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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**

BRISBANE

9.36 AM, MONDAY, 5 AUGUST 2019

Continued from 31.7.19

DAY 42

**MR P. GRAY QC, counsel assisting, appears with MR P. BOLSTER, MR R.
KNOWLES, MS Z. MAUD and MS B. HUTCHINS**

**MR G. KENNETT SC appears with MR J. ARNOTT and MR DAITON for the
Commonwealth of Australia**

**MR M.J. COPLEY appears with MR SAMMON for the Queensland Ambulance
Service**

**MR M. BORSKY QC appears with MS M. NORTON and MR J. RUDD for Japara
Healthcare Limited**

MR G. COVENEY for HelpStreet Villages (QLD) Pty Ltd

MR B. HALL for People Care

MR G.W. DIEHM QC appears for Telecia Tuccori

COMMISSIONER TRACEY: Please open the Commission. I would like to start by acknowledging the Turrbal and Baranggan people, who are the traditional custodians of the land on which we meet today, and I'd also like to pay my respect to their elders past and present and extend that respect to other Aboriginal and Torres Strait Islander people who may be present. Yes, Mr Gray.

MR GRAY: Thank you, Commissioner. I appear with Mr Paul Bolster, Mr Richard Knowles, Ms Zoe Maud, and Ms Brooke Hutchins. On behalf of the counsel assisting team also, I wish to acknowledge the traditional owners of the land where we gather together today and recognise that this land has always been under their custodianship. I pay my respects and our respects to elders past and present and to emerging community leaders.

The focus of this hearing is on the way the Commonwealth regulates the providers of aged care and the quality and safety of their services. A number of reviews and inquiries in recent years have touched on aspects of the regulation of aged care quality and safety. These include multiple parliamentary inquiries, reports by the Productivity Commission, the 2017 report of the Australian Law Reform Commission entitled Elder Abuse: A National Legal Response and the report by Kate Carnell AO and Professor Ron Paterson ONZM following Oakden. In addition, the Royal Commission has already heard evidence in virtually every one of its hearings that incidentally sheds light on aged care regulatory processes.

You have heard from care recipients, their families and friends, and others including aged care workers in community forums and through public submission about their concerns with the Commonwealth's regulation of the quality and safety of aged care. Some of the concerns they pointed to include repeated instances of substandard care experienced at the same facility, physical assaults and abuse of older people in care, their perception that the regulatory system does not adequately respond to concerns or promote the interests of care recipients or their families or hold providers to account for substandard care, a complaints system that's difficult to access and can be unresponsive to the concern of complainants, the difficulties in obtaining reliable and useful information about the performance of providers, the absence of any sense of justice or resolution for people who are unhappy about the services that have been provided.

This hearing will build on that body of evidence. In addition, we'll be hearing evidence from the officials responsible for aspects of the performance of regulatory functions and for the design of the regulatory framework. I wish to speak about the scope of the hearing now. The primary purpose of aged care quality and safety regulation is to protect and enhance the health and wellbeing of care recipients. An effective regulatory system will deter, detect and respond appropriately to actions that cause or have the potential to cause harm. In addition, person-centred care requires a regulatory system that places the needs and aspirations of care recipients at its centre and provides a voice for care recipients in how the quality of care is defined and assessed.

As Dr Trigg explained at an earlier hearing, regulation should encourage and support good practice. Before I explain the particular issues for inquiry in this hearing, I will say something about contextual matters that will not be a focus of inquiry this week. The regulation of quality and safety does not take place in a vacuum. Quality and safety outcomes are heavily influenced by the incentives created by the funding and information framework within which services are provided. However, we will leave matters of that kind for another day. The statutory framework: the legislation, rules and principles relevant to quality and safety regulation are explained in background paper 7 entitled Legislative Framework for Aged Care Quality and Safety Regulation that has been published on the Royal Commission's website recently.

The background paper also describes at a high level the current accreditation, compliance and monitoring and enforcement processes of the Aged Care Quality and Safety Commission, "the commission". These processes as well as the equivalent processes of its recent predecessors, referred to as "the agency" will be explored in more detail with witnesses during the course of this week. The current regulatory model for residential aged care is centred on an accreditation system that involves the cyclical review of approved providers against minimum standards.

This model of regulation was criticised in the Carnell and Paterson report in October 2017. We will be inquiring into the progress of implementation of certain recommendations of the Carnell and Paterson report during the hearing now we are nearing nearly two years since those recommendations were made. Until 30 June 2019, providers were assessed against 44 standards in relation to residential aged care. From 1 July 2019, providers are expected to meet eight standards that are common across home care and residential care. Assessments of provider performance against the standards are presented in terms of a simple "met" or "not met" rating. The overwhelming majority of providers are assessed in their cyclical accreditation reviews as meeting all of the standards.

Carnell and Paterson noted that in 2016 nearly 98 per cent of providers met all 44 outcomes across the standards. The Productivity Commission, in its review of government services, found that, as at 30 June 2017, 98.2 per cent of 2643 reaccredited aged care services had been given three-year accreditation, which is the longest period and really the default period for which accreditation is granted. In light of the accounts the Royal Commission has heard over the past six months, this suggests the cyclical accreditation system does not adequately assure good quality care and good quality of life for the residents of aged care facilities.

At the end of June 2018, there were around 886 providers of residential aged care operating 2685 accredited services or facilities. Between 1 July 2013 and 30 June 2017, the agency, the Australian Aged Care Quality Agency, made 41 serious risk findings against residential care providers and revoked the accreditation of only three. The revocation of three providers was in 2013-14. For the subsequent three financial years, there were no revocations of accreditation. Then, in 2017-18, the year after the Oakden scandal came to light, the Australian Aged Care Quality Agency revoked the accreditation of 12 services.

I now turn to the question of revocation approved provider status. Most commonly, rather than outright revocation of approval, there is a conditional revocation of approval. The approved provider can avoid absolute revocation if they agree to appoint an adviser or an administrator for a period. While there is no doubt that
5 many recipients of aged care receive high-quality services, delivered by caring and well-trained staff, the Royal Commission has already heard many accounts of substandard care, neglect and abuse. Expert witnesses have pointed to individual and systemic issues in the system around such basic issues as nutrition, oral health and wound management and have pointed to the absence of appropriate training and
10 support for some staff.

In the context of this evidence, the regulatory response has sometimes appeared surprising. It has generally been directed to the goal of managing the approved provider back to compliance. This risks alienating and potentially leaving at risk the
15 very people whom the system is intended to protect. Alienation of care recipients and their families from the regulatory process not only risks the flow of critical intelligence to the regulatory system, but also undermines confidence in the aged care system as a whole. The Commission has heard from a number of care recipients and their families about an apparent disconnect between their experience of care and
20 the outcomes of audits and assessments.

In addition to accounts heard by the Royal Commission, there are apparent disparities raised by coronial findings. On 12 February 2019, the Queensland coroner handed down her findings in relation to the death of Betty Quayle, an 89-
25 year-old woman living in Glenmead Village, an aged care facility in Cairns. The coroner found that Ms Quayle died on 31 May 2013 after being assaulted by another resident with a history of aggression. The coroner found that if Glenmead Village had adequately managed the risk of harm posed by the other resident Ms Quayle's death could have been prevented. The coroner found that this contrasted with the
30 assessment conducted by the Quality Agency in June 2013, less than a month after Ms Quayle died.

The Quality Agency concluded that:

35 *Expected outcomes relating to behaviour management and physical environment and safety had not been met.*

In relation to this apparent inexplicable outcome, the coroner noted:

40 *Mrs Quayle's next of kin also raised a concern with respect to the response from the agency, in particular, the response by the agency that Glenmead Village had met the expected outcomes for behavioural management and physical environment and safety management, their concern being that, if that is the case, then the standards require change.*
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In the Darwin hearing, you heard evidence a witness, Lisa Backhouse, about the abuse that her mother had experienced in a Brisbane nursing home and the

difficulties that she encountered in protecting and seeking some form of restitution in relation to her mother. Ms Backhouse said that in her view:

5 *There are fundamentally inadequate consequences for providers who fail to meet proper standards in their care of residents. Stronger powers should be bestowed on the regulator to allow for a broader range of punitive measures such as financial ramifications including fines and penalties for providers who fail to deliver adequate care, especially where it results in harm. We need a policeman on the beat, not a social worker.*

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Ms Backhouse asked:

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Should not the boards of aged care facilities be held personally and criminally liable where harm is caused to those under their care.

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Over the course of this week, you will hear evidence that may lead you to question whether the current regulatory regime attaches sufficient weight to protecting the quality and safety of care and whether the emphasis on managing a provider back to compliance provides for sufficient accountability when expected standards are not met. In 2017-18, there were 268 services placed on a timetable for improvement by the Australian Aged Care Quality Agency. In the same period, 12 services had their accreditation revoked. In 2018/19, there were 603 services placed on a timetable for improvement. In the same period, there were nine revocations of accreditation by the Australian Aged Care Quality Agency which, of course, became the Aged Care Quality and Safety Commission in 2019.

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I will turn to regulation of home care. Commonwealth witnesses have acknowledged in previous hearings that the regulation of home care is less developed than the regime that applies to residential care. In Adelaide hearing 2, the Commission heard evidence about home care services including the regulation of that sector. Professor Swerissen, a Visiting Fellow at Grattan Institute and Emeritus Professor of Public Health at Latrobe University, said that:

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35 *The number of home care providers has expanded significantly, and that rapid expansion, unmanaged competition and limited consumer information increased risks for the quality and viability of services.*

Witness BE, an employee of the Department of Health involved in the assessment of applications to become an approved provider, raised a different point about this expansion. Her concern was whether the growth in applications to become an approved provider had impacted on the quality of assessments made by the team in which she worked. BE worried that entities were being allowed into the system and that there was no second vetting of new providers. She said the quality of some applications were so poor that it was apparent the applicant had not even taken time to read the guidance for applicants. She estimated eight out of 10 applicants did not understand what their responsibilities would be as an approved provider of home care.

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BE also told you that she and her colleagues find some applications are similar, at times almost identical. She explained that there are consultants in the sector who can assist with making an application. Her point was simple: to purchase an off-the-shelf application from a consultant does not prove suitability to provide aged care to older Australians, although it might tick all the boxes to get through the approval process. Unlike for residential care, there is no accreditation regime for home care services. Once approved, a provider can provide home care services prior to any quality review process being undertaken by the Aged Care Quality and Safety Commission. A quality review is undertaken at some point after the service has commenced operations.

In 2017-18, the median time between receiving approved provider status and the approved provider's first quality review was 324 days, the best part of a year. In 2018-19, the median time for which a home care provider was operating before its first quality review had been reduced but it was still 201 days. As at 30 June 2019, 159 providers had not had a quality review for any of their active home care services. Commissioners, this means that new providers, many of which, according to BE, do not understand their responsibilities, may operate for many months before they are subject to any form of quality review.

The quality reviews themselves are remarkably light-handed. Unlike in residential care, the assessors do not generally visit the homes of care recipients and therefore do not observe the delivery of services and are not required to meet with care recipients at all as part of the quality review process. Quality reviews result in a "met" or "not met" rating. There is no other gradation of quality in these assessments. The assessed performance of home care providers is not, however, visible to the public as the results and attached reports of home care quality assessments, called quality reviews, are not currently published. The regulatory oversight of home care seems even less likely than the accreditation process for residential care to detect a breach in the standards or expose instances of substandard care. At the end of June 2018, there were 2284 approved home and community services. In the four-year period between 1 July 2014 and 30 June 2018, 2744 quality reviews were undertaken while there was only one serious risk finding out of all of them.

The Royal Commission is aware of only six home care providers that have been sanctioned for non-compliance by the department. In Adelaide hearing one, the Commission heard from Margot Harker about her experience as a recipient of home care services. Ms Harker gave evidence that the provider went bankrupt and no-one came to get her out of bed. Other evidence from the March hearing raised issues relevant to regulation. Mr Rack told you about a range of difficulties he experienced in receiving home care services including service delivery. You will recall he spoke of his difficulties obtaining financial statements and that a provider had charged an administration fee of 58 per cent of the government funding.

He was able to detect discrepancies and ask questions of the provider, however, he made the point that elderly people are more vulnerable and not every person on a

package could do what he does. Ms Ellis told you that 38 per cent of the funding for her mother's level 4 home care package was taken up by an administration fee. She wondered where the money that was intended for care was going. Ms Buffinton, first assistant secretary in the Department, told you that following assignment of a home care package, the subsidy is given to and held by the provider. The department has no oversight of what administration fees are paid out of the subsidy. That is despite Ms Anderson, the Aged Care Quality and Safety Commissioner, accepting that fees and charging were the number one subject of complaint in connection with home care.

10 There is at the very least a lack of consistency and transparency in the way that fees are constructed and that makes it difficult for care recipients to know where their money is going. The government has introduced new requirements from 1 July 2019 for home care providers to publish their fees. There is a question as to whether this initiative has gone far enough to enable care recipients to assess whether they are receiving value for their care packages. At the February hearing, Ms Anderson acknowledged the quality of care is difficult to observe and there may be more risks attached to care being delivered in the home. She stated:

20 *We are aware that the way in which we regulate home care provision is not as strong, either as it for residential care or that it needs to be.*

Commissioners, we know that most older people want to stay in their own homes for as long as possible and that there has been an increase in demand for home care in recent years. Over 70 per cent of the 1.3 million Australians who access aged care services receive home-based care and support. In this context, and considering the comments of Ms Anderson, you may find it surprising that regulation of home care services is not more developed and you may have cause to reflect on whether additional safeguards are required to assure the quality and safety of care in the home. I speak now about complaints and the question of engagement with recipients of care and their families.

35 In the course of this hearing, we will consider the voice of care recipients in the aged care system. We will look at mechanisms available to assist care recipients and their families to raise issues and concerns and to otherwise contribute to the information before the regulator about the quality and safety of aged care. This theme has also been touched upon in evidence in previous hearings. At the Perth hearing, we heard from Lisa Trigg and Dr Trigg gave evidence about person-centred care and the regulation of aged care. She pointed to the importance of having stakeholders who are residents or older people involved in quality monitoring and the use of co-production strategies. She told the Commission:

45 *Involve those people, involve residents, involve relatives in designing new models of care and delivering new models of care, in overseeing quality, in supporting, you know, the various things that need to be done to ensure people have their rights protected.*

Other reviews and reports into aged care have emphasised the importance of a consumer voice as part of the regulatory framework. In the Perth hearing, Ms Noleen Hausler referred in evidence to the support provided by the aged care – I withdraw that – the aged rights advocacy services:

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...who were able to advocate for both father and myself for rights concerning complaints, expected processes and expected outcomes. I welcomed the level of insight and proactive support and direction through all stages.

10 We have also heard of some of the challenges that older people and their families can face navigating complaints processes and about an absence of meaningful outcomes from those processes. You'll be hearing from care recipients and family members about their experiences making complaints to the providers and the complaints commissioner whose function is now subsumed within the Aged Care Quality and
15 Safety Commission. You will also hear from expert witnesses that, compared to other health services in Australia and overseas, the voice of care recipients and their supporters in aged care in Australia is relatively weak.

In summary, Commissioners, we propose to focus our inquiries this week on the
20 elements of aged care regulation that relate directly to the regulation of the quality and safety of residential and home-based aged care with particular emphasis on the criteria for and approach to initial and ongoing approval of aged care providers, the monitoring of provider performance, the enforcement of standards and the application of sanctions against non-compliant providers, including the efficacy of
25 conditional sanctions, the extent to which the recipients of aged care services and their supporters are involved in assessment of the quality of the services they receive and their access to complaints and other advocacy processes.

We will also be asking whether the various elements of the regulatory framework,
30 including prudential compliance, quality compliance, compulsory reporting in the residential care context, and complaints, are considered and acted upon in a coherent way or are, in effect, addressed separately. I will speak now about the week ahead. Our approach to this hearing involves examining in some detail three case studies exposing issues about the way aspects of aged care are regulated as well as hearing
35 direct accounts from a number of witnesses about their experience of engaging with the aged care regulatory processes. We'll also be hearing from experts and from government officials.

I will speak about the case studies. The first of them which we will commence
40 shortly concerns the recent sudden cessation of care services at two residential care facilities at the Earle Haven Retirement Village at Nerang on the Gold Coast. This resulted in 68 vulnerable residents being evacuated by state emergency response services following a 000 call from the premises. We will inquire whether and to what extent the Commonwealth bodies that have statutory functions relating to
45 regulation of safety and quality of aged care were adequately monitoring and appropriately responding over the months and years leading to this event. We anticipate that this will occupy the entire day today.

Tomorrow, we will inquire into two further case studies, one involving the accreditation and sanctions outcomes for a facility which was examined in the recent Cairns hearing, MiCare Avondrust Lodge and the other involving the handling of reports of suspected or alleged assaults at three Japara facilities. I will briefly say something about each of these additional case studies now – and their regulatory context. But there will be more-detailed opening remarks about them tomorrow.

10 First MiCare: in the Cairns hearing, you heard from Johanna Alberts-Henderson about the experience of her mother Bertha Alberts in a Melbourne residential facility, MiCare, Avondrust Lodge. In that case study, you heard evidence about the way in which Mrs Alberts leg wound was managed by Avondrust Lodge after she returned from hospital in July 2018. In this hearing, we will examine how the department and the aged-care quality-and-safety Commission and its predecessor, the Agency, responded to Avondrust Lodge before, during and after Mrs Albert's care. This will include consideration of the role of advisers and administrators appointed pursuant to sanctions.

20 Our third case study, scheduled for tomorrow afternoon, concerns Japara, as I mentioned. In the Perth hearing, the Commission examined the quality and safety of care provided to Clarence Häusler at a Japara facility in Mitcham. This examination included Japara's response to allegations of abuse by staff of Mr Häusler. It also explored the adequacy of Japara's reporting of allegations or suspicions of abuse under the compulsory-reporting scheme. In this hearing the focus shifts to how the regulator deals with compulsory reports of this kind. We will explore how the department responded to reports from three additional Japara facilities, George Vowell, Bayview and Bayview Gardens, from around 2016.

30 It's necessary at this point, to place some regulatory context around compulsory reporting. The Aged-care Act requires approved providers to report allegation or suspicions of physical or sexual contact – beg your pardon. I withdraw that – physical or sexual assault to the department of health within 24 hours. The obligation to report is subject to an exception that I'll come to shortly. The reporting requirement was introduced in 2007, following alleged sexual assaults in a Victorian residential-aged-care facility. There's also a reporting requirement for unexplained absences.

40 There were an astonishing 4013 notifications of alleged or suspected physical and/or sexual assaults in 2017, 18, of which 3773 were deemed as being within scope and required to be reported under the Aged-care Act. Of the 3773, 3226 were recorded as alleged or suspected unreasonable use of force. 513 were alleged or suspected unlawful sexual contact, and 34 were both. These figures, of course, do not include suspicions or allegations of assault that were not reported, and it doesn't include certain suspicions or allegations of assaults by residents with cognitive impairment due to an exemption that applies under the regime. While there's an obligation to report certain allegations or suspicions to the department, it's much less clear, what happens when those are reported, and Professor Ibrahim told you in the Sydney hearing about his concerns in that regard.

The department of health indicated to the Australian law-reform Commission in 2017 that it may take regulatory action, if an approved provider does not have strategies in place to reduce the risk of a reportable incident from occurring again; however, the Commission noted that there was no further publicly available information regarding
5 how the department makes an assessment about the suitability of strategies implemented by a provider.

With regard to the exception – there’s an exception to the reporting requirement which means that, essentially, allegations or suspicions of assaults by residents with
10 a cognitive impairment do not need to be reported, provided that behaviour-management arrangements are put in place within 24 hours. As a result of the exception, there is a lack of data about the incidents of suspected or alleged assaults by cognitively impaired people. However, in a 2019 costing model, KPMG estimated that there were 10,500 unreported incidents each year under this exception.
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In light of the annual figure I quoted a minute ago – of 3773 reportable assaults in 2017, 18 – this means the total of reportable and unreportable alleged or suspected assault seems to be 14,000, and about three quarters of these fall within the
20 exception, meaning that non-reporting’s really the rule and reporting’s really the exception. We know that 2000 – beg your pardon. We know that 270-odd thousand people received permanent residential-care services or residential-respite services in 2017, 18. The KPMG estimate, together with reported incidents, implies a rate of assault or suspected assault of over five per 100 residents in a year.

25 Commissioners, you may be concerned, that the exemption results in a failure to collect data on such assaults, and this could compromise resident safety and policy development. It renders a significant category of resident-to-resident assault invisible to the community and to government. It draws a veil of unaccountability over the safe management of people living with cognitive impairment – and we must
30 remember that people with a diagnosis of dementia are now a majority of the resident population – depriving, thereby, the department of information that it would need to identify trends and systemic issues in that area of care. Of course, all residents are entitled to live in a safe environment, free of the fear of assaults and abuse.

35 There’s a further problem with the compulsory-reporting regime. The Aged-care Act creates an obligation on the approved provider to report the alleged or suspected assault. It does not create a direct obligation on the provider to report any actions that it’s taken to respond to the incident. Although it appears from the evidence
40 you’ll hear this week that the department in practice does perform some degree of follow-up, at least in some cases, the absence of formal requirements in this regard was a point identified by the Australian law-reform Commission in 2017, which recommended there should be a requirement for reporting of resident-on-resident assault in residential-aged-care facilities when a certain threshold of seriousness is reached and there should be a revised serious-incident-response scheme, which
45 would focus not just on the reporting of assaults but what was done in response. Those recommendations of the Australian law-reform Commission were supported by Carnell and Paterson in their review of national aged-care quality-regulatory

processes. We'll look at what the Government's done in response to those recommendations during the hearing. There is at present no compulsory-reporting scheme for allegations or suspicions of assault arising in the home-care services at all.

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I'll turn now to the direct-account witnesses in the hearing. From Wednesday, you'll be hearing from four direct-account witnesses about their experiences, making complaints or raising concerns about aged-care service. Gwenda Darling, an Aboriginal woman living with dementia in regional New South Wales, is expected to give evidence about the problems she had with four different providers of home-care services since she was first approved to receive a level 4 package, in January 2017. She has raised her concerns with various bodies during this time and is expected to give evidence that her experience in seeking remedies for failures in the quality of services left her with a feeling that no one cared.

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We will also hear from Beverley Johnson, who's lived in a residential-aged-care facility since she fractured her right ankle, in 2019. Ms Johnson was born with cerebral palsy. She is expected to give evidence that, in her experience, people can be quite scared when it comes to speaking out. She will say she thinks residents' voices are often ignored or dismissed, particularly if they're living with dementia or have cognitive impairment. In her view:

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The residents are the people who benefit or suffer from decisions made. So there should be ways of allowing us to make contributions and have our voices heard.

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We'll also hear from Associate Professor Sarah Jane Holland-Batt, whose father has been in residential care since 2015. Associate Professor Holland-Batt will talk about the challenges for residents in their families – in accessing and navigating the complaints processes in residential aged-care. Her evidence will point to concerns with the efficacy of those processes. Associate Professor Holland-Batt will give evidence about the need for complaints processes that support and empower victims and their families rather than simply accepting the assurance of facilities at face value.

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And we'll hear from Debra Barnes, whose mother lives in residential aged-care. We'll hear from Ms Barnes about how powerless she felt – to improve the care for her mother. We'll hear from her about the lack of any sense of accountability for providers against whom complaints are made.

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I'll turn now to our expert and other sector-specialist witnesses. The themes I've outlined will be picked up in the evidence of Natalie Siegel-Brown, the Queensland public guardian, and Geoff Rowe, the CEO of Aged and Disability Advocacy Australia, who are based here in Brisbane. We'll also hear from a number of expert witnesses about their views on the adequacy of the current system for regulating aged-care and how that system might be strengthened or improved. These issues are

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of central importance to the royal Commission's work and will be the subject of ongoing consideration in the months ahead.

5 Professor Ron Paterson ONZM, who along with Kate Carnell AO reviewed the national aged-care quality-regulatory processes following Oakden, as I've said, will give evidence about the vision for regulation of aged-care in their report and the extent to which the implementation of the Government's response has achieved or fallen short of that model. It's expected, that Professor Paterson will reflect on the effectiveness of existing mechanisms in the Australian aged-care system for care
10 recipients to express their experience of aged-care and how the regulatory system could be strengthened in that regard.

The Commission will hear from Graeme Head AO, the NDIS quality-and-safety commissioner, and Adjunct Professor Debora Picone AO, the chief executive officer
15 of the Australian Commission on quality and safety in healthcare. This evidence will provide you with perspectives from the disability and health sectors, which in many cases confront similar issues to those that arise for consideration in the regulation of aged-care.

20 This hearing will conclude with evidence from professors, John and Valerie Braithwaite, and Professor Toni Makkai from the Australian national university. These professors have expertise in the area of regulation and together authored seminal text *Regulating aged-care: ritualism and the new pyramid* in 2017 – beg your pardon – in 2007. They are expected to give evidence about ritualism in aged-
25 care regulation, which involves the adoption of rituals and procedures that secure regulatory compliance while losing focus on achieving the goals or outcomes that the regulation was intended to protect. Their evidence will touch on other issues in the context of aged-care regulation, including their view that in Australia the administration of the aged-care system and the policy-reform process are not
30 adequately safe-guarded from the risk of industry capture.

With respect to the Commonwealth witnesses – over the course of this week, the Commission will hear from various Commonwealth witnesses from the department of health and from the aged-care quality-and-safety Commission, including Charles
35 Wann, the first assistant secretary of aged-care reform and compliance at the department. Through these witnesses, we will be seeking to gain a better understanding of how the regulatory system works in practice, the status of implementation of recommendations from previous reviews and plans for future reform to the aged-care system. I'll now turn to our first case study. And in a
40 moment, I'll open it. It relates to the sudden cessation of 20 July 2019 of residential aged-care services located – at two facilities located within the boundaries of Earle Haven Retirement Village. There a number of appearances that should be announced.

45 MR M.J. COPLEY: If the Commission pleases – my name is Copley – C-o-p-l-e-y, initials M. J. – and I appear with Mr Sammon – S-a-m-m-o-n – on behalf of the Queensland Ambulance Service.

COMMISSIONER TRACEY: Yes. Thank you, Mr Copley.

MR G.W. DIEHM QC: Commissioners, my name is Diehm – D-i-e-h-m, initials
G.W. – of Queen’s Counsel. I’m instructed by Hall Payne and appear for Telecia
5 Tuccori, pursuant to a grant of leave.

COMMISSIONER TRACEY: Mr Diehm.

MR KENNETT: If the Commission pleases, I appear in this case study and also
10 throughout the rest of the week for the Commonwealth with my learned friends Mr
Arnott and Mr Daiton.

COMMISSIONER TRACEY: Yes, Mr Kennett.

15 MR COVENEY: Commissioner, might I mention my appearance. Commissioners,
my name’s Coveney; counsel. I’m retained by the Help Street party’s witnesses
who’ll be called this morning.

COMMISSIONER TRACEY: Thank you very much for announcing your
20 appearance. If – we’ll see what we can do during the break at finding you a spot at
the bar table.

MR COVENEY: Thank you, commissioner.

25 MR GRAY: Commissioners, the facilities in question at the Earle Haven retirement
village are called Orchard – beg your pardon – Orchid – O-r-c-h-i-d – and Hibiscus –
H-i-b-i-s-c-u-s – House. They are accredited residential-aged-care services. The
approved provider of those facilities is People Care Pty Ltd, the principal of which is
Mr Arthur Miller.

30 People Care is approved not only to provide residential care but also home care
under home-care packages. Since at least March 2018, an entity called Help Street –
and there are various corporate entities of Help Street – associated with Mr
Kristopher Bunker, has been managing the residential facilities and, it appears,
35 employing the staff delivering residential care under an arrangement with People
Care.

The cessation of services on 11 July appears to have been the result of a dispute
40 between People Care and Help Street. It resulted in a callout to the Queensland
ambulance service, which took charge of the care of residents and, throughout the
remainder of the day on the 11th and the early hours of the 12th, transported the
residents to other nursing-homes and hospitals. This was, understandably,
distressing for both residents and their families.

45 Commissioners, the regulatory frame-work should be designed and administered to
ensure the quality and safety of care for older Australians, and, axiomatically, it
should not permit vulnerable people to be put onto the street and should be geared to

intervene, to address the risk of sudden cessation of services. The focus of our inquiry today is on the regulatory system, whether all was done by regulators that should have been done and whether the system itself is appropriately designed to address risks of the kind that eventuated at Earle Haven.

