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THE HONOURABLE T. PAGONE QC, Commissioner
MS L.J. BRIGGS AO, Commissioner

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

HOBART

10.02 AM, MONDAY, 11 NOVEMBER 2019

Continued from 6.11.19

DAY 64

MR P. ROZEN QC, counsel assisting, appears with MR R. KNOWLES SC, MR P. BOLSTER and MS Z. MAUD
MR H. AUSTIN QC appears with MR J. CLARIDGE for Southern Cross Care

COMMISSIONER PAGONE: We would like to start by acknowledging the Muwinina people, the traditional custodians of the land on which we meet today. We would also like to pay our respects to their elders, past and present and to extend that respect to other Aboriginal and Torres Strait Islander people who may be present.

MR R. KNOWLES SC: Commissioners, I wish to announce my appearance as senior counsel in and for the State of Victoria.

COMMISSIONER PAGONE: Thank you, Mr Knowles, and congratulations on the appointment.

MR KNOWLES SC: Thank you, Commissioners.

COMMISSIONER PAGONE: Mr Rozen.

MR ROZEN QC: Good morning, Commissioners, I appear this week with Mr Knowles SC, Paul Bolster, Zoe Maud and Eliza Bergin. We, as counsel assisting, join the Commissioners in acknowledging the traditional owners of this land. We pay our respects to other Aboriginal and Torres Strait Islander people who may be present here today. We pay our respects to their elders past, present and emerging. Commissioners, before outlining the approach to this week's hearing, I wish briefly to describe the context of aged care here in Tasmania. Just over one in five Tasmanians are over the age of 65 or are of Aboriginal and Torres Strait Islander descent and over 50 years of age. This is the highest proportion of older people in the nation.

Some 37 per cent of older Tasmanians live in a rural or remote location. This brings with it many of the challenges considered at last week's hearing in Mudgee. This means that Tasmania's aged care workforce is under pressure. A recent submission to the Royal Commission reports that employment conditions including penalty rates, leave provisions and salary levels more broadly make recruitment and retention particularly difficult. These concerns will be reflected in the evidence that you will hear this week. Sadly, Tasmania is not exempt from the failings of the aged care system that have been highlighted in previous hearings of the Royal Commission. I ask the operator to please bring up an image from The Mercury of 16 August of this year. Thank you.

Commissioners, across the State there are 72 aged care services providing just over 5000 residential aged care places. In addition, there are some 125 home support providers and 90 home care package providers. With the number of towns and regions served by a very small number of providers Tasmania is particularly sensitive to the failure of aged care services. Commissioner, as you well know, the first term of reference in your letters patent requires you to inquire into the extent of substandard care being provided in Australia's aged care services, the causes of any systemic failures and any actions that should be taken in response.

As part of addressing that term of reference you've heard a lot of evidence in previous hearings about the poor quality of care provided to aged care residents. The case study evidence suggests that in many cases poor care has resulted from errors of judgment by untrained or poorly trained staff. In a number of cases that have been examined inadequate staff numbers have led to overworked staff missing crucial clinical signs. The case studies which have been presented in hearings to date have tended to examine one person's experience of a particular aged care home. The focus has been on the conduct of the care staff and those supervising the care staff at the facility level.

In this hearing we will present two broader case studies. In so doing we will begin to focus on the institutional governance arrangements of approved providers of aged care and how these have failed to support quality care. What do we mean by governance and why is it important in aged care. According to the Governance Institute, governance describes the system by which an organisation is controlled and operates and the mechanisms by which it and its people are held to account. Organisations that provide residential aged care services in Australia are called approved providers under the Aged Care Act 1997 of the Commonwealth.

An approved provider is required by that Act to provide residents with the care and services that are specified in the quality of care principles. That care must be to the standard specified in the accreditation standards. Whether an aged care provider is able to provide care that meets those standards will largely be determined by the governance system in place in that provider. That is why governance is so important in aged care. If appropriate and workable governance arrangements are not in place, the frail and vulnerable older residents in our aged care homes will not receive the high quality care that they deserve.

In this hearing, we will be testing a series of propositions about governance in aged care providers. These propositions include what are the roles of an aged care board and its directors; what skills are needed on an aged care board; what are the respective roles of a board and the managers of an aged care organisation; what structures are necessary to ensure that the directors have all of the relevant information they need to make sound decisions. We will explore these questions with witnesses called in two case studies and an independent governance expert. In so doing we will aim to identify the reasons why, in these two case studies, the governance arrangements were unable to prevent instances of substandard care.

We will consider why failures occurred and how governance and structural arrangements could be improved to deliver better outcomes. We will be asking what should have occurred to achieve better results. What are the lessons that can be learnt from these experiences. This week's hearing focuses on the activity of two approved providers of aged care services in Tasmania. The first is Southern Cross Care Tasmania which operates nine residential care facilities across the State. The second is Bupa Aged Care Australia which operates 72 aged care homes throughout Australia and has its only aged care facility in Tasmania in South Hobart.

Before we outline the characteristics of each of the providers it is important to note their significance in the context of the local aged care sector. Together, they constitute around 15 per cent of the residential aged care market here in Tasmania. Their corporate structures are very different, representing the diversity of the residential aged care sector more broadly. As a not-for-profit provider, Southern Cross Care Tasmania delivers a range of aged care services as well as retirement village and independent living accommodation, home care packages and home support. Its services span the State. Bupa, on the other hand, is a large corporate entity with offshore ownership and an orientation toward delivering a profit.

Yet these entities operate in a common environment. They are respondent to the same quality assurance regime which has been examined in previous hearings. You will hear that for two Southern Cross Care Tasmania facilities and at Bupa South Hobart failures to meet the Aged Care Quality Standards have resulted in significant compliance action. In November 2018 Southern Cross Care's Yaraandoo home was found by the Australian Aged Care Quality Agency not to meet 18 of the 44 expected quality outcomes. Staffing numbers and training were found to be inadequate and eight of the 17 expected outcomes concerning health and personal care were not met.

In January 2019 the newly established Aged Care Quality and Safety Commission found that noncompliance with expected outcomes for health and personal care at Southern Cross Care's Glenara Lakes facility had placed certain residents' safety, health or wellbeing at serious risk. For both facilities the agency or the commission, as the agency had become, found that staffing numbers had been cut by Southern Cross Care in the preceding months. The position at Bupa South Hobart's facility was considerably worse. In October 2018 the quality agency concluded that the aged care service at the facility did not meet 32 of the 44 expected outcomes. Of particular concern was the finding that Bupa South Hobart only met four of the 17 health and personal care expected outcomes.

These failures were found to have created an immediate and severe risk to the safety, health or wellbeing of certain care recipients at Bupa South Hobart. And was the case with Southern Cross Care, Bupa had reduced its staffing numbers, particularly the number of registered nurses in the previous 12 months. The evidence will be that this was a cost-cutting exercise. Similarly, Southern Cross Care Tasmania and Bupa are subject to the same funding mechanisms; the Commonwealth Government is the principal provider of their funding. In addition, their services are regulated under the same legislative framework, the Aged Care Act and the principles made pursuant to that Act. And finally, they both provide care to vulnerable Australians at a time in their life at which they deserve respect, understanding and support.

Turning then to the witnesses from whom you will hear this week. A range of witnesses will describe the factors that have influenced care quality at Southern Cross Tasmania and Bupa South Hobart. Care recipients and family members, frontline care and clinical staff and site managers from these providers will be called to give first-hand evidence. Board members and executives will demonstrate the importance of governance in aged care and its influence on care outcomes.

Specialist advisers and consultants will elaborate on the roles of independent advice and auditing. They will be asked what should have been in place to avoid the poor outcomes. Finally, Ms Catherine Maxwell from the Governance Institute will provide an expert perspective on the role of effective governance in this sector and how it can learn from other sectors.

This combination of witnesses will allow us to test some core propositions. We will test the effectiveness of the policies and processes that aim to assure the critical elements of the aged care system that are at the very heart of the Royal Commission's terms of reference, quality of care, viability of the sector and policy drivers that are barriers to or enablers of system performance. We will in due course propose recommendations for your consideration regarding the role and function of corporate governance in aged care. We will ask you to consider recommendations about the composition of boards of approved providers and the characteristics of key personnel that oversee aged care operations and the extent to which they contribute to a culture that values and ensures quality care.

The adequacy of funding and the influence of financial performance on care will also be tested with further exploration of this issue to take place in future hearings. Commissioners, this is not a hearing aimed at finding fault; rather, it is an opportunity to start to identify root causes at a provider level for some of the failings of the aged care system which have been described in previous hearings of this Royal Commission. This hearing then is about identifying systemic issues that is need to be addressed. To do this, we need a better understanding of the behaviours and judgments of the decision-makers in organisations providing aged care.

We will ask what are the priorities of those people running organisations providing aged care; where is their focus; what are the ethics that they apply and the culture that they create? And, importantly, what are the features of the aged care regulatory and financing systems that influence those behaviours and decisions? What pressures are providers under? And how does the existing system influence the way providers behaviour? What changes to that system might influence behaviours in a way that improves the quality and safety of aged care? Importantly, we will test possible solutions to some of these root causes, including options for improved government and service provider focus on the quality, accountability and viability of aged care services.

Commissioners, we will not identify solutions to all of the problems confronting aged care in Australia this week. What we will do, however, is commence on a path that will become clearer in future hearings and forums of the Royal Commission. Commissioners, at this point I would seek to tender the general tender bundle for this week's hearing.

COMMISSIONER PAGONE: Yes. Thank you, Mr Rozen. The general tender bundle will be exhibit 13-1.

EXHIBIT #13-1 GENERAL TENDER BUNDLE FOR HEARING IN HOBART

MR ROZEN QC: And I call on Mr Bolster, who will open the first case study.

