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TRANSCRIPT OF PROCEEDINGS

O/N H-1037308

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

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

DARWIN

10.12 AM, TUESDAY, 9 JULY 2019

Continued from 8.7.19

DAY 32

MR P. GRAY QC, counsel assisting, appears with MR P. ROZEN QC, MR R. KNOWLES and MS B. HUTCHINS

COMMISSIONER TRACEY: Yes, Mr Gray.

MR GRAY: Thank you Commissioner. We will now open the first case study of the hearing which concerns IRT William Beach Gardens, a residential aged care facility in the Illawarra region of New South Wales, and Ms Shirley Fowler. Shirley Fowler has been a resident at IRT William Beach Gardens since 2013. Before that, from 2010 to 2013, she resided in an aged care facility in the Adelaide Hills. I will now ask the operator to display tab 1058 of the case study tender bundle which is a photo of Shirley taken in 2014. Shirley has been living with Alzheimer's disease for many years, her daughter, Lyndall Fowler, has been Shirley's primary carer for 12 years. Ms Lyndall Fowler is the first witness in this case study.

Lyndall happens to be a qualified nurse. She retired in 2014 when she considered that albeit that Shirley was in residential care by that time Shirley required more dedicated care and support. Lyndall has been a very frequent visitor at William Beach Gardens since then and currently visits Shirley every evening to feed her mother her dinner. Lyndall has made a statement for the Royal Commission which will be tendered into evidence shortly. Her statement outlines aspects of her and Shirley's experiences over the years Shirley has been at William Beach Gardens and various concerns she holds arising from those experiences. Lyndall will say that diet and nutrition have been an ongoing problem during Shirley's time at William Beach Gardens requiring constant advocacy.

Shirley has special dietary needs. Lyndall has frequently communicated with IRT about Shirley's diet, weight loss and what she has observed and will say in relation to inadequacy of staff's attention to her feeding and nutrition. I'm about to provide a chronology, and I will just refer to that and foreshadow a point in it. Lyndall is at one point in that chronology the subject of an attribution in progress notes maintained by William Beach Gardens. The progress notes misquote her on 29 June 2017 as saying she feels like Shirley is being starved by staff. That's not the suggestion that Lyndall makes. It's more a point about whether staffing and staff training was sufficient to meet Shirley's needs. There's no suggestion of any deliberate misconduct.

I will now ask the operator to display that chronology of care events. It's at tab 1154 of the tender bundle and in due course I will be making one correction to it and making a further comment about one of the entries in it.

MR B. HODGKINSON SC: If it please the Commission, I've discussed the chronology which we received last evening, with my learned friend. We would ask that our rights be reserved in relation to it not, I hasten to add, for any purpose of objecting to any of the entries in it. My learned friend, as he has indicated to the Commission is explaining those entries in any event but there are some other entries that are relevant to the entries already in the chronology, which set out, in our view, the entirety of the picture around those particular events. We understand that the

Commission doesn't want a chronology of everything that has happened over the six years.

We are not suggesting that, but we are seeking an opportunity to add from the material already with the Commission some further entries into that chronology which will deal with the particular events identified in the chronology and the sequelae of them so that there don't appear to be large gaps. Otherwise, it is possible that the chronology could create an incorrect impression that is not the impression or not the same as that reflected by the primary records.

COMMISSIONER TRACEY: Have you prepared a document which chronicles those additions?

MR HODGKINSON: We haven't, your Honour. We have spoken to my learned friend about them and I can identify - - -

COMMISSIONER TRACEY: I don't want to put you to that trouble now, and frankly, it would impede the flow of the proceeding today. What I will get you to do is get those instructing you to prepare such a document and show it to counsel assisting, and if they have no difficulties with any additions, then they can be made. If there are any problems, then we will deal with them at an appropriate time during the course of the hearing.

MR HODGKINSON: Yes, thank you. I discussed a similar approach with my learned friend and if it pleases the Commission we will try and have that process completed by the end of this week.

COMMISSIONER TRACEY: Thank you. Yes, Mr Gray.

MR GRAY: Commissioner, Mr Hodgkinson's intervention, which was entirely appropriate, reminds me that I didn't allow those appearing for IRT and, indeed, appearing for another person who has an interest in the case study, to announce their appearances. So I will let them do so.

MR HODGKINSON: I can formally – for the record, my name is Hodgkinson, initials B.D., Senior Counsel. I am instructed by Mr Rickarby, a partner of K&L Gates, and we appear pursuant to leave granted by the Commission for IRT in these proceedings.

COMMISSIONER TRACEY: Thank you.

MR T. LIVERIS: May it please the Commission, my name is Liveris and I appear on behalf of Dr Robert Bird pursuant to leave that has been be granted with respect to his interest in this case study.

COMMISSIONER TRACEY: Very well. Thank you.

MR GRAY: Commissioners, in mid to late 2016 Shirley Fowler suffered a series of falls. She suffered a very significant loss of weight in October 2016 and following further falls at the end of October, became immobile in or about November 2016. She was moved to a ward or unit at William Beach Gardens called Nebo, N-e-b-o, which is for immobile residents. The evidence will show that she spent long periods chair-bound and bed-ridden. Initially she was in a tray chair. I will ask for an explanation of that but I understand it to be a chair to which a tray is affixed, useful for meal times but perhaps creating impediments at other times.

And then she was in an air chair and later she alternated between the two, it seems. She sustained another significant drop in body weight in February 2017. In March a pressure area developed in her sacral and buttocks area. She seems to have then begun to find it uncomfortable to sit and she tended to lean. When lying down, the evidence suggests she became prone to assuming a foetal posture, on her side with knees drawn up. Particularly on her left side, it appears. By 10 April 2017 Shirley had developed contractures of her legs, in particular the right leg. Contractures are, in effect, the freezing of the limbs, in this case, in a crooked position owing to the atrophy of muscles and tendons, and perhaps the shrinkage of muscles and tendons. How did this happen? There's a very large volume of care documentation in this case study, largely printed reports generated by William Beach Gardens' electronic care record system, which is called Leecare Platinum.

However, there is no documented assessment of the effect of Shirley's positioning of her body in this prone position in the critical period of early 2017, leading to the time when Lyndall identified that the contractures had developed on 20 April 2017, and there's no documented evidence of there being an intervention such as assisted stretching exercises known as passive exercises or range of movement or range of motion exercises. There's no documented evidence of them being performed before 10 April 2017. Shortly after 10 April 2017 we see the first reference to these exercises, but that's after Lyndall Fowler has intervened.

The development of leg contractures was very serious for Shirley's health and quality of life. The contractures became a serious complication in her overall care. In May 2017, nursing staff of William Beach Gardens and Lyndall discussed palliative care, and there's no suggestion intended in any way by any reference in the chronology or otherwise of Lyndall being pressured or influences in this regard. Lyndall approved palliative approach, but she does say that the information and education provided around this important topic was inadequate.

In early July 2017, pressure injuries were noted by staff of William Beach Gardens on each of Shirley's feet in close succession, starting with the left foot; these became infected. They became very serious injuries over time, one of them exposing the bone. Lyndall will say that, ultimately, they were not healed until mid and late 2018. The left healing first, followed by the right. In this respect, in the chronology, I need to make a correction to the June 2018 entry, which should refer to the left, not the right foot, at the foot of page 0007.

This healing occurred only after many months of active involvement by Lyndall herself in supervising such matters as the choice of dressings and supervising dressings changes, as well as Shirley's nourishment. William Beach Gardens was facing the reaccreditation process in mid-2017, commencing with an actual site audit in late June 2017, 20 to 22 June 2017. The then agency appears to have raised questions about aspects of clinical care, including physiotherapy referrals, to which William Beach Gardens responded in correspondence in July.

At about the same time, William Beach Gardens was responding to a complaint about a respite resident whose next of kin alleged mismanagement of the care of pre-existing pressure injuries. There's no finding ultimately made that there was clinical mismanagement of those injuries but certain matters did arise during the course of that complaint process, to which witnesses will be taken during the case study. It will be our submission that the complaint process appears to have led to, or been coincident with, a realisation by those responsible for the management of William Beach Gardens and, in particular, clinical care that pressure injury skills and practices at William Beach Gardens should be improved.

We will be submitting that there are manifest shortcomings in the charts for pressure injuries that have been used at William Beach Gardens, including over the important period of 2017 to at least about March 2018. These documents are titled Wound/skin Management Plan and Evaluation and they include many photographs. Now, Commissioners, it must be said that literally hundreds of iterations of these documents covering many dates have been produced under notice by William Beach Gardens. Having given notice to IRT through its solicitors, we've, for the purposes of the case study, focused on one of them bearing the date 19 March 2018, and we suggested that perhaps that could be treated as representative.

IRT isn't necessarily agreeing with that and makes points about the paper depiction of the relevant document, which, for present purposes I will call a wound chart, because that seems to be the nomenclature used within the facility itself. Notwithstanding the point that I understand to be made about the paper presentation as opposed to the actual presentation to a person giving care on the floor of William Beach Gardens who, I understand, uses a digital device rather than a paper form of the relevant document, there are issues that I wish to raise with the witnesses or perhaps, in particular, the care manager concerning the information conveyed in the photographs that are recorded on that document. For example, the absence of measurement information making it difficult to track the progression of injuries.

In March 2018 Lyndall identified that there was a further pressure area developing on Shirley's left foot and she advocated urgently to prevent this area rupturing because, clearly, in the event of a rupture, that could lead to a repeat of the ordeal which Shirley had been through already, by reason of the pressure injuries that had developed in July 2017 on each of her feet. It appears, from the evidence, that Lyndall's prompt intervention led to the supply of special feet protectors, initially with Lyndall contributing, in effect, a specially-made temporary protector and then with the facility supplying a more permanent foot protector for one of Shirley's foot.

I will ask the operator to display tab 1055 of the case study tender bundle showing the foot protectors obtained by Lyndall. And one can see from this photograph that there are contractures in Shirley's legs, particularly her right leg.

Can I, at this point, indicate to all those present that there will be distressing and disturbing photographs shown during the evidence of this case study. If anybody feels that that will upset them, they shouldn't be present either in this courtroom or in the media room where those photographs and other records in the matter are going to be displayed. Those photographs and other records, as we, the counsel assisting team, understand things, are not to be webcast. So they will not be made available to the public at large.

While I'm on that matter, can I just mention the fact that the complex care notes and documentation that are going to be shown on those screens in the courtroom and in the media room do, in many instances, include the names of staff and perhaps other people, all of which are subject to a non-publication order, unless it's a name that I expressly mention on transcript. And so we would ask that perhaps, Commissioner Tracey, if you would remind the media not to take notes of the names of workers and other people who might appear in those care notes that might be displayed in that way. In due course those documents will be thoroughly reviewed and appropriate redactions will be made before those documents are released into the public or media space of the Royal Commission's exhibit database.

COMMISSIONER TRACEY: Well, I would ask that those who have heard the statements just made by senior counsel assisting should note them carefully. I assume there is a copy of the non-publication order available on the Commission's website. If anybody is in any doubt about what restrictions apply, then they can very readily check that. And, also, I note the concern about the confronting nature of some of the photographs that will be displayed and reiterate that if there is anybody who is likely to be distressed by viewing such material, then they should absent themselves from the hearing room and the press room.

MR GRAY: Thank you, Commissioner. I should ask the operator to display the permanent foot protector, which is in the photograph of 1052, just to complete the picture there, because that photograph currently displayed shows the temporary one. The permanent foot protector for Shirley's right foot is the blue foot protector shown in that image. With these interventions – importantly, with these foot protectors, the pressure area resolved without – that is the pressure area that was developing in March 2018, as identified by Lyndall, on Shirley's left foot. That resolved without becoming an open injury.

And the importance of this is at least two-fold. Of course, it was very important to Shirley's quality of life that she not go through this ordeal again and have another pressure injury. The second way in which it is important is of some forensic importance for deliberations you might ultimately make about the case. It shows that, with appropriate interventions and some proactivity of pressure area care, pressure injuries, open pressure injuries on the foot, even of a person who is very

immobile and has become subject to contractures of this severity, are not inevitable. With proactivity, they can be avoided.

This is very much a case about proactivity, in particular, in clinical care. It's certainly not a case in which anybody is alleging that anybody has done anything deliberately wrong. If, in the end, the commissioners come to the view that there was a lack of proactivity either in this respect or in some other respect in relation to the care of Shirley, it's going to be relevant for you to consider whether this is a matter that might have systemic implications, given that this is a facility that has a 44 out of 44 expected outcome accreditation and passed its accreditation in the very period during which these events were occurring.

In her evidence, Lyndall says that she believes it's impossible to provide person-centred care with the level of staffing that she has seen at William Beach Gardens. Just pausing there, in the tender bundle which I will tender shortly, IRT has provided information at the Commission's requirement in relation to its staffing levels and they benchmark reasonably well. That, again, might raise a systemic issue. These are not issues that we're asking you to decide in the case study, but it's by way of an explanation of the more general importance of the issues of the kind that we're examining in this case study.

Lyndall, in her evidence, says that, based on her impressions, and she has been at the facility very frequently over the years, that care staff appear to be performing multiple tasks; not just providing personal care, but also including cleaning and laundry, which cuts into the time they provide for caring for residents. And, to use her expression, staff appear to be run off their feet. In September 2018, Shirley suffered an injury on the rear of her left knee, leaving a skin tear and a haematoma. No incident was recorded, which would explain this on our analysis of the documents that have been provided.

Lyndall in her evidence, including emails that she sent at the time, opines that the most probable cause seems to be associated with the use of a lifting sling then in use. And unless the straps of that lifting sling were configured in a particular way, she opines that it was inappropriate to be used for Shirley unless that reconfiguration occurred because of the contracted position of Shirley's legs, particularly with the right leg so tightly crooked so that the toenails of the right leg were behind the left foot when the foot protector was not being worn. Shirley's right leg is bent at an acute angle, posing the risk of contact behind the left knee. I will now ask the operator to display a recent photograph at tab 1056 showing Shirley's legs in these same positions.

One of the other care issues Lyndall has often advocated about is the timely trimming of Shirley's toenails. And this might have a connection with the skin tear issue. Older people have thinner skin, as the commissioners have heard in the very first hearing. Long nails present serious risk of skin tears and these can be difficult to heal and present an infection risk. Lyndall considers it probable that a long toenail on Shirley's right foot might have been jammed into the rear of her left knee during

lifting with the sling. At any rate, William Beach Gardens didn't identify the cause of the skin tear and the haematoma.

The other witnesses – well, the importance of that point, I should just mention, is that providing care involves addressing incidents where things go wrong. You can't stop everything that might happen. But if it does happen, you must find out what the cause was so that you can do your best to ensure it doesn't occur. So incident reporting is very important. There doesn't seem to have been any incident reporting in this case. We will wait and see if our friends are able to identify one.

The other witnesses we are calling in the case study under notices issued by the Royal Commission are the current care manager of William Beach Gardens, Ms Kristy Taylor, RN, and the IRT business manager who we understand has responsibility across six facilities, Ms Sophoronia, sometimes called Nia, Briguglio, and also Shirley's usual GP, Dr Bird, of Dapto Healthcare. They've each made a statement, and each of those will be tendered into evidence. I will now ask the operator to display the tender bundle index in the case study, which comprises 1156 tabs. I tender the tender bundle in this case study, comprising the documents in that index.

COMMISSIONER TRACEY: Yes. The William Beach Gardens tender bundle will be exhibit 6-8.

EXHIBIT #6-8 WILLIAM BEACH GARDENS TENDER BUNDLE

MR GRAY: Thank you. Obviously, the tender bundle in this case study is particularly large. In order to ensure that all necessary redactions are applied to those documents that are going to be of relevance, we propose that, contrary to the approach in earlier hearings, the Commission will not publish that tender bundle immediately upon its tender. We will aim to make the documents to which witnesses are taken in the hearing today available by the end of the week, subject to proper redactions being made, as I outlined earlier. And we propose not to publish the tender bundle more generally until further notice to the parties who have been granted leave to appear. We anticipate that all the direct evidence in this case study will be received and heard today but it will be a long day.

As I mentioned when I opened the overall hearing yesterday, the procedure to be adopted for the case study is that after all the direct evidence has been received, I will not be formally closing the case study. Parties who are appearing in the case study should be aware that comments may be made by expert witnesses, called later in the hearing, about issues that arise in this case study and, indeed, that goes for the other case studies as well. And it's possible that such comments may be relied upon to support findings in the particular case studies. There will be no detailed oral closing submissions at the end of today's evidence.

Rather, as I indicated in the opening yesterday, where the counsel assisting team intend to seek directions at the conclusion of the overall hearing in Cairns for the provision of written submissions by counsel assisting as to the findings that should be made and then for response submissions by parties granted permission to appear, which have an interest in each particular case study, for those submissions to be made within seven days of counsel assisting's submissions on proposed findings. And then, for a brief opportunity for any necessary replies as between such parties. I will now ask Ms Hutchins to address you.

COMMISSIONER TRACEY: Yes.

MS HUTCHINS: Thank you, Commissioners. The next witness that will be called, or the first witness for today will be Ms Lyndall Fowler. Before Ms Fowler enters the box I would like to raise one matter. Ms Fowler would like to refer in her evidence to a statement which she gave to the Royal Commission at the public forum in Wollongong on 13 March 2019. She has some notes from that forum which she would like to be able to refer to in giving her evidence. I've just received a copy of this and given it to my learned friends. And counsel assisting will also provide a copy to you both as well. And we request that a copy be available for Ms Fowler when giving her evidence also.

COMMISSIONER TRACEY: Yes. Thank you.

MS HUTCHINS: I call the next witness, Ms Lyndall Fowler.

COMMISSIONER TRACEY: I'm sorry, you are tendering this? Or will it form part of her evidence in the box?

MS HUTCHINS: It will inform part of her evidence in the box. I can either have her adopt it formally as part of her evidence or I can add it as an exhibit to the tender bundle.

COMMISSIONER TRACEY: Well, it's a matter for you. If she wishes to read it onto the record, there will be no difficulty about that but if she just wants to have this forming part of her evidence, then it can be adopted and tendered.

MS HUTCHINS: Thank you.

<LYNDALL HELEN FOWLER, AFFIRMED [10.44 am]

<EXAMINATION-IN-CHIEF BY MS HUTCHINS

MS HUTCHINS: Ms Fowler, what is your full name?

MS FOWLER: Lyndall Helen Fowler.

MS HUTCHINS: And you have made a statement to the Royal Commission?

MS FOWLER: I have.

MS HUTCHINS: Operator please bring up WIT.0103.0001.0003. Ms Fowler is that the statement that you made for the Commission dated 20 June 2019?

MS FOWLER: It is.

MS HUTCHINS: And I understand you would like to make a number of amendments to this statement?

MS FOWLER: I will. Yes. Thank you. Under the heading Loss of Mobility on page 3, point 21, I would like to change the date from between July and September to between January and October of 2016. And in 22, you would like to change the date from July or August 2016 to January 2016. And in clause 23, rather than, "It was in September 2016", change that to October 2016. And in 24, after this episode in September 2016, I would like to change that to October 2016.

MS HUTCHINS: Thank you. And do you have in front of you as well a copy of your notes from the statement to the Royal Commission into Safety and Quality of Aged Care of 13 March 2019.

MS FOWLER: I do.

MS HUTCHINS: And this document sets out a number of opinions that you expressed on that day. Are they opinions that you hold and believe – that you hold and are your opinions?

MS FOWLER: They are.

MS HUTCHINS: Thank you.

MS FOWLER: And I asked for that document because I may want to refer to those opinions in my summing up.

MS HUTCHINS: Thank you. Commissioners, I tender Ms Fowler statement as amended and with the statement to the Royal Commission annexed.

COMMISSIONER TRACEY: Yes. The witness statement of Lyndall Helen Fowler as amended, dated 20 June 2019, will be exhibit 6-9.

EXHIBIT #6-9 WITNESS STATEMENT OF LYNDALL HELEN FOWLER AS AMENDED DATED 20/06/2019 (WIT.0103.0001.0003)

COMMISSIONER TRACEY: And the statement of Lyndall Fowler to the Royal Commission on 13 March 2019 will be exhibit 6-10.

EXHIBIT #6-10 STATEMENT OF LYNDALL HELEN FOWLER TO ROYAL COMMISSION INTO SAFETY AND QUALITY OF AGED CARE DATED 13/03/2019

MS HUTCHINS: Thank you, Commissioners. Now, Ms Fowler, to avoid confusion throughout the course of the evidence today, are you happy for us to refer to you and your mother, Shirley Fowler, by your Christian names?

MS FOWLER: I am.

MS HUTCHINS: Thank you. And so your evidence today is in relation to your mother, Shirley, who is currently a resident at IRT William Beach Gardens. Your evidence is, to the Commissioners, also informed by your personal experience and your professional training and experience?

MS FOWLER: Yes.

MS HUTCHINS: What qualifications do you hold?

MS FOWLER: I have a – I trained as a registered nurse at the Royal Adelaide Hospital in the early 70s, and I have a certificate of nursing, a Diploma of Applied Science in Community Nursing in 1978, and a Graduate Diploma in Education in 1988. I am no longer a registered nurse.

MS HUTCHINS: And when did you stop working as a registered nurse?

MS FOWLER: My registration probably expired in '99, 1999, but I have been employed in the health industry until 2014.

MS HUTCHINS: And what role were you doing prior to your retirement?

MS FOWLER: Prior to my retirement, I was managing sexual assault services and domestic violence counsellors for the Illawarra Shoalhaven Local Health District. But in the 12 years before that, I was a manager of community health services in South Australia; that included home and community funded – home and community care funded domiciliary care services, community nursing, ACAT, Allied Health, aged day care programs, etcetera, a broad range of services for the whole community, including many services for older people.

MS HUTCHINS: And your mother, Shirley, is 92 years old. How is her health today?

MS FOWLER: She is in – has end-stage dementia. She is completely dependent. She can't move any part of her own body except her eyes any more. And she needs full assistance.

MS HUTCHINS: And in your witness statement, you mention at paragraph 12 that you first noticed your mother displaying signs of memory loss in 2005?

MS FOWLER: Yes.

MS HUTCHINS: Yes. And so what were the first signs that you started noticing with your mother's memory loss?

MS FOWLER: Well, just that she would forget meeting times or meeting places, that she lost her keys, that she might get confused about the time of day, might – might forget where she parked her car in the car park.

MS HUTCHINS: And was she living by herself at that stage?

MS FOWLER: She was.

MS HUTCHINS: And what did you notice in terms of the deterioration of her health from that point?

MS FOWLER: Well, she would – definitely became more isolated – socially isolated and depressed about her situation, but she was in denial that she had Alzheimer's. It was her terrible fear. She had looked after a number of friends and other relatives who had dementia.

MS HUTCHINS: When was she officially diagnosed?

MS FOWLER: In 2006 she had a geriatrician consult that I organised. And she was initially diagnosed just with mild cognitive impairment. I just can't remember the date. Some time – it probably was 2010. It was before she – I think before she was admitted into care.

MS HUTCHINS: Yes.

MS FOWLER: But it could have been around that time.

MS HUTCHINS: Yes.

MS FOWLER: And that was a geriatrician working in the geriatric and evaluation management team of the Mount Barker Health Service, whose name escapes me just at the moment, [redacted].

MS HUTCHINS: We don't need you to name names. And as a general comment for the duration of the giving of your evidence today, I would ask you to refrain from using people's names.