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From its approval in 2006 as a provider of community, flexible and residential care, People Care appears to have had a poor compliance record, raising potential red flags about governance and management capacity. As at 2015, Hibiscus and Orchid were on a three-year default accreditation cycle, but the indications of inability to provide aged-care continued to emerge. The accreditation cycles were subsequently truncated by the agency, and a period of quite intense regulatory scrutiny appears to have followed –involving both the agency and the department.

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The department and the agency monitored People Care quite closely in 2016, 17, including in relation to concerns about financial arrangements. They attempted to manage People Care into compliance with quality standards. There are indications that the principal of People Care showed poor levels of engagement and co-operation with these processes, including in dealing with complaints. Sanctions were imposed – requiring People Care to appoint a nurse adviser, and subsequently there were breakdowns in relations with the nurse adviser.

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These were events that seem to have resulted in a degree of turmoil for home-care recipients about transfers of responsibilities relating to home-care packages between People Care and another provider. These were all matters that should've raised and, apparently, at the time did raise serious red flags of concern. Whether they remained in the institutional memory of the two regulators, the Commission and the department, in more-recent times is an open question. After further sanctions in May 2017, there was a period during which People Care appointed an administrator, who remained in place until about September 2017. This period does not appear to have resulted in sustainable improvement after the departure of the administrator.

25

30

One of the lines of inquiry we will pursue concerns People Care's reporting of its financial arrangements. People Care was required to lodge prudential and financial statements with the department annually. These showed that the residential-care business appeared to owe significant amounts to related companies, leaving the residential-care business, viewed in isolation, in a loss-making position and bearing heavy net liabilities in for example, its 2016, 17 general-purpose financial report lodged with the department.

35

Turning to 2018 – on 22 March 2018, the quality Agency learned of some form of contractual arrangement for management of the residential-care businesses at Earle Haven, and it shared that information immediately with the department, and a series of email exchanges occurred, the last one on 28 March 2018. Apart from querying whether there'd been a transfer of the facilities to another approved provider and confirming contact details, it seems, that there was no substantive follow-up, at least on the documentary record, by the department or the Agency about identification of the key aspects of the arrangement, the demarcation of roles or responsibilities.

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45

This arrangement was the arrangement between People Care and HelpStreet. We will inquire whether there was, and whether there should have been, more detailed information obtained by the agency or the department as to the precise arrangement between People Care and HelpStreet. From about late August 2018, it seems People
5 Care fell into default in respect of aspects of its reporting obligations on prudential and financial matters.

In attempting to secure compliance, the prudential regulatory arm of the department encountered what it perceived as poor engagement from a Mr Bruce Lang, who was
10 acting on behalf of People Care as delegate of the approved provider, so-called. We will inquire whether this intelligence was being discussed across sections of the compliance area of the department as well as the prudential area to put together a coherent picture of the risk presented by People Care and its arrangement with HelpStreet. The prudential compliance process ended after some months with
15 People Care still not completely compliant but the department making a decision on 13 June 2019 to take no further action.

Mr Anthony Speed, acting assistant secretary of the aged care compliance branch of the Department of Health, is available today to give evidence about aspects of the
20 department's handling of the People Care matter. One aspect of our inquiries of Mr Speed will relate to the department's handling of prudential compliance and information concerning People Care. In the meantime, various red flags appear to have been arising in 2019 and it will be necessary to inquire into whether they should have been apparent to Commonwealth officials who were in contact with People
25 Care and its facilities. It appears that relations between People Care and HelpStreet were deteriorating by about March 2019.

Mr Miller attended a residents and relatives meeting at Earle Haven on 20 March 2019 at which issues about the performance of HelpStreet and the operational
30 relationship with People Care were canvassed. We will ask the Aged Care Quality and Safety Commission's Queensland state manager, Tracey Rees, who is available to give evidence today, whether this meeting came to the attention of the department at about that time.

The Commission's state complaints personnel were also aware of complaints and two officers from this team attended the site on 4 April 2019. On 30 May 2019,
35 there was a meeting between state-based personnel from the commission and the approved provider People Care, and the breakdown in relations between People Care and HelpStreet was openly discussed at that meeting.

40 From the end of May 2019 to 10 July 2019, the relations between People Care and HelpStreet deteriorated to the point that it appears People Care, through its lawyers, sent a letter to the directors of HelpStreet Villages Queensland Pty Ltd and the directors of HelpStreet Partnerships Pty Ltd on 8 July 2019 giving them notice that
45 People Care:

...hereby revokes the licence to occupy the premises known as Orchid House and Hibiscus House effective as at 5 pm Friday, 9 August 2019.

5 On 10 July 2019, Mr Lang sent an email to a mailbox called Queensland Places or QLD Places at health.gov.au stating to whom it may concern, that:

10 *People Care Pty Ltd wish to advise the Department of Health that the current management team for our residential and home care services, HelpStreet Villages Queensland Pty Ltd, have had their management status for People Care terminated. People Care have provided an end date of 30 August 2019 to HelpStreet at which time People Care will continue to manage both residential and home care services.*

15 There are serious issues raised about the propriety of an approved provider purporting to notify the department of a serious issue of this kind in such a manner. There is also a question about whether the notification should have been provided earlier because it appears that the relevant decision might have been made by People Care at least a couple of days earlier. In spite of the way this email was transmitted to the department, it was detected and its importance apparently understood by early 20 the following morning. Some issues then arise about whether it was given the attention that was needed with the requisite urgency, but that's not the main issue in the case study.

25 The main issue in the case study is whether the earlier warning signs were understood and acted upon. Meanwhile, by the 11th, or possibly earlier, it appears that HelpStreet was removing computer equipment from the facilities at Earle Haven which contained electronic care plans and records for residents. On 11 July 2019, a call was made to 000 from Earle Haven which resulted in a pager dispatch message being received by Cary Strong, paramedic and senior operations supervisor, 30 Queensland Ambulance Service, who is available to give evidence today. Mr Strong will describe in his evidence what he found at Earle Haven on arrival at 2.13 pm on 11 July, what occurred there that afternoon and his coordination of the emergency medical evacuation of the residents.

35 Attention will then turn to People Care and HelpStreet. Each of Arthur Miller, Bruce Lang and also Ms Karen Heard from People Care have provided statements and each of Kristopher Bunker, Ms Karen Parsons and Ms Telecia Tuccori from HelpStreet have too. In spite of the large list of witnesses from the approved provider and its contractor, the issues for inquiry will be confined and not much of the hearing will be 40 occupied with their evidence. This is not the occasion to delve in any detail into the causes of the breakdown between these two companies or the rights and wrongs of their dispute. Because our focus in this hearing is on the role of the regulator, we will ask when certain decisions affecting residents and their care were made and seek explanations for why that action occurred.

45 But the focus in this case study is in understanding the risks presented by the outsourcing arrangement, in gauging whether the commission and the department

understood this, found out what was occurring and took action in response. Finally, this afternoon, Commissioners, you will hear from the Aged Care Quality and Safety Commission Queensland state manager, Ms Rees, and acting assistant secretary, aged care compliance branch of the department, Mr Speed, about aspects of the
5 commission's and department's handling of People Care. Commissioners, on 19 July 2019, the Minister for Aged Care and Senior Australians, the Honourable Richard Colbeck, announced an independent inquiry into the circumstances leading to the Earle Haven collapse and its aftermath to be led by Kate Carnell AO.

10 The Royal Commission will in due course read the findings and recommendations of this inquiry which are due in October 2019 and do so carefully and with interest and will then determine the way forward to the extent that the Royal Commission's terms of reference require. I will now ask the operator to display the tender bundle index for the Earle Haven case study consisting of 123 tabs of documents. Commissioners,
15 I tender the documents constituting the case study tender bundle.

COMMISSIONER TRACEY: The Earle Haven case study tender bundle will be 8-1.

20

EXHIBIT #8-1 EARLE HAVEN CASE STUDY TENDER BUNDLE

MR GRAY: Thank you. Commissioners, Ms Maud will now call our first witness
25 in the case study, Mr Strong, then Mr Bolster will call the witnesses from People Care and HelpStreet, and this afternoon I will call Ms Rees from the Commission and Mr Speed from the department. In addition, there are four statements from witnesses which are tendered in the tender bundle and from whom we don't seek to require their attendance to give oral evidence. If the Commissioners please.
30

MS MAUD: Thank you, Commissioners.

COMMISSIONER TRACEY: Yes, Ms Maud.

35 MS MAUD: Before I call Mr Strong, could I ask the operator to bring up a document from the tender bundle that Mr Gray has just tendered. It's tab 109. It's the audio recording of the 000 call that was made at about 1.33 on 11 July, and if you could play that, please.

40

RECORDING PLAYED

MS MAUD: Thank you, Commissioners. I now call Cary Strong.
45

<CARY STRONG, SWORN

[10.34 am]

<EXAMINATION-IN-CHIEF BY MS MAUD

MS MAUD: Can you state your full name, please.

5

MR STRONG: Cary Strong.

MS MAUD: You have prepared a witness statement for the Royal Commission?

10 MR STRONG: Yes.

MS MAUD: Operator, could you bring up document WIT.0325.0001.0001. Do you have a copy of your statement there?

15 MR STRONG: Yes.

MS MAUD: Yes. Have you had an opportunity to read it recently?

MR STRONG: Yes.

20

MS MAUD: Are there any changes that you wish to make to the statement?

MR STRONG: No, thank you.

25 MS MAUD: To the best of your knowledge and belief are the contents of your statement true and correct?

MR STRONG: Yes.

30 MS MAUD: Yes. I tender that, Commissioner.

COMMISSIONER TRACEY: Yes. The witness statement of Cary Strong dated 23 July 2019 will be exhibit 8-2.

35

EXHIBIT #8-2 WITNESS STATEMENT OF CARY STRONG DATED 23/07/2019 (WIT.0325.0001.0001)

40 MS MAUD: Now, Mr Strong, you are a senior operations supervisor employed by the Queensland Ambulance Service; is that right?

MR STRONG: Yes.

45 MS MAUD: Yes. And you are – and you work from the ambulance service's Gold Coast Local Area Service Network?

MR STRONG: Yes.

MS MAUD: Where is that based?

5 MR STRONG: I have an office – starting point at Southport ambulance station in Southport.

MS MAUD: What does your role as senior operations supervisor involve?

10 MR STRONG: Strategically, looking after Queensland Ambulance resources throughout the Gold Coast LASN and neighbouring LASNs to ensure that we provide a timely and professional service to the communities.

MS MAUD: And are you also a registered paramedic?

15

MR STRONG: Yes.

MS MAUD: You've worked for the Queensland Ambulance Service for about 33 years; is that right?

20

MR STRONG: Yes.

MS MAUD: And before that, you worked for about two years as an assistant in nursing for a nursing home.

25

MR STRONG: That's correct.

MS MAUD: Now, I want to ask you questions about the events of 11 July. At some stage on the 11th, did you become aware that there was an incident at an aged care facility known as Earle Haven?

30

MR STRONG: Yes. Through our normal procedures, I received a page message to advise that we had received a 000 call advising that Earle Haven had gone into administration and there is a possibility of evacuating or relocating quite a number of residents.

35

MS MAUD: What did you do after you received that message?

MR STRONG: Due to the nature of it, I contacted the communications centre, I spoke to the clinical deployment supervisor to get a basis of what the page was for a 000 call to come through of that nature of moving a number of patients for administration, not due to a clinical requirement; it just needed clarification.

40

MS MAUD: I see. And after you had obtained that clarification, what happened then?

45

MR STRONG: I responded to Earle Haven from Gold Coast University Hospital. On the way I briefed up through my director of operations as to the possibility that if we do have to relocate, what those plans would have to entail and start planning but my primary role was to go there, seek a bit of intel in regards to what we were
5 required to do and then make further arrangements from there.

MS MAUD: What time did you arrive at Earle Haven?

MR STRONG: It is on the records, but I believe it is about 1430 hours.
10

MS MAUD: When you first arrived, can you tell the Commission what you observed?

MR STRONG: As I drove through the front gate towards Hibiscus House, there
15 was a number of vehicles in the driveway, one of those being a removalist truck and a small ute. Due to the tightness of that area, I actually parked in behind, I believe it to be the ute in the main driveway of the complex.

MS MAUD: Did you then enter the premises?
20

MR STRONG: Yes, as I approached Hibiscus House, the main foyer area, there was a number of furniture items in boxes basically in that area that were still being moved towards the removalist's truck. I could undertake that there was quite a number of voices at a loud nature on – inside the foyer area and, as I got towards the
25 foyer area, someone let me in through a key pad activation for security and, basically, on the other side of that door, there was quite a number of people having a bit of a verbal confrontation.

MS MAUD: I see. Could I just ask you to move a little bit further forward so you
30 are closer to the microphone. Thank you.

MR STRONG: Thank you.

MS MAUD: All right. So when you entered, you said there was some kind of
35 verbal altercation going on?

MR STRONG: Yes.

MS MAUD: Who was the first person that you spoke to?
40

MR STRONG: I spoke to a young lady as I entered asking first of all who was in charge because at that stage I couldn't identify who was in charge. She indicated me and brought back the clinical manager. I spoke to her briefly in regards to, first of all, what was happening; the place was in administration, the staff had left. I
45 ascertained that there was a possibility of 69 residents, 40 in Hibiscus, 29 in Orchard or Orchid and the possibility of anywhere from 20 to 25 in the independent living area that may need to be transported or relocated. My priority at that stage then was

the condition of those patients; were any requiring any immediate care or medical intervention. And the reply back was needed medical supplies and needed peg feed fluid for a patient that required feeding.

5 MS MAUD: I see. Did you find out the name of the person that you spoke to?

MR STRONG: I believe it is to be Telecia, now.

10 MS MAUD: Telecia. All right. And then shortly after your arrival, did you speak to anybody else?

15 MR STRONG: I spoke to a gentleman called Chris who was the manager of the complex and he advised me that, yes, they're in administration. He started trying to explain to me in regards to the financial implications of that, which at that point in time I wasn't interested to be honest; I was more interested in the patient condition and any possible relocation that might need to take place.

20 MS MAUD: In the course of your conversation with Telecia, were you able to ascertain how many staff were present?

MR STRONG: I believe, on count back, it was three registered nurses, a possibility of three EINs, three AINs but that was unconfirmed.

25 MS MAUD: Did you form any assessment as to whether that was a sufficient number of staff?

30 MR STRONG: Going on a ratio of patient care, nine staff to a possibility of 69 patients, I didn't believe that to be safe and that's when I actually asked for further ambulance resources to be responded.

MS MAUD: All right. So the initial conversation that occurred, where was that?

MR STRONG: That was in the front reception administration area.

35 MS MAUD: Did you have an opportunity to look around the facility?

40 MR STRONG: Yes. Once I left the front reception area after talking to Chris, I wandered down to the main ward to my right. I noticed on my left-hand side there is what I would call a pan room or hygiene room and basically had a look in there. There was basically just a couple of four litre containers of fluids and it looked like the rest of it had been emptied. No mops, no buckets, no utensils you'd expect to find in that room.

45 MS MAUD: Did you look at any other rooms at that time?

MR STRONG: I had a look at a couple of bedrooms. On the right-hand side, there was a bedroom which basically just had a single bed in it. No infrastructure around

it. No linen and that on the bed. I left that and then I identified that I needed further resources and started making phone calls to brief people.

5 MS MAUD: I see. And you said that when you arrived, there was a removalist's truck out the front.

MR STRONG: Yes.

10 MS MAUD: Did you observe any property being removed from the premises?

MR STRONG: Most definitely. There was various items of furniture, boxes, being removed and that was being coordinated as to what was the priority to be moved at a given time.

15 MS MAUD: When you first arrived, were you able to see inside the truck?

MR STRONG: No.

20 MS MAUD: You said the removal of property was being coordinated; could you tell who was doing the coordinating?

MR STRONG: There was a large gentleman in a black uniform, which appeared to be like a cook or a chef's uniform and he was directing what I take to be the removalists as to what was to be moved.

25 MS MAUD: How could you tell that they were removalists doing the - - -

MR STRONG: They were putting stuff in the back of the truck, and they were wearing the typical singlets, T-shirts and reflective shirt and shorts.

30 MS MAUD: And what were the specific items that you saw being removed?

MR STRONG: Particularly furniture, metal trolleys, chairs, that type of stuff.

35 MS MAUD: Operator, could I ask you to bring up another document from the tender bundle; it's tab 104. Now, Mr Strong, do you recognise the first photograph there?

40 MR STRONG: I believe that to be packing boxes.

MS MAUD: Do you have any knowledge of who took that photograph?

MR STRONG: I'm not 100 per cent sure but I know a media director was on site at some point and he may have taken some photos.

45 MS MAUD: I see. Now, operator, could you turn to page 0008? Can you tell the Commission what's shown in that picture?

MR STRONG: That I believe to be a pan room. Linen bags down on the left-hand side, it looks like a storage room to the right and then cleaning facilities at the end.

5 MS MAUD: The pan room, as you see it there, is that what it looked like when you first arrived?

MR STRONG: Technically, yes. If it's the same pan room. The one that I identified had four litre bottles to the left.

10 MS MAUD: Operator, could we turn now to page 0022? Are you able to identify that room?

MR STRONG: It looks like an administration office-type area in the facility.

15 MS MAUD: Yes. Do you recall where that room was?

MR STRONG: I believe, if it is the same room, it's as you entered into Hibiscus. There was an office to my left-hand side that was left in a similar nature to that. It was just, basically, bit of furniture, records, paperwork on the floor.

20

MS MAUD: And, operator, could we turn to page 0011? You able to identify which room is shown in that?

MR STRONG: No; not offhand.

25

MS MAUD: Is that the general state of the facility when you arrived?

MR STRONG: It was in various states throughout the afternoon, from, basically, half-stripped, and then, as I, probably, came back through later on the afternoon at various points, there was other various items removed, whether they be personal or professional items. The administration areas were - - -

30

MS MAUD: And, operator, could we turn to page 0030? Do you recognise the room shown in that room?

35

MR STRONG: I believe that to be the kitchen area.

MS MAUD: Yes. And is that the state you observed it in on the 11th of July?

40 MR STRONG: It was at various stages throughout the afternoon, but late in the afternoon and the night when we left Hibiscus and other areas, I went back through, and those areas were being cleaned by staff that were still on site at various points.

45 MS MAUD: So are you able to make any assessment of what time during the day that photo might've been taken?

MR STRONG: No idea. Would be late afternoon, because the – if it is taken by a media director – it was late afternoon, when he arrived.

5 MS MAUD: And then the last one is just the next page, 0031. And can you tell the Commission what's shown in this photo?

MR STRONG: I believe that to be the common area off Hibiscus area – House, where most of the residents were being looked after. Part of my scope of when I first got there was to make sure of the safety; so I actually tried to find out if we could
10 huddle most of the patients in one common area so we could make sure that no one wandered off, no one was going to be at risk of a fall, no one was going to be compromised in welfare in any way. So – there was a number of staff and residents there. And the trolley to the right of the screen, I believe, was brought in by
15 Queensland Health with water and sandwiches to try and hydrate and provide some type of nutrition.

MS MAUD: So do you recall approximately what time in the afternoon that trolley arrived?

20 MR STRONG: That would've arrived after the crisis team from Queensland Health ordered it. So that would probably be round about, say, 4.30, 5 o'clock.

MS MAUD: All right. Now, did you have an opportunity when you first arrived to observe any of the residents?
25

MR STRONG: Yes. There was a couple of residents as I entered the foyer area, reception area. There was a gentleman in a wheelchair who was being looked after. His urinary bag was being dragged as he was trying to push himself to the foyer. That was in the middle of an argument between a number of staff. And there was an
30 elderly tall gentleman who became very disoriented, became what you'd call – if you didn't know dementia, would be seen to be aggressive, raising his voice, raising his hands, very emotional about what's happening around him.

MS MAUD: Now, were you able to ascertain, in your initial conversation with the
35 clinical-manager or with any subsequent conversations, whether there were care records available to staff?

MR STRONG: I asked for those initially, "Could I have patient-care plans." I was advised they were on the computer, that computer had since left the premises. And I
40 asked then "Could someone or some – a small group of people go through both facilities and just provide me with whatever documentation they could and bring it back to the reception area".

MS MAUD: And do you know what, if anything, was located?
45

MR STRONG: Yes. There was – a young lady in a black suit provided me with two black folders and a set of keys, which I believe to be the keys for the drug safes.

And subsequently we got fire-evacuation documents, which then allowed us to ascertain roughly who was on site and roughly to where they should've been on site.

5 MS MAUD: And when those folders were located and provided to you – was there any issue as they were being handed over?

10 MR STRONG: Yes. The young lady that I asked: to her credit, she actually hung onto both of those folders. She was positioned between two police officers from Queensland Police Service due to the fact, as she stated to me, that other staff or other persons wanted those folders and they wanted to punch her head in.

MS MAUD: You said the person who located those folders was in a black suit.

15 MR STRONG: Yes, she was a female. Pair of black slacks and a little black jacket type.

MS MAUD: Are you able to – did you find out her name?

20 MR STRONG: No, unfortunately not.

MS MAUD: No. All right. Now, you say in paragraph 21 of your statement that, at some stage after your arrival at Earle Haven, you were appointed forward commander; is that right?

25 MR STRONG: That's correct.

MS MAUD: Yes. And what does that role involve?

30 MR STRONG: The role involves the fact that – under a mass-casualty system that we use in regards to multiple patients, I would then become the forward commander to lead all Queensland Ambulance Service resources that would come on site. I would then the fact I set up an incident management team around me in regards to – triage officer, transport officer and a scribe is, technically, my first responsibility. And then each one of those roles would go through both nursing-
35 complexes and have a look at, first of all, the priority of patients. So – the direction was that, under our system, they would all be medically tagged. So the clinical-care paramedic and a paramedic went through both facilities with a Queensland Health nurse, and any member of staff that could help was then – we triaged and tagged each and every resident on both Orchard and Hibiscus House.

40

MS MAUD: Now, you've referred to other officers from Queensland Ambulance Service. Are you able to say approximately what time they arrived?

45 MR STRONG: Very shortly after I arrived. There was – a patient-transport officer and an advanced-care paramedic arrived. And their primary briefing was to maintain the welfare and safety of all residents by just going into the common areas and other areas to make sure that the residents were safe until further resources arrived.

MS MAUD: I see. And you also referred to Queensland Health.

MR STRONG: Yes.

5 MS MAUD: Can you tell the Commission who it was from Queensland Health, that was present?

10 MR STRONG: Yes. Initially I got – two registered nurses respond from Queensland Health; that assisted with that welfare and safety. After they arrived, a short time later I got a critical-incident team which comprised of a director of infrastructure, an executive manager and also a senior medical officer.

15 MS MAUD: And you mentioned in paragraph 22 of your statement that whilst you were at Earle Haven the Gold Coast hospital and health service establish the health-emergency-operations centre. Can you recall roughly what time that was?

20 MR STRONG: I can't off the top of my head give you the exact time, but it was, roughly, just after the initial crisis team arrived. They actually – we had a small debriefing – small briefing, and then they dialled in. So it must've been set up just shortly after they arrived.

MS MAUD: All right. And did you participate in those meetings of the health-emergency-operations centre?

25 MR STRONG: Yes. The first one was to ascertain and give a briefing to what the – what we call the HEOC, an acronym for that – is to, basically, what we were situated in regards to six – potential 69 residents, no care plans, basically, required welfare items and nutrition and hydration and, basically, the state of what the facility was in at that given time.

30

MS MAUD: And you referred earlier to the critical-incident team.

MR STRONG: Yes.

35 MS MAUD: Can you say who the team comprised of?

MR STRONG: Yes. Senior medical officer was Dr Hayley. The director of infrastructure was Nigel Hoy, and the executive was Kayleen Wilcock.

40 MS MAUD: All right. And so when they arrived, what did the critical-incident team do?

45 MR STRONG: I gave them a briefing in the carpark as to what I had witnessed and, basically, state of play within the facility at that point in time. The briefing was that welfare and safety to all. We broke up into our own roles. So at that stage mine was to look at the future planning of the transportation and safety of the residents. Nigel went through to identify what state of play both facilities were in as regards to

infrastructure. Senior Medical Officer Hayley was then directed to the paramedics to assist and do any further clinical treatment of patients that may have required it. And Kayleen just went through and ascertained exactly what staffing and – what those nurses or staffing-numbers comprised of.

5

MS MAUD: Yes. And you say in paragraph 25 of your statement that the medical team concluded it was not safe, to provide further medical care to the residents at the site. Were you involved in that decision?

10 MR STRONG: Yes. There was a decision that – when we regrouped after we'd all gone our ways to ascertain as to what we were at is – first of all we'd received the triple O call. Second of all, most of the hygiene stuff that would be required was removed. Nigel identified that major infrastructure had been removed in kitchen areas, and then what were the future plans were going to be for the next 24 hours and
15 coming days as to whether we could shelter the residents in place – and it was deemed by that meeting, that it wasn't – for the patients' safety, residents' safety, they'd be better off, being relocated.

MS MAUD: And you referred earlier in your evidence to the presence of officers
20 from the Queensland police.

MR STRONG: Yes.

MS MAUD: Did they at some point in the afternoon take charge of the site?
25

MR STRONG: Technically they assisted as with invoking the PSPA, public-preservation Act, so that if we needed to stop anything else being removed from the premises or we needed any additional resources brought in or if we required any other assistance, we could do it under their Act or under the Ambulance Service's
30 Act.

MS MAUD: All right. And at some stage you said the decision was made – that residents needed to be relocated.

35 MR STRONG: Yes.

MS MAUD: Can you tell the Commission how that occurred?

MR STRONG: That was – occurred due to a planning in regards that – I did my
40 planning on site. The HEOC did their planning in regards to where they were actually going to be transported to, what facilities could take what category of patient, what number of patient and then transfer that across to myself on site or to our local ambulance-coordination centre – as to what resources are required to do that safely, and then, basically, as the afternoon progressed, from my point of view, it
45 was all about – as I got numbers for nursing facilities, that was passed to the transport officer. Transport officer would then look at resources required in regards to ambulances that came in and then setting up a safety at the exit point. So we

established that at both facilities there'd only be one exit point, and all residents had to come through there.

5 MS MAUD: And what time approximately did residents start being taken from the facility?

10 MR STRONG: There was a couple of residences – residents – sorry – that were removed early due to their medical condition, but the majority was started to be relocated by 1800.

MS MAUD: 6 o'clock, yes. And what time was the last resident taken from the facility?

15 MR STRONG: Approximately 00300 – sorry – 30 hours on 12 July.

MS MAUD: And you referred earlier to some folders being located and handed over.

20 MR STRONG: Yes.

MS MAUD: Were you able to see what was in the folders?

25 MR STRONG: No. Due to the nature of the distress to the young lady that gave them to me, I actually gave them to Officer Kylie Garner or Lee, to secure those folders until we actually ascertain what was in the folders, which – I then believe she handed them across to Queensland Health representative.

30 MS MAUD: And in the course of relocating the residents – were there any issues that arise – arose in that process?

MR STRONG: There was an unfortunate – one of the residents had a fall after she was put into a residence on the Gold Coast, but that was the only injury that was actually reported during that operation.

35 MS MAUD: And were you able to observe the residents as they were being taken from the premises?

40 MR STRONG: Yes. There was a three-way-check process that was set up for safety of each resident. So the paramedics would go through. They would have the MET tag on. That would – MET-tag information would be recorded on a transport log. So once that was done, then – representative transport team from Queensland Health would then check that tag against that resident. If they were comfortable that it was that resident and it was going to that future residence, they would then put an orange fluorescent band on the resident. And then it was checked, and as they were
45 actually loaded into the vehicle, the transport officer would check both those processes were adhered to. And that way we didn't lose any patients and maintain safety throughout the transportation and a record of where each resident went to.

MS MAUD: And were you able to observe how the residents were coping with that process?

5 MR STRONG: Most accepted it fairly comfortable, but it was due to varying levels
of dementia or pre-existing aging-ailments. There was one elderly lady that I was
asked to intervene and provide care to, just outside the reception area. She was
approximately-92-year-old female, very distressed, very disorientated, crying. Her
daughter was there; she was crying as well, trying to get the elderly lady to settle
10 down and comfort her, and she just kept crying and screaming that – she thought her
daughter was her mother and kept referring to her as her mother, to – “Please stop
this.” She was later taken back into the foyer area. She was assessed by the senior
medical officer and also the residential doctor who had come in to assist us. She was
then deemed not safe to be transported to another nursing facility so, therefore, was
15 transported through to a public hospital.

