Now, can you go to – if I can take you to the document at Tab 235 of the tender bundle – this is a one-page review document prepared by two members of the Board. From their first name can you identify them for the Royal Commission?

MS NEELEMAN: Yes. They are Loes Wester-Veld and Micha Helbig.

MR KNOWLES: Yes. And what's their backgrounds?

MS NEELEMAN: Neither of them have clinical expertise, but they are – they've currently just done the Australian company-directors course. One works as a – in sales-management. The other works in HR.

MR KNOWLES: Thank you. Now, they've obviously conducted a review of Board governance, and would you accept that the results of their review is that the Board governance was found wanting in a number of areas?

MS NEELEMAN: This is a draft paper that hasn't – is being discussed at our Board meeting in July, mainly because they – Micha had to go overseas and was unable to present at the May Board meeting. So it hasn't been discussed at Board meetings, but, yes, that's certainly what it's indicating, that there are – I'm not sure that the rest of the Board agrees with that, and I think that discussion still has to be made.

MR KNOWLES: I see. But, certainly, two members of the Board have expressed a view at some time this year, I take it.

MS NEELEMAN: Yes.

MR KNOWLES: Do you know the date when the document was prepared and provided to the other members of the Board?

MS NEELEMAN: I – it hasn't – I don't have the date; no.

MR KNOWLES: Can you give us an estimate?

MS NEELEMAN: I know it was after Christmas, and it may have been as late as April.

MR KNOWLES: Thank you.

MS NEELEMAN: Well, they say at the bottom of the page that they have – they want to organise a workshop at our chairperson's office for the 15th of April. That didn't happen.

MR KNOWLES: Is it likely from that, that the document was prepared and provided to the other members of the Board in late March or early April or sometime in the weeks before .....

MS NEELEMAN: We had a Board meeting in March; so that may have been the case.

MR KNOWLES: All right. Well, you see that there is in the assessment of these two directors some areas where compliance is low, compliance against NFG governance principles as published by the AICD.

MS NEELEMAN: "not-for-profit".

MR KNOWLES: "not-for-profit governance principles as published by the Australian Institute of Company Directors", is it?

MS NEELEMAN: Yes.

MR KNOWLES: Now, the first area where they found compliance to be low was risk-management.

MS NEELEMAN: Yes.

MR KNOWLES: And two other areas were conduct and compliance, and culture.

MS NEELEMAN: Yes.

MR KNOWLES: Now, would you accept that those matters really go to, also, the capacity for the Board to maintain proper clinical governance in respect of the facilities run by MiCare, including Avondrust?

MS NEELEMAN: On the surface, yes.

MR KNOWLES: Yes. These are matters, though, conduct and compliance, for instance, and risk management, that would go to clinical governance. Wouldn't they.

MS NEELEMAN: Yes, they would.

MR KNOWLES: And this review, accepting that it's only the view of two members of the Board, would suggest that at a corporate board level there have been failings in respect of clinical governance.

MS NEELEMAN: Yes.

MR KNOWLES: And irrespective of this report, would you accept that anyway?

MS NEELEMAN: Yes.

MR KNOWLES: Now, can I take you to your second witness statement, the supplementary witness statement, and you, in that supplementary witness statement, set out a description of existing reporting arrangements for clinical governance purposes.

MS NEELEMAN: Yes.

MR KNOWLES: And that appears, as I understand it, at the bottom of the first page, and do you see there you refer to how the Board was advised of incidents and clinical issues as part of reports for the bi-monthly Board meetings? So that's in your reports that you give to the Board once every two months. That's where incidents and clinical issues are referred to the Board, in the ordinary course.

MS NEELEMAN: In the ordinary course, yes.

MR KNOWLES: And then you say that sometimes, though, you would telephone the Chairperson of the Board and advise him of the nature of the incident and action being taken if the matter was of a serious nature.

MS NEELEMAN: I would certainly ring him, and then we would discuss on how we would take that forward.