MS FOWLER: Okay.

MS HUTCHINS: Unless it's someone that we direct you to.

MS FOWLER: Okay.

MS HUTCHINS: Thank you. So in 2008 to 2010, I understand from your witness statement, at paragraph 13, Shirley's condition deteriorated markedly following two falls in 2008 and 2010. What were the consequences of those falls?

MS FOWLER: Well, the first fall had a – she had a broken hip and it required a total hip replacement.

MS HUTCHINS: And was she still living independently after that broken hip?

MS FOWLER: Yes. She was.

MS HUTCHINS: And was she receiving any home care support?

MS FOWLER: I think by 2009 she had agreed to accept home care support.

MS HUTCHINS: And what was the form of that support she was receiving?

MS FOWLER: Initially, it was household domestic assistance, and then she came to enjoy being visited by younger people and formed quite a positive relationship with the young worker who was attending to her.

MS HUTCHINS: Yes. And after her second fall?

MS FOWLER: She fractured the neck of her left femur. And that time it was treated just with a hip screw, so that was less intervention. But after both of these occasions, her memory was much worse. And after the second fall, she really wasn't able to go home. She came from hospital to my place until we could organise placement.

MS HUTCHINS: And how long was that, that she was staying with you for?

MS FOWLER: Probably July – August, maybe August, until she went in to respite care around Christmas of that year.

MS HUTCHINS: Yes. And during that time, were you acting as her full-time carer?

MS FOWLER: Well I was still working full-time but, in the end, I had to take long service leave because she really wasn't safe to be left by herself.

MS HUTCHINS: And why wasn't she safe?

MS FOWLER: Well, she wandered away a few times. One time with the dog, without her walking stick, in the early evening, on a busy road.

MS HUTCHINS: And do you think, if there had have been more home support services available it might have been possible to keep her at home longer?

MS FOWLER: Not really, no, because even before that last fall there had been some worrying incidents, like trying to dry pine cones on the top of a pot-belly stove that was lit, and they started to smoke. She blew up her microwave oven by putting something inappropriate in it. So there were a number of safety concerns. She would have needed someone to be there 24 hours a day.

MS HUTCHINS: Yes. And in 2010 there was an aged care assessment team assessment performed on your mother, and the recommendation of that assessment was to move her into residential aged care?

MS FOWLER: Yes.

MS HUTCHINS: Yes. And when she moved into residential aged care, she first was in a different facility that's not the subject matter of our case study today. Were you her next-of-kin at that stage?

MS FOWLER: Yes. But there was a guardianship order shared by my brother and I, and the power of attorney shared by my sister and I.

MS HUTCHINS: Yes. And when you were making the decision to move her into the residential aged care facility, was that a difficult decision for you to make at the time?

MS FOWLER: Well, yes. But there was really no other option. You know, I couldn't work and look after her full-time.

MS HUTCHINS: And how did Shirley find the transition into residential aged care?

MS FOWLER: She was very resentful. She was angry with me for quite a long time. Yes.

MS HUTCHINS: And she was in that facility from December 2010 until July 2013, when she moved to William Beach Gardens. What was the reason for the move?

MS FOWLER: Well, I moved interstate from South Australia and my siblings and I decided it would be best for her to come with me. They both have families. My

sister has – my sister's husband is disabled. So – yes. And while she was still mobile, it seemed sensible.

MS HUTCHINS: Yes. How did you manage the move interstate with her at that time?

MS FOWLER: She flew with me and she stayed at my place overnight on the first night.

MS HUTCHINS: And when you were choosing a residential aged care facility for her in your new location, why did you choose IRT William Beach Gardens?

MS FOWLER: Well, in the March or April around Easter, maybe just after we had bought the house but hadn't moved in, I visited a number of facilities in the area and it was the gardens at William Beach Gardens and, in particular, the access to the courtyards of the secure dementia units. There were two – two dementia units in the facility. And that it was all on one level. And IRT is a well-regarded organisation in the region.

MS HUTCHINS: And you mention that Shirley initially lived in a secure unit?

MS FOWLER: She did.

MS HUTCHINS: That's known as Flinders Court West; is that correct?

MS FOWLER: Yes.

MS HUTCHINS: And what were the types of discussions that you had with William Beach Gardens about, I guess, the features of that unit, which made you think it was an appropriate choice for your mother?

MS FOWLER: Well, there were – the rooms are individual rooms with ensuite bathrooms, and there is a courtyard that mobile – well, residents have access to. And when my mother first moved in there, she would walk around and around in a circle through the courtyard – through the facility, out into the courtyard. Yes.

MS HUTCHINS: And what was your mother's health condition like at the time when she moved in, in June 2013?

MS FOWLER: Well, she was – she was – she was agitated when she first moved in. I guess any change for a person with dementia is – is difficult. And, yes, so she was quite agitated for a while, but she settled eventually. So she was mobile. She could come out with me in the car. She could come to my place. We could go walking on the beach. We could visit Lake Illawarra nearby to see the pelicans. So she was a – a bird lover and a very keen gardener.

MS HUTCHINS: Yes. Operator, could you please bring up tab 1057. So is this a picture that you took?

MS FOWLER: It is.

MS HUTCHINS: Yes, and is this at one of those outings you've just described?

MS FOWLER: It is.

MS HUTCHINS: Yes.

MS FOWLER: So we could go walking on the beach. I bought that chair which comes with a bag and a shoulder strap. So, you know, I could put the chair over my shoulder, and if she got a bit tired, you know, whip out the chair and she could sit down.

MS HUTCHINS: Yes.

MS FOWLER: And having the arms made it easier for her to stand up, and she's holding a feather. I believe it could be a pelican feather and that's at Bellambi which is close to where I live and where it's a leash-free beach for dogs to walk, and we would have – we would have had the dog there.

MS HUTCHINS: Yes. Were you able to take the dog to the facility?

MS FOWLER: I was and the facility were really good about that. Her dog Angel was a lovely natured dog, and a lot of the other residents liked the dog as well, and she would go up to them and put her head on their knee and so - - -

MS HUTCHINS: Yes, and do you recall, on your mother's admission, was she in a healthy weight range at that time?

MS FOWLER: I believe so. Yes, over 70 kilos.

MS HUTCHINS: Yes, and do you remember at the time when she was admitted, the type of discussions that you had with the facility about her dietary and nutrition requirements?

MS FOWLER: Yes. So she has a lactose-free diet because she is intolerant, and she was allergic to the colour 102, or tartrazine which is a yellow food colouring.

MS HUTCHINS: Yes.

MS FOWLER: It used to be common in things like custard powder and margarine. Less so now, but - - -

MS HUTCHINS: And in terms of her physical health, did she have any other pre-existing conditions at that time that you were managing?

MS FOWLER: Well, not that I was managing. She'd had a history of atrial fibrillation. She had – she had eczema – long-term problems with eczema. She – she was on antidepressants and had been by then for a few years. They were prescribed by the geriatrician, I think, in 2010.

MS HUTCHINS: And you mentioned when your mother first went to the facility that she was quite agitated by the new environment. How was the experience for her of interacting with the other residents that were in the secure ward?

MS FOWLER: Well, there were quite a few people there at the time with challenging behaviours. I mean, that's to be expected in a secure dementia unit, but she became friendly with a couple of other residents, and there was a male resident who I took out with her a few times, once to a concert, to some meals at my place, and he was a similar age – no, he was older and had no living family of his own, only a sister-in-law living a long way away.

MS HUTCHINS: And how often at this time would you visit your mother?

MS FOWLER: Well, I didn't get a full-time job until November – October/November of 2013. So once I was working full-time, I would be visiting several evenings a week after work and probably taking my mother out on the weekends.

MS HUTCHINS: In your statement, you detail a series of falls that your mother had in 2016. Before we go to that period of falls, I would like to ask you some questions relating to the period from your mother's admission to William Beach Gardens through to the end of 2015. What were the type of care needs that your mother had during that period that the William Beach Gardens staff assisted with?

MS FOWLER: Well, I guess providing activities that she might have been able to engage in, and nutrition and physical activity, I guess. She – she was very mobile. For quite a bit of that time, she was probably one of the most mobile residents in that unit and, you know, she was going out a lot as well.

MS HUTCHINS: And the progress notes showed that she had a history that of urinary tract infections.

MS FOWLER: She did.

MS HUTCHINS: Yes. And - - -

MS FOWLER: And she may have actually been admitted with one, which took quite a while to diagnose.

MS HUTCHINS: Yes, and is that something she experienced frequently?

MS FOWLER: I believe so, yes. It seemed to be a chronic problem in those first few years there.

MS HUTCHINS: Yes. And in terms of these clinical health issues, was there a regular GP that your mother would see?

MS FOWLER: Yes.

MS HUTCHINS: And who was that?

MS FOWLER: Dr Robert Bird.

MS HUTCHINS: Was he your GP – or your mother's GP from before the time she went into the clinic – into the facility?

MS FOWLER: Well, no, because she came straight to the facility and it was - - -

MS HUTCHINS: .....

MS FOWLER: - - - required to have a GP who visits that facility. So we chose Dr Bird's practice from Dapto.

MS HUTCHINS: Yes. And how often would your mother see Dr Bird?

MS FOWLER: Well, initially, the practice has a regular visiting schedule and someone comes every week, and, initially, there probably wasn't a great need for her to have medical consults other than for prescriptions, and I took her myself to see the GP. It wasn't always easy to coordinate with visits at the facility because of the time of day. They usually come early in the mornings before the clinic starts. So there wouldn't have been – there wasn't a great need other than the urinary tract infections.

MS HUTCHINS: Yes. And you mentioned previously that Shirley has intolerance to lactose and also yellow food colouring. What types of food was Shirley able to eat otherwise during this period?

MS FOWLER: Well, during that period, for the first few years, she could eat normally – normal foods.

MS HUTCHINS: Yes. Operator, please - - -

MS FOWLER: She loved fresh fruit and salads and those foods are available always at William Beach Gardens.

MS HUTCHINS: Operator, please bring up tab 874. So, Lyndall, I will ask you please not to state the name of the person this email is cc'd into, but this is an email that you sent to the facility on 29 September 2015.

MS FOWLER: Yes.

MS HUTCHINS: Do you recall this email?

MS FOWLER: I do.

MS HUTCHINS: And, Operator, if you could please zoom into the first paragraph. So you will see here that you are outlining some concerns about Shirley wearing clothes that are covered in food.

MS FOWLER: Yes.

MS HUTCHINS: Yes, and could you describe what your concerns were, how you noticed with the – how you noticed that she had food on her clothes, and why that was a cause of concern to you?

MS FOWLER: Well, because I wash her clothes and have done since she went into the facility, and there was a lot of food spilled on several layers of clothes.

MS HUTCHINS: And why was the food spilling on her clothes?

MS FOWLER: So she did have a tremor in her right arm, an essential tremor and, presumably, because it was more liquid. So further down in the email - - -

MS HUTCHINS: Operator, please bring up the second last paragraph, starting with:

Shirley was very shaky, had a very shaky right hand.

Yes.

MS FOWLER: So there are foods that she could eat with her hand. So finger foods and more solid foods might have avoided that spillage and been a bit more dignified, and she would have been, maybe, more independent. So I did have pinnies made. They provide feeders at the facility which finish about here, but she would commonly have food more on her lap. So I had brightly coloured aprons made that were made – well, they looked like proper clothes – to assist with that.

MS HUTCHINS: Because what were the feeders that they were using? Could you describe what they looked like?

MS FOWLER: They're blue check fabric and a bit repellent of fluid on the top, but I think they have an absorbent thing underneath.

MS HUTCHINS: Yes.

MS FOWLER: So liquid could just run off them. So my aprons came down and covered her lap.

MS HUTCHINS: Operator, please bring up tab 877. Did you take this photograph?

MS FOWLER: Yes.

MS HUTCHINS: And is this one of the photographs that was attached to the email that we have just referred to?

MS FOWLER: I guess so, yes.

MS HUTCHINS: And, Operator, if you bring paragraph – I mean – sorry, tab 876. What is this photo here showing?

MS FOWLER: Just a minute. Sorry. So this is food spilled, I would say, on a skivvy. It's a red polo neck skivvy.

MS HUTCHINS: And, Operator, at tab 875.

MS FOWLER: And that's, you know, a fleecy jumper.

MS HUTCHINS: Yes, so operator back at tab 874. Zoom into the bottom paragraph, please, starting with:

I find it distressing –

could you please read out this paragraph.

MS FOWLER:

I find it distressing that my mother is walking around looking like this. Some days, there is obviously porridge on her clothes so she has looked like this all day. I would like to meet and discuss possible remedies to this situation.

MS HUTCHINS: Thank you. And was this a situation that continued or that there were remedies found for?

MS FOWLER: Well, what – a remedy was my aprons that I had made in the bright colours. And I think there was some attempt at that time to provide more finger food, but it wasn't easy to organise.

MS HUTCHINS: And the request for more finger food, is that something that you found was addressed around that time?

MS FOWLER: Not really. I'm really not – I can't be sure of the time, but by the time she had transferred to Nebo, I was also providing some of the finger food.

MS HUTCHINS: Yes. And what was the type of finger food that you were providing?

MS FOWLER: Party pies, sausage roles, sort of gourmet ones, and chicken pieces, not quite chicken nuggets but, again, something – I got the best quality I could – that could be heated up and that she could hold in her hands.

MS HUTCHINS: And so on 1 January 2016, your mother had a seizure while she was out with you at a café; is that correct?

MS FOWLER: Yes.

MS HUTCHINS: Yes. Could you just describe what happened on that occasion?

MS FOWLER: We were in a Turkish café and she said she needed to go to the toilet, and she was a bit wobbly on her feet. I went with her and went into the toilet with her, and she collapsed on the toilet and had what looked to me exactly like a seizure. And we got the ambulance. She was incontinent. She had the shaking. She had the funny eyes. So it really did look like a seizure.

MS HUTCHINS: Yes. And following that event, in March 2016 your mother was seen by a geriatrician?

MS FOWLER: I organised that. Yes.

MS HUTCHINS: You organised that. And the records indicate that your mother had an episode on 13 April 2016, where Shirley was found outside with a reduced level of consciousness. And then she was seen a second time by the geriatrician shortly thereafter on 22 April 2016. Does that match your recollection?

MS FOWLER: Yes.

MS HUTCHINS: Yes. And so you organised the geriatrician, did you?

MS FOWLER: Well, I arranged the referral to a person who was recommended, yes.

MS HUTCHINS: Yes. And so by arranging the referral, was that through the general practitioner, Dr Bird?

MS FOWLER: Yes. Yes.

MS HUTCHINS: Yes. And were you present during the consultation?

MS FOWLER: Definitely the first time. I can't remember if I was the second time.

MS HUTCHINS: Yes. And do you recall what you discussed with the geriatrician at the time?

MS FOWLER: I have to say I can't exactly recall. No.

MS HUTCHINS: Okay. And so on 7 May, Shirley attends a dietitian. Do you recall who initiated the review by the dietitian?

MS FOWLER: I probably asked for it, but the facility arranged that. And the person who regularly came to the facility was – visited my mother at the facility and I think I was present.

MS HUTCHINS: Yes. When you say the person who visited the facility, was there a dietitian that would often attend to see residents?

MS FOWLER: Well, maybe not often but I assume that was the regular person they contracted.

MS HUTCHINS: Yes. And were you present at the consultation?

MS FOWLER: Yes.

MS HUTCHINS: Yes. And do you recall what you discussed with the dietitian at the time?

MS FOWLER: Well, her weight. There was concern about her weight and - - -

MS HUTCHINS: What was happening with her weight at that time?

MS FOWLER: Well, that she had lost weight. And what might be options for suitable options for her to eat - - -

MS HUTCHINS: Yes.

MS FOWLER: - - - and to boost her protein intake. Yes.

MS HUTCHINS: Do you recall whether the dietitian had any specific recommendations in relation to whether she was concerned about the level of her weight at that stage?

MS FOWLER: Yes, I believe so. I mean, she was below – she was outside the healthy weight range at that stage.

MS HUTCHINS: And in terms of recommendations that the dietitian made, do you recall what those were?

MS FOWLER: To have a high protein drink that was lactose-free, to try lactose-free yogurts. And we were already using coconut oil and honey on her porridge. She recommended a nut butter, peanut butter, you know, on morning toast. Yes. I can't remember exactly what else.

MS HUTCHINS: And do you recall, after that consultation, having discussions with anyone at William Beach Gardens about the recommendations that the dietitian made?

MS FOWLER: Well, I think it was a bit of an ongoing issue. I think a lot of the foods at the facility seemed to have, you know, cheese and creamy milk sauces. The soups, certainly – you know, there were about three soups a week, often, that are more milk based. So at that stage – sorry, can you repeat the question?

MS HUTCHINS: That's okay. The question was asking whether you recall having any conversations specifically about the dietitian's recommendations with the staff members after that time that you had the consultation?

MS FOWLER: I'm sure I did, but I can't remember specifics. I'm sorry.

MS HUTCHINS: Sure. And do you recall whether there were any changes made to Shirley's diet, following the review with the dietitian?

MS FOWLER: Probably more by me than, maybe, the facility. I really can't – I really can't remember, because she did continue to lose weight.

MS HUTCHINS: Yes. And was that a cause of concern for you at the time?

MS FOWLER: It was.

MS HUTCHINS: Yes.

MS FOWLER: It was.

MS HUTCHINS: And between June and October 2016, your mother experienced a series of falls.

MS FOWLER: Yes.

MS HUTCHINS: Do you remember the circumstances of those falls?

MS FOWLER: Well, some of them were outside, in the courtyard, you know, and she would – the majority of them were not witnessed. There were some falls where she may have been pushed over by another resident. Again, this is not uncommon in a secure dementia unit.

MS HUTCHINS: Yes. And so did you witness that yourself or you were notified?

MS FOWLER: No. But I was notified. So they do have a good system for notifying relatives of all sorts of incidents, including falls.

MS HUTCHINS: Yes. And on 16 October 2016, your mother had a fall on that day. Sorry, it was on 15 October 2016. Do you recall the circumstances of that particular fall?

MS FOWLER: I can't say I do, no.

MS HUTCHINS: That's all right.

MS FOWLER: Sorry.

MS HUTCHINS: So the records show that following this fall your mother was taken to hospital.

MS FOWLER: Well, it was more of a collapse. So I was actually there. She was sitting at the dining room table and she had certainly had a number of falls, three falls quite close together, that I was notified of by the facility. And she sort of collapsed, had, like, a fainting episode. It wasn't like the fit that I had observed earlier. So there are a number of – I mean, people with dementia – later-stage dementia can have seizures, but she also had the atrial fibrillation and she wasn't on any anti-clotting medication. It could have been that. Although, when we got to the hospital there wasn't – her heart rate was normal. So – but this often happens. Yes.

MS HUTCHINS: Yes. And was your mother injured in that fall?

MS FOWLER: No.

MS HUTCHINS: Or the collapse.

MS FOWLER: Or the collapse – no. But when we – she was walked to her room with assistance – and she wasn't walking normally. And - - -

MS HUTCHINS: Yes.

MS FOWLER: Yes.

MS HUTCHINS: What was not normal about the way she was walking?

MS FOWLER: I think her – she was a bit leaning to one side. I mean, two people were holding her up. And I can't remember if her legs were crossing over then, but they certainly were after the admission to ED.

MS HUTCHINS: Certainly. And so this hospital admission was about 16 October 2016. About a month later, on 17 November 2016, Shirley is moved to a different ward at William Beach Gardens – sorry, a different unit - - -

MS FOWLER: Unit.

MS HUTCHINS: - - - known as the Nebo Unit; is that correct?

MS FOWLER: Yes.

MS HUTCHINS: Yes. And you outline in your statement that by about mid-2017, two pressure injuries had developed on your mother's feet. Before we turn to those pressure injuries, I would like to ask you a series of questions about the period of time between her return to hospital in October 2016 and the emergence of the pressure injuries which was around mid-2017.

MS FOWLER: Okay. Can I just say that when she went to hospital, she was only – it was the emergency department presentation, and she was put in the short-stay part of the emergency department overnight and I stayed with her. So it was – she wasn't really admitted to hospital.

MS HUTCHINS: Sure.

MS FOWLER: It was an emergency presentation.

MS HUTCHINS: And she returned the following day?

MS FOWLER: She did.

MS HUTCHINS: Yes. Operator, please bring up the document at tab 1074. Now, this is an email dated 24 October 2016.

MS FOWLER: Yes.

MS HUTCHINS: Do you recall this email?

MS FOWLER: I do.

MS HUTCHINS: Yes. So this is an email from you to Dr Bird.

MS FOWLER: Yes.

MS HUTCHINS: Operator, please pull out the first paragraph. Does this paragraph accurately describe the sequence of events as you remember them?

MS FOWLER: Yes. I had forgotten about the positive urine.

MS HUTCHINS: What does MSSU stand for?

MS FOWLER: Mid-stream urine specimen.

MS HUTCHINS: Yes. So what were your thoughts at this time in relation to what was happening with your mother?

MS FOWLER: Yes. Well, I really wasn't sure. Just that – I mean, it could have been a heart thing, it could have been - - -

MS HUTCHINS: Operator, please zoom back to the full document. So it seems during this email you're trying to investigate what was happening.

MS FOWLER: Yes.

MS HUTCHINS: And it was unclear on the face of this email?

MS FOWLER: Yes. So she did – she did come back on a course of something to treat a urinary infection. She did keep drawing her legs up and was leaning backwards when assisted to sit or stand. So – and then even when she got back to the facility, her legs seemed to be in spasm and they were unable to be parted.

MS HUTCHINS: And following – sorry.

MS FOWLER: So I wasn't sure – maybe she could have some skeletal injury, and I did ask if we could review the X-rays which were taken in hospital, which didn't show anything. At the time, Dr Bird said, "Well, we could resend her for more X-rays". That would have required an ambulance to take her to X-ray. And then if there had been some skeletal injury, probably there would not have been any surgical intervention that could be done. If it was something like a fractured pelvis, you know, it would just be bed rest that – and that would heal by itself.

MS HUTCHINS: Yes. Thank you. Commissioners, it's now 11.30. Would this be a convenient time for morning tea?

COMMISSIONER TRACEY: Yes. That would be a convenient time. The Commission will adjourn for 15 minutes.

ADJOURNED **[11.30 am]**

RESUMED **[11.49 am]**

MR GRAY: Commissioners may I interrupt the course of Ms Fowler's evidence - - -

COMMISSIONER TRACEY: Yes.

MR GRAY: - - - just for a moment with a housekeeping matter. I have indicated to Dr Bird's counsel that Dr Bird will not be required over the video link to give viva voce evidence today. He may be required, by notice, to give information or a statement to deal with any issues that may arise during the course of evidence today. We reserve our rights in that respect, but we don't require his attendance by video link.

COMMISSIONER TRACEY: Yes. Very well. Well, Mr Liveris, it's a matter for you. You are welcome to remain.

MR LIVERIS: Thank you.

COMMISSIONER TRACEY: Of if you wish to withdraw temporarily, then that's also perfectly in order.

MR LIVERIS: I've – thank you, Commissioner. I've conveyed – and I'm grateful for Senior Counsel Assisting's indication in that regard which I've conveyed to my instructors and, for the time being, we'll remain present at the end of the bar table.

COMMISSIONER TRACEY: You're welcome to stay as long as you like.