MS MAUD: Thank you. No further questions. Commissioners, may the witness be excused?

20 COMMISSIONER TRACEY: Thank you. Mr Strong, thank you very much for your evidence. You’re excused from further attendance at the Commission.

MR STRONG: Thank you very much.

25 <THE WITNESS WITHDREW [11.00 am]

COMMISSIONER TRACEY: Yes, Mr Bolster.

30 MR BOLSTER: Thank you, Commissioners. I call Karen Parsons. Whilst Ms Parsons is coming, could her witness statement – WIT.0349.0001.0001 – be brought up, please.

35 <KAREN PARSONS, SWORN [11.01 am]

<EXAMINATION-IN-CHIEF BY MR BOLSTER

40 MR BOLSTER: Ms Parsons, you’ll see in front of you on the computer screen a copy of your statement?

MS PARSONS: Yes.

45 MR BOLSTER: You recognise that?

MS PARSONS: Yes.

MR BOLSTER: And do you wish to make any amendments to that statement?

5 MS PARSONS: No.

MR BOLSTER: Are its contents true and correct to the best of your knowledge and belief?

10 MS PARSONS: Yes.

MR BOLSTER: I tender Ms Parsons statement, Commissioners, document number WIT.0349.0001.0001

15 COMMISSIONER TRACEY: The witness statement of Karen Parsons dated the 2nd of August 2019 will be exhibit 8-3.

20 **EXHIBIT #8-3 THE WITNESS STATEMENT OF KAREN PARSONS
DATED THE 2ND OF AUGUST 2019**

MR BOLSTER: Now, Ms Parsons, you as of 11 July were the – an executive director of HelpStreet. Correct?

25

MS PARSONS: Yes.

MR BOLSTER: And you still are associated with HelpStreet?

30 MS PARSONS: Yes.

MR BOLSTER: Was one of your responsibilities during your period as executive director of HelpStreet, when it ran Orchid and Hibiscus Lodge, to deal with quality and compliance issues?

35

MS PARSONS: Yes.

MR BOLSTER: And that involved you in dealing with the Commonwealth department of health?

40

MS PARSONS: Yes.

MR BOLSTER: And the quality-and-safety Commission?

45 MS PARSONS: Yes.

MR BOLSTER: I'll refer to them as the department and the Commission. Okay?

MS PARSONS: Okay. Yes.

MR BOLSTER: And you did that regularly?

5 MS PARSONS: Yes.

MR BOLSTER: All right. And one of your responsibilities was compliance with aged-care-accreditation standards?

10 MS PARSONS: It was.

MR BOLSTER: And you're familiar with the new standards that came into effect on the 1st of July 2019?

15 MS PARSONS: I am, yes.

MR BOLSTER: Did you understand that you had a responsibility to inform both the department and the Commission of significant developments that might affect residents in the operations of Orchid House and Hibiscus House?

20

MS PARSONS: Yes. Yes. Yes.

MR BOLSTER: Thank you. And significant events, such as – the withdrawal of care like we saw on the 11th of July was an event that, you understood, you needed to keep the regulators informed of?

25

MS PARSONS: Yes. Yes.

MR BOLSTER: Now, your statement refers to a deteriorating relationship between HelpStreet and Mr Miller's company, People Care.

30

MS PARSONS: Yes.

MR BOLSTER: When did that deterioration begin?

35

MS PARSONS: I started with HelpStreet on the 22nd of October, and my first interaction with Mr Miller was on November, the 13th. He – we'd had an issue on the site, because it was also independent living and lodge and residential. So one of my staff who was working in home care was really concerned about going out at night and locking up the auditorium, which is part of the duties, but because it was quite dark and there were some security issues, she asked me if I could speak to Mr Miller in regard to changing the process, which I did, and Mr Miller got very angry with me, said that I was a madam and how dare I question his systems on site and that he was going to report me to Kris Bunker, who was my global CEO, and he was going to pull the lease. And I'd only actually been there a week.

45

MR BOLSTER: I just asked you when the relationship deteriorated between HelpStreet and People Care.

MS PARSONS: Sorry. Yes. So - - -

5

MR BOLSTER: So do I take it from your answer, that as far as you were concerned, you had problems with Mr Miller from December 2018?

MS PARSONS: I did; yes.

10

MR BOLSTER: After having commenced there slightly before that?

MS PARSONS: Yes.

15

MR BOLSTER: Now, you took over from Ms Heard?

MS PARSONS: I did.

MR BOLSTER: She was the facility-manager before that.

20

MS PARSONS: She was.

MR BOLSTER: And the relationship between HelpStreet and People Care: did it deteriorate further from December 2018?

25

MS PARSONS: Yes.

MR BOLSTER: Do you recall attending a meeting on the 30th of May with officers of the quality-and-safety Commission?

30

MR BOLSTER: Yes. Michael Halliday and Wendy Beret.

MR BOLSTER: And who else was present at that meeting?

35

MS PARSONS: Mr Miller and Bruce Lang and Telecia Tuccori.

MR BOLSTER: And what was the purpose of that meeting?

MS PARSONS: They'd come down to do some education for my residents and staff on the new standards, and while they were there, they wanted to talk to the approved provider around some complaints that residents and families had sent straight to the Commission and not interacted with me, and they wanted to know why they weren't talking to me but going straight to them, and they felt the approved provider should be there to have an understanding of what the implications were.

45

MR BOLSTER: Let me see if we can clarify that.

MS PARSONS: Sorry.

MR BOLSTER: As of 30 May, a number of complaints had been made to the Commission.

5

MS PARSONS: Yes.

MR BOLSTER: That you were aware of. Correct?

10 MS PARSONS: No. I wasn't aware of them. The complaints – there was a couple of complaints I was aware of, but a lot of the complaints that were going via them or Mr Miller we weren't told of. And when we asked Mr Miller if we could have the complaints, he said they were confidential.

15 MR BOLSTER: Let me just make it very clear. I'm talking about complaints that residents had made to the Commission and that the Commission was engaged with HelpStreet about.

MS PARSONS: Yes. Yes. Yes.

20

MR BOLSTER: Correct?

MS PARSONS: Yes.

25 MR BOLSTER: There were a number of those.

MS PARSONS: I think I had two outstanding.

30 MR BOLSTER: And you were concerned, that Mr Miller was receiving complaints himself directly and not conveying them to you.

MS PARSONS: Yes. Yes. Yes.

MR BOLSTER: Is that right?

35

MS PARSONS: Yes.

MR BOLSTER: Two separate directions of complaints we are talking about.

40 MS PARSONS: Yes. Yes. Yes.

MR BOLSTER: Okay. Now, for example: there had been a meeting in March. Do you remember that?

45 MS PARSONS: Yes. Yes. I was aware – I wasn't aware on the day, but I was aware after that it'd happened.

MR BOLSTER: And how did you become aware later about what'd happened at the meeting at the end of March?

5 MS PARSONS: I was told by some family members that a meeting was – had occurred. But I didn't know the true outcome of the meeting until we received minutes of those meetings that were provided.

10 MR BOLSTER: All right. And when were you provided with the minutes of that meeting?

MS PARSONS: Probably a week to 10 days afterwards.

15 MR BOLSTER: If the operator could, please bring up tab – no. Not those – I'm sorry. Not those ones. It's the March – sorry. I'm on the wrong page. I do apologise. Tab 76, please. This was a – we, obviously, can't go through it line by line.

MS PARSONS: No.

20 MR BOLSTER: That's a five- or six-page document, isn't it?

MS PARSONS: Yes.

25 MR BOLSTER: It refers to a meeting of 60 residents, and a number of complaints were made, and Mr Miller addressed that meeting and gave some explanations, told residents what he was going to do?

MS PARSONS: Yes. Yes. Yes.

30 MR BOLSTER: That's a fair summary?

MS PARSONS: Yes.

35 MR BOLSTER: And a copy of the minutes were provided to you and Mr Bunker?

MS PARSONS: To the home, yes.

MR BOLSTER: Yes. And what did you do about that?

40 MS PARSONS: I addressed them with Kris Bunker.

MR BOLSTER: Right. Now let's go back – can we? To the meeting on the 30th of May.

45 MS PARSONS: Yes.

MR BOLSTER: What was the concern of the Commission people concerning the complaints that they had received and that they were dealing with you about?

5 MS PARSONS: The complaints – sorry; can you just re-clarify that for me?

MR BOLSTER: All right. Well, let's have a look at, if we could, tab 89. And the last paragraph: if that could be brought up, please – this is a file note by one of the officers who was present on that occasion.

10 MS PARSONS: Yes.

MR BOLSTER: And he says – and you may have a different recollection. I'm asking you whether he's right and whether you have your own account of what happened.

15 MS PARSONS: Yes.

MR BOLSTER: But he says this:

20 *The Commission officers asked the facility-manager if the approved provider was made aware of issues at the service and the communication strategy in place to inform the provider – that's Mr Miller – of complaints. He said that he was not made aware of concerns.*

25 MS PARSONS: Yes.

MR BOLSTER: Did he say that?

30 MS PARSONS: Yes, he did.

MR BOLSTER: You said that the general manager of HelpStreet, based on the Gold Coast – is that Mr Lamb?

35 MS PARSONS: He's the CEO, yes.

MR BOLSTER: Was advised of complaints and other matters of concern and it was up to him, to communicate these concerns with Mr Miller.

40 MS PARSONS: Yes.

MR BOLSTER: That's been the policy, has it? At People Street, regarding complaints.

45 MS PARSONS: Yes.

MR BOLSTER: And why is that?

MS PARSONS: It was because my direct line of support was Mr Lamb, the CEO, and – so I would address things with Mr Lamb, and then Mr Lamb would, potentially, take those to Mr Miller.

5 MR BOLSTER: When it came to the dealing with the Commission about the circumstances of an individual complaint and putting the position of People Care forward – that came from you, though, didn't it? Or did it? Who dealt with the Commission?

10 MS PARSONS: Me.

MR BOLSTER: When the Commission wanted to know something about the complaint process, you gave them the information.

15 MS PARSONS: I did.

MR BOLSTER: Not Mr Lamb.

MS PARSONS: No. I did.

20

MR BOLSTER: Was the reason why – you didn't talk to Miller, Mr Miller, because you had a poor relationship with Mr Miller.

MS PARSONS: Mr Miller was a bully, and he was quite intimidating.

25

MR BOLSTER: Now, what was the upshot of the meeting? What was the result?

MS PARSONS: They asked for the complaints – well, Michael Dalliday and Wendy asked for the – I suppose, the communication to be more open with the approved provider and vice versa, that he should be more communicative with us as well.

30

MR BOLSTER: And did you engage with Mr Miller after that about the complaints that you were dealing with?

35

MS PARSONS: No, because my directive was to go through my CEO.

MR BOLSTER: Okay. What was Mr Miller's reaction when he found out that there had been complaints to the Commission that he was unaware of?

40

MS PARSONS: I don't know.

MR BOLSTER: Was he happy at that meeting?

45 MS PARSONS: I don't know.

MR BOLSTER: You can't recall what he said or did?

MS PARSONS: No.

MR BOLSTER: Now, on the 10th of July, the day before the triple O call we heard about, some servers were removed from the facility.

5

MS PARSONS: Yes.

MR BOLSTER: Do you know about that?

10 MS PARSONS: I only know it was taken away for an upgrade. That's what I was told by Kris Bunker.

MR BOLSTER: So – you were the – you were in charge of, effectively, all clinical-operational-matters facility. Correct?

15

MS PARSONS: No. I'm not a clinician.

MR BOLSTER: You're not a clinician?

20 MS PARSONS: No.

MR BOLSTER: So Ms Telecia, she was the care-manager.

MS PARSONS: Yes. She's the clinician. Yes.

25

MR BOLSTER: So she was in charge of clinical matters.

MS PARSONS: Yes.

30 MR BOLSTER: Who told you that the servers had to be removed?

MS PARSONS: Kris Bunker said that he was removing the server so it could be upgraded.

35 MR BOLSTER: Did you talk to Telecia about that?

MS PARSONS: Yes. I said to Telecia, "If we've got no server on site, could we please start to document on the paper-based system" so we had notes until the server was back in residence, and then they could be put into the information on Manad.

40

MR BOLSTER: Did you tell Telecia that the servers were going before they went?

MS PARSONS: I can't recall.

45 MR BOLSTER: The server had a system on them called Manad. Is that correct?

MS PARSONS: Manad. Yes.

MR BOLSTER: Now, Manad is a fairly typical aged-care-residential program.

MS PARSONS: Far as I'm aware. Yes.

5 MR BOLSTER: It deals with every aspect of the resident's enjoyment of the facility, deals with medication.

MS PARSONS: Yes. We had separate medication files. So they – so when medication was administered, they were recorded on separate files, paper-based ones.
10

MR BOLSTER: Paper-based files?

MS PARSONS: Yes.

15 MR BOLSTER: Was not the medication history of the clients – of the residents, recorded electronically?

MS PARSONS: I wasn't – I'm not overly familiar with the clinical side of that.

20 MR BOLSTER: All right. But all the details about the patients, other than - - -

MS PARSONS: Yes.

MR BOLSTER: - - - the medication that was in - - -
25

MS PARSONS: Yes, yes. Care – yes, they are.

MR BOLSTER: And you needed that to operate on a daily basis, didn't you?

30 MS PARSONS: Yes.

MR BOLSTER: All right. Mr Bunker told you it was for an upgrade?

MS PARSONS: Yes.
35

MR BOLSTER: What sort of upgrade?

MS PARSONS: He didn't explain that to me.

40 MR BOLSTER: All right. Okay. Was that the sort of thing that Mr Bunker typically involved himself in, in the day-to-day management of this facility?

MS PARSONS: No, because he lives overseas.

45 MR BOLSTER: Had he involved himself before 10 July in the computer servers at Hibiscus Lodge and Orchid House?

MS PARSONS: I wouldn't know.

MR BOLSTER: And where are the servers now?

5 MS PARSONS: I don't know.

MR BOLSTER: Were they returned to the facility on the 11th?

MS PARSONS: I don't know.

10

MR BOLSTER: Have you read Ms Tuccori's statement?

MS PARSONS: No.

15 MR BOLSTER: She says that you told her, on 10 July, at a meeting that evening, that HelpStreet was out at 12 pm the following day or at some time in August?

MS PARSONS: Words of those effect.

20 MR BOLSTER: On what basis did you tell her you'd be out at 12 pm the following day?

MS PARSONS: I don't recall.

25 MR BOLSTER: Who told you that you would be out at 12 pm the following day on 10 July?

MS PARSONS: Kris Bunker.

30 MR BOLSTER: All right. You don't remember the circumstances when he told you that?

MS PARSONS: No.

35 MR BOLSTER: All right. The following morning, there was a meeting at about 9 o'clock - - -

MS PARSONS: Yes.

40 MR BOLSTER: - - - and Mr Bunker was there with you?

MS PARSONS: Yes.

MR BOLSTER: Telecia?

45

MS PARSONS: Yes.

MR BOLSTER: And a couple of other staff –

MS PARSONS: Yes. And the other managers of the home, yes.

5 MR BOLSTER: The other managers, not the – were they nurses?

MS PARSONS: No.

10 MR BOLSTER: So the only clinical person there was Telecia, the clinical manager?

MS PARSONS: Yes.

MR BOLSTER: Was Mr Lamb there as well?

15 MS PARSONS: Yes.

MR BOLSTER: You say in your statement that a plan for calling 000 was developed that morning.

20 MS PARSONS: Yes. They – Kris Bunker directed us or directed the team to maybe put some structures in place due to the concerns that he had with Mr Miller and the way he may react to the communication that they had– between each other.

25 MR BOLSTER: According to your statement, the concern was that Mr Miller might move in, change the access - - -

MS PARSONS: Yes, that was also – yes.

30 MR BOLSTER: - - - and, effectively, lock you out?

MS PARSONS: Yes. Yes, there was concern about that because you never really knew what Mr Miller would do. He was quite volatile.

35 MR BOLSTER: Am I right in thinking that it was because of that, he suggested that there be a plan for calling 000?

MS PARSONS: Yes.

40 MR BOLSTER: All right. And what was the purpose of calling 000?

MS PARSONS: Just to – depending on what happened, on the day, just to make sure that our residents were going to be safe and because we didn't know how it was – how Mr Miller would have reacted to, say, the correspondence between the two parties.

45 MR BOLSTER: You knew that Mr Miller and Mr Bunker were negotiating at that time, did you?

MS PARSONS: Yes, I knew some of it, yes.

MR BOLSTER: Did you know the details of it?

5 MS PARSONS: Not 100 per cent, no.

MR BOLSTER: What did you know? What was the issue as far as you were concerned?

10 MS PARSONS: I knew that Kris Bunker had asked for the payments that were due, because they had an agreement that payment would be made to the – well, to Mr Bunker and HelpStreet for the – for wages, suppliers, and I know that Mr Miller wasn't always been forthcoming in paying on time, which put HelpStreet under financial stress from my understanding - - -

15

MR BOLSTER: Do you know how much money was involved?

MS PARSONS: I never got told the amount of money.

20 MR BOLSTER: Okay.

MS PARSONS: That wasn't my scope.

MR BOLSTER: All right. Now, there was a meeting with staff later that morning?

25

MS PARSONS: At half past 1.

MR BOLSTER: At half past 1. Was that before or after the 000 call was made?

30 MS PARSONS: That was before.

MR BOLSTER: Before. How long before?

MS PARSONS: Probably half an hour.

35

MR BOLSTER: At the meeting at 1.30, what was the result of that meeting?

MS PARSONS: So Kris explained to the staff that the circumstances were that there was no payment that had been made, so wages would not be able to be paid and – but he wanted to make sure that everyone stayed calm and didn't do any – you know, like, none of the staff would have just – didn't walk out. Some of the staff actually had finished their shift at the end of that time, because they finish around 2-2.30, but they wanted to make sure the residents were safe and, you know, we tried to keep calm but then Mr Miller came down.

45

MR BOLSTER: What time did Mr Miller arrive?

MS PARSONS: I think we were probably having a conversation for around 15 minutes, I think he arrived about quarter to 2.

5 MR BOLSTER: Quarters to 2. Okay. The record of the 000 call was, you can assume for present purposes, 1.33.

MS PARSONS: Okay.

10 MR BOLSTER: How long before the 000 call did Mr Miller come down and talk to people?

MS PARSONS: It would be a good half an hour, 45 minutes.

15 MR BOLSTER: Half an hour. So if we assume that the 000 call was at 1.33, that was just after 1 o'clock? Do you accept that?

MS PARSONS: I thought we had the meeting at 1.30 so correct me if I am wrong.

20 MR BOLSTER: That's perfectly understandable.

MS PARSONS: It was quite a fraught day.

25 MR BOLSTER: If we assume that the 000 call was at 1.33, when did you think the meeting was begun with the staff and Mr Bunker? How long before that?

MS PARSONS: I can't recall.

30 MR BOLSTER: Okay. All right. Now, in your statement, you set out in detail what you say Mr Miller did at the time. Did Mr Miller tell HelpStreet to leave?

MS PARSONS: No.

35 MR BOLSTER: Using your best recollection, how long before the 000 call do you think Mr Miller arrived and said the things that you attribute to him in your statement?

40 MS PARSONS: I'm only aware that the – the solicitor had given People Care till midday to pay the funds and from – I recall that – I thought the meeting with the staff was at half past 1, so.

MR BOLSTER: Okay. All right. Thanks for that. A van had been booked. Who arranged for the van to arrive?

45 MS PARSONS: Kris Bunker directed Danni Robinson to book the removalists, just on – as a precautionary and we were just going to pay them by the hour if things worked out well.

MR BOLSTER: When did they arrive?

MS PARSONS: I don't know, sorry.

5 MR BOLSTER: Well, was it before midday? Before that - - -

MS PARSONS: No, it wasn't before midday.

MR BOLSTER: Are you sure about that? Let me show you a photo - - -

10 MS PARSONS: Show me.

MR BOLSTER: - - - if I could. Could we please bring up RCD.9999.0163.0012.

15 MS PARSONS: Yes.

MR BOLSTER: That's the entrance to – is it Hibiscus or Orchid?

MS PARSONS: Hibiscus.

20 MR BOLSTER: Hibiscus. And you can see there a gentleman carrying a bedside table; am I right in thinking that?

MS PARSONS: Yes. Yes, it's a cabinet, yes.

25 MR BOLSTER: Was that the removalist that had been engaged?

MS PARSONS: Yes.

30 MR BOLSTER: And you see the time on the photo - - -

MS PARSONS: I do.

MR BOLSTER: - - - is 12.10.

35 MS PARSONS: Yes.

MR BOLSTER: When did the – was that early on in the process of removal?

40 MS PARSONS: Yes.

MR BOLSTER: All right. And if you could please have a look at RCD.9999.0163.0014, that's the foyer about seven minutes earlier?

45 MS PARSONS: Yes.

MR BOLSTER: Do you recall that?

MS PARSONS: Well, it's the foyer, yes.

MR BOLSTER: Were you present in that area at around midday?

5 MS PARSONS: I was in the office; that's at the back.

MR BOLSTER: Was it the back there?

MS PARSONS: Yes.

10 MR BOLSTER: As we look at that photo, was it right at the rear of the photo?

MS PARSONS: If you go in the door here, the gate, the office is in here, so you – there is no windows or anything to look out.

15 MR BOLSTER: So there is a gate there to stop residents coming into the office, is there?

MS PARSONS: It's, yes, to stop, yes, people - - -

20 MR BOLSTER: One of those – like a child-proof fence?

MS PARSONS: Yes.

25 MR BOLSTER: Okay. And that's the office of HelpStreet at Hibiscus Lodge?

MS PARSONS: Yes. This is the administration area and in there is the office.

MR BOLSTER: All right. You've seen the photographs in the evidence of the ambulance officer this morning, does that accord with your recollection of the state that the facilities were in during the course of that afternoon?

30 MS PARSONS: Yes.

MR BOLSTER: And were beds taken?

MS PARSONS: Beds? No.

MR BOLSTER: No beds were taken?

40 MS PARSONS: No.

MR BOLSTER: No mattresses?

45 MS PARSONS: Only mattresses that HelpStreet had purchased, and there was only 14 of those.

MR BOLSTER: 14. Okay.

MS PARSONS: And they were replaced with People Care equipment.

5 MR BOLSTER: If they were on a bed and there was a resident on the bed, how did you manage that - - -

MS PARSONS: We didn't take the ones that had got people on them.

10 MR BOLSTER: Are you sure?

MS PARSONS: Yes. As far as I'm aware. I wasn't involved in the removal of any items.

15 MR BOLSTER: Wasn't the task of two of your staff to prepare a list?

MS PARSONS: Yes.

MR BOLSTER: And that was agreed at the meeting at 9 o'clock that morning.
20

MS PARSONS: Yes.

MR BOLSTER: And what were the names of the staff that did that?

25 MS PARSONS: Danni Robinson and Kimberly Parsons.

MR BOLSTER: Okay. And did they spend the morning preparing that list?

MS PARSONS: Yes.
30

MR BOLSTER: All right. Who told you that HelpStreet had been put into administration?

MS PARSONS: No one.
35

MR BOLSTER: Do you recall anyone talking about the company being in administration - - -

MS PARSONS: No.
40

MR BOLSTER: - - - on the 10th or the 11th?

MS PARSONS: I wasn't told by Kris Bunker that it was being put into administration, no.
45

MR BOLSTER: All right. Were you present with Ms Tuccori when she called 000?

MS PARSONS: No.

MR BOLSTER: Did you discuss with her the need to call 000 before she did?

5 MS PARSONS: No, that was Kris Bunker.

MR BOLSTER: Kris Bunker talked about that?

MS PARSONS: Yes.

10

MR BOLSTER: Okay. And you weren't present when she made that call?

MS PARSONS: No.

15

MR BOLSTER: That's the examination, thank you, Commissioners. Might the witness be excused.

COMMISSIONER TRACEY: Yes, certainly. Thank you very much for your evidence, Ms Parsons.

20

MS PARSONS: Thank you.

<THE WITNESS WITHDREW

[11.28 am]

25

MR BOLSTER: I call Ms Telecia Tuccori. In due course I will tender the photographs, but I want to authenticate them first.

30

<TELECIA MAREE TUCCORI, AFFIRMED

[11.29 am]

<EXAMINATION-IN-CHIEF BY MR BOLSTER

35

MR BOLSTER: If Ms Tuccori's statement could be brought up; it's WIT.0326.0001.0001. Ms Tuccori, you can see in front of you a copy of your statement; and is that your statement?

40

MS TUCCORI: Yes.

MR BOLSTER: Do you wish to make any amendments to it?

45

MS TUCCORI: No.

MR BOLSTER: Are the contents true and correct to best of your knowledge and belief?

MS TUCCORI: Yes.

5

MR BOLSTER: Thank you. You were the senior clinical – I tender the statement, Commissioner.

COMMISSIONER TRACEY: What date does it bear?

10

MR BOLSTER: It bears the date of 3 August 2019.

COMMISSIONER TRACEY: The witness statement Telecia Maree Tuccori dated 3 August 2019 will be exhibit 8-4.

15

**EXHIBIT #8-4 WITNESS STATEMENT TELECIA MAREE TUCCORI
DATED 03/08/2019 (WIT.0326.0001.0001)**

20

MR BOLSTER: Ms Tuccori, you were the senior clinical person?

MS TUCCORI: Correct.

25 MR BOLSTER: You had a serious responsibility to all of the residents - - -

MS TUCCORI: Yes, I did.

30 MR BOLSTER: - - - of Earle Haven who were in Orchid House and Hibiscus House. And to what extent were you directed by Ms Parsons in carrying out your clinical duties on 10 and 11 July this year?

MS TUCCORI: Could you – could you say that again, sorry?

35 MR BOLSTER: Well, did Ms Parsons give you directions about what was to happen to the residents of Orchid House and Hibiscus House on the 10th and the 11th?

MS TUCCORI: No, no.

40 MR BOLSTER: So it was your decision, do you say, to call the 000?

45 MS TUCCORI: It was discussed between myself, Karen Parsons and, I suppose, the management team that we act within the best interests of the residents and ensure their safety at all times. At 2 o'clock, it became apparent that, especially with the amount of staff there, that something needed to happen and I did have a discussion with Karen to, I suppose, reassure myself that my decision to call 000 was correct.

MR BOLSTER: It was your decision to call 000?

MS TUCCORI: Yes.

5 MR BOLSTER: Wasn't there a meeting at 9 o'clock in the morning on the 11th?
Wasn't there a meeting where that prospect was discussed with Mr Bunker?

MS TUCCORI: Correct. We discussed there was a possibility of that and I said –
we had another meeting at 10 o'clock and I said that we need to start thinking about
10 the residents and their safety and how we can, you know, ensure that remains our
priority. Karen Parsons suggested perhaps there's some respite centres that may be
able to assist. But at 2 o'clock, I felt it was probably a bit too late to be able to be
calling them and with the limited amount of staff to ensure their safety over a period
of time that I wasn't certain of, I decided to call 000.

15

MR BOLSTER: Well, the prospect of HelpStreet leaving the facility was first raised
with you on the evening of the 10th; correct?

MS TUCCORI: Correct.

20

MR BOLSTER: You appreciated, didn't you, that that meant that there would be no
HelpStreet staff there to care for 70-odd residents?

MS TUCCORI: That there was a possibility, yes.

25

MR BOLSTER: Did the magnitude of that prospect mean anything to you?

MS TUCCORI: It was quite panicky. I was sort of hoping it was just a possibility
and it wasn't going to come to that, but yes.

30

MR BOLSTER: Well, in your statement – if we could bring up Ms Tuccori's
statement and go to paragraph 18 and highlight that:

35 *...10 July I received a phone call from Ms Parsons stating Mr Miller owed
HelpStreet a large sum of money and that we were out, either tomorrow, 11
July, after 12 pm or 9 August 2019.*

Then you say that the following day it occurred to you that it might be a good idea to
contact some place where respite services were available. Did you give any thought
40 to contacting anyone on the 9th or the 10th?

MS TUCCORI: I was at a family function and wasn't really able to. Nor was I
certain of the severity, I suppose you could say, or the possibilities of it being the
12th. I suppose you could call it personal opinion. I would think it would be less
45 likely that that was going to happen because, to me, it seemed quite extreme.

MR BOLSTER: Well, what about then on the morning at 9 o'clock; who raised 000 as a solution?

MS TUCCORI: Kris Bunker and - - -

5

MR BOLSTER: Kris Bunker?