MR AUSTIN QC: Before Mr Bolster commences, might I explain who we are and why we're here.

COMMISSIONER PAGONE: Yes.

MR H. AUSTIN QC: My name is Austin, and I appear with MR CLARIDGE on behalf of Southern Cross Care and its current officers and employees who have been summonsed to give evidence. We also appear for one former employee, Mr Andrew Crane.

COMMISSIONER PAGONE: Thank you, Mr Austin.

MR AUSTIN QC: If the Commission pleases.

MR BOLSTER: Thank you Commissioners. I appear with Mr Knowles SC and Ms Maud for this first case study. I tender the Southern Cross Care Tasmania tender bundle.

COMMISSIONER PAGONE: Yes. Thank you, Mr Bolster. That will be exhibit 13-2.

EXHIBIT #13-2 SOUTHERN CROSS CARE TASMANIA TENDER BUNDLE

MR BOLSTER: Commissioners, Southern Cross Care Tasmania Incorporated is a Tasmanian-incorporated association established in 1972 by the Knights of the Southern Cross. It is Tasmania's largest not for profit approved provider of residential aged care across nine facilities with almost 800 residents. It is a charity, the sole purpose of which, according to its most recent past chairman, is providing care and support for older Tasmanians. Its publicly stated values including valuing care and compassion, integrity and dignity, excellence in professional practice and the provision of a safe and fulfilling environment.

This case study will investigate how the governance structures of the organisation and how decisions made at the executive or board level may have contributed to serious non-compliance with expected outcomes of the accreditation standards, identified towards the end of 2018 at two of Southern Cross's nine facilities. They are Yaraandoo Hostel at Somerset – it's just outside of Burnie in North West Tasmania – and Glenara Lakes, which is in Youngtown, a suburb of Launceston.

There are lessons in this case study that will inform the direction that you as Commissioners may wish to take about the scope of the duties that the officers of approved providers should owe to ensure that quality of care is provided. Similarly, the evidence in this case study will allow you to form a view about the skills that are needed to run these complex organisations and whether this should be better reflected in the Aged Care Act.

There are also aspects of organisational culture on display here that we will examine. We will be suggesting that governance and culture of approved providers are matters worthy of attention when you are considering the recommendations that you may wish to make in your final report.

This case study will also provide you with insights into the Aged Care Funding Instrument and perhaps lead you to conclude – consider propositions directed at ensuring that any future funding of aged care incentivised as the provision of care, that it be assessed against a resident's needs by a person independent of the care provider and that the funding provided through it is primarily spent on care.

Between November 2015 and August 2018, Yaraandoo was accredited in September 2016 for a period of three years and subject to no various – to a number of assessment contexts – contacts, none of which indicated any matter of serious or systemic concern. However, between 2 and 8 November last year the Aged Care Quality Agency carried out a reviewed audit and found that the service did not meet 18 of 44 expected outcomes. In the case of outcome 1.6, the finding as to how that outcome had been found to have been not met were as follows:

The majority of care recipients and representatives are not satisfied that there are sufficient numbers of staff to meet the needs and preferences of care recipients. While carers, recipients and representatives said most staff were kind and respectful, there is not enough staff to meet their needs and preferences and said it is impacting on their health, personal care and the overall care experienced whilst living at the home. Management said that following an organisational directive, staff hours across nursing care and hospitality services were reduced in August 2018. We observed care recipients' needs and preferences are not responded to in a timely manner.

Quality Agency assessors were told during that inspection that the home had been running at a loss for some time and that Southern Cross Care Tasmania had reduced staffing hours in eight of its nine residential aged care sites. The Quality Agency was able to ascertain the following staff reductions. These all occurred in the first week in August last year. 14 hours a day was cut from the hours of care staff, eight hours in the morning and six hours in the evening. That's 14 hours a day. There was a reduction of 15.2 hours of registered nurse care time every fortnight. There was a further reduction of one hour per day in the kitchen and servery staff area.

There was a second stage anticipated that would occur in four months time and might possibly involve a reduction of eight hours of care staff per day. At the time of that

report in November, Yaraandoo had 79 care recipients in respect of 82 allocated places. 28 care recipients and three representatives were interviewed as part of the audit. 21 of the 79 residents were named in the report as being associated with substandard care or examples of substandard care.

There are literally too many stories in the report to do them justice in the time available. However, one resident took the time to make a submission to this Commission. His name is Brian Patrick Harvey. And his eloquent and human account of life at Yaraandoo from a resident's perspective demands to be heard. Brian's widow, Ellie, will give evidence shortly. But he had this to say in a submission to your Commission in April of this year:

I asked the Commissioners how they would feel if it they were left alone on a mobile toilet, unable to stand up and get off, after being abandoned for 30 minutes or 45 minutes, or 60 minutes or even as long as 90 minutes. I've been left like that for a long time on so many occasions I've lost count. Equally distressing experiences have involved lengthy delays waiting to be transferred from bed to toilet, often with degradingly humiliating results. When neglected like that, I feel I have been dehumanised, left as a carcass in an aged care abattoir ready to be processed like a slab of meat in a sausage processing factory at some future time.

Why do I feel like that? Because I can't get up on my own. I have, as my primary condition, castrate-resistant metastatic stage 4PCA. Why is that important? My spine and pelvic regions are riddled with bony metastases. The longer I am left sitting there the more these conditions tend to scream at me, dominating my whole attention, screaming to say, "Please stop. Don't do this to me." In these circumstances, pain dominates my whole existence. Every second of every minute seems like an eternity. No one seems to get this.

Why does this happen to me, and from anecdotal evidence, to many others, as well? Because either no carers are available and/or prepared to attend to us. My experience over time indicates that both problems appear to derive from lack of staff, carers. Indeed, carers, like nurses, usually have little if any time actually to talk to residents, who are left to feel that they are merely a burden and not an individual, and as such are dehumanised.

Mr Harvey's submission will appear in full in the tender bundle behind tab 251. Leaving aside what Mr Harvey had to say, the November 2018 audit report presents a facility in crisis. The Commission made observations concerning the lack of appropriately qualified staff. We calculate that between the roster periods beginning 7 August and 8 October 2018 there was a reduction in care hours per day of 29, ie, from 228 to 199, a drop of 13 per cent. But 79 residents, that approximates to a 50-minute drop in the personal care per day, looked at in purely simplistic terms, of course.

As a result of the extensive findings of non-compliance at the November review audit, the Commonwealth Department of Health decided on 9 November last year to

impose sanctions on Southern Cross in respect of Yaraandoo that included a prohibition on being paid for new residents and requiring the appointment of an administrator and adviser. On 11 December 2018, the agency made a serious risk decision, noting the failure to meet five of the expected outcomes placed the safety, health or wellbeing of recipients of the service at serious risk.

On 12 and 13 June 2019, the successor to the Quality Agency, the Aged Care Quality and Safety Commission, conducted a further audit at Yaraandoo. Following this audit, the Commission decided the service only met 39 of the 44 expected outcomes of the accreditation standards.

I turn now to Glenara Lakes. Glenara Lakes is the other facility the subject of this case study. It was accredited in 2011 for – and reaccredited for three years in 2014 and 2017. On each of those occasions the service was found to be meeting all 44 of the expected outcomes. It was accredited again in 2018 until 10 May next year. In December 2018, shortly after the Yaraandoo audit, the Quality Agency conducted a review audit there and found that seven outcomes were not being met. Those outcomes related, amongst other things, to staffing and clinical care. As a result of those findings, the Quality Agency decided to reduce the period of accreditation for the service, so that it expired on 27 January this year.

On 7 January this year, the Commission found that, having regard to four of the seven not met outcomes, there was a serious risk to the safety, health or wellbeing of residents at the Glenara Lakes facility. One illustrative example of serious risk was a man who had been prescribed pain relief medication to be taken every six hours. Records at Glenara Lakes showed that for most days between July and December last year the medication was only given to him once a day. Proper pain management is, obviously, critical to a resident's quality of life. Here, there appears to have been deficiencies on a consistent basis over a prolonged period of around five months.

Another resident had a large 12 by 8.5 centimetre skin cancer wound on her back at the time of entering the facility. Clinical documents record that on seven occasions in the first fortnight she was at Glenara Lakes, her wound was not attended to as instructed, nor were there any instructions incorporated into her care plan about how a catastrophic bleed from her back would be managed. The management of a third resident's wounds were also found by the commission to present a serious risk to health, safety or wellbeing.

On 5 March this year, the commission found that all previous not met expected outcomes had now been met. Despite that finding, witnesses will give evidence to the Commission that suggest that more fundamental problems continued at Glenara Lakes. Five witnesses will give evidence about their experiences. Three of those are relatives of residents or past residents. In their evidence they will make observations about deficiencies in the quality of care given to their relatives and how an apparent lack of adequately trained care staff contributed to those deficiencies. They will also describe their general lack of satisfaction with responses if given at all to their complaints to Southern Cross management.

The other two witnesses are two former facility managers who worked at Glenara Lakes in 2018 and 2019. It is expected that they will give evidence about, amongst other things, staffing and funding constraints imposed on them and the nature and extent of clinical governance at the facility and, more broadly, at Southern Cross Care. As Mr Rozen has indicated, this hearing will focus on governance. Our submission will in due course be that there are significant lessons to be learned from the governance on display at Southern Cross during 2017, through 2018 and on into 2019. In particular, we will investigate how the lack of an active board, executive management defects in clinical governance frameworks and a lack of clarity in reporting and decision-making contributed to each facility being in the state they were in when audited and, in the case of Yaraandoo, sanctioned.