MR KNOWLES: Yes.

MS NEELEMAN: Yes.

MR KNOWLES: What could the Chairperson do without speaking with the remaining members of the Board?

MS NEELEMAN: Nothing. His advice normally would be, "Let's just send an email out to the board advising them." But I have to say, there have been very rare circumstances where matters like this arose.

MR KNOWLES: And you say that in your statement. You say:

> *There have been rare incidences of this occurring, as we have not had a serious incident for many years.*

Do you mean you hadn't had a serious incident for many years before the issues arising in respect of the late Mrs Aalberts?

MS NEELEMAN: Absolutely. And I think our records with the compliance and the department speak for that.

MR KNOWLES: Now, you had other incidents around the same time of the incident relating to the late Mrs Aalberts, didn't you?

MS NEELEMAN: There were at that stage, once we got the first complaint, two other complaints - - -

MR KNOWLES: Yes.

MS NEELEMAN: - - - from the same facility, yes.

MR KNOWLES: Yes, and you're aware of the Aged Care Quality Agency's report setting out findings in respect of 14 residents - - -

MS NEELEMAN: I am.

MR KNOWLES: - - - I think it is.

MS NEELEMAN: I am, yes.

MR KNOWLES: Were they incidents that you were aware of before the agency was?

MS NEELEMAN: No.

MR KNOWLES: So these were not matters that could be – sorry, going back a step. Presumably, given that the agency found them to be matters involving serious risk, they are matters that you would regard as serious as well.

MS NEELEMAN: Absolutely.

MR KNOWLES: And so these were not matters that were the subject of any telephone conversation, whatever that might have achieved, between you and the chairperson?

MS NEELEMAN: No, they were not.

MR KNOWLES: In respect of Ms Aalberts' circumstances, on the second page of your second statement, if we can go over to the next page, you say in the second paragraph on the second page that:

> *With respect to this incident, the chairperson was advised by phone as soon as the assessors arrived on site to investigate the complaint.*

So, again, your phone call to the chairperson occurred after the regulators had arrived on the scene. This is the phone call.

MS NEELEMAN: Yes. Yes.

MR KNOWLES: Yes. But you do say that you had raised the complaint issue with the chairperson verbally:

> *…as we had seen each other regularly as we were dealing with a staffing issue in Brisbane.*

MS NEELEMAN: That's right.

MR KNOWLES: Now, how – can you say when that was when you raised it verbally with the chairperson?

MS NEELEMAN: No, I don't know exactly the date.

MR KNOWLES: Have you got a record of that conversation in Brisbane?

MS NEELEMAN: No, I don't. It was a verbal conversation.

MR KNOWLES: Right. So this is the mechanism by which there is a report of a complaint or some issue to the chair in respect of a serious incident, and there is no record at all kept in respect of that?

MS NEELEMAN: That's right.

MR KNOWLES: So you don't have any reliable indication of precisely what was said other than from your own recollection of events? There's no record of what was said on that occasion.

MS NEELEMAN: There is no – there is no record.

MR KNOWLES: All right. And in respect of the telephone conversation that you've mentioned as having occurred after the assessors arrived on site to investigate the complaint, have you got a record of that telephone conversation with the chair on that occasion?

MS NEELEMAN: No, I don't.

MR KNOWLES: Do you accept that those lack – that lack of records in respect of these matters is something that reflects poorly on the clinical governance practices at MiCare?

MS NEELEMAN: It could, yes.

MR KNOWLES: When you raised the complaint with the Chairperson verbally in Brisbane, what was the Chair's response?

MS NEELEMAN: I had received a copy of the email that we received from Mrs Aalberts' family, and I expressed to him that we were investigating that – the circumstances. There were a number of emails between staff at the facility and Robert and I in which we were gaining clarification. And we sent a response to the family, which I think my comments afterwards were that was insufficient as a response.

MR KNOWLES: Was that the response that Mr Rozen, QC, took Mr van Duuren to, that talked about Commonwealth funding and the like?