MS TUCCORI: Yes.

10 MR BOLSTER: Did he say why?

MS TUCCORI: Not really, no. I mean, mostly it was to do with the safety of the residents and it was only ever raised as a possibility, depending on what outcome was going to happen.

15

MR BOLSTER: Had Mr Bunker involved himself in clinical decisions at the facility in the time that you had been there previously?

MS TUCCORI: No.

20

MR BOLSTER: Are you aware of whether he has any clinical experience?

MS TUCCORI: He does not, no.

25 MR BOLSTER: He doesn't. All right. Did you start talking to respite services after 9 o'clock?

MS TUCCORI: No.

30 MR BOLSTER: Can I ask why not?

MS TUCCORI: Again, I was uncertain of what the outcome would be. I mean, even if it was to eventuate that HelpStreet were to leave, there was nothing to suggest that Mr Miller wasn't going to offer to pay the staff to complete their shifts for the next, you know, on toward. There was, like, a large array of better outcomes.

35

MR BOLSTER: Did you know how much money Mr Bunker was asking Mr Miller to pay by midday - - -

40 MS TUCCORI: I know that there was a larger sum and that he was – this is from what he said at some of the meetings, but he only expected a partial payment to show that Mr Miller had any, you know, inkling that he was going to pay that sum in future.

45 MR BOLSTER: Did you have any – what was your understanding of what that partial sum was?

MS TUCCORI: I don't really have any understanding. I didn't have anything to do with the financials of the home.

5 MR BOLSTER: Okay, all right. So you had no idea about what Mr Bunker was asking for; correct?

MS TUCCORI: I know that he – he did mention about 850,000 in one of the meetings. However, he didn't say what that money was for or what not.

10 MR BOLSTER: All right. And did Mr Bunker tell you, as the morning progressed, whether he'd received any response from Mr Miller?

15 MS TUCCORI: No, he did not. He did say that he was communicating with Mr Miller's lawyer as well to try and better the circumstances, or the outcome, but with minimal effect, I suppose you could say.

MR BOLSTER: Were you present when there was a meeting of staff at about 1 o'clock?

20 MS TUCCORI: Yes.

MR BOLSTER: What were staff told by Mr Bunker?

25 MS TUCCORI: They were told that he did not receive payment. They were trying to work out the disagreement, we'll call it, between themselves but were unable to. He stated that he may or may not be able to pay the staff and, therefore, didn't expect them to stay, which is fair enough. Mr Miller did come down and cause, I suppose, you could say a scene, as you may have seen on the media - - -

30 MR BOLSTER: What happened?

35 MS TUCCORI: He came down and basically was just saying that Kris Bunker was a bad businessman. Some of the staff questioned Mr Miller on whether or not he had any intention of paying them at all, which he said "No". And that was sort of when I think some of the staff, who had ended shift, left or, yes - - -

MR BOLSTER: When were their shifts due to end?

40 MS TUCCORI: There was a staggering of shifts. I think there was an EN that finished at 12 who was still present and had left after that. There was an AIN that finished at 1.30 and then the rest of the shifts would finish at 2.30.

45 MR BOLSTER: Okay. A typical day at those facilities, what's the staff profile – the care staff profile?

MS TUCCORI: How many there are?

MR BOLSTER: Yes. If I walked in there on a normal day at 1 o'clock, who would be there looking after all of these people?

5 MS TUCCORI: At 1 o'clock, there would be, in Hibiscus House, which -there's 40, there would be six AINs. In Orchid House, which there is 29, there would be four.

MR BOLSTER: What about registered nurses?

10 MS TUCCORI: Registered nurses, Hibiscus House, there is two ENs until 12 – until 11, sorry. One finishes at 1 o'clock after that. There is an RN that finishes at 2.30. And then in Hibiscus House there is also an EN but also Monday to Friday there was a clinical nurse to assist as well as myself.

15 MR BOLSTER: All right. And so after that meeting where Mr Bunker relayed the state of his negotiations with Mr Miller, how many staff said they were going to leave and how many staff said they were going to stay?

20 MS TUCCORI: That was quite unclear. I couldn't give you an example, an exact number but there was definitely not enough to provide appropriate amount of care to ensure the safety of all of them and I certainly wasn't going to be responsible for saying, "Everyone can stay, and we won't escalate this further", and there being an incident.

25 MR BOLSTER: Who made the decision to call 000?

MS TUCCORI: It was myself and Karen Parsons.

30 MR BOLSTER: When you made the call, who was standing next to you?

MS TUCCORI: I cannot remember.

MR BOLSTER: Were you upset when you made the call?

35 MS TUCCORI: Yes.

MR BOLSTER: At one point during the call when the operator is off talking to her supervisor, you use the word "hysterical". In what context were you using the word "hysterical"?

40 MS TUCCORI: I could not recall.

45 MR BOLSTER: You can't recall. Ms Tuccori, your tone of voice, may I suggest to you, it did not sound as though you were distressed or upset when that call was made.

MS TUCCORI: I did try to continue to be professional. I didn't – being the clinical manager, I didn't want to appear distressed and upset for both family members, residents as well as staff as well. I didn't think that would be very appropriate.

5

MR BOLSTER: All right. Had Mr Miller asked people to leave?

MS TUCCORI: Not that I was aware of, no.

10 MR BOLSTER: I may have misquoted you in that tape. Assume from me that you use the word "hilarious". Do you recall using that word?

MS TUCCORI: No, I don't.

15 MR BOLSTER: Were you present today when the tape was played?

MS TUCCORI: Yes.

MR BOLSTER: You heard it for yourself?

20

MS TUCCORI: Yes.

MR BOLSTER: That's the first time you'd heard it again?

25 MS TUCCORI: Yes.

MR BOLSTER: One of the things that can be heard in the background is you saying to someone who was with you, "We need to call family." Who were you saying that to?

30

MS TUCCORI: I can't recall.

MR BOLSTER: Had you called family before you called 000 to tell - - -

35 MS TUCCORI: I hadn't personally, no. I didn't really have time. As you can see, the meeting was at 1 o'clock and then the phone call was at 1.33.

MR BOLSTER: Okay. Now, when did the van arrive?

40 MS TUCCORI: I can't give an exact time. I do know, however, it was after 12 because I do remember the residents were in the dining room eating lunch whilst they were removing items.

MR BOLSTER: What were they removing while the residents were eating lunch?

45

MS TUCCORI: It was just basically furniture that HelpStreet had purchased during their time there.

MR BOLSTER: How many mattresses were removed?

MS TUCCORI: I believe there was only 13 taken but we did purchase between 14 and 15.

5

MR BOLSTER: Okay. And where were the mattresses removed from?

MS TUCCORI: During that time, we were doing some renovations so there was – and there was quite a few unoccupied rooms at the time. I couldn't give you exact room numbers but I can tell you that if there was anything taken off, a likeness was put back. There was no rooms – definitely no occupied rooms that were left without any furniture.

10

MR BOLSTER: What happened if the room was occupied and you wanted to remove a mattress; what did you do about that?

15

MS TUCCORI: I just did a straight swap.

MR BOLSTER: What happened to the resident?

20

MS TUCCORI: They were in the dining room.

MR BOLSTER: Had you moved them all into the dining room to enable this to happen?

25

MS TUCCORI: No.

MR BOLSTER: All right. This was a facility where there were a significant number of high-level dementia patients. Some of them would have been sleeping, can I suggest, in their beds at that time of day; is that fair?

30

MS TUCCORI: No. For - - -

MR BOLSTER: They were all out of bed?

35

MS TUCCORI: Yes. For lunch, we generally would encourage them to attend the dining room for the social aspect and to allow better supervision for eating, for safety.

MR BOLSTER: Now, the servers, what is the use that you'd use of the Manad program on the servers?

40

MS TUCCORI: That was basically where we would document – I will just use the loose term of everything – progress notes, care plans, like that – things like that.

45

MR BOLSTER: If a doctor came in to see a resident and wanted to know how the resident had been going since their last visit, they'd go to that?

MS TUCCORI: Yes, or the nurse on duty.

MR BOLSTER: What about medication?

5 MS TUCCORI: Medication, we had separate folders which was kept in the treatment room, paper-based. Yes.

MR BOLSTER: Who told you that the system with the Manad aged care software had been taken away?

10

MS TUCCORI: Karen Parsons.

MR BOLSTER: When did she tell you that?

15 MS TUCCORI: It was on the 10th at – and this is an approximate – between 2 and 3 pm, yes.

MR BOLSTER: Did you get any advance notice that was going to happen?

20 MS TUCCORI: No, no.

MR BOLSTER: How did that affect the operations of the facility?

25 MS TUCCORI: When I was told, I was told that it would only be for that evening and it would return the next day and so my understanding was that they would document paper-based and then the next day we would be able to place that into Manad.

MR BOLSTER: Did the servers come back on the 11th?

30

MS TUCCORI: Not that I'm aware of.

MR BOLSTER: All right. Do you know what happened to them?

35 MS TUCCORI: No.

MR BOLSTER: All right. That is the examination, thank you, Commissioners.

40 COMMISSIONER TRACEY: Very well. Thank you, Ms Tuccori, for your evidence. You are excused from further attendance.

<THE WITNESS WITHDREW

[11.46 am]

45

MR BOLSTER: That may be a convenient time, Commissioners.

COMMISSIONER TRACEY: The Commission will adjourn until 12 noon.

ADJOURNED [11.46 am]

5

RESUMED [12.02 pm]

10 COMMISSIONER TRACEY: Yes, Mr Bolster

MR BOLSTER: Thank you, Commissioners. I call Karen Ann Heard, who is in the witness box.

15

<KAREN ANN HEARD, SWORN [12.02 pm]

<EXAMINATION-IN-CHIEF BY MR BOLSTER

20

MR BOLSTER: Ms Heard, you will have in front of you on the screen the two statements that you have prepared in this matter. Do you recognise those?

25 MS HEARD: I do.

MR BOLSTER: Are those statements true and correct?

MS HEARD: Yes.

30

MR BOLSTER: To the best of your knowledge, information and belief?

MS HEARD: Yes.

35 MR BOLSTER: And do you wish to make any changes to any aspect of them?

MS HEARD: No, I don't.

MR BOLSTER: I tender the two statements together, Commissioners.

40

COMMISSIONER TRACEY: Could you oblige with the dates?

MR BOLSTER: They are – the first one is dated the 2nd of August, and the second one is dated the 4th of August.

45

COMMISSIONER TRACEY: The witness statement of Karen Ann Heard dated 2 August 2019 will be exhibit 8–5.

**EXHIBIT #8-5 THE WITNESS STATEMENT OF KAREN ANN HEARD
DATED 2 AUGUST 2019**

5 COMMISSIONER TRACEY: And the witness statement of Karen Ann Heard
dated 4 August 2019 will be exhibit 8-6.

10 **EXHIBIT #8-6 THE WITNESS STATEMENT OF KAREN ANN HEARD
DATED 4 AUGUST 2019**

MR BOLSTER: Ms Heard, you have had a relatively long relationship with these
two facilities, Hibiscus House and Orchid House; correct?

15 MS HEARD: Yes.

MR BOLSTER: As of 11 July 2019, what was your role?

20 MS HEARD: I was an external consultant or contractor to People Care.

MR BOLSTER: And what were you tasked with doing?

MS HEARD: I was tasked in May to carry out clinical audits for Hibiscus House
25 and Orchid House. At that time, it was being managed by HelpStreet Villages.

MR BOLSTER: Were you – how often were you there?

MS HEARD: Over a period of – may be four to five weeks – I was there three times
30 a week, up to four times a week.

MR BOLSTER: Have you heard the evidence given in the Commission this
morning?

35 MS HEARD: No.

MR BOLSTER: There's been some evidence about a computer system called
Manad.

40 MS HEARD: Manad. Yes.

MR BOLSTER: Are you familiar with that?

MS HEARD: Yes.
45

MR BOLSTER: How important is that in the daily operation of these facilities?

MS HEARD: Manad records all resident information. It's an electronic clinical system that stores everything about the residents' needs and services that we provide to those residents.

5 MR BOLSTER: Were you involved in the decision to install Manad previously?

MS HEARD: Not directly. Indirectly. I was indirectly involved.

MR BOLSTER: Back in 2018, you were the facility-manager.

10

MS HEARD: External consultant. I was a contractor.

MR BOLSTER: And was Manad in place at that time?

15 MS HEARD: It was in place in about the June of 2018.

MR BOLSTER: When it's upgraded – how does that happen?

MS HEARD: When it's upgraded – what do you mean? Day-to-day?

20

MR BOLSTER: Well, if – yes. If I – if the software needs an upgrade or it needs a repair or it needs some addition to it, how was that effected?

MS HEARD: Well, I would say primarily there would be identification that it needs that upgrade. The company would be notified and would assist the licensee of that software to upgrade it.

25

MR BOLSTER: Were you involved in any such process?

30 MS HEARD: No.

MR BOLSTER: Thank you. Now, you arrived at the facility on 11 July at about 3.30 pm according to your statement?

35 MS HEARD: Approximately.

MR BOLSTER: What did you see when you got there?

MS HEARD: It was very chaotic. When I drove through the gates of Earle Haven, there were up to – eight to 10 ambulances. There was quite a lot of people out the front of Hibiscus House. It was very disorganised.

40

MR BOLSTER: There was some evidence this morning of a dispute about the ownership of some records in a folder. And can you assist the Commission about whether you were party to any dispute about records in a folder?

45

MS HEARD: I recall throughout the afternoon – that afternoon, I had asked Ms Telecia Tuccori “Where are the records? Where are the residents’ records?”. I was actually talking electronic to her, but I did talk about clinical – other records to Ms Parsons. “Where are all the records that would, normally, be stored in the facility-
5 manager’s office?”

MR BOLSTER: Did you – were you able to find those records?

MS HEARD: No.
10

MR BOLSTER: What records were you able to find?

MS HEARD: There was records of residents’ entry history. So when a resident is admitted to an aged-care facility or a person is admitted to an aged-care facility, we gather information. That could be information that’s predetermined by the aged-care assessment team, by the doctor, some of their medication history. When you actually use an electronic system, then you – when they’re admitted, all that information about them is programmed immediately onto the electronic system. So there wasn’t a great deal of information regarding their current health status.
15
20

MR BOLSTER: Was there a fire-evacuation plan that listed the residents - - -

MS HEARD: There was.

MR BOLSTER: And listed their care needs in a very summary way?
25

MS HEARD: Not all their care needs, their mobility needs.

MR BOLSTER: Their mobility. And what form did that document or that record take?
30

MS HEARD: It was in a – the evacuation folder situated in the nurses’ station, Hibiscus House.

MR BOLSTER: Did you observe that document being utilised that afternoon?
35

MS HEARD: Yes. By the – yes.

MR BOLSTER: Thank you. All right. Just bear with me. Paragraph 15 of your statement, your first statement – you talk about 74 hours of care being available to residents. What did you mean by that?
40

MS HEARD: On a couple - - -

MR BOLSTER: Paragraph 13F, foot of the page there – do you see that?
45

MS HEARD: After I had introduced myself to the commander, he had asked some questions about why would – what could happen, why – “Can you tell me why these residents shouldn’t be evacuated?” I was under the initial impression that they were being evacuated to hospitals. I said to the commander that I felt that we could
5 actually guarantee 72 hours of care, because I had – on my way to Earle Haven, I had spoken to the approved provider. I had spoken to the catering manager, and I had spoken to staff on the floor about what was taken and what was left that we could care for the residents, and I felt confident that – there was food; there was hydration; there was continence aids; there was bedding. There was staff with the knowledge
10 to care for them.

MR BOLSTER: That’s my examination. Thank you, Commissioners. And I tender the – I am helpfully reminded that the two photographs, Commissioner – if they could be brought up, that we showed Ms Tuccori – do you recognise those
15 photographs?

MS HEARD: I do.

MR BOLSTER: Did you extract those from the records of Orchid House and
20 Hibiscus House?

MS HEARD: Not myself personally, no.

MR BOLSTER: You provided that to the Commission through your solicitors, did
25 you?

MS HEARD: Yes.

MR BOLSTER: I tender the two photographs, Commissioners.
30

COMMISSIONER TRACEY: Yes. The photograph dated 7 – I beg your pardon – the 11th of July 2019 at 12.03 pm will be exhibit 8–7.

35 **EXHIBIT #8–7 THE PHOTOGRAPH DATED 11/07/2019 AT 12.03 PM**

COMMISSIONER TRACEY: The photograph dated 11 July 2019 at 12.10 pm will be exhibit 8–8.
40

EXHIBIT #8–8 THE PHOTOGRAPH DATED 11/07/2019 AT 12.10 PM

45 MR BOLSTER: On the first photograph, the one on the left, there’s a red circle. Was that a circle that you placed there?

MS HEARD: No.

MR BOLSTER: You don't know what that's about?

5 MS HEARD: No.

MR BOLSTER: Thank you. Nothing further. Thank you, Commissioners. Might the witness be excused?

10 COMMISSIONER TRACEY: Thank you. Yes. Thank you very much for your evidence, Ms Heard. You are excused from further attendance.

15 <THE WITNESS WITHDREW [12.12 pm]

MR BOLSTER: I call Bruce Walter Lang.

20 <BRUCE WALTER LANG, SWORN [12.14 pm]

<EXAMINATION-IN-CHIEF BY MR BOLSTER

25

MR BOLSTER: We could please bring up Mr Lang's statement, WIT.0358.0001.0001. Mr Lang, is that a copy of your statement, that's on the screen in front of you?

30 MR LANG: Yes.

MR BOLSTER: If you look at the screen - - -

35 MR LANG: Sorry. Yes.

MR BOLSTER: That's your statement?

MR LANG: Yes, it is.

40 MR BOLSTER: Do you wish to make any amendments to the statement?

MR LANG: There was one only, about an email to – department of health, think it was – about letting – informing that we were – had given HelpStreet until 30 October to terminate the lease.

45

MR BOLSTER: Yes. What did you wish to change?

MR LANG: That was it.

MR BOLSTER: We'll come to that very shortly. Other than that, are the contents of the statement true and correct to the best of your knowledge and belief?

5

MR LANG: Yes. Yes.

MR BOLSTER: I tender the statement, Commissioners. It's dated the 2nd of August.

10

COMMISSIONER TRACEY: The witness statement of Bruce Walter Lang dated 2 August 2019 will be exhibit 8-9.

15 **EXHIBIT #8-9 THE WITNESS STATEMENT OF BRUCE WALTER LANG DATED 02/08/2019**

MR BOLSTER: In 2018, when HelpStreet took over the care or was in the process of taking over the care of Hibiscus House and Orchid House, you were approached by the department of health about that relationship; correct?

20

MR LANG: Yes.

MR BOLSTER: If we could, bring up please tab 58. I want to show you an email that you haven't seen, but it refers to a conversation that, an officer says, he had with you on the 23rd of March. You see that?

25

MR LANG: 2018? Yes.

30

MR BOLSTER: And so this – let me just set the scene here: you, on behalf of People Care, were entering into an arrangement whereby all of the care that you had previously provided as an approved provider would be provided by them.

MR LANG: Yes.

35

MR BOLSTER: And you told officers of the department about that when they came and visited the site sometime before the 23rd of March; correct?

MR LANG: I can't remember that.

40

MR BOLSTER: Yes. This email dated the 23rd says that an officer contacted you to find out what might be happening at the residential facilities, he advised there will be no change in the approved provider but they are trialling a contract arrangement with HelpStreet Group to manage the aged-care-residential facilities.

45

I asked Bruce if he would send an email to us to formally advise us of these arrangements so that we can update our records. He was happy to do so.

Do you recall a conversation along those lines?

5

MR LANG: Yes, and I'm pretty sure we sent an email to the department of health.

MR BOLSTER: Are you sure about that?

10 MR LANG: Yes. I'm pretty sure.

MR BOLSTER: Do you have a – have you had a look for an email of that kind when you came to prepare your statement?

15 MR LANG: I hadn't seen this before. So I hadn't prepared anything for that. No.

MR BOLSTER: Yes. No. It's just that your statement effectively deals with the communication you had with the commissioner and the department of health during May 2019 and July 2019. Did you turn your mind back to the communications you had in 2018 when this issue arose?

20

MR LANG: I think I've forgotten all about that.

MR BOLSTER: Did you provide the department with a copy of the agreement that was ultimately reached with People Care?

25

MR LANG: Not to my knowledge.

MR BOLSTER: Just in summary: that agreement was ultimately an interim agreement. Wasn't it?

30

MR LANG: Yes.

MR BOLSTER: There was no final agreement entered into, although drafts were prepared, that identified the basis upon which People Care would operate both of the facilities; is that a fair summary?

35

MR LANG: Yes.

MR BOLSTER: Did the department follow up with you to the best of your recollection, what the final – what the formal – what the ultimate arrangement was with People Care and HelpStreet?

40

MR LANG: As far as I know, it was to run the nursing-home facilities as an agent for us.

45

MR BOLSTER: That wasn't my question.

MR LANG: Sorry.

MR BOLSTER: Did the department chase you about that?

5 MR LANG: Not to my knowledge.

MR BOLSTER: They were chasing you about other things; you recall that, don't you?

10 MR LANG: Yes.

MR BOLSTER: They were chasing you about financial documents and information that was needed from a prudential point of view?

15 MR LANG: Yes.

MR BOLSTER: And that continued right through until 2019. Didn't it.

MR LANG: Yes.

20

MR BOLSTER: But you have – and you recall that?

MR LANG: Yes.

25 MR BOLSTER: Do you have any recollection of the department, pursuing the issue of your contractual arrangement with HelpStreet?

MR LANG: No.

30 MR BOLSTER: All right. Now, when you – on the – I withdraw that. On the 10th of July, the issue of the servers was brought to your attention.

MR LANG: Yes.

35 MR BOLSTER: What did you do about that?

MR LANG: We went down to have a look, and there was nothing there.

MR BOLSTER: Where did you go to have a look?

40

MR LANG: Down at Hibiscus House.

MR BOLSTER: And did you have access to Hibiscus House?

45 MR LANG: Yes.

MR BOLSTER: And did you, customarily, go there?

MR LANG: Not all the time but whenever we were required to go down.

MR BOLSTER: When you went there, what was the relationship like with the management at HelpStreet? How did the two organisations interact?

5

MR LANG: Sorry. When – at that time?

MR BOLSTER: Yes, at that time.

10 MR LANG: At that time, there was a lot of yelling and that going on.

MR BOLSTER: On the 10th of July?

MR LANG: Sorry; that was the 11th.

15

MR BOLSTER: When you went down on the 10th, what happened?

MR LANG: We had a look in the room where the servers were, and they were all gone, and we were told that they were out, getting upgraded.

20

MR BOLSTER: Who told you that?

MR LANG: Karen Parsons, I think.

25 MR BOLSTER: Was Mr Bunker there?

MR LANG: He wasn't in the nursing-home at that time when I was down there.

30 MR BOLSTER: Did you have a discussion with Mr Bunker about the servers at any stage?

MR LANG: Only that they should've been on site, not out, somewhere else.

35 MR BOLSTER: What did he say?

MR LANG: He could do what he wanted.

MR BOLSTER: Were the servers returned after the 11th?

40 MR LANG: No.

MR BOLSTER: You are still the contact person as the approved provider.

45 MR LANG: Yes.

MR BOLSTER: So you've held that position for some years now. So if the department of health wishes to talk to People Care, all those inquiries are directed to you.

5 MR LANG: Yes. Everything was directed to me, and then I would forward on to the appropriate person.

MR BOLSTER: Now, when complaints were made to the quality-and-safety Commission, did they come to you?

10

MR LANG: No. Not – they did before, but with HelpStreet - - -

MR BOLSTER: When did that stop coming to you?

15 MR LANG: I didn't receive – there was one complaint only that we found out about, which was from one of the residents, and HelpStreet invited us to go down for the meeting.

MR BOLSTER: Was that a complaint that the resident had made to the Commission?

20

MR LANG: To – yes. Commission – yes.

MR BOLSTER: To the Commission?

25

MR LANG: Or complaints department.

MR BOLSTER: And do you recall meeting Commission staff, quality-and-safety Commission staff with Mr Miller around May?

30

MR LANG: Yes. Yes.

MR BOLSTER: What happened at that meeting?

35 MR LANG: Not much at all. We didn't say anything. We listened to what the Commissioners were saying, and they went over, then did some checking with the information.

MR BOLSTER: Have you been able to hear the evidence that's been given this morning?

40

MR LANG: No. No.

MR BOLSTER: Did the Commission staff, to your recollection, talk about the communication process between HelpStreet and People Care?

45

MR LANG: Yes. Yes.

MR BOLSTER: What did they say about it?

MR LANG: I can't remember.

5 MR BOLSTER: After the 11th of July, what's happening at Hibiscus Lodge and Orchid Lodge?

MR LANG: Nothing after the 11th, as far as I know, because I wasn't there, because I was down in Sydney, at my son's wedding.

10

MR BOLSTER: The facility's been sanctioned, though, hasn't it?

MR LANG: Yes.

15 MR BOLSTER: And there's no residents.

MR LANG: No residents at the moment, no.

MR BOLSTER: Nothing further. Thank you, Commissioners.

20

COMMISSIONER TRACEY: Thank you, Mr Lang. You are excused from further attendance.

25 <THE WITNESS WITHDREW [12.24 pm]

MR BOLSTER: Commissioners, I call Mr Arthur Lopes Miller.

30

<ARTHUR LOPES MILLER, AFFIRMED [12.25 pm]

<EXAMINATION-IN-CHIEF BY MR BOLSTER

35

MR BOLSTER: Mr Miller, if you could move closer to the microphone, and if you could keep your voice up. If you could please have a look at the document on the screen; it's WIT.0349.0001.0001; do you see that?

40

MR MILLER: Yes, I can see it.

MR BOLSTER: That's a copy of your statement?

45 MR MILLER: Yes.

MR BOLSTER: Do you recognise it?

MR MILLER: Yes, I do.

MR BOLSTER: Do you wish to make any amendments to it?

5 MR MILLER: Not particularly.

MR BOLSTER: What about not “in particularly”?

MR MILLER: Okay, none.

10

MR BOLSTER: Is there anything you want to change?

MR MILLER: No.

15 MR BOLSTER: Okay. All right. Are its contents true and correct to the best of your knowledge, information and belief?

MR MILLER: Yes.

20 MR BOLSTER: I tender the statement.

COMMISSIONER TRACEY: Yes. The witness statement of Arthur Lopes Miller dated 2 August 2019 will be exhibit 8-10.

25

**EXHIBIT #8-10 ARTHUR LOPES MILLER DATED 02/08/2019
(WIT.0349.0001.0001) AND ITS IDENTIFIED ANNEXURES**

30 MR BOLSTER: Mr Miller, have you heard any of the evidence that’s been given so far this morning?

MR MILLER: No.

35 MR BOLSTER: We have heard from Ms Parsons, Karen Parsons; you know her?

MR MILLER: Yes, I do.

40 MR BOLSTER: Since around November last year, she was the facility manager employed by Mr Bunker to effectively manage Orchid House and Hibiscus House; correct?

MR MILLER: That’s correct.

45 MR BOLSTER: Did your relationship with Ms Parsons deteriorate from around December 2018?

MR MILLER: Yes.

MR BOLSTER: Did your relationship with Mr Bunker deteriorate?

5 MR MILLER: Not really, no.

MR BOLSTER: When did your relationship with Mr Bunker break down?

10 MR MILLER: The date or the time?

MR BOLSTER: A rough date.

MR MILLER: I would say by – in my best recollection, probably was in January
15 this year.

MR BOLSTER: This year. Do you recall attending a meeting with about 60 of
your residents in March that went for about an hour and a half where you spoke and
where they relayed to you a number of complaints about Orchid House and Hibiscus
House?

20 MR MILLER: Yes.

MR BOLSTER: And some minutes were prepared of that meeting. Do you
remember seeing those?

25 MR MILLER: Yes.

MR BOLSTER: Are those minutes, according to your recollection, a fair summary
of what happened?

30 MR MILLER: Yes.

MR BOLSTER: All right. Did you provide those minutes to Mr Bunker or his
staff?

35 MR MILLER: No.

MR BOLSTER: Do you think someone else may have done so on your behalf?

40 MR MILLER: I think so.

MR BOLSTER: All right. Okay. What was your view of HelpStreet's performance
running your facilities after that meeting?

45 MR MILLER: Very poor.

MR BOLSTER: All right. Did you attend a meeting with officers of the Quality and Safety Commission in around May of this year with Mr Lang?

MR MILLER: No.