The implementation of what will come to be known as the pathway to break even strategy, whereby each individual facility was required to break even in each financial year would seem to have had a major effect on the quality and safety of the care of the residents at Yaraandoo and Glenara Lakes. A related policy that sought to limit the direct care costs of each resident to an arbitrary 60 per cent of the income due to them would also appear to have been to the same effect. Policies that overemphasised the way in which ACFI income could be gained at the expense of care will also be examined. There is a very real issue as to whether the Aged Care Funding Instrument creates incentives to provide care that is prescribed by the instrument, as opposed to the care that residents actually need.

We will investigate the extent to which any assessment was made by the facility managers or other clinical staff as to the likely effect of the decisions that they made on the care of residents. A question will arise as to whether it was apparent to the relevant decision-makers that adverse impacts on care might result from their decisions: did they stop and consider the possible impact on the quality of care when endorsing or implementing these policies? Did the culture at Southern Cross encourage them to do so. We will also examine whether there were any deficiencies in the quality assessment procedures and systems of Southern Cross. At a higher governance level, we will be investigating the way in which the board and its executive reconciled the provider's statutory obligations under the Aged Care Act to deliver quality care with other priorities.

Sadly, for Mr Harvey and a number of residents just like him, the documentary record at each of Yaraandoo and Glenara Lakes points to an organisation that allowed budgetary outcomes to take precedence over ensuring that quality and safe care was provided to the residents of those two facilities. Ms Maud will call the first witness.

COMMISSIONER PAGONE: Yes, Ms Maud.

MS MAUD: Thank you, Commissioners. I call Helen Charmion Valier.

<HELEN CHARMION VALIER, AFFIRMED [10.36 am]

<EXAMINATION BY MS MAUD

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

MS VALIER: I'm having trouble hearing you.

MS MAUD: Okay. Is that better? Can you hear me now?

MS VALIER: Not very well.

MS MAUD: Okay. I'm going to talk as loudly as I can. Can you state your full name for the transcript, please.

MS VALIER: I'm sorry, I'm really having trouble hearing you.

MS MAUD: Is that better?

MS VALIER: Yes, wonderful. Thank you.

MS MAUD: Can you state your full name for the transcript, please?

MS VALIER: Helen Charmion Valier.

MS MAUD: And are you known as Ellie?

MS VALIER: I am.

MS MAUD: And have you asked me to call you Ellie?

MS VALIER: Yes.

MS MAUD: Ellie, you were married to Brian Harvey.

MS VALIER: I was.

MS MAUD: And Brian prepared a submission for the Royal Commission, part of which was read in the opening.

MS VALIER: He did.

MS MAUD: Yes. And you've prepared a statement for the Royal Commission?

MS VALIER: I have.

MS MAUD: Can you see a copy of that in front of you and also the first page up on the screen there?

MS VALIER: I can.

MS MAUD: With the code WIT.0599.0001.0001.

MS VALIER: Yes. Yes.

MS MAUD: Do you recognise that as your statement?

MS VALIER: I do.

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

MS VALIER: I have.

MS MAUD: And are its contents true and correct to the best of your recollection?

MS VALIER: They are.

MS MAUD: I tender the statement, Commissioners.

COMMISSIONER PAGONE: Yes. Thank you, Ms Maud. The, statement of Helen Valier of 11 October is exhibit 13-3.

EXHIBIT #13-3 STATEMENT OF HELEN VALIER DATED 31/10/2019 (WIT.0599.0001.0001)

MS MAUD: Thank you. Ms Valier, can you tell the Royal Commission briefly about Brian, about the work that he did before he retired?

MS VALIER: Brian was a highly intelligent, considerate, compassionate, gentle individual with a – an off-the-wall sense of humour. He would not have described himself this way, but he had a distinguished career professionally in roles including the Australian Public Service Board, for the Department of Foreign Affairs, as head of the Petroleum and Minerals Authority, and in various roles in the communications portfolio, including the secretary to what was known as the Davidson Inquiry into Australian Telecommunications Services.

MS MAUD: And in about 1991 you and Brian moved here to Tasmania?

MS VALIER: We did.

MS MAUD: And in 2010 Brian was diagnosed with a serious health condition; what was that?

MS VALIER: It was castrate-resistant metastatic prostate cancer, stage 4.

MS MAUD: What did that mean for Brian's ability to live at home at that time?

MS VALIER: Well, it restricted his activities greatly.

MS MAUD: Did - - -

MS VALIER: And he certainly couldn't – he couldn't sculpt anymore, he couldn't get out on the tractor. He couldn't paint. He couldn't do so many of the things that he loved to do.

MS MAUD: After the diagnosis, did Brian continue to live at home with you caring for him.

MS VALIER: He did.

MS MAUD: And did there come a time where you needed some help caring for Brian?

MS VALIER: Yes. By 2014 he had not only had heart disease and a dual-pronged pacemaker installed, but he had had an atonal bladder collapse, renal pelvic rupture. I can't pronounce the name of the procedure, but he laughingly would describe it as a TURP which involved surgery on his prostate and thereafter insertion of a permanent indwelling catheter (IDC) that had to be changed regularly by a registered nurse.

MS MAUD: So would a registered nurse visit Brian at home?

MS VALIER: As from the end of 2014, yes.

MS MAUD: All right. On 30 August in 2017 was there an incident at home with Brian?

MS VALIER: There was. A community health nurse had come to change his IDC. By that stage he had a hospital bed and associated equipment. After the transfer was done, he needed to go to the toilet. The nurse and I were able to transfer him onto the mobile toilet. Thereafter, we couldn't get him back to bed. He suffered a complete loss of weight-bearing capacity, and later that day ended up in an aged care facility in Wynyard because there were no hospital beds anywhere within an accessible distance.

MS MAUD: And a short while after that Brian was admitted as a respite resident at Yaraandoo?

MS VALIER: Yes. Somebody from Palliative Care Service, North West Tasmania had arranged for him to have about a fortnight's respite care, starting on 5 September through to about the 18th, I think.

MS MAUD: And was it your intention that Brian would come home after that?

MS VALIER: Yes.

MS MAUD: And was that possible?

MS VALIER: He did come home for four days, during which time I investigated the costs of giving him the care that he needed, and without going into details, it certainly was way beyond our financial means. We were looking at – we would have been looking at something in the vicinity of close to $100,000 a year.

MS MAUD: Did you investigate the availability of home care packages?

MS VALIER: By that stage Brian had – he had in July an ACAT assessment and he had been assessed for a home care package level four, and we were advised that it would be at least 12 months before an assigned package was activated.

MS MAUD: So you and Brian made a decision that he would move as a permanent resident to aged care?

MS VALIER: He made the decision once I – once he knew of the cost of staying at home.

MS MAUD: And Brian moved to Yaraandoo Hostel from 28 September 2017?

MS VALIER: He was admitted as a permanent resident on that date, yes.

MS MAUD: What was Brian's mobility like when he first moved?

MS VALIER: He had no weight-bearing capacity whatsoever; he was completely bedridden.

MS MAUD: What sort of care assistance did he need at that time?

MS VALIER: He needed for all – what do they call them – activities of daily living (ADL), transfers to and from bed. He needed two carers and hoists of various kinds.

MS MAUD: When Brian first moved as a permanent resident to Yaraandoo how much time would you typically spend there?

MS VALIER: From September – from his admission as a permanent resident to well into March, I would spend six to seven hours a day, seven days a week, until eventually Brian told me that I should have one day a week off for good behaviour. And then I – I went to about six hours a day, six days a week.

MS MAUD: Did you and Brian discuss your role and how you would be able to help him while he was at Yaraandoo?

MS VALIER: We did.

MS MAUD: What was that? What did Brian ask you to do?

MS VALIER: He wanted me – he didn't want to have to worry about his own care. He was not somebody who would complain. He was not somebody who wanted to bother anyone. He always tended to think of other people, but he also understood that he did need someone to advocate for him and he knew that I would do it.

MS MAUD: When Brian first moved to Yaraandoo, were you told a process by which you could raise issues?

MS VALIER: No.

MS MAUD: No? What was the practice that you adopted where issues did arise in relation to Brian's care?

MS VALIER: Well, for the first six months there would only be little things. And at that stage there was what I now understand to be a team leader for the nursing station that looked after the wing in which his room was located. And I would simply raise them with the team leader. And my experience was that that – problems were attended to very promptly.

MS MAUD: And so what were your feelings about the care that Brian was receiving in the period of about six months after he moved to Yaraandoo?

MS VALIER: Then I started to become concerned about the lack of a care plan. We didn't know what it involved. He did have a mobility plan. It was tacked to his bathroom door, but we didn't know who to ask. When we did ask staff, they didn't seem to know what was – the advice that we got variously was there were a number of plans, but nobody seemed to know what they covered.

MS MAUD: So the concern that you just mentioned, when did that first start to form in your mind?

MS VALIER: Well, certainly it was very active by the end of March.

MS MAUD: All right. So in the period prior to March, how did you feel about the care that Brian was receiving?

MS VALIER: Generally satisfied.

MS MAUD: Was Brian able to get the help that he needed in a timely way?

MS VALIER: It was variable and inconsistent. When he had what I think of as regular carers on day shift, when most of his ADL support was needed, he was extremely well looked after. What became problematic was what I think of as afterhours, so public holidays, weekends, then that was a problem. People did not seem to have a clue what he needed outside of his regular carers.

MS MAUD: So in the time after Brian first moved to Yaraandoo in September, did Brian's mobility change?

MS VALIER: It did. It improved significantly. He received excellent support from a carer, who was known as an assistant physiotherapist, and a leisure and lifestyle officer, who got very involved in an exercise regime for him.

MS MAUD: So did that improvement continue?

MS VALIER: Well, he got to the stage where he could get out in a wheelchair for up to five or six hours a day, but no, it didn't improve. It didn't get any better, really.

MS MAUD: So when you say it had improved, you meant he was able to sit in a wheelchair - - -

MS VALIER: He was - - -

MS MAUD: - - - rather than in bed?