MS NEELEMAN: Yes.

MR KNOWLES: Yes. Now, aside from this method of reporting on clinical matters, there was also, as you mentioned earlier, clinical reports in your Executive Director report made on a bi-monthly basis to the Board. And you've explained the process by which that was prepared.

MS NEELEMAN: Yes.

MR KNOWLES: Did you – how would you vet what was provided to you by the facility managers?

MS NEELEMAN: I would have expected Robert to have vetted the information because the unit managers were reporting to him initially. And I could, at any stage, request to see the audits. We also subscribe to QPS auditing, and I also see those results and can have a look at those figures to see we're sitting on that.

MR KNOWLES: Right. Can I just – in terms of results for certain audits, can I take you to one of your Executive Director reports which is at page 6, the native page 6. At the bottom of the page in the attachments to your second statement, and the doc ID ends in .0009. Thank you. That's the document. Now, that's an example of one

of your executive director reports to the board of directors, and that's from July 2018.

MS NEELEMAN: That's right.

MR KNOWLES: Now, moving to – through that report to page – and this is doc ID .0013, native page 10 – do you see a little under halfway down the page there's a reference to internal audits conducted by MiCare and one of them relates to Avondrust Lodge?

MS NEELEMAN: Mmm.

MR KNOWLES: Now, you know that around this time, 20 July 2018, Ms Aalberts had left hospital on 11 July 2018 and evidence has been given by her daughter, Mrs Aalberts-Henderson, about pressure injury treatment and prevention and how that was, so far as she could assess, inadequate. This internal audit that's reported in your report states that in respect of 2.11, standard on skin care management, there was a 97.7 per cent pass rate and there was a low score to one instance of the care plan review to a pressure area care. This hasn't picked up anything in relation to - - -

MS NEELEMAN: No.

MR KNOWLES: - - - Mrs Aalberts' care, has it?

MS NEELEMAN: No, it hasn't.

MR KNOWLES: I think you've said that there were failings in terms of the internal audit procedures that existed at that time.

MS NEELEMAN: There were, yes, because I think the questions led to a positive response, and what we've done is we've subscribed to the LASA policies and audits that they've developed under the new standards.

MR KNOWLES: That's the industry body.

MS NEELEMAN: That's the industry body.

MR KNOWLES: What does it stand for.

MS NEELEMAN: Leading Aged Services Australia.

MR KNOWLES: Yes. So they're the industry body review and audit documents.

MS NEELEMAN: Yes, so we're moving to those, although we have looked at other providers to have a look at what they're doing because we obviously identified that huge gap.

MR KNOWLES: Yes. Can I take you from there, then, to – sorry, when you say you identified a huge gap, a huge gap between what should have been found through your internal audit processes and - - -

MS NEELEMAN: No.

MR KNOWLES: Sorry.

MS NEELEMAN: I think the gap is in the way in which the questions are asked, means that you're almost automatically going to get a tick or a compliance; whereas I think the question should be asked in a different way.

MR KNOWLES: There's a very high risk of inaccuracy in terms of your internal auditing processes in the past.

MS NEELEMAN: I think we needed a change.

MR KNOWLES: Is that a yes?

MS NEELEMAN: I think that the audit results were consistent with what – the questions we were asking. We don't know, because we didn't ask the questions, whether there was – whether we would have got a different outcome.

MR KNOWLES: I understand.

MS NEELEMAN: Because in all – in all the care that we have delivered we haven't had this adverse outcome. And so something went wrong at that facility. And I'm – you know, we – we're still delving into what is there, why did it happen?

MR KNOWLES: If your internal audit processes though have problems, it may be that you are not aware of things that are going wrong as a result.

MS NEELEMAN: But this audit would have taken place in May or June. So it doesn't reflect what's – it may have even been – I don't have the date on which that audit was done in that report. Given that the reports are written almost a month before the Board meets, it could have been an audit that had happened previously and so things may have deteriorated in that time. I can't give you that answer. We don't know the answer.