MR LIVERIS: Thank you.

COMMISSIONER TRACEY: Yes, Ms Hutchins.

MS HUTCHINS: Thank you, Commissioners. Now, Lyndall, before the break, we were – you were giving evidence in relation to the fall that your mother experienced. After she returned from hospital, what was her mobility like at that time?

MS FOWLER: Well, she couldn't really walk and, eventually, she stopped walking altogether.

MS HUTCHINS: How long was that period between when she returned and when she had stopped working?

MS FOWLER: Walking.

MS HUTCHINS: Sorry, walking.

MS FOWLER: I think very soon. Maybe she could stand at the side of the bed when they were trying to transfer her to a chair and hold on, but that was about it.

MS HUTCHINS: Yes, and so was she bed-bound at that stage or - - -

MS FOWLER: Well, no, they were getting her up and that's when she first started using the tray table chair.

MS HUTCHINS: And how long was she able to use the tray table chair for?

MS FOWLER: Well, I think she was using that chair maybe even when she first went to Nebo, but not long after she got to Nebo, we got the air chair.

MS HUTCHINS: And what position would your mother sit in during that time?

MS FOWLER: Well, I – I do remember that she was leaning a bit to one side in that chair, which made it a bit difficult at meal times.

MS HUTCHINS: Yes, what side would she lean to?

MS FOWLER: I know it's documented, but I can't remember. There's probably an email that I've sent. I can't remember now if it's to the left. I've forgotten. I'm sorry.

MS HUTCHINS: That's okay. And were you aware, during this time, whether any particular measures were put into place to attempt to mitigate her risk of developing pressure injuries?

MS FOWLER: Well, not at that early stage. Not when – are we talking in that period from that ED presentation to Nebo when she went to Nebo, or – what period of time are we talking about?

MS HUTCHINS: Yes. So after she'd returned from hospital and she was either in the table tray chair or in her bed.

MS FOWLER: Not that I'm aware. I mean, that was – she had been mobile up until that point so - - -

MS HUTCHINS: Yes.

MS FOWLER: - - - I probably didn't think it was necessary.

MS HUTCHINS: Yes, and in your witness statement, you detailed the development of contractures that your mother experienced.

MS FOWLER: Yes.

MS HUTCHINS: Do you recall when you first noticed the contractures developing?

MS FOWLER: Possibly by the – in the early March, around March 2017, something like that, or maybe even a bit earlier.

MS HUTCHINS: Yes. Operator, please bring up tab 1056. Did you take this picture?

MS FOWLER: I did.

MS HUTCHINS: And could you please describe what it is that this picture is showing?

MS FOWLER: So this picture is showing a severe – this is more recent, obviously. I don't know if that was this year or – I think it is this year. A very severe contracture of the right leg with her heel firmly, you know, stuck to her buttock, and you can see the right – the toe on that right foot is at a funny angle.

MS HUTCHINS: Yes.

MS FOWLER: That's – we will talk about that later, I guess, but that – that happened as a result of – of the pressure sore.

MS HUTCHINS: Yes.

MS FOWLER: So, actually, now I remember what this photo was taken. See that red mark on her foot.

MS HUTCHINS: Yes.

MS FOWLER: I've taken it because of that red mark, of my concern, so there will be probably an email that goes with it.

MS HUTCHINS: In relation to the development of a pressure sore?

MS FOWLER: Well, just that there's a pressure area.

MS HUTCHINS: Yes.

MS FOWLER: That red mark.

MS HUTCHINS: Yes.

MS FOWLER: Yes.

MS HUTCHINS: So just speaking generally about the chronology of the development of the contractures, as you recall it - - -

MS FOWLER: Mmm.

MS HUTCHINS: - - - how long after the return from hospital do you think you started to notice?

MS FOWLER: Well, I guess I'm aware that it's not unusual for people, once they are not mobile, to develop contractures. The – the issue for this is this is such a severe contracture.

MS HUTCHINS: Yes. When - - -

MS FOWLER: So I think – I can't remember noticing or commenting before, maybe, March, but it is definitely something I was concerned about and getting her to do some exercises when I was with her, when she was in her chair.

MS HUTCHINS: What did you first notice in relation to the development of the contractures. Like, what were the first signs that you saw?

MS FOWLER: Well, just her knees, really, and the right knee in – the right knee was the first knee that, probably, I noticed. Yes.

MS HUTCHINS: And what did you notice? Was she positioning it in a particular way or was it difficult to move or - - -

MS FOWLER: Well, are we going – it's just that it was - - -

MS HUTCHINS: Please speak freely about any theory you like - - -

MS FOWLER: Okay.

MS HUTCHINS: - - - to do with the contractures.

MS FOWLER: Once she developed – we – it was really once she developed the pressure sores and then had swelling due to infection, that the suggestion was to elevate her feet to help with the swelling and, by then, she had the contractures of her knees. So that is what – so then she would have to be positioned a bit sideways because of the contractures of the knees and, gradually, I believe that has caused a more severe contracture of the right leg. And my research, really, has said to me that contractures are more a matter of positioning.

MS HUTCHINS: Yes, and so - - -

MS FOWLER: But this is over – you know, this is now over some time.

MS HUTCHINS: Yes. And initially – well, perhaps we will go first, Operator, to tab 860.

COMMISSIONER TRACEY: While that is being done, are contractures irremediable?

MS FOWLER: No, once they have developed, they can't really be - - -

COMMISSIONER TRACEY: Physiotherapy, for example. If - - -

MS FOWLER: Couldn't be reversed once those tendons have shortened, that's why prevention is very important.

MS HUTCHINS: What measures do you think could be undertaken to help prevent a contracture from developing?

MS FOWLER: Well, I think it is about exercise. I have to say even though you've mentioned passive exercises, I don't think there's any evidence that passive exercise actually works. So can I just look at this.

MS HUTCHINS: Certainly.

MS FOWLER: Okay. So this is April.

MS HUTCHINS: So this is an email that you've sent. Do you remember this email?

MS FOWLER: Now that I'm reading it, yes.

MS HUTCHINS: And this is dated the 12th of April 2017.

MS FOWLER: Yes.

MS HUTCHINS: Yes, and so, here, this email details a range of issues that you wanted to discuss with the facility about your mum's management.

MS FOWLER: Mmm.

MS HUTCHINS: In relation to physio, which we were just discussing now, what were the types of physio interventions that you were hoping to receive for your mother at that time?

MS FOWLER: Well, I'm asking if there are any therapeutic suggestions for either the family or the care workers to carry out. So I wasn't sure, but I was hoping there was something we could do.

MS HUTCHINS: What was the response to this? Was there anything that could be done?

MS FOWLER: Well, I'm pretty sure this resulted in a physio assessment, and I am not sure that I was present. I just – I'm sorry, I can't remember. Have you got a copy of the physio assessment that we can look at?

MS HUTCHINS: We do.

MS FOWLER: Yes, I – just because I can't remember. I don't want to be unfair to the facility.

MS HUTCHINS: That's okay. Perhaps just in broad terms - - -

MS FOWLER: Yes.

MS HUTCHINS: - - - Lyndall, do you remember the steps that were taken after this time in relation to whether any physio was provided to your mother or - - -

MS FOWLER: I'm sorry, I can't – I can't remember.

MS HUTCHINS: No. So you don't remember whether she received any physio treatments at all while she was at - - -

MS FOWLER: Well, yes, I know she did. I think this might have been around the time that it was made clear that doing exercises wasn't the role of the care workers. There is – there's been a physio assistant, but I think that was massage and not exercise.

MS HUTCHINS: Yes.

MS FOWLER: So I'm not sure there was any suggestions about anything that could have been done.

MS HUTCHINS: Sure, and if we go to paragraph 57 of your witness statement, there, you describe that you consulted an external physiotherapist about your mother's contractures.

MS FOWLER: That would - - -

MS HUTCHINS: Do you remember that?

MS FOWLER: Yes.

MS HUTCHINS: And do you remember what happened during that discussion with the external physiotherapist?

MS FOWLER: Well, yes. So simple guided exercise might be able to slow the development of contractures, but I guess once they've actually developed, they can't be reversed.

MS HUTCHINS: And are you aware whether any guided exercises were given to your mother?

MS FOWLER: I'm not sure.

MS HUTCHINS: Not sure.

MS FOWLER: And, certainly – I'm just looking down to the next paragraph in my statement – when she was mobile, I mean, that was a different matter. There – there were exercises provide – exercise sessions provided by the facility, but she was unable to participate due to her cognitive impairment and - - -

MS HUTCHINS: Yes.

MS FOWLER: So keeping her walking, getting her to move from sitting to standing, either hanging onto something was something that was suggested to me at that time, yes. So - - -

MS HUTCHINS: Thank you. And are you aware of anything, any measures that were taken for your mother during her time in relation to preventing the development of the contractures?

MS FOWLER: Not really, no.

MS HUTCHINS: Thank you. Now, Operator, if we could go back to tab 1056 – no, sorry, tab 860, and if you could please call out the second last dot point.

MS FOWLER: Second last dot point.

MS HUTCHINS: So do you - - -

MS FOWLER: Yes.

MS HUTCHINS: Yes. So this paragraph refers to the transfer of your mother from Nebo to the Nebo Unit, and the – part of the rationale was about the model of care for non-mobile residents like her with late stage dementia, and there's an inquiry here about the palliative care toolkit resources and seeking, I guess, further assistance in this regard. Do you recall what it was that you were looking for? What type of support you were after at this time in relation to your mother's palliative care?

MS FOWLER: Well, just that – that the staff understood that, you know, the – the approach to her care should be about trying to give her some quality of life and – and really spending time. You know, I would arrive and just see her sitting in her – in her chair in front of the television, you know, often with programs that she wouldn't watch like the sport or – I can't remember now. But – and the residents being just lined up in front of this television. You know, she – I could – while she – while she was in the chair, I could take her outside. So, yes, being outside. Sometimes, the workers might have time to take her outside into the garden and there's – there is a courtyard attached to Nebo.

MS HUTCHINS: .....

MS FOWLER: Yes. I think just about some sense that there was an individual approach. I guess we come back to the concept of patient-centred care, and a row of patients lined up in front of a television set doesn't seem like patient-centred care to me.

MS HUTCHINS: Yes. And, Operator, if you could please call out the second bullet point. Here, this paragraph starts with one of the concerns that you've listed is the seating position to facilitate self-eating. Do you remember what the issue was at this time in relation to her seating position?

MS FOWLER: Yes. So she was curling towards the right side and she's very right-handed. So – and when she was still able to feed herself, it just made it very difficult and, yes, I describe it that – there, she ends up with the food and fluids on herself and the chair. So then it's pretty hard to work out what she was actually ingesting.

MS HUTCHINS: And in this paragraph, there's a reference to an air chair. Is that different to the tray table chair that you referred to earlier or the same thing?

MS FOWLER: No, it's – an air chair is like a day bed. It is designed to reduce the likelihood of pressure sores while you're sitting in the chair. I think, after this, that we may have found a slightly smaller chair. I'm just not sure of the timing.

MS HUTCHINS: Yes, and did the - - -

MS FOWLER: And this could have been around the time that we got a boomerang pillow to help her be more upright in the chair.

MS HUTCHINS: And did the smaller chair and the boomerang pillow, the – was that to assist her with sitting upright?

MS FOWLER: Yes. Yes.

MS HUTCHINS: And were those measures successful?

MS FOWLER: I think so, at the time. I mean, she was still, you know – and she was struggling to feed herself at this time, but I felt, you know, she should have some independence and dignity.

MS HUTCHINS: Do you recall, around this time, what type of food she was able to eat?

MS FOWLER: I think we probably – she could still eat some fresh fruit and salad if it was cut up small, or – and that would be fed to her, or if there were pieces that she could hold, I guess. Yes.

MS HUTCHINS: And what else was she eating?

MS FOWLER: I'm not sure if, now, we're at the stage of a textured soft diet. I've really forgotten.

MS HUTCHINS: Sure, but during this period, generally, she was being provided meals, still, by the facility?

MS FOWLER: Oh, well, the whole time she's been - - -

MS HUTCHINS: Yes.

MS FOWLER: - - - there, she's had meals provided by the facility.

MS HUTCHINS: Yes, and are those meals prepared in-house or from a central kitchen?

MS FOWLER: Oh, so during – after she moved to Nebo and – and – and probably on this – I can't remember in what order. The facility started buying lactose free yogurt, and I've forgotten if that was after the first or second dietitian consult. They've always provided lactose-free milk, but once she was in Nebo, we had lactose-free yogurt and lactose-free custard, and I would have – I think I would have started providing the lactose-free soups at this stage. So that's partly because I like cooking and I'm happy to provide it in individual serves that are frozen and kept in the freezer. It has been – the IRT have a central catering service that deliver meals to the facility, but those lactose-free options are purchased by the hospitality manager for my mother separately to the central kitchen.

MS HUTCHINS: Yes. And what are the meal options that are like – that are provided by the central kitchen?

MS FOWLER: Now?

MS HUTCHINS: Sure. Perhaps start from this time and we can move forward - - -

MS FOWLER: Yes. So - - -

MS HUTCHINS: ..... if that helps.

MS FOWLER: So this is something – it's required constant advocacy by me over the six years to ensure that she has the suitable lactose-free options, and she does – now she is on a pureed diet and it is lactose free and 102 – colour 102 free and labelled properly, and that has been happening for a few months. We experimented from January this year with, after I made a formal complaint and visited the IRT central catering service with the hospitality manager. We had a trial of frittatas and risottos that were provided separately by the kitchen. It really started with me thinking egg is the perfect protein. It would be great if she could have more eggs, but all the dishes that involve eggs seemed to have lactose in them. So they did a

trial of baked custard, but I can't say that I ever saw any. So I have done baked custards and crème caramels and things like that for my mother over the time.

MS HUTCHINS: Yes. Yes. Without being specific about a particular time period - - -

MS FOWLER: Mmm.

MS HUTCHINS: - - - say around, you know, the course of 2016/2017, what are the types of observations you could make about the types of food that was available for your mother on the menu?

MS FOWLER: Well, I mean she loved fresh fruit and salad. So that was readily available and so that was good, but, quite commonly, evening meals, which is often the time I'm there, would not always have a lactose-free option for her. So there have been occasions when there wasn't a salad available and the evening meals both had lactose. So then she might have baked beans of which there are – there are always those sort of backups that the facility provides, but you will see from emails that it was happening at different times relatively often.

MS HUTCHINS: Sure. And, you know, the records reflect a number of instances where, say, for example, your mother has been provided meals with lactose in it.

MS FOWLER: Well, I may have stopped them serving it, or I believe that if I wasn't there, maybe she may have been provided - - -

MS HUTCHINS: Yes.

MS FOWLER: - - - with an option that included lactose.

MS HUTCHINS: And were there instances where you would consider the menu that was provided and observe whether there was lactose free options available or not?

MS FOWLER: Well, it – the menu would show lactose free, and this has happened over the last year. So it has been ordered and is on the menu, but then when – it wouldn't be provided or, particularly, in those pureed meals or textured meal options. So it definitely would have been ordered, but when the staff checked, it wouldn't – wasn't there.

MS HUTCHINS: And do you know because you would be at the facility, you would see this meal come in and you would be the one to notice that it's not lactose free?

MS FOWLER: Yes, or they would tell me and, in most cases, in those meals it was the mashed potato. So we would just avoid the mashed potato.

MS HUTCHINS: Yes.

MS FOWLER: But I guess it was a worry. You couldn't be sure that there wasn't milk in the meat version, maybe.

MS HUTCHINS: Yes, and so the backup options that you had arranged in terms of the baked beans or - - -

MS FOWLER: Well, that's not that I had arranged. Those options are always there in the kitchen of every unit, yes.

MS HUTCHINS: So in instances where a meal would arrive that wasn't suitable for your mother's dietary needs you knew that there was that backup available.

MS FOWLER: Yes, yes. And at different times, you know, when we were trying to get more finger food, I would have provided some finger food that was kept in the freezer so they could use it individually, like the soups and I provide the ice-cream, lactose-free ice-cream.

MS HUTCHINS: Yes. Okay. And so around the 29 June 2017 there's a series of emails at that date. I don't need to take you to them in detail now, but of 29 June there's a series of emails where it seems you're frustrated with the situation in relation to the meals. Actually, I will take you, please, to the document at tab 41. So you are seeing this bottom paragraph here there's an email on 29 June 2017. And the second sentence of this email says:

She is really unable to chew much unless it's pretty soft or very small pieces.

MS FOWLER: Yes.

MS HUTCHINS: Do you recall this?

MS FOWLER: Just let me have a look. Yes. Yes, okay, I do.

MS HUTCHINS: Then down in the last paragraph you note that she did not like the pureed meals as a soft diet possibility.

MS FOWLER: Yes.

MS HUTCHINS: At this time, what's the type of food that you are campaigning for, for your mother?

MS FOWLER: Well, I guess a soft diet is a soft diet; things that she could chew. And puree meals were very repetitive. I guess that was the thing. So something that was softer that she could manage. I mean, again this is where eggs would have been good because they're easy to eat and absorb.

MS HUTCHINS: Was your mother provided eggs when they were requested?

MS FOWLER: Well, at one point we had a bit of a campaign of using hardboiled eggs, chopping them up and mixing them with mayonnaise, so that was to have with salads. So I remember that and, again, yes, I refer to things that, things are chopped up, avocado, she loves avocado and bananas, yes.

MS HUTCHINS: And at the top of this email, you forward the bottom email to another staff member and there's a comment here:

> *Who is meant to be assessing nutritional needs and responding in general. Why haven't RNs picked up on this weight loss.*

What's the concern here and what has caused you to make these inquiries?

MS FOWLER: Well, so that would be about her weight loss, yes.

MS HUTCHINS: Did you have any concerns at that time about whether her weight, and her diet, nutrition were being managed adequately in.

MS FOWLER: Well, clearly, yes, and so the resource is a higher protein drink that is lactose-free and that had been, you know, prescribed by the dietitian and they were providing it but I'm not sure – it looks as if I'm asking them to give her smaller amounts more often and that is even probably what the first dietitian consultant – consultation would have recommended, smaller amounts more often.

MS HUTCHINS: Yes, and did you see that she was provided food in that way?

MS FOWLER: Well, I guess at this time she must have still been losing weight. So they had – I'm not sure if it would be then. When we – at one stage, she – and more recently, it's hard to remember exactly, she would be having yogurt at morning tea time. So that's one option for providing – and afternoon tea and maybe at supper as a way of getting some extra protein.

MS HUTCHINS: Yes. And did your mother require assistance at this time to help with feeding?

MS FOWLER: It looks as if she did.

MS HUTCHINS: And did you have a sense about when you weren't there to help out whether the staff had enough time to spend with her?

MS FOWLER: Well, that sort of time where she's chewing on one mouthful for a very long time would mean that it would take a long time to feed her, and that would have been – that would be difficult for staff, yes.

MS HUTCHINS: And in terms of a general observation throughout the time of your mother's history at William Beach Gardens, do you have a sense of whether the staff had sufficient time to be able to spend helping your mother get the type of meals that she needs and spend the time with her, to help encourage her with eating those meals?

MS FOWLER: Well, it is something that I've worried about when I'm not there, yes, because once you became dependent and needed assistance, staffing levels are not always – they often have two staff on Mum's unit with an extra person over meal times. She would always be fed. It's just she – they might have to stagger providing that assistance. And, you know, at times there would be multiple people who may have needed assistance with eating.

MS HUTCHINS: Thank you. I would like to now discuss with you the topic of your mother's pressure wounds. Just in general terms, as best as you can recall, could you describe for the Commission, I guess, the sequence of events of, you know, what happened with the pressure injuries and how they were treated.

MS FOWLER: I will just refer to my statement for – so around the middle of 2017, so she had been in a chair now for over six months, two different pressure areas developed on my mother's feet, and the first one was on the bunion area of the right foot and it just started as a small red mark. I remember noticing the mark. And the second one started on the outer side of the left foot. So I would have noticed them when I was helping with some aspect of her care or putting on socks or something.

MS HUTCHINS: Operator, could you please bring up tab 1054.

MS FOWLER: So this is in November 2017. So this was after her foot had been treated with infections.

MS HUTCHINS: And is this the pressure injury that's developed into a wound by this stage?

MS FOWLER: Well, this is – this is now quite – by now this is quite serious. So this is almost five months or so after the – I first noticed any pressure area. And the black area is necrotic tissue, and, you know, the foot is – there's red and swollen.

MS HUTCHINS: Yes, and so is this the first pressure area that you refer to - - -

MS FOWLER: Yes, that I noticed as – initially starting just as a small red mark.

MS HUTCHINS: Yes, and describe for us, you know, how it has developed from that point of being a small red mark to ending, to reaching this condition.

MS FOWLER: Well, she has had methicillin-resistant staph infections of that foot. I'm not sure if this foot also had a pseudomonas infection and the other foot became – it was quite a deep pressure area – well, ulcer that gets referred to a fistula.

MS HUTCHINS: Yes, operator, please bring up tab 1053. Did you take this picture?

MS FOWLER: Yes.

MS HUTCHINS: And is this the second injury that you've just referred to?

MS FOWLER: No, this is the same foot.

MS HUTCHINS: This is the same foot.

MS FOWLER: And maybe that's a day or two later, that this one could be - - -

MS HUTCHINS: Operator, please bring up document 1051. Is this the second one?

MS FOWLER: Yes, this is the left foot.

MS HUTCHINS: Yes. And did you take this photo as well?

MS FOWLER: I did.

MS HUTCHINS: Yes. And when you mentioned earlier that when – operator, please take the photos off the screen – you mentioned earlier when you first – when the pressure areas were first developing you thought that you were the one who noticed them; is that right?

MS FOWLER: Yes, I noticed both of them. So the first one was just a little red mark and I've really forgotten how it started. The second one could have been a result of a bruise or a knock that then broke down.

MS HUTCHINS: And the development of these wounds; do you have any observations to make about whether you think the development of the wounds could have been prevented?

MS FOWLER: Well, just that by comparison, Senior Counsel Mr Gray referred to the prevention of the pressure area breaking down on the left foot six – well, months later in March 2018 by using those foot protectors.

MS HUTCHINS: Yes, so would you like to describe what happened in relation to the subsequent one and how it was that you managed to prevent it from breaking down on that occasion.

MS FOWLER: Yes. So when I noticed it, I was afraid that we were going to have another serious problem. My mother had already suffered. So I had the temporary foot protector made up overnight, over – yes, pretty much overnight and the facility bought the blue protectors that we saw in the photo. And I commissioned the sheep skin ones to be made. They took a bit longer but with the application of those

devices – aids, it was healed and it didn't ever break down. So I guess my – I mean it's a demonstration that these things can be prevented. And I have to say that foot – and could we see a photo of the left foot from March 2018.

MS HUTCHINS: Yes. 1051 please, operator.

MS FOWLER: So my mother was on an air ripple mattress – no, wrong foot, wrong one – from March 2018.

MS HUTCHINS: With the foot protectors?

MS FOWLER: No, just the actual foot.

MS HUTCHINS: We will find you one and get back to you.

MS FOWLER: Yes. So I just want to say that this pressure area developed when my mother was on an air mattress. So that's something that changes the pressure all the time. So for the fact that that – this has developed while she is on total bedrest in an air mattress is concerning, and it would be good if we could see that picture.

MS HUTCHINS: Certainly, we're just looking for it.