MS VALIER: Yes. He was able to sit in a wheelchair. And, also, once a week, the assistant physio would take him for what we used to call was a walk – four-wheel walker. I followed behind with the wheelchair and the assistant physio and he would walk. I think the longest he would achieve was, I don't know, 100 paces. But that was a big improvement from how he had been when he came in.

MS MAUD: In terms of his everyday needs, so in order to – the activities of daily living that you've called them, did Brian continue to need assistance with those?

MS VALIER: I mean, he could feed himself.

MS MAUD: Yes.

MS VALIER: But in showering, to/from bed transfers, yes, he still needed assistance. And my understanding was it was a mandatory two carers.

MS MAUD: You mentioned earlier that by about March you had begun to have some concerns about Brian's care. Did you raise those with staff at Yaraandoo?

MS VALIER: I did. I eventually spoke to the clinical care coordinator Ms Marshall. And she arranged for me to meet with her.

MS MAUD: And that meeting took place on 27 March.

MS VALIER: There were two meetings. The first meeting was 27 March.

MS MAUD: What were the concerns that you raised?

MS VALIER: Well, did he have a care plan or a number of care plans, what do they cover, how regularly were they reviewed? I was particularly interested in medications management, and, also, the apparent lack of knowledge about his individual needs and his care requirements from what I thought of as non-regular carers. I – weekends, public holidays, etcetera.

MS MAUD: What was the outcome of that discussion with Ms Marshall?

MS VALIER: The first discussion was, Ms Marshall, I thought, was proactive and creative. She came up with a number of suggestions of how things could be done, including actually putting up a list of Brian's individual needs and – individual needs in his room, because she explained to me that what turned out to be a computer software-based multilevel, multifaceted care plan did not – was not in the form which allowed individualised needs to be documented.

MS MAUD: So the documents that you've just mentioned, was that prepared?

MS VALIER: Yes. It was agreed Ms – Ms Marshall offered to type it up. She was very busy, so I said , "I will do it." And, of course, I knew what they were. I emailed a copy to her. And she immediately, I think, printed it out, laminated it and pasted it up on his bathroom door.

MS MAUD: And did that resolve the issues that you'd raised?

MS VALIER: No, it didn't. The regular carers still gave, including some really exceptional ones, gave a standard of care that they gave, but one of the things I did was engage with staff trying to explain to them what Brian's needs were and why. And some said they didn't have time to look at it or they didn't know it was there. And in a number of cases – and this applies to both Australian – Australian-born and those whose English was a second language – appeared to lack the literacy skills to read and understand what was a fairly simple list.

MS MAUD: Did the list stay on Brian's door?

MS VALIER: At the end of June I took it down, because what was the point?

MS MAUD: So at around that time, June/July 2018, what were your observations of the care that Brian was receiving then?

MS VALIER: There were – he was reporting delays in responses. And, again, this is from someone who is not a complainer and who didn't like to bother staff. We started to hear rumours that staff cuts were pending. There was, certainly, longer delays. Again, when – it was more variable and more inconsistent that he previously had. He still did receive a high quality of care from certain really exceptionally good carers.

MS MAUD: And when you say there were delays, what specifically would there be delays in?

MS VALIER: Well, typically the things that he needed most. The ADL transfers to/from his bed. So he was – do you want me to go into details?

MS MAUD: No. No. That's enough.

MS VALIER: Thank you.

MS MAUD: All right. So the rumours that you had mentioned, were they subsequently discussed at a residents' meeting held in August last year?

MS VALIER: They weren't rumours. By that stage it had become quite apparent that staff were very stressed, a lot of staff were taking – they appeared to be taking sick leave, and Brian had decided that the rumours weren't - - -

MS MAUD: Sorry.

MS VALIER: He had decided what we should do is we should put together a series of quite directed questions, that there was no point in raising them informally, they needed to be raised formally at a residents' meeting. We came up with a list of 17 questions, which covered every aspect of staffing we could think of. Brian thought it was reasonable that the then facility manager, Mr Anderson, should have a copy before the meeting. And I dropped in a copy that morning to front reception and asked them – she said, "Please give this to Patrick urgently." And then between us we raised the questions at the August residents' meeting that afternoon.

MS MAUD: So who from Yaraandoo was in attendance at that meeting?

MS VALIER: Well. It was chaired by the facility manager, Mr Anderson. On either side of him, from recollection, were a leisure and lifestyle officer. And there was a range of residents, volunteers. I can't tell you - - -

MS MAUD: No.

MS VALIER: - - - precisely how many were there, but it was an unusually well attended meeting.

MS MAUD: Did you have an opportunity to raise the issues that you had listed in the 17 questions?

MS VALIER: Most of them.

MS MAUD: And what were you told when you raised those issues?

MS VALIER: Well ..... staff – Brian understood very clearly that it wasn't – it was used as simply to ask have there been cuts in staff or have you changed the numbers of staff? What mattered was the actual rostered hours of service. And his questions were directed very specifically to that, ie, how many rostered staff hours a week or have they been cut and then from what categories. So he went through from the carers, clinical, the nursing team. And I think the other one was hospitality and catering. We didn't inquire about things like cleaning and laundry, because those appeared to be, to us, the most significant ones.

MS MAUD: And what were you told about the changes to the staffing?

MS VALIER: At that stage there were 98 hours a week cut in rostered shift showers from the carers. We were told that there had been no cuts in clinical staff, nursing staff, but some other changes had been made. And there were some cuts – I don't recall the number – from the catering, hospitality. Brian attempted to pursue what was meant – you know, what other changes were – were intended. And we didn't get any answer to that. And I think there was also an indication from the facility manager that there might be a need for further changes. And that was related to, indeed, what counsel has already covered this morning in terms of losses. And Brian tried to pursue issues of how the losses were allocated across, you know, the various sites.

MS MAUD: When you say "losses" you mean financial losses?

MS VALIER: Financials losses. We were told that for the financial year ending 30 June 2018 that Yaraandoo had lost half a million dollars and that losses were continuing in the order of 30 to $70,000 per month.

MS MAUD: And were there any – was there any discussion at that meeting about arrangements following the staff reductions about how things would be managed?

MS VALIER: Yes. Brian asked quite specifically how that would impact on the most vulnerable residents, ie, those who were totally bedridden or spending most of their day in bed.

MS MAUD: And what were you told?

MS VALIER: I thought an admirably candid response: "Don't know."

COMMISSIONER PAGONE: Ms Maud, I wonder whether - - -

MS MAUD: Yes

COMMISSIONER PAGONE: - - - it might be a convenient moment now. It's about to be 11 o'clock. In view of the day, we might have a minute's silence from now.

MS MAUD: Thank you, Commissioner. Thanks, Ellie.

COMMISSIONER PAGONE: Yes. Thank you, Ms Maud. Thank you for that slight interruption. It's important that we not forget these very significant and defining moments in Australian history, and particularly for the whole community but including the community that we are particularly looking into at this stage. So thank you.

MS MAUD: Thank you, Commissioner. Ellie, still in August 2018, was there another issue that you raised with the facility manager at about that time?

MS VALIER: Medications management, particularly one very important periodic medication for Brian, Xgeva, which he needed in essence to stop his bones degenerating.

MS MAUD: And who did you raise that issue with?

MS VALIER: With the facility manager – then facility manager, Mr Anderson.

MS MAUD: And how did you do that?

MS VALIER: I prepared a brief which went through the issues and asked questions and we had a meeting.

MS MAUD: And what was the outcome of the meeting?

MS VALIER: Well, initially he appeared absolutely shocked. He undertook to investigate and I don't know precisely what they were, but certainly he also spoke to the pharmacist – pharmacy with which they're contracted to provide medications for residents.

MS MAUD: Did he tell you that afterwards?

MS VALIER: He did.

MS MAUD: And were you satisfied with the investigation that he had undertaken?

MS VALIER: I was not satisfied with the final outcome because the – well, the important thing for me was, without going into all the detail, was that how could I trust the nursing station that was looking after him to ensure that Brian got the right medications when he needed them, when the then team leader was not around, and at that time the team leader was apparently on holidays.

MS MAUD: A short while later in September, you received a notice which was distributed to residents and their families at Yaraandoo addressing some other changes to staffing. What were the changes that were outlined in that notice?

MS VALIER: Well, there were – the – as I understood it, the main one was that the nurse – there were two nursing stations. The team leaders would no longer be working as team leaders and that they would be taken off the floor, collectively, five days a week to work on ACFI to increase funding.

MS MAUD: And the team leader was the person who had previously been your point of contact for raising immediate issues with Brian's care?

MS VALIER: Yes.

MS MAUD: How did you feel about those proposed changes?

MS VALIER: Disbelief. I had trouble getting my head around – actually, the memo to me was virtually incomprehensible.

MS MAUD: Were you able to clarify it?

MS VALIER: Not really.

MS MAUD: Did you try to?

MS VALIER: I did.

MS MAUD: What did you do?

MS VALIER: I – I spoke to the then facility manager about it and basically, yes, sorry – what the memo said, I finally worked out, was if you have a problem, if a resident has a problem, you first report it to an EN who will then escalate it to an RN, who will then escalate to the clinical care coordinator, who will then if necessary escalate it to me, ie, facility manager. And I asked what would happen on weekends and public holidays when neither the facility manager nor the clinical care coordinator were at work. And I related experiences of having to wander round the place, walk round the place for up to half an hour, looking for a carer or an EN and, "What do I do?" And the response was, "Keep walking."

MS MAUD: So those changes that had been outlined in that notice were implemented from 10 September last year?

MS VALIER: That's what we were told.

MS MAUD: Right. Did your role as Brian's advocate at Yaraandoo change after that?

MS VALIER: It did.

MS MAUD: How did it change?