MR KNOWLES: I understand. Can I take you to Tab 231 of the tender bundle, and you see there Board agenda at the start.

MS NEELEMAN: Yes.

MR KNOWLES: On that page, and then can I take you through to the page marked .0002, which is minutes of meeting.

MS NEELEMAN: Yes.

MR KNOWLES: This is the AGM for MiCare on 11 November 2018. Then if I can move forward through to page .0009, and we will find, when it comes up, another of your reports to the Board. Do you see that?

MS NEELEMAN: Yes.

MR KNOWLES: And that's dated 7 December 2018. And do you see there, there's a heading Royal Commission into Aged Care?

MS NEELEMAN: Yes.

MR KNOWLES: And two paragraphs under that you have stated:

> *We have not been summoned to provide details to the Royal Commission as have the top 100 aged care providers. We do rank at 108. And as the Royal Commission dates for inquiry fish –*

and I take that to be finish, is meant to be finish, the word there.

MS NEELEMAN: Yes.

MR KNOWLES:

> *Finish on 30 June 2018 and our complaints and sanctions were after that time we may be fortunate and not be called.*

Now, you recall what you said earlier, you embrace what was said by Sally Hopkins about accountability at the top. How does this statement in your report promote that?

MS NEELEMAN: I guess none of us like airing our laundry. We did – we did fill in all the forms for the Royal Commission and lodged them on time in February. And I guess it was in response to not wanting to air any more dirty laundry. Having said that, there were – there are a couple of papers that we are working on now that we will still be writing to the Royal Commission.

MR KNOWLES: Well, can I just ask you about what was prepared by way of the response given by Friday, 8 February 2019. You were the person ultimately responsible for providing that response. Your name appears on the first page.

MS NEELEMAN: On the signature, yes.

MR KNOWLES: Yes. Now, there was no mention of the matters in that relating to the late Mrs Aalberts.

MS NEELEMAN: No, because it was, we were unaware - - -

MR KNOWLES: You say that's because you went by the letter and looked at matters up to June of 2018 and not beyond?

MS NEELEMAN: At that stage, that's what we were advised to do.

MR KNOWLES: Nothing stopped you from referring to Mrs Aalberts' case in your response, was there?

MS NEELEMAN: Nothing stopped us, no.

MR KNOWLES: You could have volunteered that.

MS NEELEMAN: We could have.

MR KNOWLES: It might have been helpful to the Royal Commission to know about it.

MS NEELEMAN: It indeed may have.

MR KNOWLES: Now, did you hear the evidence of Mr van Duuren earlier about the full-time equivalent figure for registered nurses. And I can take you back to the document if you would like, but that figure being at 4.23.

MS NEELEMAN: Yes.

MR KNOWLES: He said that that seems wrong. Do you agree?

MS NEELEMAN: Absolutely, I agree.

MR KNOWLES: He didn't have an explanation. Are you able to give one?

MS NEELEMAN: In sitting there looking at that figure and working out the hours that we have in now, that would be the figure that we had – we have now, about 4.23 would be the current rate. I don't know why that figure was put in. Quite clearly is not what we did at that stage and I – we were not trying to be misleading.

MR KNOWLES: Well, it's interesting that there was a reluctance to put any bad news in the report that post-dated 30 June 2018 but the good news that post-dated that time was.

MS NEELEMAN: Yes. We were – we have submitted in evidence that we were preparing another statement on what had happened at Avondrust and I think that's in the documents that were sent through to the Royal Commission. There was certainly no – our intention was to submit that document. It just wasn't going to go in on 8 February because we still were working on what was it that went wrong. And I think, you know, sharing in evidence was not – it was our intention to send that through. It just wasn't part of this initial one.

MR KNOWLES: Right. Now, can I take you back to your first statement and in that first statement at paragraph 14 - - -

MS NEELEMAN: Yes.