MS FOWLER: Okay.

MS HUTCHINS: And we'll continue - - -

MS FOWLER: Here it is.

MS HUTCHINS: Here it is.

MS FOWLER: Here it is.

MS HUTCHINS: Thank you.

MS FOWLER: So this is the bunion of the left foot. Now – and I had been there the week before with the podiatrist because this was – there had been a podiatry visit. This is around the time of a problem of long toenails, and it had been a faint red mark, and then – I'm not sure how many days later – four or five or more later, there it is. So – but with the provision of the aids, it did not break down.

MS HUTCHINS: And what measures do you think could be taken by residential aged care facilities in relation to wound treatment or the availability of, you know, further treatments that you didn't have access to at the time?

MS FOWLER: Well, if we're looking at the deep and longstanding pressure ulcers, it would be good if there was access to specialist wound clinics, or specialist physicians who are experienced in these things, or nurses who have postgraduate

qualifications in wound management, and I understand that the Commonwealth doesn't actually fund those things for aged care. There is a wound clinic at the local area health service that is accessible by mobile residents, but, at this stage, my mother was bedridden so she wasn't eligible. And I guess that's concerning because people who are most prone to pressure ulcers are people who are bedridden.

MS HUTCHINS: Did you make inquiries as to whether you would be able to access a specialist wound - - -

MS FOWLER: I did, and that's what I was told that it was only available to people who are mobile.

MS HUTCHINS: Yes, and do you - - -

MS FOWLER: And I – I did try and see if there – because in the community nursing service of the local area, they also have wound specialists, but that service isn't available to residential care. They're looking after people living at home.

MS HUTCHINS: And do you feel there's adequate training of staff within William Beach Gardens to be able to able to manage this more difficult types of wound management?

MS FOWLER: Well, I think it would be an advantage if staff had access to up-to-date best practice recommendations and training and, in an ideal world, it – it would be great if – if that was – if there were incentives for facilities to get their staff trained at that – more than just industry workshops, but actual postgraduate training.

MS HUTCHINS: In relation to the training of nurses, you note in your submission the notes to your submission that you made at the Wollongong community forum on the second page at point 3, that you would encourage to improve the status training and remuneration of all workers in aged care. What are some observations that you can make in relation to your experience in aged care and what you saw with the nurses treating your mother at William Beach Gardens in this regard?

MS FOWLER: Well, I understand that recruitment and retention of all staff in aged care, you know, is a challenge for – right across the sector, and at William Beach Gardens, many of the RNs who – well, who are there presently are young and haven't had that much clinical experience. Yes. I think it would be really good to have people who have postgraduate qualifications in gerontology, in wound care, in palliative care and continence, but the aged care sector is different to the acute care sector, in that, these are not requirements and there aren't incentives for this to happen.

MS HUTCHINS: In relation to the care provider to your mother at William Beach Gardens, across all the areas that we've discussed today, are there particular measures or steps that could have been taken more at a management-type level that you think would have provided better outcomes for your mother?

MS FOWLER: I guess what's difficult is the cost pressures in residential aged care are significant, again, across the sector. My concerns are that if things like the severity of my mother's contracture and the seriousness of these pressure ulcers can happen in a well-regarded facility that meets quality standards, that – then there have to be system problems. I can't necessarily comment on management systems, just that it has been me that has raised issues over and over again, and that, maybe, with the increased staffing with better experienced staff with systems that would pick up when there are problems that could have improved outcomes.

MS HUTCHINS: Yes. One thing that can be observed from the tender bundle that has been filed in this – and I'm not taking you to any particular documents because there's so many of them over the course of your mother's care – it's quite apparent that you've been very actively involved in advocating for her needs throughout the time that she has been there. What type of toll does that take on you personally as that person in the kind of carer advocate role for her?

MS FOWLER: Well, it's very stressful. So not only to have to witness her deterioration and loss of independence and dignity, but to have to, time and time again, bring things up that I think it shouldn't had to have been my role. However, I have been doggedly determined to do the best I can to assist my mother.

MS HUTCHINS: Yes, and we appreciate you coming to give evidence today is, you know, quite an effort. If there was one thing that you would like the Commission to know or an area that you would really push for change in, what would that be?

MS FOWLER: Oh, just the one. Well, I guess, overall, I would like to see that the quality system has a much stronger focus on prevention: prevention of falls, prevention of pressure ulcers, minimisation or prevention of contractures, oral health and prevention of dependence on staff. And I would like to see that the – that those things I just mentioned be regarded as indicators of poor quality care with consequences and monitoring actual practice of facilities and not just what facilities say they do. It's all very well to have policies and say that you're operating according to policy, but if the practice doesn't actually happen, that's what needs to be measured. And I do think that there needs to be increased government funding for residential aged care and community aged care and that the low status of this field of medicine, both medicine and nursing, contributes to the sort of outcomes that we see, and there should be better pay and conditions and training for all workers in aged care.

The aged care workers, you know, I would like to pay tribute to the aged care workers who care for my mother and who do really actually care. They are in a difficult position trying to provide the best they can in less than ideal circumstances, and they are paid less than you might be paid to work in a fast food outlet like McDonald's. So the status, training and – and recognition by the community. You know, if the pay of people doing the important and challenging work of caring for the most vulnerable people in society like my mother in the position that you've seen

her is paid less than someone serving hamburgers at McDonald's, what does that say about our society?

MS HUTCHINS: Thank you. Commissioners, we have no further questions.

COMMISSIONER TRACEY: Ms Fowler, thank you for sharing your long and difficult journey with us. We appreciate your willingness to come and share these experiences with us because it's the only way we are going to understand what problems exist within the system and how we can go about recommending improvements so that people like your mother are better looked after in the future. Thank you very much.

MS FOWLER: Thank you.

<THE WITNESS WITHDREW [12.41 pm]

COMMISSIONER TRACEY: Ms Hutchins, do you want to continue or we take an early break?

MR GRAY: Commissioners, we are running a little behind schedule. If it is convenient if you do choose to rise now for the luncheon adjournment, might I ask that the luncheon adjournment be a little shorter than usual?

COMMISSIONER TRACEY: Well, the schedule provides for a break of three quarters of an hour. So if we break now and come back at 1.30?

MR GRAY: Thank you very much.

COMMISSIONER TRACEY: Very well. The Commission will adjourn until 1.30.

ADJOURNED [12.42 pm]

RESUMED [1.34 pm]

COMMISSIONER TRACEY: Yes. Mr Gray.

MR GRAY: Thank you, Commissioner. We're going to now commence by calling Kristy Lee Taylor, please.

<KRISTY LEE TAYLOR, AFFIRMED [1.34 pm]

<EXAMINATION-IN-CHIEF BY MR GRAY

MR GRAY: Ms Taylor, my name is Gray. Is your full name Kristy Lee Taylor?

MS K.L. TAYLOR: Yes. It is.

MR GRAY: Have you made a statement for the Royal Commission?

MS TAYLOR: Yes. I have.

MR GRAY: You've got a number of amendments - - -

MS TAYLOR: Yes. I do.

MR GRAY: - - - to make to the statement? Perhaps administratively, we can just - - -

COMMISSIONER TRACEY: I'm sorry, Mr Gray?

MR GRAY: Administratively, we will just hand up a list of those amendments - - -

COMMISSIONER TRACEY: Yes.

MR GRAY: - - - that have been notified to us. Subject to those amendments, are the contents of your statement true and correct - - -

MS TAYLOR: Yes. They are.

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

MS TAYLOR: Yes.

MR GRAY: I tender the statement.

COMMISSIONER TRACEY: Just wait till it comes up.

MR GRAY: It is WI - - -

COMMISSIONER TRACEY: The witness - - -

MR GRAY: Sorry.

COMMISSIONER TRACEY: - - - statement of Kristy Lee Taylor, as amended, dated 28 June 2019, will be exhibit 6-11.

EXHIBIT #6-11 AMENDED WITNESS STATEMENT OF KRISTY LEE TAYLOR DATED 28/06/2019 (WIT.0259.0001.0001)

MR GRAY: For the record, it's WIT.0259.0001.0001. Ms Taylor, you are currently the care manager of William Beach Gardens?

MS TAYLOR: Yes. I am.

MR GRAY: And previously you've been in other clinical care roles, over some years now?

MS TAYLOR: Yes. I have.

MR GRAY: And for that time, you've known Shirley Fowler and cared for her; is that right?

MS TAYLOR: Yes.

MR GRAY: Yes. And I want to ask you, firstly, about some of the policies of William Beach Gardens.

MS TAYLOR: Okay.

MR GRAY: I will start by asking the operator to put up tab 792, Clinical Care. Are you familiar with this policy, Ms Taylor?

MS TAYLOR: Yes. I am.

MR GRAY: And could we please go to page 1956. The objective of the policy is stated in heading 5, and it includes ensuring, in the third dot point, identification and reassessment of residents who have a change or decline in condition; is that correct?

MS TAYLOR: Yes.

MR GRAY: And has that been the policy at William Beach Gardens through all of the relevant period, from mid-2016 to the present? If not in this document, at least, in substance, has that been the policy?

MS TAYLOR: Yes. Yes.

MR GRAY: In addition, under the next bullet points, have they also been the policy of William Beach Gardens over that period from mid-2016 to the present?

MS TAYLOR: Yes.

MR GRAY: And over on the next page, please, Operator, under the heading 6.4 Care Evaluation. If we go to the fourth paragraph, "Considering changes or decline", and call that out so we can see it in larger font. Thank you.

> *Considering changes or decline in resident health, appropriate referral to Allied Health or special services for reassessment must be attended. This reassessment informs the requirements of care for each resident.*

And, Ms Taylor, whether in this document or otherwise in practice, has it been the policy at William Beach Gardens over the period from mid-2016 to the present that the care staff of William Beach Gardens should attend to that matter?

MS TAYLOR: So the whole care team attend to that? Yes. With the registered nurse input, team leader input and the care staff input. Yes.

MR GRAY: Thank you. And over on the next page, under the heading 6.6, there's a paragraph immediately under the heading. If we could call that out please, Operator. Just going to the second sentence:

> *Medical officers are required by the service to review the resident on at least a three-monthly basis, and it is the responsibility of the service –*

Just stopping there. That means William Beach Gardens in this context, doesn't it?

MS TAYLOR: Yes.

MR GRAY: Yes.

> *… to alert the medical officer's practice if the timeframe is not being met.*

MS TAYLOR: Yes.

MR GRAY: Now, I should have, in fairness, said to you at the beginning that this version of the policy is dated May 2017 and there are earlier versions referred to in a revision record. However, has that three-monthly review policy been the policy that has been in place at William Beach Gardens since mid-2016, to your knowledge?

MS TAYLOR: Yes.

MR GRAY: Thank you. If this is just unfair, just tell me, but are you able to say whether that was met for Ms Shirley Fowler?

MS TAYLOR: To my knowledge, yes.

MR GRAY: So you considered that there was three-monthly referral to her GP at all times, do you? We will come - - -

MS TAYLOR: Yes. To the best of my knowledge, yes.

MR GRAY: The next policy I want to ask you about is tab 908. And if we go, please, Operator, to page .0005. I beg your pardon. Yes, 0005, under the heading Policy. In the – well, in those three paragraphs, there's a statement of broad policy in relation to obtaining appropriate external health specialists and services. Firstly, Ms Taylor, was that a statement of policy, it appears on the face of the document, to have been a statement of policy as at June 2012, with a next date scheduled for review June 2016, but was that the statement of policy that applied during the period mid-2016 to the present, with respect to obtaining other health and related services?

MS TAYLOR: Yes.

MR GRAY: And it doesn't specify exactly who it is who is to determine whether it's appropriate to obtain other health and related services, but are you able to assist the Commissioners? Was it the responsibility of the care staff of William Beach Gardens to identify whether it was appropriate to obtain other health and related services for particular residents?

MS TAYLOR: No. That would be the registered nurse.

MR GRAY: The registered nurse?

MS TAYLOR: The registered nurse. Yes.

MR GRAY: So – yes. When I say care staff, I should be careful to distinguish exactly which category of care staff I am - - -

MS TAYLOR: Yes.

MR GRAY: - - - speaking about. And it might mean direct care workers or personal care workers, or it might mean registered nurses; is that right?

MS TAYLOR: Yes.

MR GRAY: So from now on I will refer to care workers or registered nurses.

MS TAYLOR: Okay. Thank you.

MR GRAY: If we go to tab 773, please. This is a policy relating to palliative care. If we go to page 0955, under the heading Policy Details, we see in the second sentence, under 6.1:

> *Palliative care is care provided for all people of all ages who have a life-limiting illness with no prospect of a cure and for whom the primary treatment goal is comfort and –*

it's just a typo –

… and quality of life.

And then there are three forms of palliative care identified in 6.1.1. Now, first question, was the text I just read and these three forms of palliative care a correct statement of the policy that applied in the relevant period, from mid-2016 to the present?

MS TAYLOR: Yes.

MR GRAY: And with respect to those three forms, is there, in effect, a gradation so that the first form of palliative care is a broad approach that is applicable even though it might be many months before the person enters their end-of-life stage?

MS TAYLOR: That's correct.

MR GRAY: And then there's a more advanced form of palliative care and then there's terminal care; is that how it works?

MS TAYLOR: Yes.

MR GRAY: And with respect to Ms Shirley Fowler, in the period around May 2017 when palliative care was being discussed and agreed upon for Shirley, was it the first form of palliative care, that is a palliative approach that was decided upon?

MS TAYLOR: Yes, I believe so.

MR GRAY: Thank you. Next, I will ask you about nutrition and hydration, tab 774. If we go to page 774, if we go to page 0963, in the longer paragraph just above the middle of the page – if we just call that out please, operator – the paragraph begins with referring to a resident or client who has dysphagia – swallowing difficulties. However, I'm just going to ask you whether it would apply, whether the last bit of the paragraph "all abnormalities", whether that is intended to apply, in your view, more broadly and isn't limited to dysphagia? Do you know?

MS TAYLOR: No, I don't know, sorry.

MR GRAY: Okay. Well, I will just ask you in effect, in general, if a dietitian is involved and provides specialised advice because of the special needs of a particular person even if the needs aren't specifically about dysphagia, is it the case that the point made in the last sentence that the details related to allied health professionals, including any recommendations they make, I would say, should be documented in the nutrition assessment. Is that a correct statement of what William Beach Gardens should be doing?

MS TAYLOR: Yes.

MR GRAY: Yes. And just pausing there, can I just ask you, in general, if you need to go to specific documents in order to answer these questions later just let the Commissioners know that but I'm just going to ask you in general about some aspects of the structure of Leecare Platinum.

MS TAYLOR: Okay.

MR GRAY: There seems to be certainly categories of documents called assessments, and they are relevantly – here, they include physiotherapy assessments.

MS TAYLOR: Yes.

MR GRAY: And also there has been an assessment by a dietitian in this case. That assessment was done outside William Beach Gardens; is that right?

MS TAYLOR: The assessment, sorry, I missed that.

MR GRAY: By the dietitian?

MS TAYLOR: No, the dietitian comes to site.

MR GRAY: Is the dietitian on staff?

MS TAYLOR: No, it's an outside external provider that we use.

MR GRAY: Thank you for clarifying that. But they do come in?

MS TAYLOR: Yes, they do.

MR GRAY: And they perform the assessment there. In respect of, first, the physiotherapy assessments, is it the case that any recommendations that a physiotherapist makes to achieve a particular outcome but which the care management, people like – people in your current position, wish the direct care staff to carry out, those instructions should be included in a functional assessment; is that right?

MS TAYLOR: Yes.

MR GRAY: So there's the physiotherapy assessment and then, in effect, the summary of what the direct care workers have to do as a result of the physiotherapy assessment is in the functional assessment?

MS TAYLOR: Yes, that's correct.

MR GRAY: Thank you. And now turning to the topic of nutrition, there's a dietitian's assessment and then, to the extent that the dietitian might have made

recommendations about what has to be done for nourishment, is a summary of those recommendations meant to be included in the nutrition assessment?

MS TAYLOR: Yes.

MR GRAY: And that tells the direct care workers what to do?

MS TAYLOR: That populates over to the care plan, yes.

MR GRAY: And that populates over to the care plan.

MS TAYLOR: From the assessment.

MR GRAY: So on the electronic system - - -

MS TAYLOR: Yes.

MR GRAY: - - - the content of the nutrition assessment automatically becomes part of the care plan.

MS TAYLOR: Yes.

MR GRAY: And how does it work in practice at all times since 2016, have you had this electronic system in place or is it more recent than that?

MS TAYLOR: I believe Platinum came into place around 2015.

MR GRAY: Thank you. And is it the same model, that is Leecare Platinum that has been in place as an electronic care record system since 2015?

MS TAYLOR: There has been various changes made to the system. There has been upgrades and areas that we've identified we've needed to improve, then upgrades are done and assessments are updated.

MR GRAY: Well, doing the best you can, and if you can't recall, just say so to the Commissioners, but doing the best you can I will just ask you some more general questions about it.

MS TAYLOR: Yes.

MR GRAY: And if it might have materially changed in that period since 2016, please say so.

MS TAYLOR: Sure.

MR GRAY: How does it work in practice, does a direct care worker have some sort of digital advice on which they can see the care plan as they walk around the facility? Is that how it works?

MS TAYLOR: No. They – what happens is a summary of the resident's care needs is documented on the resident's front page of their Platinum profile. This is what we refer to as vital information and then that populates into a working handover sheet. So they usually carry the handover sheet with them and – but they can access the resident's file from a desktop computer. They also have an iPad on their medication trolley where they can access that as well.

MR GRAY: I see, so they're not walking around with an iPad?

MS TAYLOR: No, they're not.

MR GRAY: So paper is printed out in the form of the sheet that you've mentioned.

MS TAYLOR: Yes.

MR GRAY: What about for repositioning charts, are they printed out in paper as well?

MS TAYLOR: No. So repositioning charts are on the Platinum system and they're on part of the system called their daily forms. So the daily forms, they record their bowel status for that day, the repositioning that they've attended, the hygiene that they've attended that day and various other aspects, toileting, continence. So they complete a multitude of daily forms depending on the resident's care need each day.

MR GRAY: Just staying with repositioning for the minute, do the entries have to be made by the direct care workers electronically to show when they've repositioned an immobile resident?

MS TAYLOR: Yes, they do.

MR GRAY: And just turning now to nutritional intake and fluid intake, is there also a daily record-keeping task in relation to nutritional and fluid intake for people who are on a monitoring regime because of their nutritional assessment?

MS TAYLOR: Yes, there is.

MR GRAY: And does that have to be filled in presumably multiple times a day, electronically or is that a paper sheet?

MS TAYLOR: No, it's electronic as well, it's part of the daily forms.

MR GRAY: So how does that work in practice. Does the care worker have to stop attending to the residents and go to a desktop computer to make those entries?

MS TAYLOR: Usually they write a list of things that they've done throughout the day on a piece of paper and then at the end of their shift, prior to the end of their shift, they will go in an document the care that they've done that day.

MR GRAY: Right. And how many shifts are there and have there been at all material times since 2016.

MS TAYLOR: There are three shifts: morning shift, afternoon shift and night shift.

MR GRAY: And is the night shift generally staffed at a lower level than the two-day shifts?

MS TAYLOR: Yes, there are less staff on the night shift.

MR GRAY: And is the afternoon shift the same staffing level as the morning shift or a little higher?

MS TAYLOR: It depends on the area. Depending on the resident's care need to whom staff are on in each cottage.

MR GRAY: All right. Let's take Flinders Court West.

MS TAYLOR: Okay.

MR GRAY: How many residents are being cared for in Flinders Court West when it's full?

MS TAYLOR: 22.

MR GRAY: And what's the, roughly, to the best of your recollection, what's the typical morning staffing level?

MS TAYLOR: So there are two eight-hour carers, two six-hour carers, plus we also have a mid-shift, we call it a mid-shift, so that's a staff member that starts at 11 am and they work through until 7.30 pm. That would be a typical morning shift.

MR GRAY: Thank you. And the afternoon?

MS TAYLOR: The afternoon shift there is two eight hours, a six hour, a four hour, and then the mid shift, which is still on duty until 7.30 pm.

MR GRAY: So I think you've said, pardon me, I became slightly distracted but I think you said there were two six hours - - -

MS TAYLOR: On a day shift.

MR GRAY: - - - in the morning so there's a little less in the afternoon in that respect?

MS TAYLOR: Yes.

MR GRAY: Then, I won't ask you about the night. I will ask you about Nebo. How many residents are being cared for in Nebo when it's full?

MS TAYLOR: 18.

MR GRAY: And what's the typical morning staffing level?

MS TAYLOR: It is two eight-hour shifts and a six-hour shift.

MR GRAY: Thank you. And afternoon, is that the same?

MS TAYLOR: Yes, it is.

MR GRAY: And what's the night-time?

MS TAYLOR: One staff member.

MR GRAY: One staff member?

MS TAYLOR: Yes.

MR GRAY: Now, you've been limiting your answers to those questions to direct care staff, I take it.

MS TAYLOR: Yes.

MR GRAY: And what about RNs?

MS TAYLOR: RNs on duty, there is one on the day shift, one on the afternoon shift, one on the night shift, and there's also an RN that starts at 12 pm and finishes at 8.30 pm.

MR GRAY: Facility-wide?

MS TAYLOR: Yes.

MR GRAY: Yes, but the one on the morning, afternoon and night shift, is that RN dedicated to Nebo?

MS TAYLOR: No. They're dedicated to the facility.

MR GRAY: The facility. So there's no permanent, if I can use that expression, there's no permanent RN stationed just within Nebo, they float?

MS TAYLOR: That's correct.

MR GRAY: And is that also the case for Flinders Court West.

MS TAYLOR: Yes.

MR GRAY: So does the facility, in effect, apart from when there's an overlap with that midnight – the RN that comes on at midnight, does the facility have one RN?

MS TAYLOR: Midnight.

MR GRAY: I thought you said 12, sorry.

MS TAYLOR: Sorry, 12 midday.

MR GRAY: 12 midday.

MS TAYLOR: Sorry.

MR GRAY: I beg your pardon.

MS TAYLOR: Sorry.

MR GRAY: No, it was probably my mistake. With the exception of overlap with the midday RN, is there effectively one RN?

MS TAYLOR: So there's also the care coordinator – she is a registered nurse – and myself; I am a registered nurse. So we're on duty Monday to Friday, 8.30 till 5.

MR GRAY: Thank you. Now - - -

MS TAYLOR: Sorry, we also have a certificate 4, a team leader. So there's a team leader that works across the two dementia units in Flinders West and Flinders East and then for the Nebo cottage there's a team leader that cares for the residents in Nebo, Eleoura, and Akuna.

MR GRAY: Thank you. I want to ask you about the policy at tab 777. Now, this policy, I will just ask you to look at the effective date down the foot of that page. This is a policy on mobility, dexterity and rehabilitation. The effective date is said to be June 2018, which leaves me uncertain as to whether it actually was in place during the relevant period of mid-2016 onwards. Was there an equivalent policy with similar content, do you recall?

MS TAYLOR: Yes, I believe that I've – I believe there was a previous policy and that was updated in June 2018.

MR GRAY: Do you know what differences there were; if I take you to a particular point would you be able to say?

MS TAYLOR: No, I wouldn't know off the top of my head, I'm sorry.