5

MR BOLSTER: Ms Parsons and Ms - - -

MR MILLER: No. No, Ms Parsons and Telecia, I think it was, and myself and Mr Lang, Bruce Lang.

10

MR BOLSTER: Yes. Did you meet with officers of the Quality and Safety Commission to talk about the complaints process?

MR MILLER: He mentioned the complaint with the residents.

15

MR BOLSTER: What did he tell you?

MR MILLER: Well, he mentioned we are – we are responsible because People Care, which I am the managing director, and – and hold the licence for 89 beds, any responsibility would be towards myself and not direct to HelpStreet.

20

MR BOLSTER: At the time you had that meeting, had complaints that had been made to the Quality and Safety Commission about your facilities been brought to your attention?

25

MR MILLER: I don't recall.

MR BOLSTER: Were you upset – I withdraw that. What did you do about it, after you heard what the commission officers had to say at that meeting? What did you instruct?

30

MR MILLER: Well, it was very – you stay in the premises, you stay in the premises to – to indication to alert the residents how to make a complaint. That's as far as I know. I left after that, I finished the meeting; I left myself and Mr Lang who left the meeting, and we stay in the home there to deal with – to educate the residents according to my information, how to make a complaint direct to the Health Department.

35

MR BOLSTER: Did you want to know about complaints that had been made to the Quality and Safety Commission about your facilities?

40

MR MILLER: Yes. I have a meeting with the resident who gave us a letter, complain about it, and I send that to their – to their complaints unit, I think is the name.

45

MR BOLSTER: If you could please have a look at the letter that is attached to your statement as exhibit A.

MR MILLER: Yes.

MR BOLSTER: If that could be brought up, please. Can you familiarise yourself with that letter, please.

5

MR MILLER: Yes, I do.

MR BOLSTER: In the third paragraph, it says there:

10 *The approved provider has identified operational concerns with HelpStreet and themselves, predominantly the breakdown of a working partnership and collaboration with both organisations.*

Was that something that you were concerned about at the end of May 2019?

15

MR MILLER: Yes.

MR BOLSTER: What caused you to have that concern?

20 MR MILLER: Because there was meeting with the residents complaining about the duty of care to the residents for Hibiscus and Orchid House.

MR BOLSTER: Was that issue discussed at your meeting with the commission staff on 30 May?

25

MR MILLER: No, it wasn't because apparently the commissioner can be, therefore, to look at the complaint done by one of the residents.

30 MR BOLSTER: All right. Okay. I want to go ahead in time to 8 July when you made a decision that you wanted to end the relationship with People Care. Do you recall that?

MR MILLER: Yes, I do.

35 MR BOLSTER: Okay. And you gave them, effectively, a month's notice?

MR MILLER: That's correct.

MR BOLSTER: Why did you give them a month's notice?

40

MR MILLER: Because we had an agreement with HelpStreet, it was heads agreement. And this heads agreement they definitely management agreements we had never effect way to that. Never happened.

45 MR BOLSTER: But why did you give a month's notice?

MR MILLER: It was advised by my lawyer.

MR BOLSTER: Okay. And what was going to happen in that month period?

MR MILLER: The idea is there is a time so we can re-hire the employees back to People Care and continue to look after the residents in a proper manner and rectify
5 what was happening with HelpStreet.

MR BOLSTER: All right. Now, the Commission already has evidence about some emails and some negotiations between you and Mr Bunker on the 10th and the 11th. I want to ask you some questions about your attendance at the facility on 11 July.
10

MR MILLER: Okay.

MR BOLSTER: Why did you go to the facility on that day?

15 MR MILLER: First of all, I didn't know this thing would happened because I was in my office so the ambulance and the lights flowing around and so I try to find out what happens and then I went to look at it.

MR BOLSTER: Are you saying that the first time that you went there on that day
20 was when you saw the ambulance lights?

MR MILLER: Well, I saw there because I didn't know – because normally ambulance sometimes come to collect a resident but I saw the police as well there. That's why I decide to investigate and find out what happens.
25

MR BOLSTER: Ms Parsons says that, before the ambulance arrived, that you came to the facility – let me read to you what she says - - -

MR MILLER: Sure.
30

MR BOLSTER: She says – have you seen her statement?

MR MILLER: I have read – more or less.

35 MR BOLSTER: All right. Let me read it to you - - -

MR MILLER: Yes, sure.

MR BOLSTER: - - - in full so that you understand - - -
40

MR MILLER: Yes.

MR BOLSTER: - - - precisely what she says. She says that:

45 *Mr Miller arrived at the facility –*

this is paragraph 81 of her statement which I believe is exhibit 8-3:

Mr Miller arrived at the facility and started to argue with the staff, saying words to the effect of "I have received complaints from families that the care in the home is terrible, your care is rubbish and I no longer want HelpStreet here.

5 Did you say that?

MR MILLER: That's not true. That's not true.

MR BOLSTER: Okay. She says here that you said:

10

I will not pay any more money. They don't tell the truth; they have problems with unions.

MR BOLSTER: Did you say that?

15

MR MILLER: I didn't say that.

MR BOLSTER:

20 *That's why it happened. There was a meeting with the residents. They don't like the way they are being treated here. The care is rubbish. Since he –*

and she says you point at Kris –

25

made all the changes no one wants to come to the home.

MR MILLER: That's not true.

MR BOLSTER: She said:

30

There are beds that are left which were full before HelpStreet came in.

Did you say that?

35

MR MILLER: That's correct. That's correct. I did.

MR BOLSTER: What's your recollection of what you said to Ms Parsons and Mr Bunker when you came to the facility on the 11th?

40

MR MILLER: I didn't have any conversation with Ms Parsons. I didn't have any conversation with her at all. I just went to look at it and I noted Mr Bunker was there, with I think was the media and had all these staff there. They say they going to walk out from there because they are not pay the wage for the employee, which is not true. The employees – it was Thursday, the employees' due date up to
45 to Sunday and they will be paid on the following Friday so that's not true. I felt that's why it should be right.

MR BOLSTER: She says at paragraph 83:

Mr Miller then said words to the effect of “the staff that stay will be transferred to me and I will pay you”.

5

Did you say that?

MR MILLER: No, I didn't say that. What I say – the only thing I mention – I mention if in the case because they leave the premises, we try to keep in case the staff wants to work with us and then they can stay with us, we continue maintain the residents, look after the residents.

10

MR BOLSTER: Is what you're saying that you told the staff that if they wanted to stay you would pay them?

15

MR MILLER: No, I didn't say because I didn't know they were going to walk out from there, and the moment I hear what happens – may I tell the truth on that – what happens, they call the Health Department, the Health Department, and say to the Health Department, “There is nobody to look after the residents”, okay. In the meantime, Ms Karen Heard, she was there already and I say she can look after them and I say we probably could help them keep the residents in the premises instead to move them out and I notice it was by the Health Department to communicate direct to me as a director of the company, we have the licence for 89 beds, they never said a word for us and so the notice – the notice I had is they move the resident – the ambulance are to move the residents out.

20

25

Why the Health Department didn't speak to me or come to the premises, instead to move all the residents from the premises. Until now, I don't have an answer that. It was decided by Health Department and when I went in the building there to look, there was a police ask me to leave the premises because risk for the resident, they move the residents out from there. And if the Health Department come to talk to me, we can organise to keep the residents, we have volunteer staff there. And the other things, I never agree with HelpStreet, they banned all the residents, the village, because the village has more than a thousand people live there, and they like to help as volunteers in aged care but they banned them to get in, they didn't allow them to go in and most the residents who saw that thing, they decide to come there.

30

35

And what I don't understand because a resident, especially in the village, eventually they'll finish in the high care and so they get used to and that's why my plan always been. So there are a lot of things HelpStreet did, they didn't consult me and decide to do by themselves. Even the case hire Karen Parsons which never been agreed by our business, supposed to work in partnership with us but this partnership never happened. They say they would like to work in partnership but didn't happen. I was very unhappy with that.

40

45

MR BOLSTER: Did you see a removal truck arrive during the course - - -

MR MILLER: I saw a truck moving quite a lot of stuff from that and that's why I didn't understand why and what happens is they try start to remove all that but they forgot one thing – all our cameras, and we have 60 cameras in the village, we start to get hold – I think some of the information is handed down for the Commission about that.

MR BOLSTER: All right.

MR MILLER: So they can move a lot of equipment, things – when I gave the aged care for them to operate, I give full – complete – full credit, put everything right there so they started to change some of the things they did themselves and then they move most – I don't know how much but quite a lot of furniture and things from the premises which I believe was idea to make it harder for us to continue to operate the business. And they took even the computers with all the documentation of the residents, is being taken from HelpStreet and they tried to bargain deal with us for cash, to get the thing back.

MR BOLSTER: When you formed the view on 8 July that you wanted to sever the relationship, did you raise that issue with the Department of Health?

MR MILLER: Not particularly because I would say, if it happens, they decide to leave the premises within 30 days, then I would do it because I didn't know what they would react on that. So that's why I decide – until they decide – because then I have to rehire the employees back to our business and continue look after the residents.

MR BOLSTER: I have nothing further. Thank you, Commissioners.

COMMISSIONER TRACEY: Mr Miller, I'm a little confused about one aspect of your evidence. I understood you to have said initially that you went to the home after you'd seen ambulances going past and the police arriving but none of that occurred until the afternoon and you've just given detailed evidence about being there in the course of the morning.

MR MILLER: Because I didn't know that then they were going to move the residents, the residents move out from the village. I didn't know that.

COMMISSIONER TRACEY: You are not listening to the question.

MR MILLER: Sorry.

COMMISSIONER TRACEY: The question is what led you to go there in the morning? It wasn't the sirens. They didn't come until the afternoon.

MR MILLER: Well, normally I used to go there to check everything is working all right there, that's all. I used to go every morning there because we have building work, we try to make sure everything is all right there, that's all.

COMMISSIONER TRACEY: Yes, very well. Thank you, Mr Miller, you are excused from further attendance. I understand that there needs to be a short adjournment while a link with the United Kingdom is established?

5 MR BOLSTER: Yes, Commissioners.

COMMISSIONER TRACEY: Yes. Very well. The Commission will adjourn temporarily.

10

ADJOURNED [12.45 pm]

15

RESUMED [12.55 pm]

MR BOLSTER: Thank you, Commissioners.

COMMISSIONER TRACEY: Yes, Mr Bolster.

20

MR BOLSTER: The next witness, by a video link, is Kristofer Andrew Bunker. Can I tell you, Commissioners, I anticipate concluding his evidence by about a quarter past 1, if that's acceptable to the Commission.

25 COMMISSIONER TRACEY: It can proceed as long as need be.

MR BOLSTER: Thank you, Commissioners. I call Mr Bunker. He'll be sworn in via the video link. So your Honour's associate has to stand at the bar table to do that.

30

<KRISTOFER ANDREW BUNKER, AFFIRMED [12.56 pm]

35

<EXAMINATION BY MR BOLSTER

MR BOLSTER: Mr Bunker, in front of you on a screen, you should see a copy of your two-page statement dated the 1st of August of this year. Do you have that?

40 MR BUNKER: Yes. I do now.

MR BOLSTER: And that is your statement?

45

MR BUNKER: That is my statement. Yes.

MR BOLSTER: Do you wish to make any amendments to it?

MR BUNKER: No.

MR BOLSTER: Are the contents true to the best of your knowledge and belief?

5 MR BUNKER: They are indeed.

I tender Mr Bunker's statement, Commissioners.

10 COMMISSIONER TRACEY: Yes. The witness statement of Kristofer Andrew Bunker dated 20 August 2019 will be exhibit 8–11.

EXHIBIT #8–11 THE WITNESS STATEMENT OF KRISTOFER ANDREW BUNKER DATED 20/08/2019

15

MR BOLSTER: If we could, bring up please tab 102. And if we could, go to the bottom of that page or to the bottom of the document, the last page in it. Come back to that. Mr Bunker, at about 5 o'clock on the 8th of July – sorry – the 10th of July, 20 you sent an email to Mr Miller in which you proposed a settlement of the matter; do you recall that?

MR BUNKER: Yes. I think so.

25 MR BOLSTER: And you suggested to him, may I put to you, that he needed to pay a total of \$3 million to HelpStreet to resolve the dispute that was at that stage about to engulf the two facilities; correct?

MR BUNKER: Yes.

30

MR BOLSTER: And you wanted half of that by midday the following day; correct?

MR BUNKER: Confirmation.

35

MR BOLSTER: Yes. Well, you wanted confirmation by midnight that night, didn't you?

MR BUNKER: Ideally, yes.

40

MR BOLSTER: And you wanted the clear funds by midday the following day.

MR BUNKER: Well, a remittance or something to that effect.

45 MR BOLSTER: Well, you wanted half of \$3 million by midday the following day. Didn't you.

MR BUNKER: Okay.

MR BOLSTER: You wanted a quarter by the 30th of July; correct?

5 MR BUNKER: Okay. Yes.

MR BOLSTER: The remaining quarter by the 9th of August; correct?

10 MR BUNKER: Yes, once completed.

MR BOLSTER: And what did you say would happen, if he didn't agree with that, didn't accept that offer?

15 MR BUNKER: I can't remember the email word-for-word - - -

MR BOLSTER: You – we'll try and track it down, but you mentioned the facility going into administration, didn't you?

20 MR BUNKER: Not the facility, no. But – HelpStreet Villages.

MR BOLSTER: You raised with him putting HelpStreet into administration, didn't you?

25 MR BUNKER: We were concerned, with no payment from People Care, that HelpStreet Villages would not be able to trade.

MR BOLSTER: Was HelpStreet or any of its related entities put into administration on either the 10th or the 11th of July?

30 MR BUNKER: No.

MR BOLSTER: Were you present when Ms Tuccori made a call to the 000 line on the 11th of July?

35 MR BUNKER: Present in the building?

MR BOLSTER: Yes.

40 MR BUNKER: In the building, yes. I believe so.

MR BOLSTER: You were there?

MR BUNKER: I believe so, yes.

45 MR BOLSTER: Did you discuss with her the prospect of making a triple-O call on the morning or the afternoon of 11 July?

MR BUNKER: I don't think I discussed it solely with her, no.

MR BOLSTER: Who did you discuss it with?

5 MR BUNKER: I think from memory, as a team, we discussed the concerns that we had around keeping our staff on site, and so we looked at the options.

MR BOLSTER: And what was your concern about keeping staff on site?

10 MR BUNKER: My concern was keeping staff on site, that they may not choose to stay and continue to work, when we discussed with them that we might not be able to continue to trade.

MR BOLSTER: Did you want to trade?

15

MR BUNKER: Yes, very much so.

MR BOLSTER: You wanted to stay there until the end of that notice period of the 9th of August.

20

MR BUNKER: Very much so, yes. In fact, longer, if possible.

MR BOLSTER: Now, have you been listening to the evidence that's been given during the course of the morning here?

25

MR BUNKER: Not all of it, no. I've tried.

MR BOLSTER: Ms Tuccori, who was your clinical-care manager, says that there was a discussion she had with Ms Parsons, your facility-manager, on the evening of the 10th, where there was talk about HelpStreet being out after midday on the 11th. What's your recollection of there being a discussion about your organisation being out of Hibiscus House and Orchid House after 12 pm on the 11th?

30

MR BUNKER: I think the discussion was around our ability to trade, knowing that we weren't being paid.

35

MR BOLSTER: And you saw as a solution to that a demand that Mr Miller's company pay you \$3 million; is that correct?

MR BUNKER: No – well, that was one solution for breach of contract, but there was the option to discuss that further, which we weren't given the opportunity to do.

40

MR BOLSTER: Well, didn't Mr Miller make a counteroffer to you at about 10.15 on the 11th?

45

MR BUNKER: I had no counteroffer no.

MR BOLSTER: Well, if we could have a look at the document I was showing you before – that is at tab 102. You recall seeing that letter?

MR BUNKER: Yes, an email from Mr Miller's lawyer.

5

MR BOLSTER: What was unsatisfactory about that?

MR BUNKER: That he was only stating that they would pay us until 30 June.

10 MR BOLSTER: Well – and he denied that you were entitled to any amount by way of compensation for the early termination of the licence agreement; correct?

MR BUNKER: Correct.

15 MR BOLSTER: And that was the vast bulk of the \$3 million that you wanted him to pay by midday the following day; correct?

MR BUNKER: Yes.

20 MR BOLSTER: Yes. Did you communicate to your staff that response or the substance of it?

MR BUNKER: No. We were telling the staff that we were in communication with People Care and we were trying to negotiate a future or a settlement of some kind.

25

MR BOLSTER: What did you tell the staff about Mr Miller's position after you got that letter at about 10.16 on the 11th of July?

30 MR BUNKER: It was – the conversation with the staff was also following a conversation with Mr Miller as well, in which we said that we are uncertain about the future and that we will continue to talk to People Care to try and find a resolution or words to that effect.

35 MR BOLSTER: Just to be fair to you, if we could bring up – it should be behind tab 102, but it's PCP.9999.0002.0234. If you could, just read that to yourself and familiarise yourself with, firstly, that page. You recall sending that email?

MR BUNKER: Yes.

40 MR BOLSTER: And if we could, go over to the next page, and you'll see there the principal amount of the \$3.8 million you were seeking was the \$1.2 million plus GST as a – I'm sorry. I withdraw that – was \$2.7 million plus GST, which you discounted to 25 per cent, and you wanted that inside of 24 hours or at least half of it inside of 24 hours; correct? You agree with that, Mr Bunker? You go down the page,
45 perhaps to the second-last and third-last paragraphs – "I require" – sorry. If I cut across you and you wanted to say something, can you please say it now. Can you

hear me, Mr Bunker? We'll try and sort it out, Commissioners. Perhaps now is
a - - -

5 COMMISSIONER TRACEY: Yes. Well, we'll stay here and - - -

MR BOLSTER: Can you hear us, Mr Bunker? Can you hear us, Mr Bunker? Can
you hear us, Mr Bunker?

10 MR BUNKER: I can see you. I don't know if you can hear me.

MR BOLSTER: Yes. That's good. That's good. I was going to ask you to look at
the second-last and third-last paragraphs on the second page of that email. The first
paragraph begins "I require confirmation". You see that?

15 MR BUNKER: I do, yes.

MR BOLSTER: So you wanted 50 per cent by 12 pm tomorrow. You wanted
confirmation by 11.59 pm that night, with a quarter on the 30th of July and the final
20 quarter on the 9th of August. Now, did you have any reasonable expectation, Mr
Bunker, that Mr Miller was going to pay you damages in that amount, in that space
of time?

MR BUNKER: No. I believed that he would open up communication in relation to
that. But it was a starting point for discussion.

25 MR BOLSTER: And he did open up the – was it fair, to say, then, that it was an
ambit claim?

MR BUNKER: I don't think it was an ambit claim. I think it was a fair claim in
30 light of the situation we were facing.

MR BOLSTER: You were, obviously, prepared to be commercial about it, though;
correct?

35 MR BUNKER: Commercial in what way?

MR BOLSTER: Well, you were prepared to negotiate down, if he was prepared to
move towards you.

40 MR BUNKER: I was prepared to negotiate down and – which is why we met with
him to discuss that.

MR BOLSTER: You see, Mr Bunker. The evidence suggests that a decision was
made by HelpStreet – that it was going to leave the facility, possibly, on the evening
45 of the 10th. What do you say about that? How would you answer that suggestion?

MR BUNKER: I would say that's not the case.

MR BOLSTER: Was a decision made – that HelpStreet would leave – after you received that letter from Mr Miller’s solicitors on the morning of 11 July?

MR BUNKER: No.

5

MR BOLSTER: When do you say the decision was made to leave?

MR BUNKER: I would say there was no decision made by HelpStreet to leave.

10 MR BOLSTER: Who do you say made the decision to leave?

MR BUNKER: Who made the decision for HelpStreet to leave?

MR BOLSTER: Yes. Why did HelpStreet leave?

15

MR BUNKER: to be fair we stayed.

MR BOLSTER: Did you arrange for a removalist van to be in attendance and start getting your - - -

20

MR COVENEY: Sorry. Commissioners, can I just intervene there. Obviously, the audio wasn’t tracking that answer. And if it is to be in the transcript, I think it’s important, that Mr Bunker be given an opportunity to answer that question again.

25 COMMISSIONER TRACEY: I think that’s fair.

MR BOLSTER: I think that’s fair. It’s an important question.

COMMISSIONER TRACEY: Yes. If you’d reframe it - - -

30

MR BOLSTER: Commissioners, maybe the shortest way is to have lunch now and come back - - -

COMMISSIONER TRACEY: We’ll stay if there can be a quick restoration of communication. If not, we’ll probably accede to your suggestion.

35

MR COVENEY: Commissioners, can I just rise to say, to the extent we can avoid that, it may be preferable, only because it is 4.15 am where Mr Bunker is, and he’s been up, waiting - - -

40

COMMISSIONER TRACEY: So your preference would be that we proceed so your client can get back to bed.

MR COVENEY: Well, yes.

45

COMMISSIONER TRACEY: Very well. We’ll do that.

MR BOLSTER: Can you hear us again, Mr Bunker? Can you hear us now, Mr Bunker?

MR BUNKER: I can see you again.

5

MR BOLSTER: Can you hear me now?

MR BUNKER: I can hear you, yes.

10 MR BOLSTER: I just wanted to clarify one point. A minute ago, you said HelpStreet did not make a decision to leave the facility on 11 July 2019. Is that a summary of your position, your evidence?

MR BUNKER: Yes.

15

MR BOLSTER: Who do you say made the decision for HelpStreet to vacate the premises?

MR BUNKER: People Care.

20

MR BOLSTER: In what form was that conveyed to you? Was it in a conversation?

MR BUNKER: Verbally.

25 MR BOLSTER: By whom?

MR BUNKER: Karen Heard.

MR BOLSTER: When?

30

MR BUNKER: Multiple occasions through the period of time that she was there, up until the point which we did leave but on the agreement of the – People Care and Queensland Health and the police.

35 MR BOLSTER: I want to suggest to you that that's incorrect for a couple of reasons. Let me state them first, and then I'll get your response. Firstly, Ms Heard's evidence is that she did not arrive at the facility until 3.30, and her evidence is that – you may be aware of this – she lived some considerable distance from Nerang, in the hinterland of NSW, and it was a two-hour drive from her place to People Care.

40 Correct? Do you accept that?

MR BUNKER: Yes. Okay. Yes, I do.

45 MR BOLSTER: There is evidence before the Commission that, by at least 10 past 12, there was a removalist van on site and that there were people from the removalist company, removing your goods and your property from the facility. Do you accept that – hello? Can you hear me?

MR BUNKER: I can see you again.

MR BOLSTER: I do apologise that we - - -

5 MR BUNKER: I can't hear you.

MR BOLSTER: Can you hear me now? Hallo? Can you hear me?

MR BUNKER: I can now, yes.

10

MR BOLSTER: You can. Good. Okay. I was just apologising for this; it's – it must be difficult for you. The other proposition I was going to put to you is the removalist van was on site by 12.10 and the process of removing your goods and chattels was under way, well under way, by 12.10 on the 11th. So I want to suggest to you that Ms Heard, who was only the consultant to People Care, could have instructed you to leave the facility after she arrived. What do you say about that?

15

MR BUNKER: She only asked us to vacate after she arrived; correct.

20

MR BOLSTER: But you had made a decision to vacate, and you were in the process of vacating well before her arrival; correct?

MR BUNKER: In terms of the removalist truck?

25

MR COVENEY: Would you mind repeating the question?

MR BOLSTER: Commissioners, I think we need to sort this out.

30

COMMISSIONER TRACEY: I fear that's so. We will not fix a duration for the adjournment. If you could - - -

MR BOLSTER: If we're confident, we'll let you know.

35

COMMISSIONER TRACEY: Let us know as soon as you're confident that adequate communications have been restored. The Commission will temporarily adjourn.

ADJOURNED

[1.18 pm]

40

RESUMED

[1.37 pm]

45

MR BOLSTER: Thank you, Commissioners. The link has been up and stable for about 10 minutes so let's try - - -

COMMISSIONER TRACEY: May it long remain so.

MR BOLSTER: Well, not too much longer. I want to finish really briefly. Mr Bunker, just before we had our last series of problems with the audio, I was
5 suggesting to you that the decision to leave was a decision that you made and you made it well before Ms Heard attended the premises at 3.30 on the 11th. What's your response to that?

MR BUNKER: My response is that's not the case.
10

MR BOLSTER: All right. Now, is it the case that you were provided or served with a notice of disqualification from managing corporations under section 206F(3) of the Corporations Act in June of last year?

MR BUNKER: Correct.
15

MR BOLSTER: Is that notice still in effect?

MR BUNKER: Yes.
20

MR BOLSTER: Is it a disqualification for a period of three years?

MR BUNKER: Yes, correct

MR BOLSTER: All right. Was that fact disclosed to the people at People Care at any stage during your dealings with them?
25

MR BUNKER: Yes.

MR BOLSTER: When do you say it was disclosed to them?
30

MR BUNKER: From the very start.

MR BOLSTER: Well, the start for you was April 2018, and the notice was in 27
35 June 2018 – I withdraw that. To be fair to you, you were provided, may I suggest, with a notice to demonstrate why disqualification should not occur in December 2017. Does that accord with your recollection? Hello?

MR BUNKER: Yes.
40

MR BOLSTER: It does.

MR BUNKER: Yes, it was.

MR BOLSTER: All right. Finally, Mr Bunker, the servers which contained the
45 patient records were taken from the facility on 10 July; do you recall that?

MR BUNKER: Yes.

MR BOLSTER: That was at your direction?

5 MR BUNKER: Not solely my direction. It was a group decision, but yes.

MR BOLSTER: Well, who made the decision?

10 MR BUNKER: I was involved in it. Our management team decided that that was the best course of action.

MR BOLSTER: Well, why was it a good course of action?

15 MR BUNKER: To upgrade the server to a secure location.

MR BOLSTER: Well, did you return the server at any stage?

MR BUNKER: To the facility?

20 MR BOLSTER: Yes.

MR BUNKER: No.

25 MR BOLSTER: The patient records, where are they now?

MR BUNKER: They're on the server.

30 MR BOLSTER: Have they been provided to the providers who now have the care of these residents?

MR BUNKER: To the best of my knowledge, the server information has been provided.

35 MR BOLSTER: And how and when did that happen?

MR BUNKER: To the best of my knowledge, that's a remote access. Again, to the best of my knowledge, this is also available onsite.

40 MR BOLSTER: How is it available onsite?

MR BUNKER: I was assured that there was clinical hard copies onsite of care plans and documentation for resident care.

45 MR BOLSTER: Well, I'm not talking about the hard copies. I'm talking about the server and the material, the electronic information that's stored on the server. No one has got access to that, have they, except whoever has got the server; correct?

MR BUNKER: No, I – no, I’m of the understanding that there is remote access available to that server.

5 MR BOLSTER: All right. And where do you get that understanding from?

MR BUNKER: From my legal advisers. From our lawyers.

MR BOLSTER: From your lawyers? Okay.

10 MR BUNKER: Yes, correct.

MR BOLSTER: All right. If the Commissioners just excuse me for a minute. Did you personally have dealings with either the Department of Health or the Aged Care Quality and Safety Commission in your time looking after Orchid House and
15 Hibiscus House?

MR BUNKER: No, I did not.

MR BOLSTER: No. So the Quality Agency, what about the Quality Agency; is
20 your answer the same for them?

MR BUNKER: It is. I have no dealings with them.

MR BOLSTER: Yes. And who represented you in all of those communications?
25

MR BUNKER: “You” as in HelpStreet?

MR BOLSTER: Yes.

30 MR BUNKER: That would have been the management team onsite.

MR BOLSTER: Was the management team made aware of your disqualification?

MR BUNKER: It’s unknown. I’m not sure.
35

MR BOLSTER: You say you told Mr Miller?

MR BUNKER: Mr Miller was aware of the – I think probably at the time of the pending disqualification. It was brought up at the start of our tenure with People
40 Care.

MR BOLSTER: All right. That’s the end of the examination. Thank you, Commissioners.

45 COMMISSIONER TRACEY: Yes. Thank you, Mr Bunker, for your evidence and for giving it at such uncomfortable hours.

MR BUNKER: It's not a problem.

COMMISSIONER TRACEY: You're excused from further attendance at the Commission and the Commission will now adjourn until 2.15.

5

MR BOLSTER: Thank you, Commissioner.

<THE WITNESS WITHDREW

10

ADJOURNED

[1.44 pm]

15 **RESUMED**

[2.21 pm]

COMMISSIONER TRACEY: Yes, Mr Gray.