MR KNOWLES: - - - you refer in paragraph 14 to:

... a quality committee that oversight all our quality processes.

Is that the quality otherwise known as the quality and compliance committee?

MS NEELEMAN: That's right.

MR KNOWLES: Okay. So when was that established?

MS NEELEMAN: It's in the Board papers, much earlier than that committee started. We met in – certainly in January and in March and in May.

MR KNOWLES: Okay. So, it's a recent thing. Is that what you are telling the Royal Commission?

MS NEELEMAN: Yes, it is a recent thing. We did, however, meet with the Ansell staff and the registered nurses on our senior management team because both Anne Davy and Heather Catherwood also are registered nurses. They're part of the senior management team, but who also get Board papers so that we – it's not just Robert's view, but we have other staff who are overseeing that as well, and we have met since then.

MR KNOWLES: Now, nothing of this sort existed back in 2018 during the time - - -

MS NEELEMAN: No, it did not. It did not.

MR KNOWLES: - - - of the circumstances - - -

MS NEELEMAN: It did not.

MR KNOWLES: - - - relating to the late Mrs Aalberts?

MS NEELEMAN: No.

MR KNOWLES: Do you think it should have?

MS NEELEMAN: I think it should have.

MR KNOWLES: Now, this quality and compliance committee is – I think it said:

Undertaking oversight of all our quality processes.

Does that preparation of a clinical governance framework?

MS NEELEMAN: That's right.

MR KNOWLES: And the committee working – is this the committee that is working on preparation of that – sorry, pardon me. I withdraw that. Since October of 2018, how many times has the committee met?

MS NEELEMAN: Three or four times.

MR KNOWLES: Well - - -

MS NEELEMAN: Three.

MR KNOWLES: I put to you that it's three.

MS NEELEMAN: Yes. Okay.

MR KNOWLES: But it was the – met on the 16th of October 2018. The 19th of February 2019 and the 21st of May 2019.

MS NEELEMAN: That could be right.

MR KNOWLES: And the clinical governance framework hasn't been completed, has it?

MS NEELEMAN: It hasn't been signed off.

MR KNOWLES: Okay. Well, can I take you to the last minutes – sorry, the minutes of the last meeting of the quality and compliance committee. They are at, in your second witness statement, page .0055 in the document. Have I correctly identified that as the last set of minutes for a meeting of the quality risk and compliance committee?

MS NEELEMAN: Yes.

MR KNOWLES: And that occurred on the 21st of May?

MS NEELEMAN: Yes.

MR KNOWLES: Now, do you see that what it says in the first action item is that there is a reporting committee:

A clinical practice committee to be established and determine clinical indicators to be implemented.

So is that committee reporting to the quality risk and compliance committee to then in turn report to the Board; is that right?

MS NEELEMAN: Yes.

MR KNOWLES: Okay. And - - -

MS NEELEMAN: But there are Board members on this committee, yes.

MR KNOWLES: On both the quality risk and compliance committee - - -

MS NEELEMAN: Yes.

MR KNOWLES: - - - and on the clinical practice committee.

MS NEELEMAN: Yes.

MR KNOWLES: Who are the Board members on the clinical practice committee?

MS NEELEMAN: At this stage, we're waiting – well, there's Ignatius Oostermeyer - - -

MR KNOWLES: Yes.

MS NEELEMAN: - - - and there will be whoever we recruit into the clinical role, you know, the clinical expert on the board.

MR KNOWLES: Whom you haven't recruited since Ms Bridges left last year?

MS NEELEMAN: No, but we're currently interviewing someone who has clinical experience for that role.

MR KNOWLES: Okay. Now, the due date for that item to occur was July 2019. Has the committee been established?

MS NEELEMAN: My understanding is that committee is meeting this month.

MR KNOWLES: So it has been established.

MS NEELEMAN: Yes.

MR KNOWLES: Has it determined clinical indicators to be implemented?