MR GRAY: All right. I will go to another document. I will just ask you about the availability of exercise sessions. I'm asking you again about the material period of mid-2016 to the present. If there have been recent changes, though, please let the Commissioners know that - - -

MS TAYLOR: Sure.

MR GRAY: - - - there's a difference. There's a suggestion in the evidence that there were gentle exercise programs available.

MS TAYLOR: Yes.

MR GRAY: But only to mobile residents. The resident could join a group, a gentle group class if they were mobile. I want to ask about people who were immobile. What would be the process in order to obtain an exercise program for them? Would that require referral from an RN? Perhaps the care manager or the clinical care coordinator to a physio to carry out an exercise program of that kind?

MS TAYLOR: Yes. And then the physiotherapist will also educate the staff on different exercises that they can do through – mostly through – whilst they're providing the care to the resident. But, yes, they need a referral to the physiotherapist. People will then come up with the plan for that resident.

MR GRAY: There's a suggestion in the evidence that Ms Lyndall Fowler had a discussion with an RN – and I will say their name if we need to or pass you a note – and was told that – as at 2017, that the care staff hadn't been trained to provide exercises. So is that a recent innovation or do you disagree with that information that's contained in that evidence?

MS TAYLOR: Yes, I disagree with that. And I do believe that it was a team leader, I think, that you're referring to, not a registered nurse.

MR GRAY: All right. We will come to that in the care notes.

MS TAYLOR: Sure.

MR GRAY: And you say – are you saying that the care staff were trained at all material times from 2016? That is, the direct care workers were trained to assist gentle exercises for immobile residents in their beds?

MS TAYLOR: So what would happen would be that the physiotherapist would do an assessment on a resident and decide that, yes, we need to do movement exercises with a resident. Then they would focus on showing the staff in that particular area for that particular resident what they need to do with that particular resident.

MR GRAY: That was the procedure that was available. We will come to whether it occurred in this case by reference to the documents.

MS TAYLOR: Sure.

MR GRAY: But do you agree that there isn't any documentation at any time before late April 2017 that identifies whether exercises of that kind took place with Ms Shirley Fowler?

MS TAYLOR: Yes. From the documentation there is gaps in the documentation-keeping regarding that.

MR GRAY: There's a care evaluation meeting in late September, which said that exercises of that kind had been provided. But up to then there's nothing suggesting that they are being provided before that point in time. Do you agree with that?

MS TAYLOR: Yes. I agree with that.

MR GRAY: I also want to ask you about pain management and pain assessments.

MS TAYLOR: Sure.

MR GRAY: Physio would be available to relieve pain. And that would have the effect of triggering an ACFI funding entitlement; is that right?

MS TAYLOR: Yes.

MR GRAY: Ms Taylor, if you need to take a break at any time, can you just let me know?

MS TAYLOR: Sure.

MR GRAY: Yes. I wonder – Operator, could you please put up RCD.9999.0104.0009. Thank you. Now, this is a letter from solicitors for IRT. I just want to ask you about a paragraph in it and whether you agree with it.

MS TAYLOR: Okay.

MR GRAY: So I'm not going to ask you to read the whole letter. Could we go to page 0027, please, Operator. And under heading B, Operator, if we could please call out the three paragraphs under that heading. The heading is Whose Responsibility is it to Identify Contractures. First, in that first paragraph, there's a reference to your

own statement, Ms Taylor. Then, in the second paragraph, there's some remarks about needing to identify – this is my paraphrase, I suppose, needing to identify the risk of contractures because once contractures have developed, in effect, it's too late. Firstly, do you agree with my paraphrase??---Yes. I agree with that.

MR GRAY: Yes. And do you agree with the detail in the second paragraph?

MS TAYLOR: Can I just have a minute to read?

MR GRAY: Of course.

MS TAYLOR: Yes.

MR GRAY: Do you agree, in particular, with – or do you agree with what I didn't paraphrase, which was the remark in the last sentence, that the risk of contractures should be identified when it is observed that a resident is assuming a particular position and not changing from the position or continuing to return to that position?

MS TAYLOR: Yes. I agree with that.

MR GRAY: And what's the appropriate step that, say, a registered nurse, or clinical care coordinator or care manager should take when observing a resident returning to a position like that? Should they seek a physio assessment to determine what exercises might be appropriate, for example?

MS TAYLOR: Yes. Yes.

MR GRAY: Yes. And if we just go to the third paragraph – I will just let you read that. Do you agree with that third paragraph as well?

MS TAYLOR: Yes. I agree with that.

MR GRAY: Okay. Now, the state of the scientific evidence doesn't seem to be terribly clear about whether passive exercises, at least, in a significantly – in a statistically significant way will prevent contractures. But, nevertheless, do you accept that it is proper nursing practice to assist residents who have immobility issues to move their limbs, exercise their limbs, as a measure that might prevent contractures?

MS TAYLOR: Yes. I agree with that.

MR GRAY: And according to that third paragraph, with which you've just agreed, I will just ask you a little bit more about that.

MS TAYLOR: Yes.

MR GRAY: How should it work in practice? That the direct care worker should escalate a concern about a resident being in a prone position to an RN?

MS TAYLOR: Yes.

MR GRAY: And then the RN will refer the matter to the physio, to see if some appropriate range of movement exercises can be prescribed after assessment? Is that how it works?

MS TAYLOR: Yes. That's how it works.

MR GRAY: Now, that depends on training of the direct care workers to be alert for this issue. Would you agree with that?

MS TAYLOR: Yes. I would agree with that.

MR GRAY: And were the direct care workers of William Beach Gardens specifically trained in monitoring residents for this immobility issue of retreating to a particular position or assuming a particular position repetitively in around mid to late 2016?

MS TAYLOR: Not that I'm aware of, but I – I'm not sure.

MR GRAY: No. And was the position any different in 2017?

MS TAYLOR: Again, I'm not sure.

MR GRAY: Not sure. Are they trained now?

MS TAYLOR: Yes.

MR GRAY: So there has been some more recent training in – what, in the last year or so, has there, on this topic?

MS TAYLOR: Yes. We have had the physiotherapists spend time with staff regarding that.

MR GRAY: Yes. When did that occur?

MS TAYLOR: Last year some time. And they're doing it on an ongoing basis, depending – like I said previously, if a resident is identified as high risk, then we get the physiotherapist to do the one-on-one or group education with the staff that are working in that area, specifically to that resident.

MR GRAY: Yes. And that's a particular issue in Nebo, is it? Because as we understand it from Ms Fowler's evidence, that – and I think from your own evidence,

that's a unit within William Beach Gardens that's specifically for caring for people who have immobility issues; is that right?

MS TAYLOR: Yes. But there are – a lot of the residents are still mobile in that cottage.

MR GRAY: Are there? Is it right, though, that Nebo is more suited for people who are immobile? Or is that - - -

MS TAYLOR: Yes. When we bought in the Journey of Care model, though, there were residents in that particular area that were mobile, and we've never forced movement to a different area. We respect that that's their home. And so when I look at admitting residents, I'm looking at admitting residents who aren't particularly mobile now, but there are residents that previously resided there before we had the model of care that we do now.

MR GRAY: Thank you. It's the case, isn't it, that a physio won't conduct an assessment unless it's referred by the RN, the clinical care coordinator, the care manager, some person in authority in the care management of William Beach Gardens?

MS TAYLOR: So the physiotherapist reviews each resident every three months on their mobility status. So that's a blanket rule. And then in between that three-month period, it would be if there was a change or a deterioration or something that we notice that we needed to do a referral in between that three-month period.

MR GRAY: But you're not saying, are you, that that blanket three-month rule applied to Ms Shirley Fowler in the first part of 2017, are you?

MS TAYLOR: Yes. She would have been reviewed by the physiotherapist every three months. That's always been our policy.

MR GRAY: When we look at the documents that have been produced – and we will come to the physiotherapy assessments, but when we look at the documents that have been produced there isn't a physiotherapy assessment between December 2016 and August 2017. Is that your - - -

MS TAYLOR: So what - - -

MR GRAY: Have you been involved in the - - -

MS TAYLOR: So when they - - -

MR GRAY: The documents for the preparation for giving evidence?

MS TAYLOR: Yes. I have. When they do their third-monthly mobility assessment most of the time it's documented in a progress note around the mobility

assessment. They will do a quick progress note to identify the mobility needs of that resident at that three-month period. It could be a short progress note that says that they have reviewed the mobility status of that resident and it is unchanged, they continue to be assist times one with a four-wheel frame or whatever the case may be.

MR GRAY: So it's not a physiotherapy assessment in its full form, it's some sort of short form consideration - - -

MS TAYLOR: Yes. They review the mobility assessment.

MR GRAY: What does that mean exactly, what's the difference?

MS TAYLOR: So they're just reviewing the mobility status of the resident to make sure that we are mobilising that resident safely.

MR GRAY: So it's about transfers.

MS TAYLOR: Yes, transfers and mobility.

MR GRAY: It's not about giving them exercises while they're in bed?

MS TAYLOR: No, that's on a referral basis. They do a full comprehensive assessment every 12 months as part of their annual review of their care evaluation.

MR GRAY: All right. So just to go back and clarify your evidence about the fixed rule about the three-monthly reviews, that's only on this issue of the safety of transfers.

MS TAYLOR: Transfers and mobility, yes.

MR GRAY: It's mobility in the sense of when we want to move the resident what do we have to do, as opposed to what should we do to try to reable the resident or prevent contractures or something of that type?

MS TAYLOR: Yes, that would be on a referral.

MR GRAY: So to prevent contractures, just let's take that example, there needs to be a referral before the physio will assess how to best try to prevent contractures.

MS TAYLOR: Yes, that's correct.

MR GRAY: And that referral has to come from the people responsible for the management of care within William Beach Gardens?

MS TAYLOR: Yes, that's correct.

MR GRAY: I just want to ask you some general questions about nutrition and weight loss. There's a program called the National Quality Indicator Program which has just become mandatory from 1 July this year. You would be well aware of that, I'm sure, Ms Taylor.

MS TAYLOR: Vaguely, yes.

MR GRAY: Well, I'm not asking about the situation from 1 July, I'm asking about the situation from mid-2016 up until 1 July. It's the case, is it, that William Beach Gardens wasn't volunteering to participate in the National Quality Indicator Program?

MS TAYLOR: I'm not sure about that.

MR GRAY: Okay. All right. Do you know anything about the weight loss indicator in that program?

MS TAYLOR: No, I - - -

MR GRAY: In summary, it refers to the loss of three kilograms within a month or the loss of weight over three successive months on the part of any resident.

MS TAYLOR: Yes.

MR GRAY: Is that - - -

MS TAYLOR: We monitor the weight but I'm not sure about the – the program that you're talking about.

MR GRAY: All right. Can I just ask you some general questions about the risks presented by weight loss.

MS TAYLOR: Yes.

MR GRAY: And in asking these questions I'm not trying to in any way discount the possibility that as people living with dementia progress in that illness, they might eventually – probably will lose appetite. But putting that issue to one side for the moment and just looking at the effects of weight loss, you agree, I assume, that significant weight loss, be it described as three kilograms in a month or three successive months of weight reduction, that can have a very adverse effect on the strength of the person who suffered that weight loss and their ability to fight infection, for example.

MS TAYLOR: Yes.

MR GRAY: And their ability to recover from injury.

MS TAYLOR: Yes.

MR GRAY: And they will become more prone to illness generally.

MS TAYLOR: Yes.

MR GRAY: So it's a very serious issue and it needs to be monitored carefully.

MS TAYLOR: Yes.

MR GRAY: And what was the general policy that we see at William Beach Gardens, the default position, with regard to monitoring of weight and when did a warning sound, if I can use that expression, in terms of the weight loss of residents generally. Was there a general policy about that?

MS TAYLOR: So it would depend on the resident and we speak to the GPs a lot about weight management. The GP will usually select appropriate weight ranges that they deem acceptable on our Platinum system. And we get alerted if the weight goes outside those acceptable parameters set by the GP.

MR GRAY: Okay. When we look at the care documentation which I will just bring up in just a moment, there seems to be a startling uniformity as to that weight range and it doesn't seem to have been tailored to people. It seems to be, in effect, a weight range to the effect that the resident shouldn't lose more than two kilograms in a month.

MS TAYLOR: So that's how we start, with the weight ranges. When I admit somebody, we will do a weight on admission, and I set the ranges for two kilos above and two kilos below. However, the GP can alter that if they feel that different parameters are acceptable. But the starting point is always two kilos above and two kilos below their admission weight.

MR GRAY: Okay. Thank you, Ms Taylor. We will go to the nutrition assessment of 2015 at tab 1001, please. Now, was this a nutrition assessment prepared by those responsible for providing care within William Beach Gardens without the assistance of the dietitian? This is before a dietitian got involved; is that right?

MS TAYLOR: Yes.

MR GRAY: And under goal/expected outcome, the nutrition goal, that heading, alongside the field goal/expected outcome it says:

Resident will not lose more than two kilograms in one month.

MS TAYLOR: Yes.

MR GRAY: And that's that starting position that you mentioned a moment ago in your evidence.

MS TAYLOR: Yes.

MR GRAY: Thank you. Then if we go, please, to tab 993, at page .0412, if we go to .0412, this is a referral – this records a referral to a dietitian because there has been weight loss from the healthy range of 63 to 78 kilograms, given Ms Fowler's height and age down to 57.82 kilograms. And that's triggered a referral. Is that the correct way to read this entry?

MS TAYLOR: Yes.

MR GRAY: Thank you. And if we then, please, go, operator, to page 0414, the dietitian has made some recommendations in the top box, weight. This should go up to at least 65 kilograms and there's some practical directions or recommendations about how to try to achieve that and, of course, there's a complication in respect of Ms Shirley Fowler because of her special dietary needs, isn't there, Ms Taylor.

MS TAYLOR: Yes.

MR GRAY: And that was known at all material times by those responsible for her care at William Beach Gardens, wasn't it?

MS TAYLOR: Yes, it was noted on her admission assessment.

MR GRAY: Was this the one and only referral to and intervention by a dietitian for Ms Shirley Fowler's care needs from 2016 through to the end of 2018?

MS TAYLOR: I'm not sure.

MR GRAY: All right. Now, if we just focus on those recommendations, did you receive those recommendations at the time they were given; that is in May 2016?

MS TAYLOR: So when the dietitian does the review, they do their progress note, an assessment and then they alert the registered nurses to their recommendations. So the recommendations can be actioned accordingly. We refer to the GP once the dietitian has made their recommendations. So the GP then can chart supplements that are recommended and anything else that the dietitian may be requesting, such as blood work, etcetera.

MR GRAY: Thank you. And with respect to what you've just said about action, I see at the – if we just go down please, operator, yes, if we go down to the bottom of the recommendations, you see, there's two more boxes. There's a comment by yourself, Ms Taylor, in the second last box and then there's a "closed by" somebody who was the previous care manager; is that right?

MS TAYLOR: Yes, that's correct.

MR GRAY: And she said "Noted". You've added to the GP list to review recommendations and the former care managers noted that you've done so.

MS TAYLOR: Yes.

MR GRAY: And is that the extent of the action that's taken to implement those recommendations?

MS TAYLOR: Until the GP does their review. We will begin the implementation of – sorry. We will implement the recommendations other than the supplements. The supplements need to be charted by the GP before we commence the supplements.

MR GRAY: At the beginning of your evidence, I asked you some questions about the way Leecare works and how you've got to distil from the recommendations in the dietitian's assessment actual steps to be taken in the nutrition assessment.

MS TAYLOR: Yes.

MR GRAY: So when a dietitian recommends the weight should go up to at least 65 kilograms, that would necessitate, would it, a change to the starting position target of merely maintaining the resident's weight so that it doesn't fall below two kilograms in any one month.

MS TAYLOR: I'm confused by what you're saying, I'm sorry.

MR GRAY: Okay.

MS TAYLOR: So - - -

MR GRAY: I will take you to the next nutrition assessment which was completed, by the looks of the documentation, after this dietitian assessment was noted.

MS TAYLOR: Sure.

MR GRAY: It's at tab 178. It's actually not until some months later.

MS TAYLOR: Okay.

MR GRAY: I think about two months later. If we go to 178 – do you have that available to you there on screen? It's dated 2 July 2016.

MS TAYLOR: Yes.

MR GRAY: So it's just within two months after the dietitian's assessment. Under nutritional goal, the goal/expected outcome still says:

Resident will not lose more than two kilograms in one month.

That seems inconsistent with the proper process, or the appropriate process that you outlined by way of explanation in your evidence earlier. Would you agree with that?

MS TAYLOR: Yes. I would agree with that.

MR GRAY: And, in fact, I will just be making a submission about this, but there are several other nutrition assessments that are made from time to time over the succeeding months, but that target is never changed. It just remains at two kilograms. That seems to have been an error.

MS TAYLOR: Yes.

MR GRAY: And would you agree that that's actually an error that could cause real risk, because the staff who are acting on the nutritional assessment might not appreciate that the dietitian has recommended that, in fact, this resident needs to increase their weight, not merely to maintain their weight so that not more than two kilograms is lost in a month?

MS TAYLOR: Yes.

MR GRAY: Could we please go to tab 113. In a similar vein. This is also a document dated 2 July 2016. There's a dietary details document. How does that fit with the nutrition assessment? Is that more concrete instructions about actual food preparation for the resident in question?

MS TAYLOR: Yes. So it's around the specific type of diet. If they need a soft diet, a full diet, minced diet. It's more around the diet that we're providing.

MR GRAY: Now, I didn't, probably, give you a very long opportunity to read the dietitian's recommendations, but there were some concrete directions or recommendations about what should be done to try to raise Shirley's weight, which included heaped teaspoon of coconut oil on porridge and things of that kind, peanut butter, nut paste, etcetera. These details, practical directions or recommendations about what to feed her, haven't been carried into the dietary details, on our analysis. Would you agree with that?

MS TAYLOR: From what I'm seeing, no.

MR GRAY: Yes. And, again, they should have been, shouldn't they?

MS TAYLOR: Yes.

MR GRAY: Have you actually realised that there's this omission in the nutrition care – if I could put it that way, the nutrition care documentation I've just taken you to before now?

MS TAYLOR: No.

MR GRAY: So it follows, does it, that there can't have been any steps that you've taken to try to work out what went wrong and try to fix that for the future?

MS TAYLOR: No, because I wasn't aware of it.

MR GRAY: Do you know if anybody else has looked at that issue and addressed it?

MS TAYLOR: Not that I'm aware of.

MR GRAY: Could I ask you to look at an aspect of the progress notes that you annexed – or you identified in your statement when you were identifying points in the documentation at which relevant care had been provided. It's tab 993. 11 May 2016, at page 0415, please, Operator. 0415. I'm not going to take you, Ms Taylor, to all references in the progress notes of this kind, but I'm just going to ask you to look at this and I'm just going to ask you whether you agree that this sort of thing happened pretty frequently. If we look at the entry for 11 May 2016, we see that there's a record of a phone call from Lyndall. She is expressing concern. She raises Shirley's ongoing loss of weight. And she raises the dietitian's recommendations. And you've said, have you – that this is your entry, I should have said. Did you notice that? Yes.

MS TAYLOR: Yes. I did.

MR GRAY: You've said, have you, that – this is you speaking – from looking at food chart it's difficult to ascertain whether Shirley is receiving the finger foods and additional food additives, due to poor documentation. And then you've said staff state to you that they're adding those items that were recommended by the dietitian – or some of them, at least. But that the food chart does not reflect this.

MS TAYLOR: Yes.

MR GRAY: And Lyndall expresses concern. Now, I'm not suggesting that that precise complaint occurs in those precise words at future times, but would you agree with me that – we will make a submission in due course to this effect, I just wanted to see if it's something you agree with.

MS TAYLOR: Yes.

MR GRAY: There are numerous times that Lyndall has raised similar concerns, asking about whether Shirley is receiving attention and proper food, in accordance

with the dietitian's recommendations and in accordance with her dietary needs. Do you agree with that?

MS TAYLOR: Yes.

MR GRAY: You seem to have – if I could use this example as a bit of a platform for making a more general point, you seem to have frequently taken – been in receipt of those concerns directly or they've been reported to you.

MS TAYLOR: Yes.

MR GRAY: Were you – presumably, you – each time you received such a report, you tried to find out what was happening. As an example, it seems here that you actually spoke with staff.

MS TAYLOR: Yes.

MR GRAY: But it seemed to keep repeating itself over and over again. My question to you is, were you ever able – in the period from 2016 through to mid-2018, ever able to satisfy yourself that the staff had actually changed their ways and were doing what they ought to do, including by making records of what they were doing?

MS TAYLOR: Yes. So I know that we did a lot of education with staff. Particularly when I was the educator, I did education with staff around food and fluid documentation and how to record appropriately. In different positions that I've had, at that time I was a registered nurse on the floor, I would do frequent walk-arounds with the staff and make sure that they are following the directives and follow up and liaise with the team leaders to make sure that they're supervising. So there have been times throughout that I have been satisfied that the staff are following the directives.

MR GRAY: Have they slipped back into mistakes from time to time and, hence, it has become a sort of a repeat cycle?

MS TAYLOR: I wouldn't say slipped back into. We get different staff – new staff that then require education and training. And then we provide that to them, to make sure that they're up to date with the requirements of residents.

MR GRAY: So have you ever been satisfied – from what point in time have you been satisfied that they're doing the right thing and documenting that they're doing the right thing, if at all? From what point in time?

MS TAYLOR: Probably from the beginning of 2018.

MR GRAY: Right. I will just – while we are on this topic, I will bring up the food, fluid intake charts. Operator, please bring up tab 97. And if we look at tab 97, it

covers a period, according to the third line at the top in blue, between 1 January 2017 and 1 January 2018. It says for all residents, but this is the particular record for Ms Fowler.

MS TAYLOR: Yes.

MR GRAY: And there's references in some lines to things that are eaten at certain points in time, but it's not terribly consistent. Was that your key concern about the completion of this documentation?

MS TAYLOR: Yes. And it wasn't – it's not specific. When you say cereal and banana, well, how much cereal and how much of the banana?

MR GRAY: Yes. And were there also occasions when there were inconsistencies between the progress notes and the entries in this document? Did you try to do a reconciliation? I don't suppose you would have had time.

MS TAYLOR: No, I haven't had time.

MR GRAY: No. If we, for example, take 9 May 2017, 1700 hour row, which is row 165, was 1700 dinner time?

MS TAYLOR: Yes.

MR GRAY: I'm sorry. It's not a row, it's a room number.

MS TAYLOR: Yes.

MR GRAY: Anyway, you've found it.

MS TAYLOR: Could you just repeat the date for me, sorry?

MR GRAY: It was 9 May 2017, at 1700 hours. Perhaps the operator will be able to indicate that.

MS TAYLOR: I don't have that page. Sorry.

MR GRAY: That's on page 1887.

MS TAYLOR: Yes. I've got it now.

MR GRAY: Pardon me.

MS TAYLOR: 9 May, 1700 hours. Yes.

MR GRAY: And if we look – so, essentially, for dinner, this is saying that Shirley had sausage roll, salad, fruit.

MS TAYLOR: Yes.

MR GRAY: And it also says:

No lactose meal provided.

Does that mean a meal without lactose was provided on that day?

MS TAYLOR: Yes.

MR GRAY: But that doesn't occur very often. Is it the case that the standard menu in 2017 didn't cater well for people who were lactose-free?