20 MR GRAY: Thank you, Commissioner. Commissioners, Mr Coveney wishes to address.

25 MR COVENEY: Commissioners, I'm sorry to trouble you. I appear for the HelpStreet Villages and their respective witnesses. One of those witnesses is David Lamb. Mr Lamb was served with a summons, but counsel assisting has informed me that he does not intend to call him as a witness. I therefore just seek to have him formally excused from further attendance at the Commission.

30 MR GRAY: We are content with it.

COMMISSIONER TRACEY: Yes, very well.

MR COVENEY: Thank you.

35 MR GRAY: Commissioners, the next witness we are calling in this case study is Ms Tracey Rees who is already in the witness box. I ask that she be sworn.

<TRACEY FRANCES REES, AFFIRMED

[2.22 pm]

40

<EXAMINATION-IN-CHIEF BY MR GRAY

45 MR GRAY: Ms Rees, what is your full name?

MS REES: My name is Tracey Frances Rees.

MR GRAY: And you are attending today on a summons to give evidence to the Royal Commission?

MS REES: That's correct.

5

MR GRAY: Are you the regional director for Queensland of the quality and monitoring group of the Aged Care Quality and Safety Commission?

MS REES: That's correct.

10

MR GRAY: How long have you held that position?

MS REES: Since February 2015.

15 MR GRAY: Before this year, the predecessor of the Commission was the Australian Aged Care Quality Agency, wasn't it?

MS REES: That's correct.

20 MR GRAY: So you had the same position in that agency as you hold now in the Commission; is that right?

MS REES: That's correct.

25 MR GRAY: Previous to 2015, did you have any other position in the agency?

MS REES: No.

MR GRAY: Are you sometimes referred to in the emails as state manager?

30

MS REES: Sorry; you're right. Under the old – sorry; that's my bad. Under the old agency, I was the state manager of the agency. I'm now the regional director of the quality and monitoring group.

35 MR GRAY: Thank you.

MS REES: Yes.

40 MR GRAY: The Commission, that is, the Aged Care Quality and Safety Commission, has a report that it can produce called a home details report in relation to any accredited service; is that right?

MS REES: That's right.

45 MR GRAY: Indeed, those reports can be generated not only for accredited residential care services but also for home care services which aren't accredited; is that right?

MS REES: That's correct.

MR GRAY: I'll just ask the operator to bring up tab 100. Is that a copy recently generated of the home details report for Hibiscus House? RAC ID5223.

5

MS REES: It is the home details report for People Care. Can I just explain?

MR GRAY: I will just ask you, along the top line, under the heading, "Home summary", it says agency office, state, then RAC ID. And RAC ID refers to a residential aged care facility ID; correct?

10

MS REES: That's right.

MR GRAY: And if you just take it from me that RAC ID5223 corresponds to Hibiscus House - - -

15

MS REES: Yes.

MR GRAY: - - - does this suggest that this report is for Hibiscus House?

20

MS REES: The service is now called People Care. It used to be two separate RAC IDs, Orchid House and Hibiscus House, and it was combined and is now called People Care.

MR GRAY: Thank you. So is this a home details report that covers both, in effect, the history of Orchid House and the history of Hibiscus House?

25

MS REES: It covers the history of Hibiscus House and then when it was combined with Orchid House, the whole - the whole service.

30

MR GRAY: Thank you. Just while we are on it, if we bring up tab 24, please, operator. Is this a home details report generated some time ago, in 2016, in relation to Orchid House?

35

MS REES: Yes, it is.

MR GRAY: If we bring up tab 66 please, operator. This document - Ms Rees, is this, in effect, a similar kind of document but not for a residential aged care facility, rather for a home care service?

40

MS REES: That's correct.

MR GRAY: Is this, in effect, the report for People Care's home care service?

45

MS REES: That's correct, yes.

MR GRAY: Thank you. Now, if we go back to tab 110, this document – I beg your pardon, tab 100 – this document, the People Care home details report, representing the history of Orchid House and then the merged history of both Orchid and Hibiscus House, this document is titled, Australian Government Aged Care
5 Quality and Safety Commission. Is this document also available to the Department, to the best of your knowledge?

MS REES: To the best of my knowledge, no, it is not available to the Department.

10 MR GRAY: All right. Ms Rees, I will ask you to move forward a tiny bit and speak into microphone if you can.

MS REES: Sorry.

15 MR GRAY: Thank you very much.

MS REES: Sorry.

MR GRAY: I want to ask you about page 0680 of this document. If we start at the
20 top of the table on this page, we have dates down the left column, Scheduled Start and End Date; they're the first two columns. Then we've got a column called Activity Type. And those three columns together, I suggest, when you're going across the row represent when something happened and what the activity was that
25 happened at that time?

MS REES: That's correct.

MR GRAY: Then there is a column Unannounced, that means whether the activity,
30 usually a visit, was announced or unannounced?

MR REES: Yes.

MR GRAY: And then moving across to the Not Met list which is about the middle
35 of the page, that's then a column which identifies whether the either the agency staff, if it was during the term of the agency, or Commission staff, found that expected outcomes were not met during the relevant activity; is that right?

MS REES: That's – that's correct. Yes.

40 MR GRAY: Yes. So if we go down the table to the date Scheduled Start Date 26 April 2007, Scheduled End Date, 29 April 2007; there was a review audit on that time. That's what this document is showing, and there were numerous "not mets" found in relation to the expected outcomes in the accreditation standards; is that
45 right?

MS REES: That's correct.

MR GRAY: And you weren't at the agency in 2007 - - -

MS REES: No.

5 MR GRAY: You came to the agency in 2015; is that right?

MS REES: That's correct.

10 MR GRAY: However, have you had a chance to familiarise yourself with the agency's documents in relation to People Care in the lead-up to giving evidence today?

MS REES: Yes, I have.

15 MR GRAY: So I will take you to a serious risk report which is at tab 4 please, operator. Now, serious risk is a potential decision that can be made by a relevantly-authorised person within, at this time, the agency and now within the Commission; is that right?

20 MS REES: That's correct.

MR GRAY: This serious risk report relates to Hibiscus House and there's a RACS ID appearing, it has an E at the end. Does the E matter?

25 MS REES: No.

MR GRAY: If we go to page 0362, appreciating that you weren't at the agency at this time, Ms Rees, I'm just asking you to interpret aspects of this document according to the questions I'm about to ask.

30

MS REES: Sure.

35 MR GRAY: Please look at the introduction. That describes, in effect, that during the review audit, the one to which I took you in the home details report, there was evidence identified of a serious risk, etcetera, to the health, safety and wellbeing of residents. Then it says:

Specific information about the reason for the risk and evidence of the risk is provided below.

40

If we go to page 0363, is this a usual format; there's a finding and then, in effect, detailed reasons as to the evidence on which the finding is based for a document of this kind?

45 MS REES: The legislation requires that we make a decision in relation to compliance or non-compliance and then make a decision about whether that non-compliance placed care recipients at risk, yes.

MR GRAY: Thank you. And if we go to the top of page 0363 now, under Reasons for the Serious Risk, I'm certainly not going to take you through all of this document, but do we see there that there are criticisms of management being not responsive to issues raised and there is various details given about that. Then it says "key
5 personnel", and they're people who have important influence over the provision of care, aren't they?

MS REES: Yes, they are.

10 MR GRAY:

*Key personnel do not have the qualifications to perform the requirements of their role, staff have not been provided with sufficient ongoing education to support them in undertaking their duties, staff competency is not determined,
15 and staff practices are not monitored.*

I won't read the rest of that. And then there's, in the next paragraph:

Staff (employees and agency) are not provided with adequate orientation.
20

And there's, in effect, details there that suggest that there are management failings that have the potential to cause impact on health, safety and wellbeing of residents; is that right? You don't see anything in that paragraph that's unusual according to the processes of the agency's decision-making, do you?
25

MS REES: Well, I wasn't there at the time but it's consistent with how we handled it more recently, yes.

MR GRAY: Because those management issues, delineating roles and ensuring that key personnel have qualifications suitable to their role, are very important issues that can give rise to a risk to residents; correct?
30

MS REES: We assess the expected outcome 1.6 and yes, it is very important.

MR GRAY: I just want to ask you about another page, 0369. This comes under 1.6, the expected outcome you just mentioned, which is human resource management. It says here, under the heading Supporting Information at the first bullet that:
35

The care services manager advised that they have no qualifications in management and their experience in managing people is limited to managing 12 staff in a previous occupation (automotive engineer).
40

And then it goes on and provides more detail. Is this an unusually bad case of a failure to meet expected outcome 1.6, Ms Rees?
45

MS REES: I've not seen something like this before.

MR GRAY: No. It's extraordinary, isn't it, that a care services manager appointed to a residential aged care facility would have had no qualifications in management and their experience in managing people was limited to 12 staff in an automotive engineer context. That's just extraordinary, isn't it?

5

MS REES: I would say that's not sufficient to be a care manager of a service, absolutely.

MR GRAY: And was that the sort of information that the agency would inform the Department of because it raises a concern about whether the approved provider is a suitable provider?

10

MS REES: When there is non-compliance, a report is provided to the Department as a matter of course, so the Department would – yes, that's what I'm saying – they would have this information.

15

MR GRAY: All right. Thank you. At the end of that document, on page 0406, there was a recommendation for sanctions. I don't know if you've been able to familiarise yourself with the document to that extent but I'll just tell you that sanctions did result, and I want to now skip forward and ask you some questions about home care in 2015. If we could, please, go to the home care service details report, which was tab 66, again, and the operator will bring up page .5273. Now, I think, Ms Rees, this table might not be formatted the same way that the other one was and it seems to go backwards chronologically; is that right?

20

25

MS REES: Yes.

MR GRAY: If we start, for example, on the preceding page, 5274, there are two dates at the top of that page in 2012. Then if we go back to the page I'm interested in asking you about, 5273, although there's been a jump of over three years between October 2012 and November 2015, it seems there was no review activity or monitoring activity in those three years; is that a correct interpretation?

30

35

MS REES: Could I – it is a correct interpretation, but I probably need to explain.

MR GRAY: Please do.

MS REES: Before, I think it was, 1 July 2015, the responsibility for managing home care services and quality review rested with the Department of Health.

40

MR GRAY: Thank you. So in respect of the October 2012 quality reviews, were they conducted not by the agency but by the Department of Health?

MS REES: On my understanding it was the Department of Health.

45

MR GRAY: They were included in this report?

MS REES: Yes.

MR GRAY: Obviously. What we would draw from that is that if the Department had done any since October 2012 and before November 2015, they would appear in
5 this table, wouldn't they?

MS REES: Yes.

MR GRAY: They don't appear so they weren't done. That's a reasonable
10 inference, isn't it?

MS REES: Yes.

MR GRAY: Then when we get to November 2015, somewhat out of sequence, if
15 I'm correct about the way it's arranged chronologically, there is a reference to 25
November 2015. Let's ignore that and I'll ask you about the quality review entries
on 2 November 2015. Do you see there there's a series of "not mets" under the Not
Met EO, which means expected outcome, list, being the column in the middle of the
table, for the quality review done on 2 November 2015?

20

MS REES: Yes.

MR GRAY: Then, in effect, again in January, February and March going in reverse
25 chronological order up the page – I beg your pardon, going in chronological order
but going upwards, we see similar outcomes where there are many "not mets"?

MS REES: That's correct.

MR GRAY: So there has been a prolonged period of non-compliance into 2016;
30 correct?

MS REES: There was non-compliance at the home care service coming into – yes.

MR GRAY: Yes. Thanks. All right. And that's sort of taking us into March 2016.
35 Then there are a couple of entries in November 2015 and July 2016 where there are
no "not mets", but then in November 2016 and then onward, there seemed to be more
non-compliance into 2017; is that a correct interpretation?

MS REES: Yes.

40

MR GRAY: All right. Thank you. Now just want to ask you some more questions
about home care. Could we please go to tab 8, operator? Here is what seems to be
an assessment-contact report early in that period of non-compliance that I took you to
and asked you about a short time ago, Ms Rees. This is an assessment contact on the
45 25th of November 2015, isn't it?

MS REES: That's what it says. Yes.

MR GRAY: Yes. And by this time were you at the Agency?

MS REES: Yes, I was.

5 MR GRAY: I'm not suggesting that you're the author of this particular document, but we're now into the territory where you have familiarity on an ordinary day-to-day basis with these sorts of documents, are we?

10 MS REES: I'm the regional director of the office, but I'm not the only decision-maker in the office. So I would not necessarily review and make decisions on every assessment contact that we undertake.

15 MR GRAY: No. So you don't have an independent recollection of this particular assessment-contact report dating all the way back to November 2015: is that what you're saying?

MS REES: I can't recall it, no.

20 MR GRAY: Yes. But you've had a chance to familiarise yourself with the document?

MS REES: I haven't actually familiarised myself with this specific document, no. Sorry.

25 MR GRAY: Okay. No, that's fine. Can we go please to page .4866, operator? Now, we've got no particular opinion about – “met” or “not met” expressed in this document, but, nevertheless, we've got the expected outcomes appearing to, in effect, structure the report. Is that how this document works?

30 MS REES: Generally, yes.

MR GRAY: I'm sorry.

35 MS REES: Yes. Sorry.

MR GRAY: Yes. Thank you. And the particular expected outcome which appears on .4866 is expected outcome 1.1, corporate governance. And if we go into the main box, where most of the findings appear, where there's references to what the nurse manager did and didn't have – we go to the second paragraph; it says:

40

In regards to business planning, strategic planning, the service is considering its options, and the director has arranged a meeting on 27 November 2015 with another service-provider. The NM, nurse-manager, advised the intention is to broker out the home-care packages. The NM advised that, until the service has stabilised regarding management, planning and delivery, no new care recipients will be taken into the program.

45

Just stopping there, Ms Rees, appreciating that you don't recall this and you haven't had a chance to familiarise yourself with it but just that – those sentences alone raise the appearance to the reasonable reader, don't they? That this is a home-care service that's in trouble, they're not managing their home-care service properly on their own and they want to pass it on to somebody else, it's not stable at the moment. Is that
5 how it would've been interpreted by the Agency at the time?

MS REES: It indicates that the service is looking at its options in terms of how it's managing its services, and it would indicate that there is – there's some risk there.
10 But in home-care services, it's not unusual, for brokerage arrangements to be in place.

MR GRAY: All right. Now I just want to ask you – just say my interpretation was taken by somebody reading the document within the Agency; is there a process
15 within the Agency for referring to the Department at this time in 2015 information that raises questions about the suitability of an approved provider, irrespective of the context in which that information arises? So even though it might be home-care-related context, it might be relevant to whether they're an approved provider that's suitable to provide any form of care, and, if so, does that get passed on?

20 MS REES: There's a process in place where a service is non-compliant, and reports are provided to the Department for their consideration, yes. There is no – I'm not aware of a process that's directly to the approved-provider area. It's to the compliance area, the Department.

25 MR GRAY: Well, let's just understand that a little more. You introduced perhaps three concepts in your answer there. One is – you've emphasised the point you made a short time ago, that what the Agency's doing is considering whether the service is non-compliant, and, if it is non-compliant, it will pass that information on to the
30 Department. Then you've made two points about the Department. You've said there's a compliance area and an approvals or an approved-provider area. And you suggest that information about non-compliance would go to the compliance area, do you? But not to the approvals area.

35 MS REES: That's correct. I don't know what processes might be in the Department to share information, but then Agency and now the Commission's relationship in matters of compliance is directly with the compliance area of the Department.

40 MR GRAY: So just going back to the Agency as at 2015, is there – was there scope within the ordinary decision-making and investigative processes within the Agency at that time to consider outside the frame-work of whether a service is merely compliant or non-compliant, to consider whether suitability for approval was a real – was really in doubt in light of particular material and then to escalate that material and that issue to the Department?

45 MS REES: My understanding is that – sorry. Just thinking about that, what was available in those times, my understanding is that those issues would be escalated –

sorry – would be managed through a compliance process rather than a – we didn't have any systems that were directly to an approved provider.

5 MR GRAY: And so when you refer to those matters being managed through a compliance process - - -

MS REES: Yes.

10 MR GRAY: That was always with the aim, was it? Of managing the approved provider back to compliance?

MS REES: That's usually the main aim, yes.

15 MR GRAY: Yes. When you say "usually the main aim" –

MS REES: Sorry. It is – unless a decision is made about revocation or something like that, if a period of accreditation is still in place, the aim is to return the – support the service to return to compliance.

20 MR GRAY: All right. And unless a decision is made about revocation – are you referring to revocation of accreditation at that point?

MS REES: Sorry. Yes. Sorry.

25 MR GRAY: Yes? And that's a decision that can be made within the Agency and now within the Commission; correct?

MS REES: That's right.

30 MR GRAY: So there are circumstances in which the service accreditation might fall for consideration of revocation within the Agency?

MS REES: That's right.

35 MR GRAY: But there aren't circumstances in which the Agency would turn its mind to the question of the suitability of the corporate entity to be an approved provider, that was an issue that was left to the Department to consider: is that what you're saying?

40 MS REES: That's correct.

45 MR GRAY: I want to ask about tab 10, which is a document from something called a liaison meeting between the Department of Health and the Agency, and you were present at the particular meeting that appears to be minuted in this document on 1 December 2015. Can I just ask you about these meetings at around this time in 2015? Were these meetings that were regularly held between the Department and the Agency?

MS REES: From what I can recall: they were probably quarterly.

MR GRAY: Quarterly?

5 MS REES: Quarterly. Yes.

MR GRAY: Yes. Are they still held?

10 MS REES: We have regular teleconferences with the compliance area of the Department. Yes.

15 MR GRAY: When we look at the services of concern, you can't see them, because they've been blacked out, but if you just go over the page, please, operator, you'll see there's not a huge number of them. You can tell that, because the areas of the document that have been redacted are not very, very extensive. Is it your recollection, that there weren't too many services of concern that were discussed generally at these liaison meetings, something in the order of a dozen or so?

20 MS REES: It would be – the services of concern that we discussed were those services that had non-compliance at the time. So that would vary over any given time. It might be more or less. Yes.

25 MR GRAY: Now, if we go to page 6304, we see there's a reference to People Care there. And it says – there's significant "not met" on home care. And then there's a reference to residential visits brought forward based on risk assessment, Orchid House and Hibiscus. So this is suggesting what? That's there some discussion about – "Well, they're not performing in home care, so let's look at residential care"; is that a fair summary of what this minute records?

30 MS REES: That's correct. Yes, that's correct.

MR GRAY: And would the motivation for that decision to go from one setting to another come from the agency, the department or either or both?

35 MS REES: The Department can make a referral to us, if they believe that there are concerns, but in the main, it's a decision within the agency and the Commission about prioritising visits and bringing visits forward.

40 MR GRAY: Okay. So I want to now ask about the complaints function, which, I appreciate, at the time of late 2015 and on into 2016 and, indeed, all the way until the beginning of this year, has been a separate function exercised by a separate statutory officer. But, in any event, I just want to ask you about it. I'll show you a document, and we'll see how far we can go. Tab 11, please, operator. Now, this is an internal email chain between people, obviously, exercising complaints-related functions, and
45 I assume that at this time these people were not in the agency; is that right? That is 2 February 2016?

MS REES: They're not staff of mine in the Agency, no, at the time.

MR GRAY: Since the assumption by the new Commission of the complaints function, have the staff who were previously exercising the complaints function in
5 Queensland come across to the state branch of the Commission?

MS REES: Yes. Yes, they have.

MR GRAY: Am I correct to call it a state branch? Or is it state office or - - -
10

MS REES: We're actually two separate groups at the moment. It's not a state office as such.

MR GRAY: All right. So is the complaints group a separate group from the - - -
15

MS REES: It's part of the Commission, but it's physically located separately to our staff at the - to the quality-and-monitoring-group staff at the moment.

MR GRAY: I see. I just want to take you to the - just below the middle of page
20 0188. There's some references there to the complaints officer speaking with Arthur Miller, the managing director, and saying his response was concerning and then giving different - and giving a number of reasons for that, including him being difficult to speak with and not easily providing information and so forth. Now, if you just accept my characterisation of this document as raising the appearance that
25 the approved provider is not being co-operative with a complaints-inquiry process - was there a procedure or a policy to the best of your knowledge, at this time, for escalation of matters of that kind so that the Department could be apprised of the question of the degree to which an approved provider is co-operating with processes such as complaints inquiries?
30

MS REES: I wasn't part of the Aged Care Complaints Commission at the time, and I'm not aware of their processes and systems at the time. So I can't respond to that.

MR GRAY: What about now? The question is "Is there a red-flag process for non-cooperative approved provider in relation to complaints inquiries?"
35

MS REES: I don't manage that part of the Commission. I don't know. I'm sorry.

MR GRAY: Go, please, to tab 16. I won't take you back to the home-details report,
40 but at a certain point in time, you've made a decision to vary the accreditation period for Orchid House down from its usual - well, withdraw that - down to - I can't actually see to what period you truncated it. Was it six months?

MS REES: I varied it to six months.
45

MR GRAY: Thank you. And that's because it was showing persistent non-compliance and not improving; is that right?

MS REES: That's correct.

MR GRAY: And if we go to tab 17 – there's a report on serious risk that's made there. It does bear your signature on the last page – as delegate of the CEO. That's
5 page 1764. In this finding, you made findings of serious risk at Hibiscus House. This is at about the same time, only a few days after the truncation of the accreditation period for Orchid House; is that right?

MS REES: I made a decision in relation to serious risk, yes, at Hibiscus House after
10 they were also non-compliant.

MR GRAY: So both of the aged-care facilities at Earle Haven Retirement Village are seriously non-compliant, if I can use that expression, to the extent that you've varied the accreditation period for one, and you've found serious risk for the other.
15 And, indeed, you don't impose sanctions yourself, but an officer of the Department, shortly after this, imposed sanctions on those facilities; is that right? Or, rather, on the approved provider in relation to those facilities?

MS REES: Yes. I varied the accreditation period for both services at the time and
20 found serious risk at Hibiscus House, and, yes, the Department imposed sanctions.

MR GRAY: Thank you. Now – so we're now in early June 2016. I want to ask you about a meeting that, it appears, you attended with the approved provider on 10 June 2016. It's at tab 21. Please, operator – Ms Rees, is this a document that was
25 prepared within the Agency?

MS REES: No, it's not.

MR GRAY: Have you seen this document before?
30

MS REES: I saw it in the lead-up to this session.

MR GRAY: Right. And do you know who prepared it? Was it the Department?

MS REES: As far as I'm aware, it was the Department, yes.
35

MR GRAY: Okay. Were you given this document at any point prior to just preparing to give evidence for the royal Commission?

MS REES: I can't recall seeing it beforehand.
40

MR GRAY: Okay. Do you have an independent recollection of the meeting?

MS REES: Yes, I do.
45

MR GRAY: Yes. And there are aspects of the minutes. I'll just ask whether you recall them. At the foot of page 3959 – AM is Arthur Miller, the principle of People

Care; he says – in the minuted paragraph at the bottom, he’s doing his best to fix problems; doesn’t know everything that happens at – the residential facilities are a small part of his business – has too many things on his plates and admits responsibility.

5

Then there are some questions put to him by residents. On page 3960, just below the middle of the page, there’s a question from a care recipient or resident about Mr Miller’s plans, and he says he can’t change to service departments due to council zoning and has applied for more aged-care beds but applications to Government have been unsuccessful, and he, in response to another remark, says it’s not his responsibility, as he employs a nurse-unit manager and they are responsible for all other employees, and if there’s a good working environment, then nurses will stay. Do you recall those matters being raised and discussed and said at this meeting, the ones I’ve just summarised?

10

15

MS REES: I don’t specifically recall that, no, but I do recall the meeting.

MR GRAY: Do you recall coming away with an impression that Mr Miller was distant from the management of the aged-care businesses at these facilities?

20

MS REES: Yes, I do recall going – coming away from that meeting with that view.

MR GRAY: And he was essentially – do you recall coming away with the impression that he was, essentially, downplaying his role in the management of those businesses and saying they’re just a small part of his overall business?

25

MS REES: I came away with a view that it was a small part of his business and that the responsibility for operating the service rested with the staff at the service.

30

MR GRAY: Now, I see that there are also members of the – or rather officers of the department who were at this meeting; so I might ask Mr Speed about this later, but is this the sort of information that would to the best of your knowledge raise an alarm bell about whether a particular approved provider is, in fact, suitable to be an approved provider?

35

MS REES: Yes, it is.

MR GRAY: It would, wouldn’t it?

40

MS REES: Yes.

MR GRAY: And what’s the proper channel for that to occur? Is that not a channel that involves the Agency? But it involves the Department on your evidence; is that right?

45

MS REES: It involves the Department. Yes.

MR GRAY: That's harking back to the evidence you gave earlier about that point. Is that right?

MS REES: Sorry?

5

MR GRAY: And that's because of the points you made earlier in your evidence, when I asked you what happens, if there's information that might be relevant to the suitability of an approved provider, and you explained that's really a matter that is to be considered within the Department in your view.

10

MS REES: Yes. At that time and up until the 1st of January next year, the responsibility for managing approved-provider status lies with the department. Yes.

MR GRAY: It'll move to the Commission on the 1st of January, will it?

15

MS REES: From the 1st of January. Yes.

MR GRAY: Now – just want to ask you now about a document at tab 25, just want to ask you to take it from me, that pursuant to sanctions, there's been an adviser, sometimes called a nurse adviser, appointed and there's been some period of the nurse adviser attempting to work at these facilities. And there's then a series of emails; we've redacted a lot of the sender and addressee information. However, can you take it from me, that the sender is, in fact, the person who was appointed as a nurse adviser? Do you recall being cc'd to this email and seeing it at about that time?

20

25

MS REES: Yes, I do. Yes.

MR GRAY: And it was sent on 30 September 2016. Was this a pretty alarming communication to receive; is that why it's stuck in your memory?

30

MS REES: Yes, it is alarming. Yes.

MR GRAY: So what it's saying is that the nurse adviser is intending to cease providing services. Do you recall vividly receiving that information on 13 September 2016?

35

MS REES: Yes, I recall seeing that email, yes.

MR GRAY: Is that unusual, that a nurse adviser who has been appointed pursuant to sanctions would send an email to both the Department of Health and the agency indicating they're ceasing provision of services?

40

MS REES: It is unusual for a nurse adviser to consider ceasing services. It's happened before but it's not a normal process.

45

MR GRAY: It raises a red flag or an alarm bell about the approved provider, doesn't it?

MS REES: Yes.

5

MR GRAY: In actual fact, the nurse adviser eventually stayed but then in September there was another flare-up of the difficulties. Before I put that to you, I'll get the document to make sure I get it right. Sorry, this is September. The difficulties that the nurse adviser was encountering, on his evidence, are at tab 27.

10 Were you given a copy of this letter? It appears to have been forwarded to you under cover of an email also on 13 September. It's a letter from the organisation to which the nurse adviser belongs and there are details there of, in effect, the reasons for the discontinuation of services that the nurse adviser was wishing to implement. For example, at point 2:

15

The inability of People Care to ensure key personnel take an active management role in the rectification and sustainability of compliance concerns

—

20 was mentioned, wasn't it? Do you recall getting this letter?

MS REES: Yes.

25 MR GRAY: That point about the inability of the approved provider to ensure the key personnel take an active management role in the rectification and sustainability of compliance concerns is highly concerning, isn't it?

MS REES: It is concerning, yes.

30 MR GRAY: Because the whole point of having the nurse adviser in place is to manage the approved provider back to compliance in a sustainable way, isn't it?

MS REES: That's correct.

35 MR GRAY: Here is a flag being raised, or an alarm bell being rung, by the nurse adviser himself to the effect that, "Anything I do might not be sustainable". That's a fair summary, isn't it?

MS REES: Yes.

40

MR GRAY: There's also references to financial constraints being claimed and there being inadequate resources; agreed? In points 3 and 4?

MS REES: Sorry. Where's the question?

45

MR GRAY: I was just summarising that there are points also made by the nurse adviser around inadequacy of resources and financial constraints. Those also are severe alarm bells as to whether there's going to be sustainable improvement?

5 MS REES: There are alarm bells, yes.

MR GRAY: All right. Do you recall any discussions with the department having received this communication from the nurse adviser about those alarm bells concerning People Care?

10

MS REES: Yes, I – yes, I do, yes.

MR GRAY: Was it discussed between the Department and the agency in that respect that the approved provider was no longer suitable to be an approved provider?