MS NEELEMAN: They are meeting for the first time this month.

MR KNOWLES: Right. So, from that - - -

MS NEELEMAN: The committee has been established.

MR KNOWLES: - - - should I assume "no"?

MS NEELEMAN: They need to meet. Yes.

MR KNOWLES: Okay.

MS NEELEMAN: No. In other words, the answer is - - -

MR KNOWLES: You agree.

MS NEELEMAN: - - - they have not – yes, I agree.

MR KNOWLES: Okay. Now, can I take you to action item 2, that is – pardon me. Sorry, Operator, that's not the action item that I wish to go to. Action item 4. So this is in relation to the framework, I take it, that the definition of clinical governance as it applies to aged care MiCare is to be the subject of a working party's consideration, and the working party is to be established by July 2019; is that right?

MS NEELEMAN: They are to meet this month, yes.

MR KNOWLES: Yes. So the clinical governance framework hasn't been completed, I take it, at this stage?

MS NEELEMAN: Has not.

MR KNOWLES: In fact, am I right in thinking that the definition of clinical governance, which would be foundational to that framework, has not yet been landed on?

MS NEELEMAN: That's correct.

MR KNOWLES: All of this, I put to you, Ms Neeleman, tends to suggest that there's no undue hurry on the part of MiCare to remedy its clinical governance issues.

MS NEELEMAN: I don't – I don't actually believe that's the case, but I have to say that both Robert and my time has been taken up with preparing things for the Royal Commission.

MR KNOWLES: All right. Well, you recall in your statement, this very statement on the second page, you also say that there has been – this is back at page 2 of the supplementary witness statement, you say that there has been no quality manager since March 2019.

MS NEELEMAN: Yes. The end of March.

MR KNOWLES: That's an important position, isn't it?

MS NEELEMAN: We've been advertising. We've – it's with a recruitment company. They have been unable, until this week, to provide any names to us. Yes.

MR KNOWLES: Is anybody at MiCare at least acting in the role?

MS NEELEMAN: Yes. Both Heather and Anne are doing a dual role in overseeing that.

MR KNOWLES: All right. Now, given the evidence that you've already provided to the Royal Commission, I take it that you – I think you accept that there was a lack of proper clinical governance at MiCare in 2018 at least in respect of Avondrust.

MS NEELEMAN: Yes.

MR KNOWLES: Having regard to what I've taken you to in terms of appointment of a quality manager, clinical governance frameworks, those other matters, it's fair to say that the problem presently remains unresolved.

MS NEELEMAN: Yes, that's right.

MR KNOWLES: Okay. Now - - -

MS NEELEMAN: With a heightened awareness of any incidents need to be put, need to be up the ladder and Anne and Heather will be involved, as is our nurse practitioner.

MR KNOWLES: Who is that, sorry, your nurse practitioner?

MS NEELEMAN: That is Kate van Duuren.

MR KNOWLES: Kate van Duuren. Okay. And is she related to Robert van Duuren?

MR KNOWLES: Kate is Robert's wife.

MR KNOWLES: Okay. Now, Mr van Duuren was taken to the document at Tab 211 of the tender bundle. Do you recall that document, the - - -

MS NEELEMAN: Yes, I do.

MR KNOWLES: - - - Ansell Strategic memorandum?

MS NEELEMAN: I do.

MR KNOWLES: And that was addressed to you and dated 12 February 2019.

MS NEELEMAN: That's right.

MR KNOWLES: And I mentioned it earlier in respect of Eden - - -

MS NEELEMAN: Yes.

MR KNOWLES: The Eden philosophy, which is referred to over the page, at page 2 at the top of the page, where they've said there has been no formal training for staff in relation to the model for the past few years. Do you agree with that in terms of that assessment of there being no formal training for staff in relation to the model for the past few years?