MS TAYLOR: I really don't know about that. The hospitality manager deals with the menus and the ordering of the food.

MR GRAY: Very well. I won't ask you any further about that.

MS TAYLOR: Sorry.

MR GRAY: No, that's fine. 9 May, if you just keep that in your head that it said, at 1700, "Sausage roll, salad, fruit".

MS TAYLOR: Sure.

MR GRAY: I will now ask the operator to bring up the progress notes. Operator, please go to tab 759. And it's page .9622. 9622. Is that within that document? Perhaps I've given you the wrong tab number. Is it 759? If I just give you the first page code number, Operator, would that be best? 9622. Thank you. Now, if we just look at this progress note, in the middle box, just above halfway down the page. Operator, could you please call that out? I won't read out who made the entry, but it looks like – is that a care worker?

MS TAYLOR: Yes. It is.

MR GRAY: And it says:

Shirley refused her meal tonight. Staff tried numerous times for Shirley to eat but Shirley refused each time. Good fluids given and tolerated.

And then it goes on to pressure area care. Now, it does say:

Staff cleaned and have left Shirley plate out.

But it seems to be saying as at 2157 – so almost 10 pm – that Shirley hasn't eaten anything for dinner and that, for example, just taking that row, suggests that the daily

record of food and fluid intake is itself, even to the extent that there are entries in it, it's not reliable. What do you say to that?

MS TAYLOR: The documentation is showing that, yes.

MR GRAY: It has been suggested by Ms Lyndall Fowler that this is – this has got nothing to do with ill will or anything of that kind; this is simply a function of staff who are worked off their feet. What do you say to that?

MS TAYLOR: I believe the staff are busy. The job is busy. It has been a job that's – I've done for nearly 20 years and I've never had a day of nursing that hasn't been busy.

MR GRAY: Yes. And this is in no way an attempt to impugn the goodwill of the people who work in aged care generally or your facility now. It's said by Ms Lyndall Fowler that Shirley takes a long time to eat.

MS TAYLOR: Yes, she does.

MR GRAY: Feeding requires engagement. She has complex needs. Even back in the period of mid-2016 on into 2017, which is primarily the focus in my examination today, she was taking a long time to eat her meals, wasn't she?

MS TAYLOR: From the documentation, yes.

MR GRAY: And it appears that, given the level of staffing in Nebo, it would have been highly unlikely that anybody would be able to spend the necessary time to make sure that Shirley was assisted. She had a tremor in her hand, for example, and later on she really became reliant on assistance in feeding. It just would have been impossible for them to spend enough time for her to get proper nourishment from her food. What do you say to that?

MS TAYLOR: I don't agree with that.

MR GRAY: Please - - -

MS TAYLOR: Not all residents require assistance at meal times and it is something that we monitor all the time. If there are several residents requiring feeding, say, we've got five residents requiring feeding or seven, and we've got three staff. The staff always come to me and we look at ways – I put on extra three hours to assist at the meal times or whatever the case may be. It's something we're continually monitoring and it's something I've observed the staff doing. They do spend the time sitting there, feeding Shirley.

MR GRAY: But the daily record of food and fluid intake doesn't establish what they've managed to actually feed Shirley reliably, I suggest.

MS TAYLOR: Can you repeat that for me again, sorry.

MR GRAY: Yes, the daily record of food and fluid intake does not establish what the staff have been able to feed Shirley with any reliability.

MS TAYLOR: No, I see that.

MR GRAY: Pardon me for just a moment, and I repeat what I said earlier, if you need a break.

MS TAYLOR: Thank you.

MR GRAY: I want to ask - - -

COMMISSIONER TRACEY: Are you about to move off nutrition?

MR GRAY: Well, I did have one more weighing question.

COMMISSIONER TRACEY: I will wait until you have finished.

MR GRAY: Yes, thank you Commissioner.

Operator, please go to tab 763 of the tender bundle, page 0331. Now, this is an entry on 26 October 2016. I'm going to take you to the weight charts for Shirley in just a minute but - - -

MS TAYLOR: Sure.

MR GRAY: - - - this entry, it's not the one by you. It's down the page a bit, please. It's down to the bottom of the page. There's an entry that begins there by another registered nurse, I won't say her name. And it's called a – well, perhaps it doesn't have a specific name but it relates to weight and vital signs. And it's said that the details are saved through the form, weight and vital signs. And that's the name of, in effect, the chart of weights that are taken from time to time.

MS TAYLOR: Yes.

MR GRAY: Over a long period of time for a particular resident.

MS TAYLOR: Yes.

MR GRAY: And if those weights show a deviation from the parameter that's established by the nutrition assessment - - -

MS TAYLOR: It's the parameter set by the GP.

MR GRAY: Sorry, I will just ask my question. If that chart, because of the entries that are made into it, automatically detects that the person has lost or gained weight outside the parameters that are in the nutrition assessment, does that then raise, in effect, a red flag for some sort of action in this document, the progress notes? Is that how it works?

MS TAYLOR: So the parameters are set on the vital and obs page, the one you are referring to. So there's a box that the GP will fill out regarding the appropriate parameters for that resident.

MR GRAY: Right.

MS TAYLOR: Then it flags if it's outside of that.

MR GRAY: So perhaps, operator, are you able to split the screen and bring up 1006 on the other side of the screen? Is that the form you've just been referring to?

MS TAYLOR: No.

MR GRAY: That's not the weight and vital signs form?

MS TAYLOR: So that's a report of the – the weights that have been attended from a certain period but when we look at the weights and vital page there's a separate box and it's where the GP can manually type in set parameters. This will then trigger an alert system to us if the observations and weights deviate from the parameters set by the GP.

MR GRAY: Thank you.

MS TAYLOR: So then the registered nurse will then go in and if it flags red, have a look and this progress note is from the registered nurse, she has noted that the blood pressure was out of range. So she has typed in for them to recheck it and she then sent an alert to the staff to recheck that.

MR GRAY: All right. And if we go, I think down to the next page, please, operator, so that's, sorry 0290, in the progress notes. Pardon me for just a moment. Pardon me, we are just trying to find a page.

MS TAYLOR: Okay. It's okay.

MR GRAY: We find them difficult because they seem to go backwards for a certain period of time; is that how they work when they print out and then there's a time bracket or a bracket of months.

MS TAYLOR: You set the – the time period.

MR GRAY: Then it starts again from six months later.

MS TAYLOR: Yes.

MR GRAY: So it's page 0330, it's the preceding page please, operator. And it's right in the middle box. It's by the same RN:

> *The following details are saved through the form weight and vital signs. Please re-weigh, outside of range. Please notify RN if weight remains outside of range.*

Now, on the right-hand side of the screen, if we go to the weight chart, what I've called the weight chart, if we go to page 0515, at the fifth row down, we have – sorry, the fourth row down we have a weight on 25 October 2016 of 54.09 kilograms. And that's a substantial reduction from the previous – the previous weight was in September and it was more than three kilograms higher. Do you see that?

MS TAYLOR: No, it's actually covered on the screen – on my screen, sorry.

MR GRAY: Thank you for pointing that out. If we now go to the next row, there's a weight taken on 20 September at 57.26 kilograms.

MS TAYLOR: Yes.

MR GRAY: So there has been a very large drop in weight within that period of a little over a month, and the RN has asked for a reweigh. Is that to make sure there's no error?

MS TAYLOR: Yes, that's correct.

MR GRAY: And so if we go to the next row, we're going – in effect, these records go backwards as well, they go up the page. So the next row after 25 October is the row above; it's 28 October. Operator, if you could please call out 28 October, we see exactly the same weight as was recorded on 25 October. So there has been a re-weigh and it's established that there wasn't an error. There really has been a drop in weight. There doesn't appear to be follow-up action apart from re-weighing. There doesn't appear to be some practical outcome in terms of trying to address this loss of weight with some different intervention or an assessment by a dietitian or anything of that kind. Are you able to comment on that?

MS TAYLOR: I know that we have a clear process now. We have implemented a lot of processes around clinical care. The weights and vitals are continually monitored by myself and the care coordinator and we have a process now that if a weight is – there is weight loss noted that we commence a food and fluid chart, that we commence weekly weights to monitor that. We make adjustments to diet. We may increase the frequency of the meals that they're having or introduce different types of foods to help with weight gain, refer to a dietitian and to the GP. So we now do have a clear process on what we should be doing with weight loss.

MR GRAY: All right. And when did that come into operation?

MS TAYLOR: 2018.

MR GRAY: All right. Commissioner, those are the questions on nutrition. If you wish to – you wanted me to pause when I got to - - -

COMMISSIONER TRACEY: Yes. Ms Taylor, have you ever personally observed Ms Fowler being fed by staff at meal time?

MS TAYLOR: Yes. I have.

COMMISSIONER TRACEY: How regularly?

MS TAYLOR: I would say once a week; I'm doing rounds at meal times and I observe that.

COMMISSIONER TRACEY: And I assume that when they are doing that, they ensure that she has got linen on to stop spillage falling on her clothes?

MS TAYLOR: Yes.

COMMISSIONER TRACEY: You see, what troubles me about your evidence that she was regularly looked after by individual staff are those photos that you've seen and we've seen today.

MS TAYLOR: Yes.

COMMISSIONER TRACEY: Where there's food scraps all over her clothes. Now, presumably that didn't happen if she was being fed by staff.

MS TAYLOR: At that time, we were promoting her independence and she didn't require feeding by staff. At the time of the photographs, she was still feeding herself.

COMMISSIONER TRACEY: Well, what does that mean?

MS TAYLOR: It means that the staff weren't actually feeding her her meals, that they would sit her in a chair and prompt her to eat herself to promote her independence.

COMMISSIONER TRACEY: Well, presumably, if they were going to do that, they would, at the very minimum, have put a bib or something like that on her before she started eating.

MS TAYLOR: Yes. They did. As Lyndall said in her evidence, they finish around here, a lot of the food was on her lap. So it was the – the protectors weren't actually covering when the food was dropping onto her lap – a lot of the food was there.

Shirley also took them off at times. She didn't like to wear them at times. She would take them off. There's documentation I've observed around that.

COMMISSIONER TRACEY: Yes. I understand. Thank you. Yes, Mr Gray.

MR GRAY: Thank you Commissioner. I want to go now to the topic of the mobility issues that Shirley Fowler faced in late 2016 and what came of them. Operator, please bring up tab 763. And please go to page 0340 and 0341. If you could please put them both up at the same time. Ms Taylor, just while that is coming up, you know, don't you, that Shirley, after a series of falls in 2016, had a hospitalisation around 15, 16 October. She was back in William Beach Gardens on the 17th, and she was not mobilising and was placed on a GP list for review. The discharge report is – or aspects of the discharge report appear to have been repeated in the progress notes, but we also do have the discharge referral if you need to see that.

MS TAYLOR: Sure.

MR GRAY: But, in any event, do you recall that the discharge report recommended physio involvement?

MS TAYLOR: Yes.

MR GRAY: Yes. I won't take you to it. And you conducted a review and referred to a physio – referred Shirley to a physio.

MS TAYLOR: Yes. I did.

MR GRAY: And the discharge report specifically referred to involvement for strength and mobility optimisation. So shouldn't it have been the purpose of the referral to obtain from the physio thorough examination of how to improve Shirley's strength and mobility, particularly in her legs? Would you agree with that?

MS TAYLOR: Yes.

MR GRAY: Now, the physiotherapy assessment was performed and we have a record of it at tab 923. And in the physiotherapy assessment there doesn't appear to be – have you seen this document recently in preparation for your evidence?

MS TAYLOR: I believe I would have read it, but I've read a lot of documents.

MR GRAY: Yes. It's 18 October 2016. I've been through it a couple of times. I don't see any recommendations for exercises, whether self-initiated, assisted, passive, from whatever to – choose whatever description you want, I don't see that in this document. Would you like the operator to flick through it and for you to identify anything that might allude to exercises?

MS TAYLOR: Yes, if you don't mind.

MR GRAY: Yes. Operator, could you please just follow Ms Taylor's instructions? It's nothing on that page, is there?

MS TAYLOR: No.

MR GRAY: What about the next page? There's a lot of detail on exactly the topic you drew to the Commissioner's attention. That is, safety of transfers?

MS TAYLOR: Yes.

MR GRAY: But that seems to be the focus – apart from a limb strength test, there isn't actually anything about optimising mobility and strength. Do you agree with that?

MS TAYLOR: Yes. I agree with that.

MR GRAY: Do we want to just finish the last two pages? I think there's two more pages. Nothing there, is there?

MS TAYLOR: No.

MR GRAY: And final page please, Operator. So do you actually have an independent recollection of getting the assessment back from the referral you made in October?

MS TAYLOR: No. I don't.

MR GRAY: So you can't say whether you turned your mind to whether it adequately fulfilled the purpose indicated in the hospital discharge?

MS TAYLOR: No. And I may have done the referral, but if the assessment was done I may not have been the registered nurse on duty that actually reviewed the review once it was done. And I don't remember doing that.

MR GRAY: Now, what I want to suggest is that, really, from this – this is the apex of a point at which instructions could come down for exercises to be prescribed. And in this assessment, the need for exercises wasn't identified, even though the hospital discharge referral did refer to strength mobility optimisation, and that meant that – it's a long question, I'm sorry. That meant that - - -

MS TAYLOR: Okay.

MR GRAY: - - - the care documentation that was available to the direct care workers at William Beach Gardens just didn't flag a need for exercises. Do you agree with that?

MS TAYLOR: Yes. I agree with that.

MR GRAY: And that's unsatisfactory, isn't it, given - - -

MS TAYLOR: Yes.

MR GRAY: Yes. Has that been fixed in the time that has gone by since then? Is there a better process for making sure that physios do focus on the need to actually consider the purposes for which referrals are made and to prescribe exercises to try to re-able people or improve their strength?

MS TAYLOR: Yes. That's - - -

MR GRAY: When did – sorry, when did that happen?

MS TAYLOR: So when I took over as care manager, I was thoroughly looking at exercise programs and how we communicate that with staff. That would have been 2018, beginning of 2018. We look at making sure the staff are aware of those exercises and how we document that.

MR GRAY: And this point about physiotherapy referrals – I might take it up with Ms Briguglio, but it was actually a topic raised in the reaccreditation audit process in mid-2017?

MS TAYLOR: '17. Yes.

MR GRAY: Yes. Is it better that I direct those questions to her?

MS TAYLOR: I was educator in 2017. I was there for part of the – I was there for the accreditation process.

MR GRAY: You agree, do you, that one of the issues raised by the assessors, as a result of their visit on 20 to 22 June 2017, was that there were issues around getting physios to do more than simply pain-related relief and to get them more proactively involved in assessments of the needs of residents; is that right?

MS TAYLOR: Yes.

MR GRAY: And the pain-relief exercises – I beg your pardon, the pain-relief massages that the physios were predominantly doing, they flowed from a separate assessment called a pain assessment; is that right?

MS TAYLOR: Yes.

MR GRAY: And they were a matter that, I think you said at the outset in your evidence, had a beneficial ACFI outcome.

MS TAYLOR: Sometimes it does, yes.

MR GRAY: Yes.

MS TAYLOR: If there's a clinical need, though, and there's no funding, we still perform that pain management.

MR GRAY: Right. Could we please go to the related topic of repositioning. With an immobile person, whether they're in a chair during the daytime for lengthy periods or bedridden at night or a combination of the two, mobilisation is an important intervention; is that right?

MS TAYLOR: Sorry, can you just repeat the question?

MR GRAY: Yes. Whether they're chair-bound for lengthy periods during the day - - -

MS TAYLOR: Yes.

MR GRAY: - - - or whether they're bedridden - - -

MS TAYLOR: Yes.

MR GRAY: - - - and if they're – even at night, if they're immobile, there might need to be repositioning, as an important intervention for their care.

MS TAYLOR: Yes. Definitely.

MR GRAY: And why is that?

MS TAYLOR: Because they're unable to reposition themselves. And if they're in one period for too long, they can start to develop pressure areas.

MR GRAY: Yes. And when I asked you some questions at the beginning of your evidence, you spoke about the repositioning records that are supposed to be kept.

MS TAYLOR: Yes.

MR GRAY: I just need to take you to the documentation that has been produced in relation to repositioning for Shirley.

MS TAYLOR: Okay.

MR GRAY: And I just want to compare it to some documentation for another resident.

MS TAYLOR: Okay.

MR GRAY: Whose name we will not reveal.

MS TAYLOR: Okay.

MR GRAY: And just ask you to comment on the differences in the way the records have been presented, the way they're formatted.

MS TAYLOR: Okay.

MR GRAY: So I need to ask you about tab 1069. Bring that up, perhaps – well, yes. Now, this is for the early part of the relevant period, the first six months or so, from mid-2016 to the beginning of 2017. And do you see there there's no actual entry by anybody for any particular day as to when repositioning occurred? It's simply more like a form indicating when it should occur. It's not a - - -

MS TAYLOR: So the hour and the minutes is the time that the pressure area care was attended.

MR GRAY: All right. But it's a document that is said to cover a six-month period.

MS TAYLOR: Right.

MR GRAY: I see. And it's a report created on 7 April – no, that's 2019. It doesn't say what particular date.

MS TAYLOR: So up the top - - -

MR GRAY: It just seems to cover a six-month period. And then if we go through the three pages of the document for Ms Taylor, please, Operator – it just seems to cover - - -

MS TAYLOR: First - - -

MR GRAY: It seems to cycle through various hours, but it doesn't actually have dates. Are you able to comment on the way that information is presented? And most importantly, it doesn't actually have any entry by anybody to the effect that any repositioning has been done.

MS TAYLOR: So - - -

MR GRAY: Do you know - - -

MS TAYLOR: - - - the repositioning was done – where they've put the current position that's – they're showing which position they've put the – put Shirley in at that time. And the time – the hour and the minutes is the time that they've delivered that care.

MR GRAY: But it doesn't say on what date.

MS TAYLOR: No. It doesn't.

MR GRAY: It also seems to have four-hourly repositioning noted on it. I will come to that in just a minute. Could we please bring up, just while we're on this, the comparison document which is for another resident? Operator, before you actually make that visible, can you just confirm that the name of the resident is redacted? It's tab 1070. Thank you. Do you see that the daily repositioning information in that document is formatted in a far more detailed way, with specific dates, and it has got an extra column showing who logged the information?

MS TAYLOR: Yes. It's a different report. There are several different reports for several different aspects, assessments, daily forms. They've given you two different types of reports around the same - - -

MR GRAY: All right.

MS TAYLOR: - - - topic. Sorry.

MR GRAY: All right. Well, we might take that up in submissions but I won't ask you any more questions about it. Shirley was, essentially, immobile from November 2016 and possibly - - -

MS TAYLOR: '16.

MR GRAY: - - - a bit before then.

MS TAYLOR: Yes.

MR GRAY: It was very important that she be given exercises to avoid contractures. Do you agree with that?

MS TAYLOR: Yes.

MR GRAY: And it appears on the documents that she wasn't given exercises to avoid contractures until some time after 10 April 2017. Do you agree with that?

MS TAYLOR: Yes.

MR GRAY: And you don't advance any evidence that she was given exercises before 10 April 2017, do you?

MS TAYLOR: There's no documentation around that, no.

MR GRAY: And you're not giving any evidence from the witness box that she was given any such - - -

MS TAYLOR: No.

MR GRAY: - - - exercises before then?

MS TAYLOR: I don't know. Could I possibly trouble everyone for a comfort - - -

MR GRAY: Yes. Please. I meant what I said.

MS TAYLOR: Comfort break. Sorry, I've drank a bit of water.

MR GRAY: Could we please have a short adjournment?

COMMISSIONER TRACEY: Yes. Certainly.

MS TAYLOR: Sorry.

COMMISSIONER TRACEY: The Commission will temporarily adjourn.

ADJOURNED **[3.17 pm]**

RESUMED **[3.29 pm]**

COMMISSIONER TRACEY: Yes, Mr Gray.

MR GRAY: Thank you, Commissioner. Operator, please bring up 963. Ms Taylor, I'm just going to ask you about another physio assessment.

MS TAYLOR: Okay.

MR GRAY: It seems similar to the October physio assessment that you just addressed in your evidence.

MS TAYLOR: Sure.

MR GRAY: I won't ask the operator to go all the way through it, but this was a physio assessment on 13 December 2016; you have it before you on the screen. On the documents that have been provided to the Royal Commission, there's then no further physiotherapy assessment/plan until 3 August 2017. I asked you some general questions about when physio assessments are supposed to occur at the outset of your evidence and the gist of your evidence was that there's a certain form of assessment that has to take place every three months but that's not necessarily a

physio assessment – physiotherapy assessment/plan of this kind; that's a plan relating to transfers.

MS TAYLOR: Yes.

MR GRAY: Yes. So in respect of the period between December 2016 and August 2017, this was a period in which Ms Shirley Fowler had (a) she had already become immobile before that, but (b) during this period she was showing increasing signs of assuming a particular position - - -

MS TAYLOR: Yes.

MR GRAY: - - - whether in a chair or in bed. Do you agree with that?

MS TAYLOR: Yes, I agree with that.

MR GRAY: I suggest to you that that indicated the need for some sort of further physiotherapy assessment. As soon as that occurred direct care staff should have escalated that to an RN and an RN should have sought a physio referral. What do you say to that?

MS TAYLOR: Yes, I say that's correct.

MR GRAY: All right. So the fact that there was this gap of eight months or so was not appropriate care, in your view?

MS TAYLOR: No.

MR GRAY: No, it wasn't appropriate?

MS TAYLOR: No, it wasn't.

MR GRAY: Right. Now, I just have to return to weight for just a minute.

MS TAYLOR: Okay.

MR GRAY: When you were giving evidence earlier about the weight and vital signs form or the weight and vital signs screen, you referred to GPs being able to make a certain entry directly on to that screen; I think you said by hand but I think you mean using hands to type.

MS TAYLOR: Yes.

MR GRAY: Making an entry onto the screen in that weight and vital signs – can I call it an electronic form.

MS TAYLOR: Yes.

MR GRAY: And were you saying to the Commissioners, by giving that evidence, that only a GP could change the parameters which would create a red flag for the system under the weight and vital signs - - -

MS TAYLOR: By a registered nurse or a GP.

MR GRAY: A registered nurse can change - - -

MS TAYLOR: A registered nurse can change the parameters.

MR GRAY: And in the situation where you have a dietitian's assessment back in 2016, we've been through that, which was different from, and more stringent than the starting position of maintaining weight to within two kilograms in any given month, it would be appropriate, wouldn't it, that an RN should act on that dietitian's assessment and change the parameters himself or herself rather than waiting for a GP to do so.

MS TAYLOR: Usually we would wait for the GP. That's why we refer to the GP and get them to review the recommendations made by the dietitian. The GP will have the final say in the recommendations from the dietitian.

MR GRAY: Even if the dietitian's advice is clear and the RN understands it?

MS TAYLOR: Yes.

MR GRAY: And is that a matter of policy between IRT and in this case Dapto Health or is that just an unspoken practice?

MS TAYLOR: That's an unspoken practice that we refer to the GP.

MR GRAY: You defer to - - -

MS TAYLOR: Refer. Refer the resident to the GP to review the recommendations.

MR GRAY: All right. So I better just ask this question: it may engage Dr Bird's interests so there may be that need, as I outlined earlier, to give him an opportunity to respond in some other form. But are you saying that Dr Bird, in effect, countermanded the recommendations of the dietitian in the case of Ms Shirley Fowler?