15

MS REES: I can't recall if that was specifically addressed. There were questions – sorry, I will start again. Yes, there were, at the time, discussions about – between the agency and the state office of the Department about suitability of the approved provider.

20

MR GRAY: Was that taken into a formal process of reviewing the suitability of Mr Miller's company People Care to remain an approved provider?

25 MS REES: That wasn't part of anything I was involved in. I don't know what actions the Department took at the time.

MR GRAY: Because all of these flags that I've been raising with you – I've been calling them flags – matters that raise concern, all of these point in the direction, don't they, of information that would logically suggest that this company wasn't suitable to be an approved provider. That's a fair summary, isn't it?

30

MS REES: It suggests that potentially you're right, yes.

35 MR GRAY: Ultimately, as I said before, there was a mediation; do you recall that, and the nurse adviser - - -

MS REES: I recall - - -

40 MR GRAY: - - - agreed to stay?

MS REES: I recall the nurse adviser stayed.

45 MR GRAY: All right. In light of that suitability concern that I just asked you about, and you've essentially agreed with my characterisation of the flags and the implications of the flags that have been raised, at this point, shouldn't the agency and

the Department have been working on a phased process of managing this approved provider out of the industry?

5 MS REES: The agency's responsibility at the time was to monitor compliance with the accreditation standards and make decisions about accreditation. It was the Department's responsibility in relation to approved provider. We didn't have a joint approach.

10 MR GRAY: Now, I want to skip forward to September of the following year, and I want to pick up the point you just made about a joint or a combined approach with reference to tab 54 please, operator. In tab 54, we have here more minutes of another liaison meeting – and I take it from your answer a little while ago, Ms Rees, that these meetings don't occur in this format any more but there are regular telephone conferences; is that right?

15

MS REES: Can I just explain they're two different meetings?

MR GRAY: Sure.

20 MS REES: So the meeting minutes we looked at earlier was between the state offices of the agency and the local state office of the Department of Health. This is not a meeting that I attend so I can't talk to any of the minutes in relation to it.

25 MR GRAY: Okay. All right. Thank you. We will put that document away. I want to ask about a series of emails. I want to start at tab 57, please. These are emails on 23 March 2018. If we look at this email and we go down please, operator, to the beginning of the chain chronologically, we see an email from you, Ms Rees, on 23 March at 11.07 am to a person I think in the department, Ms Reeves; is that right?

30

MS REES: That's correct.

MR GRAY: You've said:

35 *Have you got a transfer application for People Care? We've been advised that there will be a new AP in place from 1 April.*

And that was because of information that had been reported to you as a result of an assessment contact; is that right?

40

MS REES: That's correct.

45 MR GRAY: Then perhaps you'd learnt that Ms Reeves was actually not in the office that day, and you said in an email on the next page, 8484, to a Mr Robert Zillmann also of the department:

Hi, Robert. I understand Kerrie-Ann is on leave at the moment. Are you able to respond to this?

5 And then the next step is that Mr Zillmann responded to the effect that – this is higher on that page at 12.01 pm:

We do not have a transfer application for People Care.

10 And he said:

We can follow up with People Care if you wish to see if they are planning a transfer. Do you have any more details on who the new AP is, etcetera, to inform our discussion?

15 Now, just pausing there, is an AP transfer in this context to be understood as the transfer of an accredited services from one approved provider to another approved provider?

20 MS REES: That's correct. Yes.

MR GRAY: Thank you. And then over the page at 8483 you provided more information; you said:

25 *Hi, Robert.*

This is at 12.49 pm:

30 *At an assessment contact visit at the home yesterday, we were advised the new AP from 1 April is to be HelpStreet Group NSW.*

35 And then there's in effect some information including they're working with the department to make this happen, and that's something that your officers have been told. You don't know whether that's right or not but you were passing at on from – information from your officers; is that right?

MS REES: That's correct.

40 MR GRAY: Yes. And then the next email in the chain isn't to you, it's within the Department of Health and that's information within the department seeking more detail from whatever systems they have; correct? If we then go to tab 58, and we look at page 8491 at the foot of the page; an officer has emailed to you, cc'd to Mr Zillmann and to others:

45 *Hi Tracy, for your information, I contacted Bruce Lang, the manager for People Care Pty Ltd to find out what might be happening at their residential facilities. He advised that there will be no change in the approved provider, but they are –*

and this is important, Ms Rees –

5 ...they are trialling a contract arrangement with HelpStreet Group NSW to manage the aged care residential facilities. I asked Bruce if he would send an email to us to formally advise us of these arrangements so that we can update our records. He was happy to do so.

And you've received that email from somebody in the department; is that right?

10 MS REES: That's correct.

MR GRAY: So it's really over to the department to sort those issues out; is that how you understood matters to be left at that point?

15 MS REES: Sorry. Can you - - -

MR GRAY: You didn't consider that you had any duty to find out more about the trialling of the contract arrangement with HelpStreet Group NSW at this point? Or did you; did you consider that you had some sort of obligation to find out more for yourself about the trialling of the contract arrangement with HelpStreet Group NSW?

20 MS REES: This information was uploaded to our system as what we call a case source information and provided to the decision-maker in relation to the assessment contact that we had to – yes.

25 MR GRAY: Is that what we see at tab 59 please, operator?

MS REES: Yes.

30 MR GRAY: Yes. So it's uploaded as a case source information so it will be available for future reference, is that right?

MS REES: That's right, in terms of making decisions about scoping our next assessments, yes.

35 MR GRAY: All right. But there's nothing done to find out more about the trialling of the contract arrangement?

MS REES: Not at that time.

40 MR GRAY: That happened at this time; is that right?

MS REES: No, no.

45 MR GRAY: Not at that time?

MS REES: No.

MR GRAY: Did it happen at another time?

MS REES: No. I'm not - - -

5 MR GRAY: Did the – sorry.

MS REES: Yes.

10 MR GRAY: Please. Yes. So in your role as regional director at the Agency or state director at the Agency at this time, did you consider that you didn't have any need to find out more about the trial-contract arrangement?

15 MS REES: I didn't at the time, no. Sorry; can I – sorry. I should just clarify that. I didn't find anything – I didn't find out any further information at the time. It was provided to the decision-makers in the organisation to consider in terms of future scoping of visits, but, no, I did not look into further details about that arrangement.

20 MR GRAY: And what do you mean by “the decision-makers taking it into account in relation to future scoping visits”? What does that mean?

MS REES: We make decisions in relation to future visits in terms of timing and what we should cover in terms of the expected outcomes and the standards that we should consider in future visits.

25 MR GRAY: Okay. And wouldn't it have been important, for that purpose at least, to find out about the demarcation of roles and responsibilities between the approved provider, People Care, and the contractor, HelpStreet?

MS REES: In retrospect – yes.

30 MR GRAY: And in fact, there'd be a broader reason why it would've been important, to find out more about the demarcation of roles and responsibilities, in that, if there was any uncertainty about those roles and responsibilities – that presented a risk that this approved provider might not be able to continue providing
35 services at some point in the future; do you agree with that?

40 MS REES: That's, potentially, the case. But at the time we assessed expected outcomes that were relevant to the delivery of care and expected outcomes that might indicate that there is non-compliance in issues at the service.

MR GRAY: And the – sorry. And the expected outcomes are quite carefully defined in their particular topics, and they don't encompass this particular topic: is that what you're saying?

45 MS REES: The – sorry. What I was saying is that we assessed expected outcomes at the time. That would indicate – sorry. That may indicate there is risk of non-compliance in relation to the service in relation to outcomes for care recipients. Yes.

MR GRAY: And the particular expected outcomes that the agency was monitoring for compliance or non-compliance didn't really cover this issue of whether there's a contract arrangement in place and whether it's a - - -

5 MS REES: Yes. It didn't specifically address that. It – as I said, it addressed things like clinical care and human-resource management and impact for care recipients in terms of the systems that were operating at the service to deliver care.

10 MR GRAY: If I made a suggestion that what this seems to suggest is an overly formulaic approach to regulation because it seems to relate to failure to follow up an important fact – what would you say to that suggestion?

MS REES: I would say in retrospect we should've followed it up more.

15 MR GRAY: I just want to ask about a meeting, which, I'm not at all sure, you would have known about at the time. I just want to ask whether you were, essentially, aware of it. It's at tab 76, please, Operator. Now, it bears a doc ID code which suggests it's come from the Commonwealth. However, we're aware that the Commonwealth might've acquired documents relevant to Earle Haven subsequent to
20 the 11th of July. So I don't know exactly when this document might've come into the possession of either the Commission or the department. Have you seen this document before?

25 MS REES: I saw it today. I've not seen it before.

MR GRAY: You hadn't seen it before?

MS REES: No.

30 MR GRAY: And do you have any knowledge about when it came into the Commonwealth's possession?

MS REES: I have no knowledge of it.

35 MR GRAY: Did you know anything about what'd been discussed at a residents' meeting at Earle Haven on the 20th of March 2019? Relevantly it included some comments by Mr Miller about, in effect, whether HelpStreet was performing to his satisfaction.

40 MS REES: Sorry. You want me – I have no knowledge of this meeting or this document.

MR GRAY: Thank you. Thank you.

45 MS REES: That I'm aware of.

MR GRAY: Well, you have no knowledge of it apart from having just prepared to give your evidence today. Now can put that one away. I should just ask: if the Commission had received it, you'd expect to know about that document, wouldn't you? So are you saying that to the best of your knowledge the Commission didn't receive it in about March 2019?

MS REES: I'm saying to the best of my knowledge I've not seen it and it hasn't come to the quality-and-monitoring group in the Queensland office.

MR GRAY: Of the Commission.

MS REES: Yes.

MR GRAY: All right. There is a document which appears clearly to be a Commission document. However, it's a document generated by complaints officers. I'll just ask you about that, if I may. That's at tab 78, please, Operator. Have you seen this document before? That is – have you seen it in the course of your duties at the Commission as opposed to just preparing to give your evidence today? And if we go to the – have you seen it before?

MS REES: Not that I'm aware of, no. I can't recall seeing it.

MR GRAY: It seems to document a site visit by complaints officers, and, amongst other things, they talk about contractual arrangements between People Care and HelpStreet, and it seems, that there was a contract that HelpStreet had by which People Care provided certain services around domestic, catering and laundry services, and the information here is that HelpStreet is not renewing those contracts with People Care. Is that something that you learnt of in the course of your duties in the Commission in April 2019?

MS REES: I can recall having a conversation, that there was some discussion about whether there would be some change to the contractual arrangements. Yes.

MR GRAY: In April.

MS REES: I'm not sure of the exact date. But - - -

MR GRAY: Was it well before the 11th of 2019?

MS REES: It was before the 11th of July.

MR GRAY: So some months before 11 July 2019?

MS REES: I think so. I can't remember exactly.

MR GRAY: Okay. But you can't remember the detail of the contracts that were – I'm sorry. I can't remember the exact word that you used, but – the contracts that

were coming to an end or that were changed? You can't remember the detail of the contracts that were being changed; is that right?

MS REES: No. I can't recall.

5

MR GRAY: You can't recall. All right. Was the tenor of that conversation within the Commission to the effect that there are problems in the relationship between the approved provider, People Care, and the contractor, HelpStreet?

10 MS REES: Not that I can recall. There had been non-compliance in relation to catering in the past, and I recall the view that any changes in the relationship – sorry – in the contracting-arrangements we would need to consider in future assessment contacts – and whether there would continue to be issues with hotel services if you like. But I don't recall believing that it was an indicator of a fracture in a
15 relationship between the two organisations.

MR GRAY: Well, I know we've now, in 2019, got the Commission, and, previous to 2019, it was the Agency, but in terms of institutional memory – there's a continuum between the Agency and the Commission. Isn't there.

20

MS REES: Yes. Sure. Yes.

MR GRAY: And the Agency, not so long before, in 2017, in 2016, had been dealing with a severely – my word – severely non-compliant and persistently non-compliant approved provider, and there had been particular issues with advisers who'd been brought in to help that approved provider. In all the circumstances, shouldn't the Commission, in 2019, have been very, very sensitive to information of that kind about changes in contractual relationships between People Care and HelpStreet, given the track record of People Care?

30

MS REES: We should have, probably, been more aware of it. Yes.

MR GRAY: Now, there's a meeting on the 30th of May. You didn't attend it. It was, essentially, a complaints-function meeting again, but it is with officers of the Commission. So I'll just ask you about that. It's at tab 89. And you see there, there are some complaints officers – a complaints-manager and a complaints officer named in that meeting report. Within the Commission, it seems clearly from what you've said, there's actually a physical separation between the complaints function and the quality-and-monitoring function; is that right?

40

MS REES: We became the Commission from the 1st of January 2019, and it brought in two Agencies. So we are located separately, and we are working towards a better co-ordination and sharing of information than we perhaps had earlier. So, yes, we're working towards that but – yes.

45

MR GRAY: Thank you. At this – at the point of this date, 30 May 2019, that co-ordination of those two functions has still not yet occurred; is that right? There’s still a separation as at 30 May.

5 MS REES: We’re still separated, and we’re still on two separate IT systems, but we have implemented things like more-regular meetings and attendance at case-management meetings, better referral of information. Yes.

10 MR GRAY: Yes. So the fact that you’re on two different IT systems: does that mean that, if a meeting-report of this kind, attended by complaints officers without a quality-and-monitoring officer there, gets saved to the complaints system, it won’t necessarily be seen by anybody in the quality-and-monitoring part of the Commission? Is that right?

15 MS REES: That’s correct. Yes.

MR GRAY: Okay. Something deliberate has to be done to send that report to the other section in the Commission in order for it to be known by that section.

20 MS REES: That’s correct.

MR GRAY: Is that right?

25 MS REES: That’s correct.

MR GRAY: Okay. So in the course of your duties and not just in preparation for your evidence today, have you seen this meeting report of the 30th of May before?

30 MS REES: As far as I know, no, I have not.

MR GRAY: There’s reference here in the last paragraph on the first page to – my words – in effect, a breakdown of communication around dealing with complaints between the Commission-approved provider and HelpStreet. In effect Mr Miller, the principal of the approved provider, is saying that he’s not made aware of concerns that the Commission has raised with HelpStreet in the nature of complaints. Was that a topic that was raised for your attention in about the period of 30 May into June 2019 in the course of your duties at the Commission?

40 MS REES: No, not that I can recall.

MR GRAY: No further questions from me, commissioners.

45 COMMISSIONER TRACEY: Ms Rees, most, if not all, approved providers are corporate bodies; is that right?

MS REES: There are a range of approved providers. So you would have charitable organisations, not-for-profit organisations, and they vary in the way that they operate. There's a wide range.

5 COMMISSIONER TRACEY: Most of them would be incorporated?

MS REES: They have to be – sorry. I'm not fully aware of the approved-provider regulations. My understanding is that they have to be a proprietary limited organisation.

10

COMMISSIONER TRACEY: To your knowledge, does the Commission of which you're presently a member and its predecessor, the Agency, have any arrangements with the Australian Securities and Investments Commission whereby you are advised in the event that a director of one of those approved providers is disqualified from performing the duties of a director?

15

MS REES: I'm not aware of any process, no, between ASIC and the - - -

COMMISSIONER TRACEY: So that could happen, and you would not be aware of it.

20

MS REES: There's no process as far as I'm – yes – no. No.

COMMISSIONER TRACEY: Were you aware, in 2018 or subsequently, that Mr Kristofer Bunker had been disqualified as a director, he being a director, then, of HelpStreet Villages Queensland Proprietary Limited?

25

MS REES: No, I'm not aware, but HelpStreet is not an approved provider itself.

COMMISSIONER TRACEY: I appreciate that, but you were aware, at least by the time these events that we've been hearing about were brewing, that it was, effectively, a subcontractor – wasn't it – providing services in the industry.

30

MS REES: Yes.

35

COMMISSIONER TRACEY: Thank you. Anything arising out of that, Mr Gray?

MR GRAY: No; thank you, Commissioner.

COMMISSIONER TRACEY: Very well. Thank you, Ms Rees, for your evidence. You're excused from further attendance.

40

<THE WITNESS WITHDREW

[3.38 pm]

45

MR GRAY: Our next witness is Mr Anthony Speed. I call Anthony Speed. Commissioners, can I just mention for the transcript that it's not our contention, that Mr Bunker was a director on the ASIC register of the HelpStreet company in question or any of the other HelpStreet companies that we know of. He wasn't a
5 formal director on the ASIC register.

<ANTHONY DAVID SPEED, AFFIRMED

[3.39 pm]

10

<EXAMINATION-IN-CHIEF BY MR GRAY

MR GRAY: What's your full name?

15

MR SPEED: Anthony David Speed.

MR GRAY: And what's your position?

20 MR SPEED: I'm the acting assistant secretary for the aged-care compliance branch in the aged-care reform-and-compliance division of the department.

MR GRAY: Thank you. Now, you've previously made a statement for the royal Commission?

25

MR SPEED: That's correct.

MR GRAY: And you've made two more. In a way, you've made three more. One replaces one of the others. I'm not going to take you to the detail of those statements during this examination this afternoon, but we are recalling Mr Speed later in the
30 week on the topics that he addresses in those statements. Mr Speed, the purposes of my questions today are to inquire into and gain an understanding of the department's handling of the People Care or Earle Haven matter. When did you take up your current position?

35

MR SPEED: I commenced in that position in the end of October in 2018.

MR GRAY: Before that point in time, late October 2018, you didn't have a role in compliance; is that right?

40

MR SPEED: No, that's not right. I was in a role which was entitled an aged care domain role, which was responsible for the activities in aged care in some aspects of regulation that occurred in the state network of the department. So those activities were the operational compliance teams, compulsory reporting functions and ACFI
45 compliance functions.

MR GRAY: Thank you. In the course of those roles, did you have any supervisory responsibility over those parts of the department that were responsible for prudential compliance or quality compliance of People Care?

5 MR SPEED: Only in relation to the operational compliance centres, the compliance centre east and west in the state network which related to quality compliance.

MR GRAY: So there's a division within the department, is there, between operational compliance which relates to quality, and prudential compliance which
10 relates to financial matters; is that right?

MR SPEED: Yes. There was at the time but subsequently that has been merged into a single branch which is the branch that I manage.

15 MR GRAY: And when did that merger occur? Was that when you were appointed?

MR SPEED: No. That formally commenced on 1 July but, prior to that, I'd been straddling both roles, if you like, in terms of aged care compliance and the former
20 aged care domain role.

MR GRAY: Thank you. I want to ask you some questions about the regime in the Act concerning the suitability of approved providers. Is that now a topic that falls within your responsibilities?
25

MR SPEED: No, that's not. That is maintained in a different division of the department in a separate branch.

MR GRAY: Right. So I'll see what you know about the legislative regime and ask
30 you some questions but I understand the proviso is that this is not an area that you are directly responsible for, or responsible for at all by the sounds of it. Operator, please put up, from the Aged Care Act, which is RCD.9999.0002.0014 at page 0049, section 8.3 of the Act. This is a provision setting out the criteria for when an applicant is suitable to provide aged care and the matters that the secretary considers.
35 Do I take it from your earlier answer, Mr Speed, that there is another branch in the department dealing with assessing suitability and this is not something that the compliance – can I call it the compliance branch?

MR SPEED: Yes, please.
40

MR GRAY: It's not something that the compliance branch considers?

MR SPEED: Not at the approval process, no. The compliance branch has a role in revocation of approved provider status but not in the assessment of approved
45 provider status.

MR GRAY: Thank you. If we just make a mental note of, in particular, (b) and (c), amongst those matters that are to be considered are:

5 *The applicant's demonstrated understanding of its responsibilities-*
etcetera –

10 *...and the systems that the applicant has or proposed to have in place to meet its responsibilities.*

If we go then please, operator, to page 0060 section 10.3 revocation of approval, this is a matter within the responsibility of your branch.

15 MR SPEED: That's correct.

MR GRAY: And it refers back, does it not, to the criteria for consideration that I just took you to, in that, in subsection (1)(b) there is a reference to the person ceasing to be suitable for approval, see section 8.3.

20 MR SPEED: That's right.

MR GRAY: So, in that way, those suitability criteria are, in effect, within the realm of what your branch does albeit in respect of potential revocation of approval.

25 MR SPEED: That's correct.

MR GRAY: Thank you. Perhaps this is already known to you, Mr Speed, but there is a provision in the Act contemplating that the provision of care includes a reference to provision by a subcontractor, in essence. That's right, isn't it? I'll ask that the
30 operator go to page 0409 section 96.4. Section 96.4 is entitled Care Provided on Behalf of an Approved Provider. And it, in effect, contemplates that under a contract or arrangement, another person might provide care on behalf of the approved provider; that's so, isn't it?

35 MR SPEED: That's correct.

MR GRAY: So it's contemplated as permissible but if it happens, it may raise the risk of non-compliance and the risk of uncertainty about roles and responsibilities; would you agree with that?

40 MR SPEED: That's a fair statement, with a note that the approved provider remains responsible for the overall compliance with the Act.

MR GRAY: In statutory terms, the approved provider remains responsible but, in
45 practical terms, depending on the contract, or the clarity of the arrangements, the approved provider might have in reality put themselves in a position where they can't perform the obligations that they're responsible for; do you agree with that?

MR SPEED: That's feasible, yes.

MR GRAY: And if that's the case, then that's a significant problem because you've got a disjunction between statutory responsibilities and the practical ability to
5 discharge those responsibilities; do you agree with that?

MR SPEED: Yes.

MR GRAY: So that means that, if there's going to be a significant subcontracting
10 arrangement, for example, of the entire management and operations of a particular residential facility, it's of the utmost importance that the department should understand the nature of those arrangements and the clarity of the demarcation of roles and responsibilities under those arrangements; that's right, isn't it?

MR SPEED: Yes. It would be ideal for the department to have that understanding,
15 yes.

MR GRAY: All right. Now, if we go to the documents in this case – I appreciate that you've only come into the role of having overall supervision over compliance as
20 late as October 2018 and, prior to that, your role in compliance was limited so that you wouldn't have had supervision and visibility over matters of this kind. But I'm going to ask about the documents relating to People Care and have you had a chance to familiarise yourself with facts from, in effect, the files?

MR SPEED: Yes, I have.

MR GRAY: All right. Well, we'll see how we go and I understand that you don't have direct knowledge of these matters and I'm asking you questions referable to the
30 documents.

MR SPEED: Okay.

MR GRAY: So when the company, People Care, was approved as an approved provider, have you had a chance to familiarise yourself with its application
35 documentation?

MR SPEED: I've seen the application.

MR GRAY: It's the case, isn't it, that there was a field available to indicate
40 whether care was going to be provided through a management company and that was ticked "no"?

MR SPEED: That's correct.

MR GRAY: Now, the importance of whether a company is going to provide through a management company is – I'm sorry, I withdraw that. The topic of whether the approved provider is going to be providing services through a

management company is something that's picked up in the approval letter. I'll just ask you to look at that. That's tab 3 please, operator. Have you had a chance to familiarise yourself with the letter evidencing the approval of People Care to be an approved provider of community, residential and flexible care?

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MR SPEED: I've seen the letter.

MR GRAY: It is dated 10 February 2006. If we go to page 0618, there's a heading in the middle of a page: Use of a management company to deliver care services on the approved provider's behalf. And there's reference to the very matter that I was asking you about before: it's possible to have an agreement, but that doesn't derogate from the approved provider's responsibilities under the Act. Then it says:

15 *If an approved provider enters into an agreement with a management company to deliver care services on its behalf, the directors/board members of the management company should be treated as key personnel in respect of the applicant. Some persons employed by the management company will also meet the definition under the Act of key personnel, for example, a director of nursing.*

20

I just want to refer in more detail to that first sentence:

The directors/board members of the management company should be treated as key personnel in respect of the applicant.

25

Is that, in effect, a reference to a concept in the Act of people who have a significant influence over the activities of the approved provider?

MR SPEED: Yes. At that time, the concept of key personnel related to that function. However, I'd note that the concept of key personnel subsequently changed with the omnibus bill of 2016 which removed the requirements to report to the department on key personnel.

MR GRAY: Well, it's the case, isn't it, that the key personnel provisions in relation to notification of who are key personnel at the time of application for approval remain in the Act?

MS REES: That's – that's correct.

MR GRAY: I won't take you through them all. But you're correct in pointing to a change in 2016 whereby there was a removal of a reporting obligation in relation to changes in key personnel. Is that omnibus bill sometimes referred to somewhat colloquially as the reduction of red tape measure?

MR SPEED: That's correct.

45

MR GRAY: All right. Now, the effect of that reduction of so-called red tape was that, even if there are changes in the people who have a significant influence over planning and activities of the approved provider, there's now no obligation on the approved provider to report that to the department; is that right?

5

MR SPEED: The bill replaced – the amendment related to reducing the focus on key personnel and instead placing a focus on material change. So there is a continuing responsibility for approved providers to report a material change.

10 MR GRAY: Very good. Let's go to that. If we go back to the Aged Care Act, it's section 9.1, beginning at page 0054. And I'll just ask you about this, Mr Speed; is this the provision that you are referring to, 9.1(1) provides:

15 *An approved provider must notify the secretary of a change in circumstances that materially affects the approved provider's suitability to be a provider of aged care (see section 8.3).*

That's the consideration criteria I took you to at the outset:

20 *The notification must occur within 28 days after the change occurs.*

And then subsection (2) refers to a form for the notification. Is that the provision that you just adverted to in your evidence?

25 MR SPEED: I believe that to be the case. Yes.

MR GRAY: Okay. I will ask that the form be brought up; that's RCD.9999.0162.0001. Now, in this document, on the second page, amongst other things, there's a sort of a tick-a-box section dealing with nature of material change and the middle one is:

30

Change to the organisational structure such as a merger or takeover, use of or removal of a management company.

35 So that's, in effect, a prompt that the use of or removal of a management company is a material change which impacts on suitability; do you agree with that?

MR SPEED: Yes, I do.

40 MR GRAY: Yes. I tender that form, Commissioners.

COMMISSIONER TRACEY: Yes. The form entitled Approved provider notification of a material change under section 9.1 of the Aged Care Act 1997 will be exhibit 8-13.

45

**EXHIBIT #8-13 FORM ENTITLED APPROVED PROVIDER
NOTIFICATION OF A MATERIAL CHANGE UNDER SECTION 9-1 OF
THE AGED CARE ACT 1997 (RCD.9999.0162.0001)**

5

MR GRAY: Thank you, Commissioner. So just recapping on the gist and substance of the regime including a form, there no longer is a requirement to report a change in key personnel. However, there is an obligation to report a change in material circumstances that could impact on suitability and one of those is prompted in the form as being the use of or the removal of a management company?

10

MR SPEED: That's correct.

MR GRAY: You've already agreed with me, Mr Speed, when I made some suggestions about the importance of the department following up about the detail of contractual arrangements with management companies because of the risk of disjunction between statutory responsibilities and the practical ability to discharge those responsibilities. In effect, the department is acting under a regime where it should be very conscious of changes in the use of management company, not only by reference to commonsense, because of those principles around demarcation of roles, but also because of the form; do you agree with that?

20

MR SPEED: At a general level, yes, I do agree.

MR GRAY: So against that framework, I just want to ask you about some of the indications in the history of this approved provider that appear on the paperwork, appreciating that you weren't directly involved in the vast majority of these instances. If we go back to – I don't know if you were in court listening to the evidence given by Ms Rees, were you?

30

MR SPEED: No, I wasn't.

MR GRAY: No. All right. Well, she gave evidence about a serious risk report that went back to 2007 which indicated some serious doubts about the ability of People Care, the approved provider, under its current principal, to deliver aged care in light of failings around demarcation of roles for its personnel and recruitment of unqualified personnel and such like. Would you agree that human resources issues of that kind, are a significant factor that should be taken into account by the department in a risk review sense, in considering whether an approved provider remains suitable to be an approved provider?

40

MR SPEED: I would agree and the standards that operated up until 1 July this year reflected that and, indeed, the theme has continued in the current standards as a responsibility of approved providers to deliver on outcomes in that regard.

45

MR GRAY: All right. I want to ask you about a document I took Ms Rees to in relation to emails passing between complaints officers in February 2016. It's at tab

11. If the operator could kindly show that on the screen. Do you have any knowledge, at a general level, Mr Speed, about whether information obtained by officers in the complaints commissioners area in 2016, was fed to the department or was it essentially only ever the case that the complaints commissioner conveyed the outcomes of complaints to the department; do you have any knowledge about that topic?

MR SPEED: The complaints commission may have undertaken a referral of information to the department, but I don't have any particular knowledge of this – this matter, no.