MS NEELEMAN: I would say that running learning circles is a formal way of training in Eden because Eden is about sharing ideas. It's not a, "I'm going to stand at the front and give you a lecture." It is not a very formalised way of teaching. It's the same as we would not run residents' meetings in the more formal sense, that you run them as in a household. So everybody has a voice and you listen to that voice. That would be the tool that Eden would use.

MR KNOWLES: I'm not sure I follow what that means in terms of how the training would actually proceed for staff.

MS NEELEMAN: We would look at a principle. We would share some stories about how that principle might be – might play out in the home, and then we would ask for people to give us examples of what they may have seen happen in regard to that principle. So if you look at the first principle, which is about loneliness, helplessness and boredom, are the plagues in aged care, they are not cured by medicine. "What are examples of loneliness or helplessness or boredom that you might see in this home? Can you identify those things?" Now, I see that as being formal training, even though - - -

MR KNOWLES: Okay.

MS NEELEMAN: - - - it's done in an informal setting.

MR KNOWLES: So that type of discussion would, in your mind - - -

MS NEELEMAN: That's – yes.

MR KNOWLES: - - - involve formal training.

MS NEELEMAN: Yes.

MR KNOWLES: Okay.

MS NEELEMAN: Yes.

MR KNOWLES: All right. Well, one of the matters you will recall that came up in the evidence given by Mr van Duuren was the question of whether or not the seven minutes per resident per day for the RNs was ever raised with the Board. Can you enlighten the Royal Commission about that? Was that matter ever raised with the Board?

MS NEELEMAN: No. The Board was aware of our model of care, which we introduced back in – in 2002 as a response to not being able to recruit registered nurses, and at that stage there was – there weren't enough registered nurses. The model of care talks about the registered nurse being responsible for the things that, in many ways, only a registered nurse can do. So the team leadership, which is often regarded – is often the role of the registered nurse in a normal – in another nursing home, in our case, the registered nurse was taken away from having to deal with the roster, having to deal with a whole range of management-type functions, and so they were left just to provide the medical care, the clinical care services, that they had. Now, we - - -

MR KNOWLES: That figure of seven minutes per resident per day, though, it's a pretty stark breakdown of where things were at; don't you agree?

MS NEELEMAN: Absolutely, and we acknowledge - - -

MR KNOWLES: And that's the sort of information that would probably jolt a Board to think about what might be done.

MS NEELEMAN: Particularly when clinical outcomes are not being met.

MR KNOWLES: Now, can I take you to the last part of this report where the Ansell Strategic people, the nurse adviser and administrator team under heading 5, Future Considerations, say:

> *We remain concerned that the home has not yet achieved a sustainable level of performance in relation to leadership, lifestyle and clinical management at the home. The lack of robust clinical processes and reporting provides an ongoing risk for the home. This is not only in relation to a possible catastrophic clinical event but also in relation to meeting the new Aged Care Quality Standards, meeting the expectations of the stakeholders and preserving the reputation of the organisation.*

They're all fair concerns, given the failure to move on with clinical governance since the events of 2018, aren't they?

MS NEELEMAN: We have taken enormous steps. However, at the time that they were writing the report, we still had a number of agency staff working. Agency staff create – create gaps simply because they don't know the resident. And so that risk was there. We now have a permanent staff in our registered nurses. We now have a permanent facility manager. We – Anne Davy, as the General Manager, acting

General Manager residential services, is on-site two or three days a week. We are doing everything possible to make sure that the systems are there and in place and any incident is investigated.

MR KNOWLES: But it's more than that, isn't it, Ms Neeleman? There needs to be some sort of proactive approach that is seeking to anticipate where risks might arise, rather than simply investigating incidents after they've occurred.

MS NEELEMAN: Absolutely, and we – we employed the quality manager's position so that they too could get involved in – in making sure that we were ahead of any incident that was happening. Unfortunately, the person was recruited into another residential aged care facility and it's taken some time, but we – we work with a really heightened awareness of what can go wrong and are really committed to making sure that we fix the problems before they occur, if we can at all see them. And not only at Avondrust but in our other homes, we've addressed that issue, of the registered nurse as well.