MS TAYLOR: I don't know what he did – when we – I know that we referred him but I would have to look at the progress note to see what he did following the referral to him.

MR GRAY: Why do you refer a dietitian's assessment to a GP? Isn't – I'll just explain the reason for the question. It's a double-barrelled question, but the reason I'm asking the question is, isn't the dietitian competent within their domain, and why

do you need to refer it to a GP to, in effect, give a second view about what a dietitian might recommend?

MS TAYLOR: Sometimes the GP won't always agree with the recommendations made. If they don't find the recommendations appropriate, the GP has the overall say in how we deliver the care to the resident.

MR GRAY: If you assume that there's nothing in the progress notes evidencing disagreement by Dr Bird at the time of the dietitian's assessment, then it would follow, would it, that the RNs at William Beach Gardens or one of them, should have changed the parameters in the plan.

MS TAYLOR: Yes. Yes.

MR GRAY: Later on in the timeline when we come to the end of 2016, in the beginning of 2017, there was another issue raised about weight, and I want to take you to that now and ask whether you can shed any light on communications with Dr Bird about it and, again, this might involve or engage Dr Bird's interests and we will make sure he is given an opportunity to respond in some form. If we please go to tab 763 at page 0289, do we see there in the middle box Shirley's weight or:

> *Shirley weight was recorded for last few entries to be below normal range. Dr Bird faxed, on doctor list to either change the parameters of weight or prescribe resource Sustagen.*

Are they supplements?

MS TAYLOR: Yes, they're supplements.

MR GRAY: Protein-rich supplements.

MS TAYLOR: Yes.

MR GRAY: Yes. I won't ask you – this isn't a memory test. I will take you to another entry in the progress notes a few days later. It's actually in a different tab please, 759. I suppose I should have just asked you before we changed screens, if the reference to changing parameters, that would have been a reference to changing the two kilogram usually applicable starting parameter because that was the parameter that was on the form at this time; do you agree with that?

MS TAYLOR: No, I don't agree with that. The assessments and two kilos which is the goal that we discussed earlier, but the parameters – like I said, are set by the GP. I don't know if they were altered by him in between that time. I don't know.

MR GRAY: If all of the, every single one of the nutrition assessments over this period say the same thing that I took you to, two kilograms, two kilograms, would that mean the parameters have stayed the same?

MS TAYLOR: No.

MR GRAY: The parameters different.

MS TAYLOR: Yes, they're different.

MR GRAY: We don't know what they are because they're not in that document 1006 that I took you to because it's not presented in a form that reveals that field.

MS TAYLOR: No, I've looked at the parameters set for Shirley recently and there is a large – I think the minimum weight range the GP currently has set is 30 kilos, off the top of my head.

MR GRAY: At present.

MS TAYLOR: At present. The parameters set by him is 30 kilos minimum. I can't remember the maximum that he has currently set at this time.

MR GRAY: Well, thank you for shedding light on that issue. If we go to 759, and page 9672, after referral to Dr Bird, there's a reference in the progress notes for 4 January 2017. 9672 please, operator. And I'm just going to ask if this jogs any memories if you had any communications with him about the parameters or about the meaning of what appears in the box there. There's an entry, it seems to have been made directly by Dr Bird on 4 January. This is presumably, would this be a fair assumption, in response to the referral that we saw a few days earlier.

MS TAYLOR: Yes.

MR GRAY: And it's a very brief entry:

review weight, stable, no issues.

MS TAYLOR: Yes.

MR GRAY: Did you have any communications with Dr Bird around that time?

MS TAYLOR: I can't recall.

MR GRAY: I want to ask you now about some remaining – or to close off on some remaining topics I've already asked you some questions about: contractures and exercises and so forth. But I want to take you to the entry in the progress notes that I've alluded to a couple of times in evidence, on 10 April 2017. Operator, please go to 759 and page 9643 there's an entry in relation to a call received by – yes, I think you're right, not an RN but a care worker with a level ACE6B. This is page 9643. If we go down to near the bottom of that page, Ms Taylor, do you see – I won't read the name out. Sorry, if you can just pause for a moment please, operator. Yes, thank

you. Now, the text you can see there created 10 April 2017 at about 12.33 pm by a person who is not an RN but who has a title ACE6B. Is that a care worker?

MS TAYLOR: So she was the team leader at that time.

MR GRAY: Thank you. And she records a communication with Lyndall; is that right? Or she says "daughter", let's assume it's Lyndall.

MS TAYLOR: Lyndall, yes.

MR GRAY: And she uses Lyndall's name in point 5.

MS TAYLOR: Yes.

MR GRAY: And Lyndall is expressing concerns of the following:

1. *How her mum is positioned in the chair to eat. Next of kin –*

that must be Lyndall –

states she is slumped in chair and not close enough to the food.
2. *Physio, is this checked and passive exercises done whilst in chair?*
3. *Next of kin feels her mum now has contractures from constantly in same position in chair and asks if had a physio review done since moving to Nebo.*

Then there is a reference to the point related to the one raised by the Commissioner about food. And then there's a reference to staff skill. Now, focusing on the contractures, and the passive exercises and the question of physio review, I suggest this is clearly an instance of Lyndall specifically asking for a physio review and yet we don't see a physio review happen until August. That really compounds the problem that you acknowledged in your evidence a short time ago that this really is evidence of inappropriate inattention to Shirley's needs, isn't it?

MS TAYLOR: Yes.

MR GRAY: In any event, Lyndall has identified that there are contractures. We don't see in any of the care documentation produced by William Beach Gardens up to this entry in the progress notes on 10 April any reference to Shirley having contractures, do we?

MS TAYLOR: No.

MR GRAY: So, in effect, it was Lyndall – she is a qualified nurse, but it was Lyndall who identified them in her mother. I suggest that it's inappropriate for the nursing staff with the assistance of the direct care staff not to have identified a problem like contractures.

MS TAYLOR: Yes.

MR GRAY: Do you agree with that?

MS TAYLOR: Yes, I agree with that.

MR GRAY: The obvious point of concern is that not everybody has a qualified nurse as a regular visitor and an advocate.

MS TAYLOR: I agree with that.

MR GRAY: Was there any element of not keeping an eye on Shirley as much as would usually be the case because Lyndall was there? Is that - - -

MS TAYLOR: No.

MR GRAY: No.

MS TAYLOR: No.

MR GRAY: I will now refer to the entry in the progress notes about the passive exercises which is the first entry we have found recording that any passive exercises were given. Operator please go to page 9635 of the same tab. And we have – can we please track down the page, 9635, not 9665, 9635. Thank you. Again, an entry by the same team leader. This is from about the centre of the page downwards on 21 April 2017 and you see at point 5:

> *I informed Lyndall Shirley received passive exercises and massaging on a regular basis. She was very happy with this.*

There is no reference to when that started in this document.

MS TAYLOR: No. No.

MR GRAY: Pardon me just a moment. I want to now skip forward to later in 2017 after the reaccreditation process and also after William Beach Gardens had to contend with a complaint that was escalated to the Complaints Commissioner relating to care of a respite resident.

MS TAYLOR: Yes.

MR GRAY: There was, in effect, a revisiting of quality processes around wound management in connection with the complaint; is that right?

MS TAYLOR: Yes.

MR GRAY: Yes. Wound management was not so much an issue in the accreditation audit; is that right?

MS TAYLOR: No. No issues were brought up at that stage.

MR GRAY: The physio issue that you discussed earlier was raised in the accreditation context.

MS TAYLOR: Was raised, yes.

MR GRAY: Thank you. Now, I just want to take you to one of the documents around the process that seems to have been generated as a result of reflection on wound management practice in the latter part of 2017. Can we go to tab 893 please, operator. This is an email, I won't read out the other addressees. Have you seen that email recently? It's quite heavily redacted, isn't it but - - -

MS TAYLOR: Yes, I've seen it yesterday.

MR GRAY: Thank you. Good. If we go to the next page, 5755 please, operator. There's some disturbing-looking information in the third and fourth lines. There are redactions obviously over names. Somebody:

> *...is in hospital, sent there as wounds had maggots. GP has given directive to air wound for four hours before dressing, be sat outside and maybe that contributed to the circumstance.*

And then in respect of a second person, in the next paragraph, a similar problem:

> *Maggots found in leg wound. It's questionable at this stage how maggots got there if staff claimed to be addressing it religiously and are in review weekly. From now on it will be a RN dressing.*

And there is a name and in effect a recognition of a need for education. Now, that second line seems to suggest that there's direct care staff doing the dressings in some circumstances; is that right?

MS TAYLOR: Yes, that's correct.

MR GRAY: But in others just registered nurses; is that the practice at this time in late 2017?

MS TAYLOR: It will be with the care need that the registered – we review the wounds weekly and from that the registered nurse will determine who needs to attend to that wound. If it's a simple dressing, such as a skin tear that isn't complicated by infection, then the care staff would perform that, that dressing. More complicated wounds such as ulcers would be attended by the registered nurse.

MR GRAY: All right. But notwithstanding that, at least this last paragraph might have related to a less serious wound, maggots have got into it and that's just totally unacceptable, isn't it?

MS TAYLOR: It is unacceptable but if you read documentation on maggots, a fly only has to land on the outside of a wound dressing and it can actually burrow in through the dressing. They are not always preventable. In heat and those types of situations, it can occur. It's not something that's ideal but we acted on that appropriately to make sure that the wound care was being attended as it was.

MR GRAY: With respect to the RNs, there seems to have been a concern about the professionalism and the empathy of a particular RN who was doing wound dressings, and some action was taken in the form of at least some sort of performance review in 2018.

MS TAYLOR: Yes.

MR GRAY: And I will just take you to that document, tab 887 and 888 please, operator, and perhaps a split screen. And this actually relates specifically to care of Shirley, doesn't it?

MS TAYLOR: Yes, it does.

MR GRAY: And would you tell the Commissioners what you discovered in this case and then what action you took about it?

MS TAYLOR: Yes, so this registered nurse had attended to Shirley's wound care on that particular day. The bloodied towel was left underneath her. She didn't have her pillows positioned to – to – in between her contractures and her booties on that was as per a care plan and she – he, that particular RN hadn't covered her up with a blanket when he had completed the task. He had left her – he had left Shirley uncovered. So once I found out about that, we obviously addressed the situation and fixed Shirley up, and we investigated it. We had a formal fact-finding meeting with the registered nurse responsible for that. There was a lot of education and support provided to this registered nurse around areas such as empathy and correct process with wound care. Unfortunately, the practices weren't improved and he was – he was terminated.

MR GRAY: Very well. Thank you. I want to ask you about the process a little earlier in that same year relating to the complaint that I mentioned.

MS TAYLOR: Sure.

MR GRAY: And, in particular, some aspects of what the Complaints Commissioner identified. I can take you to the resolution letter, if that assists but otherwise I would just like to put the proposition to you, if you are familiar enough with the matter to be able to respond without having your memory jogged. It's the case, isn't it, that

the Complaints Commissioner sought wound charts and wasn't provided with wound charts?

MS TAYLOR: I'm – Nia, the business manager would be able to answer more about that. I came into the role on the tail end of dealing with that complaint so I'm not familiar – I know the outcome and what we did around that, but a lot of the ins and outs of the actual complaint I didn't deal with directly myself.

MR GRAY: Very well. Can I just ask whether you are familiar with one aspect of what the Complaints Commissioner raised.

MS TAYLOR: Yes.

MR GRAY: Which is that there weren't measurements taken in the photographs or any photographs of wounds in the process of recording their progress. Do you recall that being raised in the Complaints Commissioner process?

MS TAYLOR: No, I don't, sorry.

MR GRAY: I want to ask you about what must have been an incident which resulted in a skin tear and a haematoma behind Shirley's left knee. Now, this was first noticed by, well, I won't – it was first noticed in a way that is documented in an incident report - - -

MS TAYLOR: Yes.

MR GRAY: - - - on 9 September 2018 but there is no incident report that describes how the skin tear and the haematoma happened in the first place. Now, in my opening, Commissioners, I said there was no incident report. There is an incident report as to the point when the skin tear was discovered but not as to its cause. Would you like to see that document, the incident report?

MS TAYLOR: No, I've read the incident report.

MR GRAY: It's tab 155 but we are running out of time so I won't go there. Did you conduct an investigation of some kind to try to work out how that skin tear and haematoma had happened?

MS TAYLOR: I was actually on leave during that period. So no, I did not.

MR GRAY: Right. Did you hear about that matter? Did you receive any report about that matter when you returned from leave?

MS TAYLOR: Yes, I had an update from the care coordinator who was acting in my role whilst I was on leave, and she reported that she had had communications with Lyndall around what might be the possible cause. Lyndall felt that it may have

been the sling that had caused that. So then we got an external provider to come in and do an assessment on other slings that may be suitable.

MR GRAY: And it's important, isn't it, to not only note that there has been some injury sustained but to work out how it happened so you can take preventive steps.

MS TAYLOR: Most definitely, and we – the care coordinator and I are reviewing the incidents several times a week. Now, that process is that we're always overseeing incident management and making sure that it's investigated and interventions are looked at.

MR GRAY: Have there now been steps taken to educate the staff about the implications for Shirley's care given that her right leg is crooked in a way that her toe protrudes and could be a threat to the skin integrity of her left leg. Yes, so we have done a lot of work with the staff with the physiotherapist. We have also got pictures on Shirley's wall that we have only just recently updated probably two weeks ago. So when Shirley's contractures change we get new photographs and we get new, we get the physios to go back in with the staff and show the staff correct positioning that's suitable for Shirley.

MR GRAY: Thank you.

MS TAYLOR: So those pictures are displayed just above her bed so even if it's a staff member that isn't a regular staff member on that floor – they may be a casual – that they are aware of exactly how Shirley needs to be positioned to minimise any risk to her.

MR GRAY: Just bear with me, I've just got one final question which relates to the quite disturbing images in the wound charts. If anybody wishes to know that, I will be showing those in just a moment. Pardon me, Commissioners. I need to ask you about another instance where Lyndall had to – well, I withdraw that. Another instance where Lyndall did diagnose and identify an emerging health problem for Shirley before the nursing staff of William Beach Gardens itself did. And that's Lyndall's identification on 19 March 2018 of a new pressure area on Shirley's left foot, in the heel, towards the rear of the foot. You probably heard Lyndall giving that evidence.

MS TAYLOR: Yes.

MR GRAY: And you saw the photo put up. It's quite a noticeable pressure area at that point, verging on a pressure injury, I would suggest, at that point.

MS TAYLOR: Yes.

MR GRAY: Discoloured, obviously circulation was very badly affected by the point in time at which that photo was taken on 19 March 2018. Do you want me to put that photo back up so you can see it again?

MS TAYLOR: No. That's okay.

MR GRAY: Yes. The short question is the monitoring of William Beach Gardens must have failed in some way for that pressure area to have deteriorated to that point without being noticed by staff of William Beach Gardens? Do you agree with that?

MS TAYLOR: At that time, yes. We've done – we've put in a lot of new processes. We have the resident of the day process, where a resident is – has a full complete assessment done by staff looking at things like skin integrity, oral health. That's all recorded and documented. We have done a lot of education with staff, registered nurses and care staff around wound care, about identification of early pressure area injuries. But at that time I agree with that statement, but I believe that we've done a lot since then to improve that.

MR GRAY: Thank you. Please go to tab 756. Now, I won't take you through all of these photos, but there's a criticism that was made in the complaints context, let's assume, that there was inadequate information being recorded in respect of the wounds of – or the pressure injuries of the resident the subject of the complaint, in particular, relating to measurement of the progression of the relevant pressure injuries.

MS TAYLOR: Sure.

MR GRAY: And that seems also to be the case in respect of the photographs that are taken of the wounds or the pressure injuries suffered by Shirley and recorded in this document and many others like it, the wound skin management plan and evaluation. Firstly, is this document capturing all of the relevant information that has been observed each time an RN assesses the state of Shirley's pressure injuries?

MS TAYLOR: Yes.

MR GRAY: And it doesn't appear that there's any measurements.

MS TAYLOR: No, I've noticed that.

MR GRAY: And also – we can pan through it, it's very difficult to look at it for somebody who isn't clinically qualified. But it appears that the photos are taken from different angles and in different lighting so that it's sometimes difficult to tell whether it's the same pressure injury that is being photographed. If you want the operator to pan through the document, we can do that.

MS TAYLOR: No.

MR GRAY: Or if you're familiar enough with this series of documents, are you able to comment on my suggestion?

MS TAYLOR: Yes. So when we were looking at Shirley's file for the Royal Commission, we noticed those difficulties as well when we were assessing that. We've since changed the way that we document – if you look at the descriptor on the bottom of each wound, we state where that wound is, but there can be discrepancies from one registered nurse. They could just write "left foot" in and someone else writes "left outer foot". So it was very difficult to track, because Shirley had a couple of pressure injuries.

So we now use the record ID for each of the photographs. So it's easier for us to track and look at that. We've also done education in the form of a toolbox talk with RNs, talking about the importance of – I mean, we always use the same digital iPad device but – where we can, making sure that they're taken from similar angles and the lighting, etcetera. So we did recognise that, looking into that.

MR GRAY: Back when it mattered for Shirley, when she sustained the very serious pressure injuries that commenced in July 2017 and went on and on into 2018, the wound skin management plan and evaluations for her pressure injuries were confusing - - -

MS TAYLOR: Yes.

MR GRAY: - - - didn't contain correct information about the progress of those injuries and, I suggest, presented a serious risk to her because it was impossible for a clinician or a registered nurse to know exactly what had been happening previously with the relevant pressure injuries. What do you say?

MS TAYLOR: It was – a lot of the time it was the same registered nurse doing the wounds. So they relied on that. But, yes, I do acknowledge that at that time, after reviewing the information, that it was difficult to track.

MR GRAY: I have no further questions, Commissioner.

COMMISSIONER BRIGGS: As a layperson, Ms Taylor, this seems an extraordinary series of events around the wound. And, frankly, I don't understand how it's possible that the pressure points wouldn't have been noticed and, indeed, the progression wouldn't have been a serious matter amongst all the nurses and there would have been – there should have been a lot of effort to deal with it.

MS TAYLOR: Yes.

COMMISSIONER BRIGGS: Okay. Given that, were there similar problems affecting others, of a similar nature?

MS TAYLOR: The only other one that I'm aware of at that time is the resident that was on respite.

COMMISSIONER BRIGGS: Right. Okay. A respite care person.

MS TAYLOR: Yes.

COMMISSIONER TRACEY: Anything arising?

MR GRAY: No. Thank you, Commissioners.

COMMISSIONER TRACEY: Yes. Thank you, Ms Taylor, for your evidence. You are excused from further attendance.

MS TAYLOR: Thanks.

<THE WITNESS WITHDREW [4.11 pm]

MR GRAY: Commissioners, I know that it's already 10 past 4. Well, in fact, almost quarter past 4.

COMMISSIONER TRACEY: We will sit on, Mr Gray.

MR GRAY: Thank you, Commissioners. I believe I can complete the direct evidence by 5 pm. So our next witness and our final direct viva voce witness is Sophoronia Briguglio. I call Ms Briguglio.

<SOPHORONIA AMY BRIGUGLIO, AFFIRMED [4.12 pm]

<EXAMINATION-IN-CHIEF BY MR GRAY

MR GRAY: Ms Briguglio, am I pronouncing your surname correctly?

MS BRIGUGLIO: Yes. You are.

MR GRAY: Thank you. What is your full name?

MS BRIGUGLIO: Sophoronia Amy Briguglio.

MR GRAY: And you've made a witness statement for the Royal Commission on notice?

MS BRIGUGLIO: Yes. I have.

MR GRAY: Again, you have various proposed amendments that have also been notified to us and you know what those are?

MS BRIGUGLIO: Yes.

MR GRAY: Commissioners, I propose to deal with those amendments in the same way. Subject to those amendments, Ms Briguglio, are the contents – I beg your pardon. I will ask for your statement to be brought up. Thank you. Do you recognise that to be a copy of the statement you've made for the Royal Commission, dated 28 June 2019?

MS BRIGUGLIO: Yes. I do.

MR GRAY: WIT.0259.0002.0001. Subject to the amendments that have been notified, are the contents of this, your statement, true and correct, to the best of your knowledge and belief?

MS BRIGUGLIO: Yes. They are.

MR GRAY: I tender the statement.

COMMISSIONER TRACEY: Yes. The witness statement of Sophoronia Briguglio, dated 28 June 2019, will be exhibit 6-12.

EXHIBIT #6-12 WITNESS STATEMENT OF SOPHORONIA BRIGUGLIO DATED 28/06/2019 (WIT.0259.0002.0001)

MR GRAY: Thank you. I asked the question of Ms Taylor about whether there were lactose-free menus prepared for Ms Shirley Fowler or anybody else who had a lactose allergy or a lactose intolerance in the period from her arrival at William Beach Gardens. At what point, if at all, did IRT commence a lactose-free menu for people who have lactose allergies or intolerances?

MS BRIGUGLIO: In my 11 years at IRT, we have always had a menu that has dietary requirements for residents. If we can't get the menus through IRT catering, then the hospitality manager would always source an alternate option.

MR GRAY: There seems to have been many occasions on which Ms Lyndall Fowler felt compelled to bring in food to supplement the menu that was being provided on the day because it didn't have lactose-free options. What do you say to that?

MS BRIGUGLIO: I disagree that we didn't have options. We do have options. As Lyndall spoke about today, we always have other options in forms of baked beans or the salad option. It would be that Lyndall likes to cook and would always provide a different option for her mum.

MR GRAY: I want to ask you, in your capacity as business manager across the facilities, do you have any knowledge of the allocation of responsibility as between GPs who are appointed by or for particular residents on the one hand, and the nursing and clinical management staff of the IRT facilities on the other? Is that something within your knowledge?

MS BRIGUGLIO: Yes.

MR GRAY: So with respect to the identification of nutritional needs and strategies to meet nutritional needs including monitoring parameters of weight loss or weight gain, where does the responsibility lie? Is it the responsibility of the nursing and clinical direction staff within an IRT facility to make their own mind up about how that – how those strategies should best be shaped, or is it a matter for the GP, or is it something in between?

MS BRIGUGLIO: It's – it's actually in between. So the – the weight ranges are set by the GP. Then there's discussion with the – when he does his GP rounds, with the IRT staff, and then the discussions would then form the interventions on the nutrition.

MR GRAY: And where a dietitian has made an assessment which includes particular specific recommendations, including weight gain recommendations, you would agree with Ms Taylor's evidence, I take it, that that should be incorporated into the nutrition assessment in the particular facility?

MS BRIGUGLIO: Yes, I would.

MR GRAY: And that if that didn't happen here, then that was a failing; would you agree with that?

MS BRIGUGLIO: Yes, I would.

MR GRAY: Have you actually reviewed the care documentation in this case?

MS BRIGUGLIO: I have.

MR GRAY: All that very voluminous material.

MS BRIGUGLIO: Over a period – not all, but parts of that documentation bundle, yes.

MR GRAY: All right. With respect to the issue of identification of the risk that contractures might arise through immobility, is that also a responsibility that's – well, I withdraw that. Is that a responsibility on the staff providing care, including their RNs and clinical leaders?

MS BRIGUGLIO: Sorry, can you repeat that question?