MS VALIER: Well, I felt the need to become much more vigilant about differential care, about medications manager – management, about needs to ensure that carers understood how important it was for Brian when he needed to defecate, as he put it, to have that attended to and also because he was – because of his primary conditions and multiple comorbidities, that he needed to go back to bed at a certain time because otherwise he would literally – I would become concerned that he was going to fall out of his wheelchair, he was so weak.

MS MAUD: I see. I want to take you now to 27 October last year. Did you visit Brian on that day?

MS VALIER: I did.

MS MAUD: How was he when you arrived?

MS VALIER: Very distressed. In fact, he was sobbing.

MS MAUD: Did you find out why?

MS VALIER: I did.

MS MAUD: What was the reason?

MS VALIER: He had waited 80 minutes or more after pressing the call button to go to the toilet. He got to the stage where he just couldn't hold on any longer. He did not want to soil his bed and Brian being Brian, as much as because he did not want to make extra work for already overstressed staff, he had a monkey grip. He had managed to pull himself up, grab an over the bed table, wheel it into the bathroom and get onto a mobile – well, monkey grip backwards onto a mobile loo. Unfortunately, something he didn't see was that the lid of the WC was down and I don't think I need to explain.

MS MAUD: Were there other occasions when Brian had incidents of that kind relating to continence?

MS VALIER: Many.

MS MAUD: Did you raise that incident with staff at Yaraandoo?

MS VALIER: I sent an email, a one-page email to then facility manager, Mr Anderson, on 1 November 2018.

MS MAUD: And what was the response to your email?

MS VALIER: Mr Anderson organised a meeting with then acting regional director for northern Tasmania, Ms Deborah Austin.

MS MAUD: Was that the first time that an issue in relation to Brian's care that you had raised had been escalated beyond the facility manager?

MS VALIER: Yes, so far as I know.

MS MAUD: As far as you were aware. And did you subsequently have a meeting with the facility manager and Ms Austin?

MS VALIER: Yes.

MS MAUD: And what were you told at that meeting?

MS VALIER: Well, not a lot really. It didn't address that particular issue, and maybe that was, in retrospect, unwisely. Brian said, "Well, if you're talking to an executive manager, let's raise, this, this and this". But my impression of the meeting, I felt – well, Brian had an expression for it, that pivoting had been elevated to an art form. They just – the goalposts kept shifting, I felt that I was talked over. I felt intimidated and I'm not exactly a weak character. Yes, I wasn't – I was asked had I put in a written complaint. Had I done this, had I done that. I was told what I should have done, etcetera. And it was actually Mr Anderson who finally brought the – the meeting back to the point and he suggested a way to go forward.

MS MAUD: So was there a way forward after that meeting?

MS VALIER: Well, that he – that Brian's – they called it toileting – should be done at a particular time each day.

MS MAUD: And was that implemented?

MS VALIER: No. Sorry; sometimes, when the really good regular carers were on the floor.

MS MAUD: Did Brian continue to have issues with continence management after that?

MS VALIER: He did.

MS MAUD: Now, you're aware that sanctions were imposed on Southern Cross Care Tasmania - - -

MS VALIER: Yes.

MS MAUD: - - - in relation to the Yaraandoo facility, there was a resident and representatives meeting held at the facility on 22 November last year.

MS VALIER: Yes.

MS MAUD: Did you attend that meeting?

MS VALIER: Yes.

MS MAUD: Did you take notes at the meeting?

MS VALIER: I did.

MS MAUD: Was anyone else taking notes at that meeting?

MS VALIER: The reason I took notes was Brian, who was also there, looked around the room, he said "Nobody seems to be taking notes" meaning from Southern Cross Care or Yaraandoo.

MS MAUD: In December last year, there was another incident in relation to Brian's care. Can you remember what that was?

MS VALIER: Yes. Brian was – needed to go back to bed. There were no carers on the floor at all. And I discovered that they were all in a meeting and I think nursing staff as well, I'm not absolutely certain about that. And, finally, I just had to walk – I found – I think I found, Ms Marshall, the clinical care coordinator, and a nurse – a very, very good nurse finally turned up and did the – the necessary. And I wrote – I sent an email and there's an email chain which should be in the bundle there somewhere.

MS MAUD: What was the issue that you raised in your email?

MS VALIER: Well, the fact that a meeting should be scheduled at that time, that there wasn't anyone available who should have been available to do what was – the regular carers knew very well needed to be done at that time for Brian and presumably not just for him but for others as well.

MS MAUD: What was the specific matter that Brian needed help with at that time?

MS VALIER: Well, a transfer back to bed.

MS MAUD: Okay. Did you get a response to your email?

MS VALIER: Yes.

MS MAUD: What was the response?

MS VALIER: Well, basically, that what the nurse should have done was paged the meeting, and the response appeared to me to be critical of the nurse's actions and I responded to that basically saying, well, he did precisely what needed to happen.

MS MAUD: So were you satisfied with the outcome from that complaint?

MS VALIER: No.

MS MAUD: Brian's health declined in 2019 and in particular in June.

MS VALIER: May/June. Yes.

MS MAUD: May/June. Were you provided with information from anyone at Yaraandoo about whether Brian's care would change?

MS VALIER: No. Can I just qualify that? No. No. I didn't. No.

MS MAUD: Did anyone discuss palliative care with you?

MS VALIER: I was told almost in passing on – it was late May, "Brian is now in palliative care". That was an RN. I asked, is there a plan, can I see it? I didn't get a response. A few days later, the RN in particular gave us what she described to me as a beautiful little book, which purported to explain what that involved. I read – by that stage Brian couldn't hold up a book; I read the contents aloud. And our considered opinion was it was a far cry from the experience we were having – or Brian was having.

MS MAUD: Was the information in that book information of the kind that was useful to you?

MS VALIER: Well, only to the extent that hasn't happened, hasn't happened, hasn't happened, hasn't happened, doesn't happen.

MS MAUD: Did you subsequently contact the North-West Palliative Care Service?

MS VALIER: I did.

MS MAUD: Why did you do that?

MS VALIER: Because I – my past experience suggested that I need an independent expert and a witness to get the information that we believed we needed about his palliative care. And, also, his GP – then treating GP was also concerned.

MS MAUD: And there was a meeting that was subsequently held which was attended by the then facility manager, Ms Bennett, and the clinical care coordinator, and Ms Harris from the North-West Palliative Care Service.

MS VALIER: Yes.

MS MAUD: And at that meeting you presented a document that you had prepared with Brian called Goals, Needs and Preferences.

MS VALIER: Yeah. I had prepared it according to Brian's instructions, yes. And he had also instructed me to put in a box explaining the context, that that had been what had happened. And he signed it and dated it.

MS MAUD: When you provided that document at the meeting, was there a response from Ms Bennett - - -

MS VALIER: Yes.

MS MAUD: - - - the facility manager? And what was that?

MS VALIER: "Oh, it's very long." And then, "Oh, well, I'll need to discuss it with Brian." And I – flicked it to the page and she went, "Is that his signature?"

MS MAUD: So how did that response make you feel?

MS VALIER: Sorry?

MS MAUD: How did the response make you feel?

MS VALIER: I'm sorry? I - - -

MS MAUD: How did the response make you feel?

MS VALIER: Like she didn't believe me. Like I was somehow making something up or wasn't acting in Brian's interests. She couldn't trust me to convey his concerns. And I would have thought she would have known very well, because everybody else did, that Brian was not someone who complained.

MS MAUD: Brian passed away on 6 August?

MS VALIER: He did.

MS MAUD: Were you satisfied that the care that he received in the days leading up to his death?

MS VALIER: Yes and no. I was given information about things, but I was not – it's very difficult to go there. And I also understand you need to move on. But if I can simply say that he had an agonising death, which, on the information available to me and subsequently checked, was avoidable, inexcusable and unforgiveable. Brian, a very tactile, caring, loving individual, who was a big huggy kind of person, and he couldn't bear to be touched. So I couldn't hold him in my arms. I couldn't – I couldn't comfort him. I just had to watch him – sorry.

MS MAUD: It's okay.

MS VALIER: In agony.

MS MAUD: Ellie, have you had an opportunity to reflect on how things might have improved from your point of view?

MS VALIER: Zoe – I'm sorry. Counsel, I really don't think I can go there.

MS MAUD: That's okay. You've mentioned that you might like to put in a submission that might address those matters.

MS VALIER: That is my intention, because that is what Brian would have wanted me to do. And it will be about systemic issues and suggestions that he had and we had discussed, and something I would intend to do, if the Commission pleases, next year, before the April closing date for submissions.

MS MAUD: Thank you, Ellie. Commissioners, those are the questions.

COMMISSIONER PAGONE: Ms Valier, thank you very much for coming to give evidence. You say in your statements that you cared for Brian and was his advocate and you continue to do that. I'm sorry?

MS VALIER: Sorry.

COMMISSIONER PAGONE: I didn't mean to delay your departure. I just wanted to thank you for having come to the Commission to give us evidence. In your statement you say that you cared for Brian and were his advocate and you continue to do that courageously and in a way that will help the Commission in its work. Thank you for offering to put in a submission about the systemic issues. We would welcome that and we encourage you to put it in for those reasons. Thank you.

MS VALIER: Thank you, Commissioner.

MS MAUD: May the witness be excused?

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

<THE WITNESS WITHDREW [11.21 am]

COMMISSIONER PAGONE: Yes, Mr Bolster.

MR BOLSTER: Yes. Commissioners, the next witness is Tammy Louise Marshall.

<TAMMY LOUISE MARSHALL, AFFIRMED [11.21 am]

<EXAMINATION BY MR BOLSTER

MR BOLSTER: Ms Marshall, did you – you have made a statement to the Royal Commission?

MS MARSHALL: Yes, that's correct.

MR BOLSTER: If you have a look at the screen in front of you, it should appear in front of you. And I think you've got a hard copy there, as well.