MR KNOWLES: But in a clinical governance sense, you couldn't say, could you, that Ansell Strategic has given MiCare a clean bill of health, has it?

MS NEELEMAN: Not back in February. I don't know whether they would have a differing opinion today.

MR KNOWLES: I don't have any further questions for Ms Neeleman, Commissioners.

COMMISSIONER TRACEY: Yes, thank you, Mr Knowles.

COMMISSIONER BRIGGS: I just want to ask you one small question and it's in relation to your first statement, if I can find it. In para 22 of that statement, you say this, Ms Neeleman.

> *We cannot deliver the new standards of empowering the clients to make decisions if we do not also empower the staff also to make decisions.*

Which I agree with but I think there's a fundamental add-on to this and I would like to hear your view. Those staff should be empowered to make decisions within their level of expertise and I think this is part of the challenge we have seen.

MS NEELEMAN: I absolutely agree. I don't disagree with that at all, and we would train staff and have a number of competencies. So some of the things that came up at Avondrust are not consistent with what happens in our other facilities. Like, we would check that people were competent. All our staff are at least Certificate III. Our enrolled nurses are also given additional training. And so hindsight is a wonderful thing, absolutely useless in changing what's happening but we have re-looked at what it is that people need to be having and training has

become a big part of what we're doing; whether that's one-on-one training or whether that's group training.

Often an issue can be one person not having the knowledge. And I'm aware that over the years when we've had a resident admitted that had a tracheostomy that we would upskill the staff working in that household or who may be coming in to deliver care in that household to have the skills to do what they needed to do.

COMMISSIONER BRIGGS: Would you agree with me that – well, listening to your evidence, let me put it to you a different way, listening to your evidence, I can see that you are quite well-intentioned and committed to the Eden philosophy but what should accompany the Eden philosophy is a level of rigour around governance, clinical responsibility and ensuring that nursing care is delivered appropriately and in a timely fashion.

MS NEELEMAN: I don't believe that Eden is responsible for what happened at Avondrust. I think Eden actually says that and that is what we have practised in the past. I think that we upskill staff but when you have PCAs and enrolled nurses working in the household and they get to know a resident really well because we have the same staff working with the same elder every time they come, they pick up a variance in that resident much faster than a clinician who is coming in on a daily round or checking to see you know, are there any issues in the household, and what we have found in the past is that the staff member would call in the clinician, the CCC and say, "There's something going on with Mary. I don't know what it is but Mary is not eating, Mary is not as well as she could be" and we would start – and the clinician would start to investigate what happened. That's the role of the carer. That's not the role of the registered nurse. The registered nurse needs to be looking at the physical outcomes for the resident.

COMMISSIONER BRIGGS: At seven minutes a day. Okay. Thank you.

COMMISSIONER TRACEY: Anything arising out of that, Mr Knowles?

MR KNOWLES: No, there's nothing that I have.

COMMISSIONER TRACEY: Thank you, Ms Neeleman, for your evidence. You are excused from further attendance.

<THE WITNESS WITHDREW [5.25 pm]

COMMISSIONER TRACEY: Mr Knowles we have got an early morning site visit ahead of us. Has the time been considered as to when the hearing should resume tomorrow?

MR KNOWLES: Yes, there are two matters that I would seek to raise with you just briefly, Commissioners, the first is that in the tender bundle there is an agreed chronology at item 224, Tab 224 of the tender bundle, and that represents a position that is agreed between the parties at the bar table. I just thought I should highlight that at this juncture. The second point that arises out of the inquiry that you, Commissioner Tracey, have raised is that certainly for our part, a 10am start would be very adequate and we're in the Commission's hands, of course.

COMMISSIONER TRACEY: Very well. The Commission will adjourn until tomorrow morning at 10am.

MATTER ADJOURNED at 5.26 pm UNTIL TUESDAY, 16 JULY 2019

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