MR GRAY: If there was a referral of information from the complaints commission to the department, does that take the form of a formal document described as a referral of information?

MR SPEED: I believe so, yes.

MR GRAY: Yes. My question about this document – I will just ask you to comment at a general level – my question about this document is that it seems to contain information that Mr Miller, the principal of People Care, the approved provider, has not engaged adequately with a complaints inquiry process and that's been of concern to the officers. And I'm referring in particular to the text in about the middle of page 0188. I suggest that this sort of information is actually very important information to gauge the suitability of a person and an entity to continue as an approved provider because it shows whether they have an attitude that's cooperative to maintaining the integrity of the scheme, including the complaints scheme. What do you say to that suggestion?

MR SPEED: On the face of the information on this email, it would certainly suggest that there was a reluctance to participate in the process, yes.

MR GRAY: Is there an avenue within the current regulatory framework for the department to capture information of this kind about non-cooperation with inquiries, non-engagement with inquiry processes and to escalate that into a consideration of whether the approved provider is suitable?

MR SPEED: Just to clarify, are you speaking in relation to the department or in relation to the roles of the now Aged Care Quality and Safety Commission as they're two separate - - -

Is that, in effect, a reference to a concept in the Act of people who have a significant influence over the activities of the approved provider?

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MR SPEED: Just to clarify, are you speaking in relation to the department or in relation to the roles of the now Aged Care Quality and Safety Commission as they're two separate - - -

5 MR GRAY: Well, let's take them separately. If there is an attitudinal issue of the kind raised in the course of inquiries pursued by the department, is there an avenue within the department for the escalation of those matters to an overall consideration of the suitability of the approved provider to remain approved?

10 MR SPEED: Yes. If information came to the department that questioned suitability, then the department could issue a notice under the Act, a 9-2 notice, requesting further information from a provider and that would inform a decision regarding suitability or, indeed, the department could issue a 10-3 notice seeking
15 further information in relation to a suggestion of a revocation of approved provider status but that would be made on the basis of evidence that there is a concern regarding suitability.

MR GRAY: Has failure to cooperate with inquiries ever resulted in the revocation of approved provider status, to your knowledge?

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MR SPEED: I'm not aware. I can't comment on that. I wouldn't have that information.

MR GRAY: All right. Let's take the second part of this topic, which was your very
25 correct proposition that one had to distinguish between information of this kind which showed an attitudinal disengagement from the inquiry processes but not brought to the knowledge directly of the department. Rather, only brought to the knowledge of somebody in the commission or previously in the agency or the complaints commission. In respect of cases where information of this kind only
30 arose to the attention of the agency or the complaints commission, or now the quality commission, is there an avenue, or was there an avenue, for escalation of those matters to the department so the department could consider the suitability of the entity to remain an approved provider?

35 MR SPEED: I can't talk to the complaints commission previously, but I can certainly talk to the former quality agency. There were arrangements in place for engagement between the department and the quality agency, as there continue to be now with the new Quality and Safety Commission and the department.

40 MR GRAY: And are those arrangements such that suitability to remain approved would be considered if there was evidence of disengagement, or non-cooperation, with inquiry processes?

MR SPEED: If the now Quality and Safety Commission had a concern regarding
45 suitability that they wished to direct to the department, they could issue that information to the department for consideration.

MR GRAY: But you don't know whether it's actually ever resulted in a revocation?

MR SPEED: Not to my knowledge.

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MR GRAY: Do you know whether there's ever actually been a referral of that kind?

MR SPEED: I can't comment. I don't know that.

10

MR GRAY: I want to ask you about the topic of non-compliance in a home care context and the extent to which that is taken into account in other contexts. It seems that, as at 2015, there was a process through meetings called liaison meetings, by which outcomes in a home care setting could be taken into account in ramping up a regulatory response in a residential care setting. Ms Rees gave some evidence about the liaison meetings at which that could occur. Are you familiar with that topic?

15

MR SPEED: Yes, I'm aware that there were liaison meetings that occurred at that time.

20

MR GRAY: They don't occur any more; is that right; that there's some other sort process in place?

MR SPEED: The MOU – schedule under the MOU between the commission and the department outlines a tier approach to engagement between the department and the commission and that can occur through high-level engagement which is focused more on the strategic policy, if you like, interface between the commission and the department, through to the case-focused considerations and engagement that occurs at a local level between the department's compliance centres, who are managing the response to quality non-compliance, and the commission representatives at a state or regional level.

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MR GRAY: I want to ask you about a point in time in February 2016 – and you can just assume, for the purposes of the question, that, up to that point in time, there'd been a range of non-compliances in both the home care setting and also, previous to that, in the residential care setting in respect of Hibiscus House and so that this approved provider, People Care, had a history of reasonably persistent and quite serious non-compliance as at February 2016.

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Mr Kennett asks me to be more precise, so I will ask the operator to bring up tab 24 please. Tab 24 is the home details report for Orchid House and there's – this is not Hibiscus but it does contain a lot of information about non-compliance of Orchid. If we go to page 3393 back in May 2007 and June 2007 on page 3393, this document evidences substantial "not met EOs" which are expected outcomes in the middle of the table from about the centre to the bottom of the page. Do you see those, Mr Speed?

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45

MR SPEED: Yes, I can.

MR GRAY: They continue on into late 2007 over the page on 3394. Then in 2011, there's a recrudescence of "not mets" on page 3395, and then there's a period of
5 relatively better compliance. In September 2011, through to May 2015 with only one
"not met" in that period. However, then there's, unfortunately, a repetition into 2015
and then 2016 of persistent non-compliance. If we go over the page, 3396, we see
that continues on into mid-2016 when this report is generated. This report is
generated in July 2016. If we look at the other – history of the other facility, Orchid
10 House, it's subsumed within the home details report at tab 100 and it, too, on page
0680, had significant "not mets" in April 2007. Then they continued at 0681 into
later months in 2007.

Then when we come to home care, that's at tab 66. Mr Speed, this table, unlike the
15 other two, works in reverse order; the earlier dates are at the bottom of the table and
they go upwards. In 2012 on page 5274, there are significant "not mets", and then on
page 5273, there are significant "not mets" in 2015 up to the point at which I'm
asking my question, which is February 2016. So that's the detail of significant
history of non-compliance up to that point. Now, at this point in time, it appears that
20 there was a suitability review conducted in relation to People Care and I just want to
ask you about that process. It's commenced by a request for information under the
section you just mentioned, section 9-2. If we go to tab 12 please, operator. Here is
a notice under that section and that's, in effect, an initiating document for a
suitability review; is that right, Mr Speed?

MR SPEED: It's requesting further information from the provider about its
25 arrangements. I see from that document, it's particularly targeted at financial
arrangements, that it is a gathering further information exercise, is my understanding.

MR GRAY: Thank you. That's an important point, isn't it? The request for
30 information is setting out and giving notice to the approved provider of the matters of
concern to the department which might be taken into account in revoking approved
provider status, if the approved provider is no longer suitable; is that right?

MR SPEED: No, that would be a separate letter that would be sent under 10-3 of
35 the Act and it's quite a different document.

MR GRAY: So this is simply a preparatory step that might lead to such a notice?

MR SPEED: It is seeking further information from the provider.
40

MR GRAY: Okay. And it never appears to have got to the point at which that
further notice was generated, at least on the documents that I'm aware of. But taking
this document, there doesn't seem to be any reference to the poor compliance history
45 under the accreditation standards or the home care quality standards of this approved
provider. It's really limited to a financial-management issue by reference to

questions concerning the 2014/15, general purpose financial report; do you agree with that?

MR SPEED: Yes.

5

MR GRAY: My suggestion is that – if there was going to be any thought turned to the question of the suitability of this approved provider to remain an approved provider, shouldn't there have been a holistic approach taken to not only its financial affairs but also its compliance history and, indeed, its history of lack of engagement and co-operation with inquiries?

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MR SPEED: I'm not familiar with the circumstances that led to this request or, indeed, whether this request was informed by a collection of information. I can't comment on that.

15

MR GRAY: Mr Speed, in June 2016, there were sanctions imposed on the approved provider in relation to Orchid and Hibiscus House. Have you had a chance to familiarise yourself with that sanctions decision?

20

MR SPEED: I'm aware of those sanctions. Yes.

MR GRAY: Yes. And, as a result of those sanctions – well, I withdraw that. The sanctions took the form of a conditional revocation of approved-provider status, but the revocation wouldn't take effect, if the approved provider agreed to appoint an adviser. That's right. Isn't it.

25

MR SPEED: That's correct. That's a common feature of a sanctions process.

MR GRAY: In fact, that's almost invariably the case, isn't it? That a revocation is conditional upon agreeing to appoint an adviser or sometimes an administrator. I'm right, aren't I?

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MR SPEED: Yes. I think that's correct.

MR GRAY: It's very rare indeed, that an unconditional revocation is imposed as a sanction.

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MR SPEED: That's correct. I'm not aware of any cases where that's occurred.

MR GRAY: And just to be clear: we're talking about revocation of approved-provider status. Aren't we. That's something done by the department.

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MR SPEED: That's correct.

MR GRAY: Now, there are documents that've been made available by the department, suggesting that – I withdraw that. There have been documents that've been made available by the Commonwealth, suggesting that there were difficulties in

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the relationship between the nurse adviser who took on the role pursuant to the sanctions of advising this approved provider and the approved provider itself. Are you familiar with those documents? Have you had a chance to familiarise yourself with those?

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MR SPEED: At a very broad level I'm familiar with that issue.

MR GRAY: Can I ask you then at a very broad level. That would be a significant red flag, indicating – if any further indications were needed from the body of evidence up to that point – that this was an approved provider which had enormous difficulties in managing its affairs and providing aged-care appropriately, wouldn't you agree?

10

MR SPEED: I'm aware of other circumstances where there have been difficulties in that relationship. It's not uncommon, but it, by its nature, is not common either.

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MR GRAY: And there's a question for consideration by the Royal Commission about whether and in what circumstances the suitability of an approved provider should be scrutinised under that provision you mentioned, section 10(1) and 10(3), concerning – 10(1), I think it is – concerning potential revocation of approval. 10(3), it is. And it's the case, isn't it? That in order for that provision to be given its appropriate operation, the widest possible range of information concerning the potential revocation of approved-provider status should be taken into account together and holistically, including prudential, quality and accreditation-standard compliance, co-operation with previous inquiries and any other material information which sheds light on the suitability of the approved provider; would you agree with that?

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MR SPEED: It will vary on a case-by-case basis, depending on the circumstances in which that 10(3) notice has been issued. It may be, that there is, for example significant quality and safety concerns alone, which have led to the issuing of a 10(3). It will vary depending on individual circumstance.

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MR GRAY: Is there a mechanism now in place within the department by which information from all of those various areas of the department which deal with prudential compliance, which deal with quality or accreditation standards monitoring and which deal with the engagement of approved providers with complaints processes and other inquiries – where they can all be brought together for consideration as to revocation of approved-provider status?

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MR SPEED: There are mechanisms where there is engagement and information sharing. Some of those activities are undertaken in the Quality and Safety Commission. So the complaints intelligence for example, is within the Commission. The recommendation from the Carnell and Paterson review to bring functions under the umbrella of the quality-and-safety Commission has been supported by Government; to transfer compliance and compulsory-reporting functions from January next year to the Quality and Safety Commission will provide increased

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opportunity for that more holistic consideration to occur, which, I think, is where, you're suggesting, would be of benefit.

5 MR GRAY: All right. So are you saying that it hasn't happened yet but it will happen with the consolidation of all the functions in the hands of the Commission in January next year?

10 MR SPEED: I'm saying there are arrangements in place now to support some of that information-sharing to occur, and the intention to bring it together in 1 January will strengthen those arrangements further.

15 MR GRAY: There's a question – and I'm going to ask some questions with specific reference to People Care in just a moment. There's a question, though, about prudential-compliance monitoring. Is that going to go into the Commission in January?

MR SPEED: That is the intent in terms of operational-compliance management is my understanding. Yes.

20 MR GRAY: So prudential compliance managing will go to the Commission as well, will it?

25 MR SPEED: At an operational level in terms of managing non-compliance by an approved provider with the prudential standards and those requirements.

30 MR GRAY: Okay. And does that mean the question of whether – let's just unpack that a little. There's, at present, in the accountability principles, an obligation on – on the accountability principles in combination with the Aged Care Act, a requirement on an aged-care provider to file certain annual returns or – “to provide them”, I should say – to the secretary; is that right?

MR SPEED: That's correct.

35 MR GRAY: And there's an annual prudential-compliance statement, and there's an aged-care financial report, and there's a general-purpose financial report, and all of these things can be required to be furnished to the secretary on an annual basis.

MR SPEED: That's correct.

40 MR GRAY: In terms of operational compliance, the function that you just referred to – are you just referring to the obligation to file a report that meets the description of one of those three reports within the time in which it is required to be filed?

45 MR SPEED: If that – if failure to do that leads to a non-compliance matter, then – that is what I'm referring to. However, there is a – I would note that there is a timetable if you like, of, for example legislative change that needs to occur, if that transition is to take effect on 1 January.

MR GRAY: All right. So in contradistinction to operational compliance around filing those returns on time, what about the qualitative process of scrutinising the content of the reports and considering, well, there's a red flag or an alarm here about the financial arrangements of the approved provider and they need to be scrutinised,
5 what about that function: who's going to do that?

MR SPEED: Well, as I mentioned, there's a period between now and whenever that transition occurs for those agreements – for that process to be worked through. I can talk to current arrangements, and current arrangements are that those – that
10 assessment that you refer to is undertaken by another branch in the department.

MR GRAY: Well, why don't I ask you about concrete example we have in the documents here. We go tab 118, please, Operator. This is the general purpose financial return for 2016, 17, for People Care. Operator, do you have that document?
15 Thank you. And if we go to page 0043 – it records, at the foot of the page, under all the details of profit and loss for that current year, 2016, 17, and the previous year, 2015, 16, a change in the profit and loss position such that, in 2016, 17, there's a loss of \$869,566 on revenue of about 6.9 million. So that seems to be a concerning fact, particularly when compared to the preceding year; don't you agree?

20 MR SPEED: On the face of it, yes. However, if this is the same document that I've recently reviewed, there's also a note from the auditor to the effect, I understand, noting that an overall level People Care continues or is expected to continue to maintain profitability.

25 MR GRAY: All right. Nevertheless, it raises an issue, and if we look at 0044, we see the asset position is – has deteriorated from the preceding year to a position where there is a negative asset position of about \$4.5 million. Are these sorts of matters scrutinised within prudential compliance in the department, and where there
30 are red flags raised, are there processes for considering whether the approved provider remains suitable to be an approved provider?

MR SPEED: These documents are scrutinised in a separate area of the department, in a – in the prudential-and-financial-assessment section of a separate branch. The
35 information comes to the compliance branch where there's been a risk assessment in relation to a severe status.

MR GRAY: All right. So there is – are you saying there is a process by which the assessment of this sort of information can come out of the prudential area and be conveyed – sorry. Can you just repeat that? Which area does it go, and how does it
40 go?

MR SPEED: Yes. There is – so there's a separate prudential-finance-assessment section, which is responsible for working to undertake an initial or first-pass risk assessment of the documents that come through this process. Where there is a judgment on that risk assessment there is a severe rating, then that information is referred to the prudential-compliance team in my branch.
45

MR GRAY: Now, in respect of the next year's financial reports, there was a failure by the approved provider to file some of its financial reports altogether; is that right?

MR SPEED: In relation to People Care, that's correct. Yes.

5

MR GRAY: Yes. People Care failed to file certain of its required financial reports, and it's – and it was tardy in filing a report called an annual prudential-compliance statement, and, when it was filed, many months late, it was subject to various errors and omissions; is that right?

10

MR SPEED: That's correct.

MR GRAY: Now, there was a long process of attempting to follow up, with Mr Lang of People Care, the relevant prudential and financial information between – around late 2018 through to June 2019, wasn't there?

15

MR SPEED: That's correct.

MR GRAY: And, in the end, on the 13th of June 2019, an officer within the prudential-compliance area of the department decided to take no further action on that matter; is that right?

20

MR SPEED: That's correct.

MR GRAY: Now, at that point in time, shouldn't there've been a coherent analysis done – of the failure of People Care to file those prudential and financial reports combined with the information available to the information available about its quality performance as well? Do you know whether any such assessment was done?

25

MR SPEED: The officer was responding to the notice of non-compliance that'd been issued previously, in February, I believe, that year, and was considering all of the information in relation to People Care's compliance with requirements relating to prudential standards. She wasn't considering information in relation to quality or any other operating context, if you like. She was making a decision purely on the basis of her responsibilities to manage the prudential compliance matter.

30

35

MR GRAY: Is that to take too narrow a view of appropriate regulation of an approved provider?

MR SPEED: It could be argued, that that was the case. However, I've reviewed the information, and I consider that she made that judgment as a reasonable and proportionate decision in relation to the information that was available at that time.

40

MR GRAY: If we go to the decision, we don't see any evidence – do we – that she was apprised of the subcontracting arrangement between People Care and HelpStreet, which was a matter that was known to the department through the Agency earlier in the year, in March 2019. We don't see that, do we?

45

MR SPEED: No, we don't.

MR GRAY: It's at tab 92, and it's – I don't think we're in disagreement about it, Mr Speed; it's a pretty narrow consideration, simply, of the materiality of the
5 information concerned and whether it's worth the department's while, to pursue it further: is that a fair summary?

MR SPEED: I think it's fair, to say that the delegate exercised reasonable discretion to take no further action based on the information and the proximity to the end of the
10 financial year and the reasonable use of resources to continue to pursue the matter.

MR GRAY: Now, perhaps under the policies and procedures of the department the delegate was not incorrect in confining her attention in that way; is that what you're
15 saying?

MR SPEED: Yes. That's fair.

MR GRAY: But my question is a broader one. The policies and procedures of the department in this respect seem to be overly narrow in that a broader perspective
20 should have been taken about the risks presented by the outsourcing arrangement, combined with this failure to lodge financial returns and, indeed, information about the degree of engagement of People Care with inquiry processes, complaints made about People Care or its subcontractors' services, all of these matters should have been combined in a coherent consideration of whether the approved provider was
25 suitable to be an approved provider, don't you agree?

MR SPEED: I'd agree that the opportunity to consider all information and all risk triggers in decision-making processes would be ideal and that's a matter that was
30 recognised in the Carnell and Paterson review and recommendations were put forward and accepted by government in relation to that – that matter.

MR GRAY: Now, at about the same time, if the department had turned its mind to the subcontracting party, HelpStreet, it might have been possible for the department to learn in June 2019 – I beg your pardon. I've got the chronology wrong. I will
35 withdraw that question and ask it again. If the department had turned its mind to the subcontracting party, HelpStreet, at any time from March 2018, it could have learned, in June 2018, that Mr Bunker had become disqualified to manage companies or corporations in Australia. You'd agree with that proposition, wouldn't you?

MR SPEED: If – if the department had sufficient information to turn its mind to that, yes.

MR GRAY: And the existence of a subcontracting arrangement in relation to the management of provision of services, by reference to the framework matters that we
45 identified at the start of this examination, would have been of the utmost importance for the department to inquire into, wouldn't they?

MR SPEED: Yes. On the assumption that the approved provider had met all of its responsibilities to advise the department and that the department had pursued that further.

5 MR GRAY: Well, we know that, irrespective of whether that particular form which was tendered a short time ago was used, we know that the department did learn of the arrangement with HelpStreet through emails that were sent between the agency and the department on 23 March 2018. You've seen those emails?

10 MR SPEED: I have, yes.

MR GRAY: They refer to the trialling of a management contract arrangement between People Care and HelpStreet; correct?

15 MR SPEED: Correct.

MR GRAY: So that put the department on notice, I suggest, that the department could have and should have inquired into the precise nature of those contractual arrangements. What do you say to that?

20

MR SPEED: I think, with the benefit of hindsight, absolutely the department would have – there would have been an opportunity for the department to have pursued that further, with the information that it had at that time. However, the information didn't come through a material change form; it didn't come through a notification of any change to key personnel. So the information came indirectly through another source, as I understand it.

25

MR GRAY: Well, it came through email exchanges with the agency in March 2018, didn't it?

30

MR SPEED: I understand that to be the case, yes.

MR GRAY: Yes. It doesn't matter, does it, what the source of the information was. It should have been acted upon, don't you agree?

35

MR SPEED: I'd agree, yes.

MR GRAY: So has there been a failing of administration by the department in not acting on that information it received on 23 March 2018, in your view?

40

MR SPEED: In my view, the approved provider remained responsible for delivering outcomes at that site and the primary relationship under the Act was with the approved provider.

45 MR GRAY: But by not following up and finding out more about the contractual relationship of which the department was apprised in March 2018, the department

has, in effect, omitted to deal with a potential risk to the provision of services to aged care residents, hasn't it?

5 MR SPEED: I cannot answer that with certainty. I would – would repeat my response, however, that People Care, as the approved provider, remained responsible for the provision of care at that site and the Act recognises that People Care, as the approved provider, was responsible for care and safety of residents at that site.

10 MR GRAY: But the department is the regulator of approved providers, isn't it?

MR SPEED: That's correct.

15 MR GRAY: So it's not enough, with respect, to just say, "People Care remains responsible". That's a truism. It has statutory responsibilities, but the department is responsible for regulating People Care.

MR SPEED: The department, in partnership with the Aged Care Quality and Safety Commission, yes.

20 MR GRAY: Now, if the department had turned its mind in greater detail to the subcontracting arrangement between People Care and HelpStreet, it would have then been in a position to find out who the people associated with HelpStreet were and it might have discovered that the person described as the global CEO was Kristofer Bunker; agreed?

25 MR SPEED: If further investigation had occurred, perhaps, yes.

30 MR GRAY: If that had occurred, was there any mechanism by which key individuals associated with management companies providing aged care on behalf of approved providers would be monitored against the ASIC register?

MR SPEED: Sorry, just to unpack your question, in monitored by the department, do you mean?

35 MR GRAY: Monitored by the Department of Health to see whether they're becoming subject of adverse attention from ASIC?

40 MR SPEED: The department may have referred information or could have taken an approach to refer information to ASIC as it – as it subsequently did following the events of 11 July.

45 MR GRAY: Does the department have a standing process involved of monitoring the ASIC register, for example, for decisions about disqualification of people in the key personnel register from being permitted to manage companies in Australia?

MR SPEED: The changes of 2016 have reduced the department's attention on key personnel and the key personnel reporting.

MR GRAY: So there's no standing mechanism for the Department of Health to monitor who's been disqualified by ASIC?

MR SPEED: It may occur on a case-by-case basis.

5

MR GRAY: All right. Operator, please bring up RCD.9999.0164.0001. Mr Speed, I take it from your answer a minute ago that, although a document of this kind, a disqualification of a particular person who is described as having an important role in relation to a subcontractor of aged care, although a document of this kind is not currently the subject of monitoring arrangements, if there were monitoring arrangements in place, then this is the sort of document that the department would be expected to detect, as and when ASIC made such disqualification decisions?

10

MR SPEED: That would be my understanding.

15

MR GRAY: I tender that document.

20

COMMISSIONER TRACEY: Yes, the notice of disqualification from managing corporations issued by a delegate of the Australian Securities and Investments Commission dated 27 June 2018 and relating to Kristofer Andrew Bunker will be exhibit 8-14.

25

EXHIBIT #8-14 NOTICE OF DISQUALIFICATION FROM MANAGING CORPORATIONS ISSUED BY A DELEGATE OF THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION DATED 27/06/2018 AND RELATING TO KRISTOFER ANDREW BUNKER (RCD.9999.0164.0001)

30

MR GRAY: Commissioners, as I indicated at the outset, Mr Speed will be recalled a little later in the week to answer questions about his statements and be examined on certain other issues but for the time being those are our questions for Mr Speed.

35

COMMISSIONER TRACEY: Mr Speed, in light of the intimation from counsel assisting, I won't excuse you from further attendance. You are welcome to remain in the body of the courtroom or, if you have other things to do between now and when you're recalled, you must feel free to move around but, if you would keep yourself available so when counsel are ready to recall you, you will be available.

40

MR SPEED: Yes.

<THE WITNESS WITHDREW

[4.45 pm]

45

COMMISSIONER TRACEY: I thank counsel and support staff for sitting late today but it was important we got through all the evidence that has been received and

we can start on a different case study in the morning. The Commission will adjourn until 9.30.

5 MATTER ADJOURNED at 4.46 pm UNTIL TUESDAY, 6 AUGUST 2019

Index of Witness Events

CARY STRONG, SWORN	P-4178
EXAMINATION-IN-CHIEF BY MS MAUD	P-4179
THE WITNESS WITHDREW	P-4190
KAREN PARSONS, SWORN	P-4190
EXAMINATION-IN-CHIEF BY MR BOLSTER	P-4190
THE WITNESS WITHDREW	P-4207
TELECIA MAREE TUCCORI, AFFIRMED	P-4207
EXAMINATION-IN-CHIEF BY MR BOLSTER	P-4207
THE WITNESS WITHDREW	P-4215
KAREN ANN HEARD, SWORN	P-4216
EXAMINATION-IN-CHIEF BY MR BOLSTER	P-4216
THE WITNESS WITHDREW	P-4221
BRUCE WALTER LANG, SWORN	P-4221
EXAMINATION-IN-CHIEF BY MR BOLSTER	P-4221
THE WITNESS WITHDREW	P-4227
ARTHUR LOPES MILLER, AFFIRMED	P-4227
EXAMINATION-IN-CHIEF BY MR BOLSTER	P-4227
KRISTOFER ANDREW BUNKER, AFFIRMED	P-4236
EXAMINATION BY MR BOLSTER	P-4236
THE WITNESS WITHDREW	P-4248
TRACEY FRANCES REES, AFFIRMED	P-4248
EXAMINATION-IN-CHIEF BY MR GRAY	P-4248
THE WITNESS WITHDREW	P-4274
ANTHONY DAVID SPEED, AFFIRMED	P-4275
EXAMINATION-IN-CHIEF BY MR GRAY	P-4275
THE WITNESS WITHDREW	P-4297

Index of Exhibits and MFIs

EXHIBIT #8-1 EARLE HAVEN CASE STUDY TENDER BUNDLE	P-4178
EXHIBIT #8-2 WITNESS STATEMENT OF CARY STRONG DATED 23/07/2019 (WIT.0325.0001.0001)	P-4179
EXHIBIT #8-3 THE WITNESS STATEMENT OF KAREN PARSONS DATED THE 2ND OF AUGUST 2019	P-4191

EXHIBIT #8-4 WITNESS STATEMENT TELECIA MAREE TUCCORI DATED 03/08/2019 (WIT.0326.0001.0001)	P-4208
EXHIBIT #8-5 THE WITNESS STATEMENT OF KAREN ANN HEARD DATED 2 AUGUST 2019	P-4217
EXHIBIT #8-6 THE WITNESS STATEMENT OF KAREN ANN HEARD DATED 4 AUGUST 2019	P-4217
EXHIBIT #8-7 THE PHOTOGRAPH DATED 11/07/2019 AT 12.03 PM	P-4220
EXHIBIT #8-8 THE PHOTOGRAPH DATED 11/07/2019 AT 12.10 PM	P-4220
EXHIBIT #8-9 THE WITNESS STATEMENT OF BRUCE WALTER LANG DATED 02/08/2019	P-4222
EXHIBIT #8-10 ARTHUR LOPES MILLER DATED 02/08/2019 (WIT.0349.0001.0001) AND ITS IDENTIFIED ANNEXURES	P-4228
EXHIBIT #8-11 THE WITNESS STATEMENT OF KRISTOFER ANDREW BUNKER DATED 20/08/2019	P-4237
EXHIBIT #8-13 FORM ENTITLED APPROVED PROVIDER NOTIFICATION OF A MATERIAL CHANGE UNDER SECTION 9- 1 OF THE AGED CARE ACT 1997 (RCD.9999.0162.0001)	P-4281
EXHIBIT #8-13 FORM ENTITLED APPROVED PROVIDER NOTIFICATION OF A MATERIAL CHANGE UNDER SECTION 9.1 OF THE AGED CARE ACT 1997 (RCD.9999.0162.0001)	P-4284
EXHIBIT #8-14 NOTICE OF DISQUALIFICATION FROM MANAGING CORPORATIONS ISSUED BY A DELEGATE OF THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION DATED 27/06/2018 AND RELATING TO KRISTOFER ANDREW BUNKER (RCD.9999.0164.0001)	P-4297