MS MARSHALL: I have.

MR BOLSTER: Is there anything you want to change about that statement?

MS MARSHALL: No, there's not.

MR BOLSTER: All right. And is the statement true and correct to the best of your knowledge and belief?

MS MARSHALL: Yes, it is.

MR BOLSTER: I tender statement WIT.0581.0001.0001, Commissioners.

COMMISSIONER PAGONE: Yes. Thank you, the statement of Tammy Marshall of 30 October 2019 is exhibit 13-4.

EXHIBIT #13-4 STATEMENT OF TAMMY MARSHALL DATED 30/10/2019 (WIT.0581.0001.0001)

MR BOLSTER: Ms Marshall, you have been the clinical care coordinator at Yaraandoo now for nearly four years.

MS MARSHALL: That's correct.

MR BOLSTER: And there are 82 beds.

MS MARSHALL: Yes.

MR BOLSTER: Is it full at the moment?

MS MARSHALL: No, it's not.

MR BOLSTER: How many places short of full is it?

MS MARSHALL: We currently have 54 residents.

MR BOLSTER: Is that a result of the sanction process?

MS MARSHALL: Yes. We weren't able to take admissions whilst we were in sanctions.

MR BOLSTER: And when were the sanctions lifted?

MS MARSHALL: In September.

MR BOLSTER: All right. Have you been able to attract any residents since the sanctions were lifted?

MS MARSHALL: Yes, we have.

MR BOLSTER: Right. And the facility is structured with how many particular wings or wards?

MS MARSHALL: We have two nurses' stations, each with three wings.

MR BOLSTER: Right. And so how many in each wing?

MS MARSHALL: The wings vary between 13 to 14 per wing.

MR BOLSTER: And it's a fair way from Hobart. Indeed, it's a fair way from Launceston.

MS MARSHALL: It is. We're quite isolated.

MR BOLSTER: How difficult is it to get staff to come up to that part of the world?

MS MARSHALL: It's difficult. We recruit locally. Often our casuals work in other facilities, other organisations, as well.

MR BOLSTER: How would you describe the skill level of the staff at Yaraandoo?

MS MARSHALL: Our senior staff are quite highly skilled. Some of our direct care workers coming into the caring roles are not so skilled, often coming straight out of the course.

MR BOLSTER: You were here for Ms Valier's evidence?

MS MARSHALL: No, I wasn't.

MR BOLSTER: No. She talked about a variability between some very high skilled staff and others. And she was quite appreciative of the higher skilled staff. But do you see that in your role as clinical care manager?

MS MARSHALL: Yes. I would agree with that.

MR BOLSTER: And it's the case, isn't it, that Ms Bennett, who's currently the adviser and administrator, she's been involved with the facility since about January?

MS MARSHALL: Yes, that's correct.

MR BOLSTER: And she's put in place a whole range of measures to improve the skilling of the staff.

MS MARSHALL: Yes, that's correct.

MR BOLSTER: And in her statement she talks about particular areas. What have you seen about the work that's been done to improve the skill base and the training since she came on board?

MS MARSHALL: There's certainly been a lot more education for us. Systems have been improved. Auditing has become – there's been a huge improvement with the auditing.

MR BOLSTER: Let's talk about the systems. What do you mean by systems?

MS MARSHALL: During my time that I've worked at Southern Cross Care I feel that we lacked systems. Policies were somewhat outdated and difficult for staff to locate.

MR BOLSTER: Was there improvement in that area from the time you arrived in 2015 through to the time of November last year when the sanctions were – when the audit review took place?

MS MARSHALL: The improvements, most definitely ..... occurred from the sanctions.

MR BOLSTER: Yeah. Did anything happen at Yaraandoo to improve systems, staff training whilst you were there before November last year?

MS MARSHALL: No. There was very little training that was offered to us prior to the time.

MR BOLSTER: How were you, as the clinical care manager, able to train an inexperienced carer?

MS MARSHALL: Often depending on the buddies system of allocating that staff member to work with a senior person on the floor, looking at skill mix.

MR BOLSTER: Did you raise these concerns with Mr Robinson and his predecessor?

MS MARSHALL: Sorry, Mr - - -

MR BOLSTER: Mr – your – Mr Anderson, I do apologise. Mr Anderson and his predecessor. Did you raise these .....

MS MARSHALL: Yes, I did.

MR BOLSTER: What were you told when you raised those matters?

MS MARSHALL: Along the lines of recruiting staff was often difficult, because we didn't advertise on a regular basis. Due to being – our roles being so significant with the workload, there was little time to be spent training other staff members.

MR BOLSTER: Well, when you said to Mr Anderson and his predecessor, "Look, my staff need more training" – I assume you did that, did you?

MS MARSHALL: Yes.

MR BOLSTER: What did he say?

MS MARSHALL: It was one of those issues that was never followed up upon to some extent. That was raised on many occasions.

MR BOLSTER: Did he report it – Mr Anderson. Let's take him as an example. He reported to Ms Robson, Pauline Robson. She was the area manager; correct?

MS MARSHALL: Yes, that's correct.

MR BOLSTER: Did you ever escalate the concerns you had about Yaraandoo's deficiencies to her yourself?

MS MARSHALL: Ye. I believe I have.

MR BOLSTER: And how many occasions did you do that before November last year?

MS MARSHALL: Probably within my role when I was acting in the facility manager role there were times when Pauline did visit the site that we weren't included with direct meetings with her. And with the facility manager quite often he was difficult to approach, because he was quite often behind closed doors and not accessible to staff or - - -

MR BOLSTER: Who was the facility manager you're talking about there?

MS MARSHALL: Patrick Anderson.

MR BOLSTER: Mr Anderson. When you were the acting facility manager, while they were recruiting him, what did you say to Ms Robson about what needed to be done at Yaraandoo?

MS MARSHALL: We often spoke about communication barrier – communication barriers.

MR BOLSTER: Between who?

MS MARSHALL: Between us and the executive and management levels. We had a clinical leadership group, but often we didn't feel that we were heard with issues that were raised.

MR BOLSTER: And so what was her response when she heard those complaints?

MS MARSHALL: So communication was a big focus prior to the recruitment of the new manager, and something that we focused on when the new manager was recruited, that that was a major issue within our facility.

MR BOLSTER: Right. Changing direction now, the acuity - - -

COMMISSIONER PAGONE: Well, just before you do change direction – I'm sorry that I can't really see you; the position of the microphone and the screen means that it's a little bit awkward for us to see each other, Ms Marshall. I'm sorry. But just before you – counsel moves off that topic, in relation to the communication barriers, what should be done or could be done in facilities from the way you saw them? It's not that screen that's the problem, this one. That screen is perfectly okay.

MS MARSHALL: Sorry. Could you repeat that question?

COMMISSIONER PAGONE: Yes. What I was asking you was about the communication barriers that you were talking about. What, in your view, as a person on the ground, could have been done, practically?

MS MARSHALL: I think much of the communication from an executive level, us as the ground workers were not involved in. When there is - - -

COMMISSIONER BRIGGS: Could you explain that? It's hard to understand. Am I correct in saying that the issue is that there are discussions going on but the staff on the floor – sorry – the staff on the floor aren't involved with that and that there's not two-way communication around it?

MS MARSHALL: Yes. So when we've had restructuring, staff changes, quite often we're not involved with that until the decision has been made. So it's difficult for us to be able to succession plan in those cases.

COMMISSIONER BRIGGS: So it's a very traditional hierarchical arrangement with the management making the decisions and the staff living with them, basically.

MS MARSHALL: Yes.

MR BOLSTER: There was a system of quality assessment and measurement, wasn't there, at Yaraandoo, all the time you've been there; correct?

MS MARSHALL: Yes.

MR BOLSTER: One of the criticisms that other witnesses make is that that never fed back to staff, it never fed back to the floor.

MS MARSHALL: Yes.

MR BOLSTER: Is that something that you agree with?

MS MARSHALL: That's correct.

MR BOLSTER: Explain to me the sort of data that was collected and what was done with it and what you heard back from management.

MS MARSHALL: So prior to the sanctions we had a series of QPS Benchmarking audits. We had – I wasn't directly involved in those audits. We had a registered nurse that was employed in that role. She reported directly to the facility manager with the audits who in turn processed those audits to the QPS Benchmarking data. A report is then received from QPS on a quarterly basis. That report was quite often not shared with us so the outcome was not known as to – if it has - - -

MR BOLSTER: How has the situation changed since the sanctions?

MS MARSHALL: From the sanctions from February, I'm now directly involved in those audits along with an extended care assistant that assists me to collate those.

MR BOLSTER: Just for the assistance of the Commission the audits cross a whole range of clinical domains, so wound care, restraint, chemical and physical; correct?

MS MARSHALL: That's correct.

MR BOLSTER: There would be 20 or 30 indicators that would tell you how you're going.

MS MARSHALL: Yes.

MR BOLSTER: Compared to other facilities in Southern Cross' group.

MS MARSHALL: That's correct.

MR BOLSTER: And is your evidence that that was never fed back to you until after the sanctions were introduced in November - - -

MS MARSHALL: Yes, there were a few occasions when the report was discussed at a leadership meeting, but it certainly didn't feed back through relevant department meetings.

MR BOLSTER: All right. Now, you were the acting facility manager for three or four months?

MS MARSHALL: Yes.

MR BOLSTER: Was the issue of the budget raised with you by either Ms Robson or Mr Crane at that time?

MS MARSHALL: I had very little input into the budget. I do recall reviewing the budget during that time but my knowledge of what the expectations were was minimal.

MR BOLSTER: Yes. If you could go, please, to – if we could bring up tab 44 at page _45. While that's coming up, you became aware that there were some shifts added to the roster, either by your predecessor or by yourself in around September/October 2017? Do you remember that?