MR GRAY: Yes, I'm sorry. It was a very garbled question. With respect to the need to identify the risk that somebody who is immobile might suffer contractures, is that responsibility a responsibility that rests on the staff of the relevant facility who are providing care, including their supervising RNs, clinical coordinators and care managers?

MS BRIGUGLIO: They would be directed, first of all, from what the physiotherapist has put in place, and then it would be whoever has been made responsible at that time for giving the care on the contractures would have the responsibility.

MR GRAY: I ask you to look at document 782, please.

MS TAYLOR: Yes.

MR GRAY: If we go – are you familiar with this letter written by your CEO, Craig Hamer?

MS BRIGUGLIO: Yes, I am.

MR GRAY: And this is a letter sent to the then agency in connection with the reaccreditation of William Beach Gardens which was a process that was happening at around this time, in July 2017; that's right, isn't it?

MS BRIGUGLIO: That's correct.

MR GRAY: And there had been an assess – there had been a reaccreditation audit visit on the 20th and 22nd of June 2017.

MS BRIGUGLIO: Correct.

MR GRAY: And various issues had been raised by assessors.

MS BRIGUGLIO: Yes.

MR GRAY: And there was correspondence and, eventually, accreditation was granted. 44 out of 44 outcomes - - -

MS BRIGUGLIO: Correct.

MR GRAY: - - - were met according to the reaccreditation outcome; is that right?

MS BRIGUGLIO: That's correct.

MR GRAY: But in the process of that, there was some to and fro in terms of correspondence about particular issues.

MS BRIGUGLIO: Yes.

MR GRAY: And this letter was part of that process.

MS BRIGUGLIO: Correct.

MR GRAY: And Mr Hamer, on page 1328, addressed physiotherapy referrals which was a matter raised by the assessors.

MS BRIGUGLIO: That's correct.

MR GRAY: And in the second last paragraph, he writes:

> *IRT William Beach Gardens has access to physiotherapy services on a referral basis.*

So that means if you want a physio to provide a service, there has got to be a referral; is that right? In respect of – that's managing residents' mobility following falls.

MS BRIGUGLIO: So the referral process is, if outside of the three-month review or outside of – if the resident needs a review due to a change in their care need, then a referral would be made.

MR GRAY: And the three-month review, as we've heard, is about mobility in the sense of making sure that transfers are safe and, otherwise, that the – to the extent that the resident is to be moved from one place to another place or one position to another position, that that is done safely.

MS BRIGUGLIO: Correct.

MR GRAY: And that's the subject matter of the three-month review.

MS BRIGUGLIO: Correct.

MR GRAY: There's then, in the rest of the paragraph, Mr Hamer is addressing the suggestion that the physios are predominantly there to implement pain management, and he says:

> *Twenty per cent of the time, they're doing general reviews and assessments.*

MS BRIGUGLIO: Yes.

MR GRAY: But those general reviews and assessments are on a referral basis, aren't they? That is, they've got to be referred by clinical management?

MS BRIGUGLIO: No. So, as said before by Kristy Taylor, with the assessment part, that could also be the annual review. So they have a three-month review around

the transfers and the safety of transferring a resident, and then they have their full annual physio review. So that 20 per cent could be part of that assessment.

MR GRAY: All right. But insofar as there might be a flexible arrangement for assessments to occur otherwise, doesn't Mr Hamer say:

> *There's a flexible arrangement whereby the contact physiotherapists conduct admission and functional assessments and review assessments on a referral basis as requested by clinical management.*

MS BRIGUGLIO: Correct.

MR GRAY: But they wouldn't do it off their own bat outside the three month and the annual assessment. There'd need to be a referral by clinical management, wouldn't there?

MS BRIGUGLIO: There's a – there has to be a referral.

MR GRAY: So to the extent that in the first answer you gave to me some minutes back - - -

MS BRIGUGLIO: Mmm.

MR GRAY: - - - to the extent that you said that care is guided by the physio, there's something rather circular about that, isn't there? In the case of somebody who is immobile and who might be, for example, subject to a changed circumstance such as adopting a particular position when they're immobile, it's really up to clinical management or those providing the care on the staff of William Beach Cottages to ask the physio to look at that.

MS BRIGUGLIO: Correct.

MR GRAY: All right. I want to ask you about the connection between ACFI and the physio services that were being obtained pursuant to pain assessments.

MS BRIGUGLIO: Yes.

MR GRAY: If a pain assessment indicates that massage is indicated for pain relief, say, in the case of Ms Shirley Fowler, in the upper spinal region, the cervical spine region - - -

MS BRIGUGLIO: Yes.

MR GRAY: - - - or in the knees for arthritis, then it's the case, is it, that sessions of massage by physios' aides or even physios will be funded under ACFI?

MS BRIGUGLIO: Not all massage treatments are actually funded by ACFI. So at William Beach Gardens, we have a number of residents who – it doesn't change their ACFI funding, but they have a clinical need to have a physio aide or a physio perform regular massage treatments, and then that would be funded by the facility.

MR GRAY: And was this one of the points that Mr Hamer was addressing in this paragraph? There'd been a suggestion that the pain – the massaging by, or under the direction of physios was, in a sense, only pain programs for the purposes of ACFI claims?

MS BRIGUGLIO: Yes.

MR GRAY: And he was addressing that and saying, in addition to that, there's, 20 per cent of the time, spent on other things. Is that what he was saying?

MS BRIGUGLIO: It's saying 20 per cent on other, but it's also saying about the flexible arrangement.

MR GRAY: Yes. Under that flexible arrangement, if there were to be a referral from clinical management for physios to perform assessments directed at other things, who would pay?

MS BRIGUGLIO: The facility funds.

MR GRAY: So does that mean that it would come out of the budget of the facility – the annual quarterly budget of the facility?

MS BRIGUGLIO: Correct.

MR GRAY: And how does that arrangement work? Is the facility managed in monetary terms by a particular officer located at the facility, or do you manage it?

MS BRIGUGLIO: So, the overall budget, I manage. So it's my role to – for the annual budget, I work with all the direct managers at – at the centre, and we work out what we need, and then I work with a – our care finance manager, our business partner, and we go through what is needed, but in saying that, once the budget is set, if there is a need, then I have delegation to flex up on my budget.

MR GRAY: And this is similar to the staffing arrangement – so that applies?

MS BRIGUGLIO: Correct.

MR GRAY: Where there's an ability to flex up to expand the budget, is it?

MS BRIGUGLIO: That's right. So we set an annual budget, and then on a needs basis, if care needs change, if the residents become higher care and I need additional staffing, then I have the delegation to flex up.

MR GRAY: Do you often get – let's go back to the period that we're concerned with here which is mid-2016 virtually through until the present time.

MS BRIGUGLIO: Yes.

MR GRAY: And if circumstances have changed during that period, please tell the Commissioners that. Was there, in effect, a budget allocated for William Beach Gardens for physio services, sort of, a line item to cover all physio services?

MS BRIGUGLIO: Yes.

MR GRAY: And is it your evidence that that could be flexed up if a request was made to you because you had delegation to increase it?

MS BRIGUGLIO: Yes.

MR GRAY: Did you get requests in 2016 or 2017 to increase the physio budget for William Beach Gardens?

MS BRIGUGLIO: I don't recall if I had a request during that period.

MR GRAY: Would it be a rare thing to get such a request?

MS BRIGUGLIO: No.

MR GRAY: Would it be specific to a particular resident or would it be an expansion of the budget because more services have been needed in the aggregate?

MS BRIGUGLIO: No, so the process is, and it was the same then, that if a resident is assessed clinically for needing additional physio or a physio service, that we aren't claiming ACFI funding for, the approval needs to, from the care manager to myself so that I have a record for when I'm doing my monthly budget review, that I know why it may be out of budget, because a resident needs an additional service.

MR GRAY: So - - -

MS BRIGUGLIO: And that's because the invoices come through to myself for approval on – to pay the physio services.

MR GRAY: So just make this assumption, if you make the assumption that there was a need for additional physio assessments and probably additional physio services, but the clinical care management, for whatever reason, didn't recognise them, are you saying that if they had recognised them and come to you, there wouldn't have been any constraint on those services being provided? The budget would have been there to provide them?

MS BRIGUGLIO: Correct.

MR GRAY: Is that just completely open-ended or does it come a point when there has to be a limit on the allied health services that will be funded from within a facility's budget within IRT?

MS BRIGUGLIO: No. In my experience and during my time as business manager, there's never been a limit placed on if there's a need for that resident, then we will provide the care.

MR GRAY: That's a big statement. I'll just ask you a couple of things about it. Have there been any residents who have required one-to-one care because of challenging behaviours?

MS BRIGUGLIO: No.

MR GRAY: If there was a resident who required 24/7 one-to-one care because of challenging behaviours, are you saying that IRT would fund that from its own budget?

MS BRIGUGLIO: We would go through the same process of reviewing the resident's care needs. We would review the staffing model to how we would be able to accommodate the care needs and then if the need arose, then that would be something that we would look at. As it hasn't occurred, I haven't the experience to say I would fund it but where we are today and what I do fund, I am saying that we would be – we would review the process exactly the same.

MR GRAY: As the care manager at William Beach Gardens ever asked you for increased staffing levels to facilitate somebody who takes a very long time to eat their food, to provide one-to-one care for them?

MS BRIGUGLIO: At times we have had to definitely increase the staffing, especially around meal time and so we have a staffing model review process which takes into consideration how many residents per area or per cottage require assistance with feeding. And then we would look at our shift rostered times and at times we have had to put on shorter shifts to cover meal times. It's not uncommon.

MR GRAY: So I don't think you quite answered my question.

MS BRIGUGLIO: Sorry.

MR GRAY: You said you have had to review the staffing model and the numbers on the shifts.

MS BRIGUGLIO: Yes.

MR GRAY: Has the care manager of William Beach Gardens asked you for increased funding because one or more particular residents needed a great deal of

attention because they were very slow at eating their food and they needed one-to-one care eating their food?

MS BRIGUGLIO: Not because they were slow at eating their food but I have had requests from the care manager that they needed extra resources due to the number of residents requiring feeding assistance.

MR GRAY: And is this in the period from mid-2016 to about the present?

MS BRIGUGLIO: Yes.

MR GRAY: Yes. So we will call for those requests. We will do that administratively, if the Commissioners please. Those requests would be documented, I take it, given what you just said about the need for documentation so you can make your decision as a delegate.

MS BRIGUGLIO: So between 2016 to the end of 2017 the staffing model review around feeding in additional hours wasn't a formalised process; it was more a verbalisation sometimes in an email, where now we have a staffing model formal process where we would have – any additional hours are documented. We review the staffing model fortnightly and then every quarter we have a formal quarterly staff model review meeting which is minuted.

MR GRAY: Well, thank you but I'm asking – we will sort it out administratively afterwards - - -

MS BRIGUGLIO: Yes.

MR GRAY: - - - but I will be calling – I will flag it now, I'll be calling for the documentation evidence in the requests you said have been made since mid-2016 for additional budget allocations - - -

MS BRIGUGLIO: Yes.

MR GRAY: - - - for the feeding – to facilitate close care and longer time spent with residents at William Beach Gardens who need a lot of time to eat their food. You're saying there are such documents?

MS BRIGUGLIO: There – if before twenty – the new processes, there may be an email that the care manager has sent to me asking for that. I would have to review the documents before I confirm, yes.

MR GRAY: So you are now saying you are not certain; you will have to review the documents?

MS BRIGUGLIO: I'm saying that I'm not 100 per cent that it was formalised in a written format before the formalised process began. They would normally verbally ask me for additional hours before we got the formal process.

MR GRAY: All right. I want to ask you about any knowledge you have within the governance structure of the IRT organisation across the six facilities of the reaction to the complaint that was made in 2017 in respect of the other resident who we are not naming.

MS BRIGUGLIO: Yes.

MR GRAY: Did you have any direct involvement in any committees convened to consider the response to the issues raised by the complaint process?

MS BRIGUGLIO: No, no direct involvement. It was the committee's.

MR GRAY: Okay. What about putting aside committees, informal discussions around the response to the issues raised in that complaint process?

MS BRIGUGLIO: Yes. So my direct involvement was when it was first brought to IRTs attention from the department. The very first response, I had done the investigation with the care manager at that time, where we went – the care manager would – had reviewed and presented the documents that related to the issues raised. And then I answered the questions based on the evidence that I had and then I had to send that response to our quality review system manager who then formalised the first response.

MR GRAY: Very well. And in the course of your investigations, did you find that there were shortcomings in the training and some of the processes around wounds management at William Beach Gardens?

MS BRIGUGLIO: Not that I recall at that first part of the review. I can't recall off the top of my head, I'm sorry.

MR GRAY: Is it the case that the system that was in operation at the time, which I assume must have been Leecare Platinum couldn't generate wound charts at the request of the Complaints Commissioner?

MS BRIGUGLIO: No, the wound care charts could – were in Platinum at that time.

MR GRAY: All right. Were they provided to the Complaints Commissioner?

MS BRIGUGLIO: Not to my knowledge on the first response.

MR GRAY: And why was that?

MS BRIGUGLIO: To my knowledge, I don't think it was actually requested for attachments to be given at that first response.

MR GRAY: And were there questions raised about whether the records made about wounds were appropriate, for example, in tracking the size of wounds and their progression?

MS BRIGUGLIO: I would have to look at the first response because I – I believe that came later, because that complaint was actually investigated backwards and forth. There was a number of responses and investigations that took part.

MR GRAY: All right. As a result of that complaints process, as part of a resolution of the Complaints Commissioner's – the issues raised by the Complaints Commissioner, did IRT and William Beach Gardens undertake to improve their processes around training and wounds management?

MS BRIGUGLIO: Yes. We have online learning and also our own professional days that cover wound management.

MR GRAY: And has that occurred in the time since the resolution of the complaint?

MS BRIGUGLIO: Yes.

MR GRAY: And so over what time period has that been occurring?

MS BRIGUGLIO: I would have to look at the training records but to my best of my knowledge it was happening towards the end of 2017, and into – and is currently still the same practice.

MR GRAY: Is IRT – I've got to ask this question, before 1 July this year?

MS BRIGUGLIO: Yes.

MR GRAY: Was IRT a voluntary participant in the National Quality Indicator Program.

MS BRIGUGLIO: Yes, we – the moving on audits program is what we, as an organisation, we conduct our audits from. We follow that program.

MR GRAY: That's a separate program from the National Quality Indicator Program, isn't it?

MS BRIGUGLIO: Yes.

MR GRAY: That doesn't have an indicator for weight loss, does it?

MS BRIGUGLIO: No.

MR GRAY: Now that the National Quality Indicator Program including the weight loss indicator is mandatory, what steps has IRT, across the six facilities, taken to make sure that appropriate signals will be raised, that will be necessary to comply with the obligation to report weight loss outside the parameters in the NQIP manual?

MS BRIGUGLIO: So currently the organisation is working through in our Platinum system on what reports we actually need to build so that we can then participate in the national indicator program. There is work currently in place and in progress with the guidelines and looking at how we will monitor as well as report out on weight loss.

MR GRAY: That sounds – with respect, it sounds like you don't yet have a system in place to comply with the mandatory reporting obligation; is that right?

MS BRIGUGLIO: At this point in time, no, we don't. It's a work-in-progress that we have captured as part of our self-assessment process under our governance structure.

MR GRAY: Well, this was an obligation that was foreshadowed by the government quite some time ago.

MS BRIGUGLIO: Yes.

MR GRAY: It was certainly flagged in at least April and probably before then, wasn't it?

MS BRIGUGLIO: Yes, and we have been working on how we – we can pool data but we're trying to – we can currently pool the data but what we're doing as an organisation is trying to build a report on how we will capture that data consistently.

MR GRAY: So you're saying that manually if the parameters are breached such as to trigger the mandatory obligation to report, you will be reporting from now?

MS BRIGUGLIO: Correct.

MR GRAY: All right. So that must take up a fair bit of resources to review the system manually, in order to meet that obligation. Is that what is happening now? You've got people dedicated today to that task?

MS BRIGUGLIO: We have a quality and systems review team that is assisting the care centres in – to enable us to pool that data.

MR GRAY: Well, again, it doesn't - - -

MS BRIGUGLIO: Yes.

MR GRAY: That doesn't sound like an emphatic answer to my question. It sounds like you have got a team looking at how to pool the data, as opposed to a capability which will meet the reporting obligation - - -

MS BRIGUGLIO: No, they are - - -

MR GRAY: - - - right now.

MS BRIGUGLIO: They're assisting the care managers in how we – how they will pool the data. They have the capabilities within the system, the Platinum – or the quality and systems review team to be able to pool that data.

MR GRAY: So just to be clear, is that a guarantee that IRT is going to be complying from now with the weight loss indicator in the National Quality Indicator Program?

MS BRIGUGLIO: Yes.

MR GRAY: All right. Thank you. Just pardon us for a minute, Ms Briguglio. Operator, please bring up 802. This is going back to the topic of the menu and lactose-free or other special items outside the menu. And I didn't ask you about the connection between any special items, lactose-free items and any budgeting arrangements and I should have done that. I understood your evidence to be that there were lactose-free options.

MS BRIGUGLIO: Yes.

MR GRAY: Are you saying there were lactose free options at all times in all meals?

MS BRIGUGLIO: I'm - - -

MR GRAY: I'm asking from mid-2016. And if it has recently changed, please tell the Commissioners that. If the circumstances have been different over that time span from mid-2016 to now, please explain that. But my question is have there always been lactose-free options every meal?

MS BRIGUGLIO: Yes.

MR GRAY: On the dinner menu for main meals, is there always a lactose-free option over that entire time span?

MS BRIGUGLIO: Yes.

MR GRAY: In the central kitchen?

MS BRIGUGLIO: From the central kitchen? I don't know for the central kitchen.

MR GRAY: Right. So the model is one of distribution to all six facilities from central kitchen; is that right?

MS BRIGUGLIO: Yes.

MR GRAY: And we can call that the IRT central kitchen.

MS BRIGUGLIO: Yes.

MR GRAY: And that is not necessarily producing lactose-free meals. Is that your evidence? That is, the central kitchen is not producing them.

MS BRIGUGLIO: Not at all meals.

MR GRAY: Not at all meals. And it then becomes a responsibility of the particular facility – for the catering manager of the facility to ensure that there are lactose-free options?

MS BRIGUGLIO: Yes. The hospitality manager.

MR GRAY: Hospitality manager?

MS BRIGUGLIO: Yes.

MR GRAY: Now, is that a matter that you have supervision over? And you get reports about that so that you would know whether that's happening or not?

MS BRIGUGLIO: No. I don't get reports from that.

MR GRAY: All right. Is there a budget that is imposed on the hospitality manager as to the amount they can spend to generate meals in their own kitchens?

MS BRIGUGLIO: Yes. The budget process is exactly the same where an annual budget is set but, again, the delegation, if we need to go over that budget, is within my scope.

MR GRAY: Yes. And if we look at the email that has been brought up by the operator, 23 November 2018; that appears to be an email from the hospitality manager at William Beach Gardens referring to the constraints of this budget, is that right, and trying to justify an increase in the budget.

MS BRIGUGLIO: Yes, it's an email from the hospitality manager to myself and she is giving me the supporting information on why she is over budget.

MR GRAY: Right. So she has some sort of discretion to exceed her budget in a given period but she has to come to you and explain it; is that how it works?

MS BRIGUGLIO: Correct.

MR GRAY: And have you, on occasion, had to reign in the hospitality manager on budgetary matters?

MS BRIGUGLIO: No.

MR GRAY: So you've just agreed with every budgetary increase that she has asked for; is that right?

MS BRIGUGLIO: Yes.

MR GRAY: Every single one since 2016?

MS BRIGUGLIO: Yes.

MR GRAY: If we go to tab 42, please, if we go to this document – this document are a change in early 2018, if we look at the email at the bottom, I beg your pardon, the email at the top. We have to go down the page, sorry operator. It's on the second page. Yes, that email there. Again, this is from the catering, or the hospitality manager. It's not to you but it's referring to a matter that has been raised by Lyndall Fowler concerning lactose-free food in the form of frittatas.

MS BRIGUGLIO: Yes.

MR GRAY: And it's referring to a development around food safety which has allowed the hospitality manager, it sounds for the first time, to make lactose-free food in the form of specifically frittatas in this case, on site for residents and she says that:

> *This is something I have been pushing since I started at IRT.*

So it seems that the impression that you have left with your evidence a minute ago was that at all times the facility's own hospitality manager could make lactose-free options at the facility yet this email seems to suggest there was some barrier to that up until about January 2018. What do you say to that?

MS BRIGUGLIO: No, this email is referring to the new food safety program and it is meaning that they could actually cook on site from scratch. So the food that I was referring to before is in the way of pre-made food as well as salads, hard boiled eggs, where the new safety program that the hospitality manager is referring to is – it meant that frittatas could be made from scratch on site.

MR GRAY: So there was a sort of a barrier around more complex dishes such as frittatas compared to boiled eggs.

MS BRIGUGLIO: Correct.

MR GRAY: Boiled eggs would be all right and when you were giving your evidence a minute ago you were thinking of boiled eggs or salads.

MS BRIGUGLIO: Yes.

MR GRAY: Well, you didn't say - - -

MS BRIGUGLIO: Or other pre-packaged food, not food from – like from preparing - - -

MR GRAY: Not actually prepare dishes all, just virtually raw materials; is that what you are saying?

MS BRIGUGLIO: No.

MR GRAY: Things that are virtually raw materials that only have to be boiled or put into a salad bowl they put be put prepared on site - - -

MS BRIGUGLIO: Or - - -

MR GRAY: - - - but anything else that had to be prepared couldn't be up until early 2018. Is that what you're saying?

MS BRIGUGLIO: Or they're all frozen meals that could be heated by the staff, or options in our dry store. So the baked beans or the other options that we purchase outside of central kitchen.

MR GRAY: Well, you didn't qualify your evidence before to that effect, did you? Those options don't sound very appetising but at least the situation has changed since 2018; would you agree with that.

MS BRIGUGLIO: Yes.

MR GRAY: Would you agree that those other options don't sound very appetising?

MS BRIGUGLIO: No, I agree that the salads that they are making, they are appetising. I've seen them firsthand. They're made up of a variety of different salad options, cold meat, salmon, tuna. It's just not a basic salad.

MR GRAY: No further questions, thanks Commissioners.

COMMISSIONER TRACEY: Yes, thank you, Ms Briguglio, for your evidence. You are excused from further attendance.

<THE WITNESS WITHDREW [4.57 pm]

COMMISSIONER TRACEY: The Commission will adjourn until 9.45 tomorrow morning.

MR HODGKINSON: Commissioner, I think in accordance with the resource we have to make a formal application to be excused. As I understand it, that's the end of this case conference. Although my learned friend – we accept the reservations he made about the potential for the issues to be raised by experts in their evidence at later hearings but we formally make the application.

COMMISSIONER TRACEY: Yes. Well, that is very courteous and we are grateful to you for having done it. I will just confirm with Mr Gray the assumption on which you make that application.

MR GRAY: I don't have a position on it. It's entirely a matter for my friend if he wants to leave. As a matter of courtesy he has asked to be excused but nothing should be read into the fact that formal permission might be granted. It's entirely his decision and it's at his risk.

COMMISSIONER TRACEY: Yes. Very well. Mr Hodgkinson, you are excused. Thank you for your attendance. 9.45.

MATTER ADJOURNED at 4.58 pm UNTIL WEDNESDAY, 10 JULY 2019

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