MS MARSHALL: No.

MR BOLSTER: If you have a look at the screen there and under Yaraandoo if we can bring out the Yaraandoo and the last paragraph of those three:

The acting facility manager has been addressing the additional shifts that had appeared on the roster as I outlined last month. This has been progressed over the month of September and she was making progress. However, the enthusiasm to address may have waned. The last fortnight hours have increased again. In addition, ACFI income has reduced which will also be the focus of the new facility manager.

Do you remember those shifts being stripped out? Or you being asked to remove them?

MS MARSHALL: I can't recall. I'm sorry.

MR BOLSTER: Can't recall that. Okay. That was a report from Ms Robson to the board about what had happened at Yaraandoo during September when you were the acting facility manager though, you recall that?

MS MARSHALL: Yes, I recall.

MR BOLSTER: Right. And do you remember her raising with you concerns about the roster while you were the acting facility manager?

MS MARSHALL: I do remember having some discussion around the roster.

MR BOLSTER: What was the concern that she had about the roster?

MS MARSHALL: I can recall the conversation but I'm sorry, I can't recall the – the content.

MR BOLSTER: The content. Okay. All right. Well, in the new year, after Mr Anderson was appointed, were you made aware that there was – there were plans on foot for further significant changes to the roster?

MS MARSHALL: I can remember some discussion regarding roster changes.

MR BOLSTER: When was it first suggested to you after Mr Anderson was appointed that there would be a change to the roster?

MS MARSHALL: I can't remember exact dates, but I can remember changes being discussed.

MR BOLSTER: This may help you: if you assume that the rosters were implemented, the roster changes that were a significant reduction in the personal carer staff of 14 hours a day, they were introduced in August, the first or the second week in August; it doesn't really matter. Roughly how long before they were introduced were you made aware of them?

MS MARSHALL: Possibly I can recall some conversation around maybe June/July.

MR BOLSTER: Yes. When did you find out, Ms Marshall, you were going to have to get by with eight less carer hours every morning, and you're going to have to get by with six less carer hours in the evening shift; when were you instructed that you had to engage your staff to deliver that sort of cut?

MS MARSHALL: The discussion would have been around that time.

MR BOLSTER: Who spoke to you about those things?

MS MARSHALL: Patrick.

MR BOLSTER: Did Ms Robson talk to you about that at all?

MS MARSHALL: No, I don't recall.

MR BOLSTER: Mr Crane.

MS MARSHALL: No.

MR BOLSTER: Did you ever have discussions with Mr Crane at all about the running of Yaraandoo?

MS MARSHALL: No.

MR BOLSTER: What did Mr Anderson tell you about those changes?

MS MARSHALL: Other – there was no great conversation other than that there would be a reduction.

MR BOLSTER: What was your reaction when you heard it?

MS MARSHALL: Well, distress because any reduction is going to have a negative input on resident care.

MR BOLSTER: What was morale like amongst the care workforce?

MS MARSHALL: Extremely low.

MR BOLSTER: Before that?

MS MARSHALL: Yes.

MR BOLSTER: Before they found out about the reduction, it was low, was it?

MS MARSHALL: It's always been low because, I guess, we didn't have the support from the top.

MR BOLSTER: The – one of the quality indicators that was audited monthly was a staff morale set of questions. You remember that.

MS MARSHALL: Yes.

MR BOLSTER: And you filled that out along with all of your workers every month, didn't you?

MS MARSHALL: Sorry. Can you repeat.

MR BOLSTER: You filled out the form, every member of staff was surveyed on their attitude to work. People were allowed to give feedback, weren't they?

MS MARSHALL: Yes, that survey did come out.

MR BOLSTER: Did the results of that feedback ever come back to you?

MS MARSHALL: No.

MR BOLSTER: So what did it mean on the floor in terms of care to take those hours out in August last year?

MS MARSHALL: It caused a great deal of stress for the workers involved, waiting periods for the residents.

MR BOLSTER: Well, you've heard – you didn't hear Ms Valier give evidence about Mr Harvey, her husband.

MS MARSHALL: No.

MR BOLSTER: How did it impact on the residents, people who couldn't get out of bed, people who had to wait for meals. What can you tell the Commission about them, the actual experience of those residents as a result of this?

MS MARSHALL: Yes, so staff would do their utmost to provide care as soon as it was possible for them. There was at times waiting periods which would increase resident anxiety.

MR BOLSTER: When you were – sorry, I withdraw that. There was another change though to the roster, wasn't there, in about September?

MS MARSHALL: That's correct.

MR BOLSTER: Involving two of your most senior carers. You know who I'm talking about.

MS MARSHALL: Senior enrolled nurses.

MR BOLSTER: Yes, senior enrolled nurses.

MS MARSHALL: Yes.

MR BOLSTER: They were – had a long history in the organisation; correct?

MS MARSHALL: Yes, that's correct.

MR BOLSTER: Two of your best staff?

MS MARSHALL: Yes.

MR BOLSTER: Team leaders.

MS MARSHALL: Yes.

MR BOLSTER: Worked full time.

MS MARSHALL: That's correct.

MR BOLSTER: And a decision was made that they be redeployed on a non-care basis; correct?

MS MARSHALL: Yes.

MR BOLSTER: Who made that decision?

MS MARSHALL: That decision was made at an executive level.

MR BOLSTER: By whom, as far as you're aware?

MS MARSHALL: That was announced by Pauline.

MR BOLSTER: Sorry?

MS MARSHALL: It was announced by Pauline Robson.

MR BOLSTER: How did she announce that?

MS MARSHALL: In a meeting with Patrick Anderson and the two – Mr Celzner and Mr Challis.

MR BOLSTER: Were you consulted before that announcement and decision were made?

MS MARSHALL: No, I didn't know the decision had been made until Mr Challis and Mr Celzner informed me.

MR BOLSTER: If you had been asked to comment on that, for your input about the way in which that might affect the care and quality and safety at Yaraandoo what would you have told Ms Robson?

MS MARSHALL: That it would affect the care significantly.

MR BOLSTER: Well, how did it affect the care? What did it mean for you?

MS MARSHALL: A significant change in my workload. A huge change.

MR BOLSTER: Could you tell us.

MS MARSHALL: So there wasn't any succession planning with the change – of the restructure, therefore there wasn't anybody that was taking responsibility of the duties that Mr Celzner and Mr Challis were being relieved of in their role.

COMMISSIONER PAGONE: So Ms Marshall, what do you think should have happened? What do you recommend if you had your time again; how would you like to have seen those kinds of decisions done?

MS MARSHALL: Being involved at a facility level with the impact it's going to have on the facility and the residents.

COMMISSIONER PAGONE: Being involved in what, the decision-making or the implementation?

MS MARSHALL: In discussion and decision-making, something that has a huge effect and impact on the facility.

COMMISSIONER PAGONE: Although it might not have resulted in any different outcome though, presumably, if you had been involved.

MS MARSHALL: No, but perhaps if we had some discussion we could plan ahead with - - -

COMMISSIONER PAGONE: Yes.

MS MARSHALL: - - - what needed to be – what was required for those duties to be attended more effectively.

COMMISSIONER PAGONE: I suppose you might have been able to at least inform the decision-makers about the impact.

MS MARSHALL: Yes.

COMMISSIONER PAGONE: Did you have a sense that they didn't understand the impact or rather they didn't care about the impact?

MS MARSHALL: I feel that the impact wasn't looked upon at that level.

COMMISSIONER PAGONE: Is it possible that they didn't understand what the impact was?

MS MARSHALL: I feel from the facility manager's position he should have been able to voice that, what the impact would be, to the executive level.

COMMISSIONER PAGONE: If they didn't appreciate what the impact would be, why do you think that might have been the case? How did the situation where decisions of that kind were being made without being aware of what the impact would be? Is it only because they didn't talk to you, do you think, or is it because they didn't have the skills and information needed to understand the impact?

MS MARSHALL: I feel, as I've mentioned before, within my role I quite often – we're not communicated with, with the executive team.

COMMISSIONER BRIGGS: Do you think – or in your time in that role, did the management even talk to you about what the core business of the hostel was?

MS MARSHALL: No.

COMMISSIONER BRIGGS: Okay. So they lost sight of their purpose is really what you're saying?

MS MARSHALL: Sorry?

COMMISSIONER BRIGGS: So are you saying that they lost sight of their purpose?

MS MARSHALL: I'm not sure.

COMMISSIONER BRIGGS: Okay.

MR BOLSTER: Can I ask the question perhaps another way. If someone had asked you, "What does it mean to be the clinical care manager at Yaraandoo, but working for Southern Cross Care?" what would your reply have been?

MS MARSHALL: Within my role, I have great respect and I do my utmost to do my best in my role, but it's been a difficult role, because quite often I don't have the support above me.

MR BOLSTER: If I asked you, "Was it apparent to you that Southern Cross Care had a vision, had a goal, had a sense of what it meant to be an aged care provider?", what would your answer have been? Was there a vision there?

MS MARSHALL: Well, there's certainly a vision to save on costs. But I feel that that vision wasn't looked upon as to the effect it would have on the facility and its residents.

COMMISSIONER PAGONE: Ms Marshall, can I just take you back to something you just said a minute ago, because you said that you felt that you didn't have the support above you. And one of the things that we as Commissioners are conscious about of our task is to try to work out what might be the kind of things that we should recommend, so that people like you do have the support, if that's what, ultimately,

we think should be recommended. What kind of support do you think you would need to have made your role and the care of the people that you had the care of more effective?

MS MARSHALL: Well, I think all roles within the facility are equally as important as each other. We all need to be a team to work together. And that's something that we've possibly lacked within the facility, because we haven't had the leader above us being a great communicator and team leader.

COMMISSIONER PAGONE: So sometimes that's just personal qualities of people, that some people are just good at - - -

MS MARSHALL: Personal qualities and experience.

COMMISSIONER PAGONE: What about structural? Are there systemic things that you can think of? Would it have helped if there had been, I don't know, morning coffee every now and again or what – you can't dictate that people are going to be better people if their personal qualities don't fit. What can we do to make the system work better?

MS MARSHALL: Again, education, communication between all parties, working at the facility. Looking at where strengths and weaknesses are and putting processes and systems in place to support those.

MR BOLSTER: What's been the most important thing that's happened since the sanctions process – sanctions were imposed that has made a difference?

MS MARSHALL: Definitely education being available for staff at all levels. That's something that wasn't offered to us before. It was our responsibility to get our own education.

MR BOLSTER: What else? What else has made a difference?

MS MARSHALL: Currently the support from – that we've had recently from the adviser with implementing systems.

MR BOLSTER: How does an adviser support someone in your position and your staff? What's the important thing that they need to do to make it clear that they're supporting you?

MS MARSHALL: Providing the education that goes along with the changes. Again, open communication.

MR BOLSTER: I just wanted to raise - - -

COMMISSIONER PAGONE: Just before you do, education is a big word. Education about what?

MS MARSHALL: It is important, because we - - -

COMMISSIONER PAGONE: No. I understand. But what kind of education? I mean, education about what aspects?

MS MARSHALL: Well, staff awareness, so that they're educated to be proactive with changing resident acuity and care needs and knowing how to respond clinically.

COMMISSIONER PAGONE: Okay. Thank you.

MR BOLSTER: One aspect of improvement, I take it, has been in the complaints handling system with respect to residents. How has that changed?

MS MARSHALL: Sorry. Can you - - -

MR BOLSTER: Complaints handling.

MS MARSHALL: I feel that in my role I've always encouraged residents and representatives to come forward with complaints or concerns, if they have them, and being proactive in addressing those. There's probably been more awareness of how to make complaints or concerns within the facility.

MR BOLSTER: How has that been effected?

MS MARSHALL: So we're certainly having a lot more issues and concerns, if there is any, or compliments, too, raised and brought to our attention so they can be acted upon.

MR BOLSTER: Is there a system now?

MS MARSHALL: Yes. So we do have your say forms or resident complaints and concern forms, which are easily accessible at both nurses stations and front foyer entrance. It's discussed at resident meetings on how to implement that process. Residents and representatives are always encourages to address issues on the floor with staff after hours, so that can be escalated to myself or the facility manager and follow the process.

MR BOLSTER: I've just got a couple of more questions. The acuity of your residents, has that increased in the time you've been there from 2015 to November of last year?

MS MARSHALL: Yes.

MR BOLSTER: In what way? How much harder is it across the facility to deal with the residents you have to look after?

MS MARSHALL: Well, residents are coming to us in a much more frailer condition now. For instance, currently we have 54 residents and 50 of those are high care. So some need – requiring two people to assist with transfers and care needs.

MR BOLSTER: Did the roster change as the number of residents reduced during the sanctions process?

MS MARSHALL: No, it didn't. We've continued to roster as before the sanctions. There have been some times when there has been shortfalls for unplanned leave that we haven't been able to cover.

MR BOLSTER: Has that issue been openly discussed - - -

MS MARSHALL: Yes.

MR BOLSTER: - - - between yourself and the administrator?

MS MARSHALL: Yes it has.

MR BOLSTER: How regularly do you discuss that?

MS MARSHALL: We have weekly meetings, but on a day-to-day basis I review the roster and check for any gaps. Also, I work with the roster clerk on a monthly basis when she's collating the roster to look at skill mix and who is rostered.

MR BOLSTER: Are you aware of budgetary pressures being raised in those discussions since the time of the - - -

MS MARSHALL: No, I'm not.

MR BOLSTER: Those are my questions. Thank you, Commissioners.

COMMISSIONER PAGONE: Ms Marshall, you're, obviously, quite an experienced nurse. Have you seen examples of good management practice of aged care facilities other than in the post-sanctions environment?

MS MARSHALL: Within Southern Cross Care?

COMMISSIONER BRIGGS: Within the places you've worked.

MS MARSHALL: Yes. I was previously employed with One Care and it was very structured.

COMMISSIONER BRIGGS: Okay. And what was the difference between One Care and what you're seeing in Yaraandoo – or what you saw in Yaraandoo that made it better?

MS MARSHALL: I think my experience working with One Care we were all very much a team. We were trained to do each other's roles. If somebody happened to be on annual leave, for instance, somebody else was able to step into that role. And the communication between the team was far greater.

COMMISSIONER BRIGGS: And from your evidence, you consider teamwork and education to be the key things that have made a difference – or that make a difference.

MS MARSHALL: Yes.

COMMISSIONER BRIGGS: And what about money?

MS MARSHALL: Of course, yes. Money makes a big difference.

COMMISSIONER BRIGGS: Okay. Thank you.

COMMISSIONER PAGONE: Thank you. That's very helpful. Can I just ask you, I suppose, a general comment. Do you have any wish lists that you would like us to bring forward? What would you like us to do?

MS MARSHALL: Of course, funding into the facilities is of great importance. And additional staffing.

COMMISSIONER PAGONE: Thank you. You are free to go.

MS MARSHALL: Thank you.

<THE WITNESS WITHDREW [11.54 am]

MR BOLSTER: Thank you, Commissioners. The next witness is Jo-Anne Cressey Hardy, who I call.

<JO-ANNE CRESSEY HARDY, AFFIRMED [11.55 am]

<EXAMINATION BY MR BOLSTER

MR BOLSTER: Have a seat, please, Ms Hardy.

MS HARDY: Thank you.

MR BOLSTER: Your full name is Jo-Anne Cressey Hardy; correct?

MS HARDY: That's correct.

MR BOLSTER: And you prepared a statement on 4 November this year in relation to this hearing. Do you have a copy of it in front of you?

MS HARDY: I do. Thank you.

MR BOLSTER: And there will be a copy on the screen, I think, as well. Is there anything you want to change about that statement?

MS HARDY: No.

MR BOLSTER: And is it true and correct to the best of your knowledge and information?

MS HARDY: Yes, it is.

MR BOLSTER: I tender statement WIT.0496.0001.0001.

COMMISSIONER PAGONE: Yes. Thank you. That statement will be exhibit 13-5.

EXHIBIT #13-5 STATEMENT OF JO-ANNE CRESSEY HARDY DATED 04/11/2019 (WIT.0496.0001.0001)

MR BOLSTER: Now, Ms Hardy, you had the unenviable task of coming into Yaraandoo in November last year after it was sanctioned.

MS HARDY: That's correct.

MR BOLSTER: And you were an independent adviser and administrator and you had no relationship with Southern Cross Care previously?

MS HARDY: I had worked for Southern Cross some 21 years previously, but I had no contact or employment during that period of time.

MR BOLSTER: When you went in there, what were the defects that stood out to you from an organisational level?

MS HARDY: I outlined most of that in my annexure, my first annexure, the gap analysis that was undertaken. There were a range of defects that were outlined in that document.

MR BOLSTER: Yes.

MS HARDY: They ranged from – from an organisational perspective, you're asking?

MR BOLSTER: Yes. Yes.

MS HARDY: Okay.

MR BOLSTER: As an organisation, was it working?

MS HARDY: Very clearly not. One of the major defects was the inexperience of the facility manager, a young man, I believe. And it's been confirmed that it was his first facility manager role. He had very little supervision or support. The position that generally oversaw that – and functioned to do that for him had been vacant for some months, I believe.

MR BOLSTER: Was that Ms Robson's position?

MS HARDY: Yes. Yes, that's correct.

MR BOLSTER: And when did she return to that role?

MS HARDY: I never met her, so I don't think she ever did.

MR BOLSTER: Right. Okay. Was there someone acting in her role?

MS HARDY: There was indeed.

MR BOLSTER: Who was that?

MS HARDY: A lady by the name of Deb Austen, but she concurrently held an additional role as a facility manager at the same time.

MR BOLSTER: Yeah. And her facility was somewhere a fair distance from Yaraandoo, wasn't it?

MS HARDY: Yes, it was. I think it may have been Low Head Ainslie, but I'm not exactly certain.

MR BOLSTER: To what extent was she able to supervise him in the period that you were the adviser?

MS HARDY: I would say very little.

MR BOLSTER: And what were the - - -

MS HARDY: But then – sorry. Sorry to interrupt. But then one would expect that my role would fill that gap.

MR BOLSTER: But – and your evidence is that you did that?

MS HARDY: My evidence is that I attempted to – well, I didn't attempt to. I did undertake a gap analysis and then attempted to address those gaps. The organisation had also appointed a person that they called facility manager mentor, who for the first few weeks was a lady by the name of Angela Holzberger, who was an interim position until Kylie Bennett could come in January.

MR BOLSTER: All right. If we could bring up, please, tab 324, you might see on the screen in front of you your gap analysis. It may assist you in answering the next few questions that I have.

MS HARDY: Thank you.

MR BOLSTER: What was the most important thing that needed to happen at Yaraandoo - - -

MS HARDY: Well, my role as adviser/administrator was, in fact, to ensure the quality and care and safety of the residents. So from my perspective that was the most important thing so - - -

MR BOLSTER: When you go into a facility like that you're not there to rebuild it. You're just there to make sure that everyone is cared for properly; is that right?

MS HARDY: No, along the way there are systems that do need to be rebuilt.

MR BOLSTER: What were the ones that you wanted to focus on that were important to you when you'd had the opportunity to see what was going wrong there?

MS HARDY: Training and education; it appeared to me that there were distinct knowledge gaps for some staff around how to manage the deteriorating resident and how to manage residents who are frail and who are palliating. There seemed to be gaps in knowledge around contemporary dementia management as well. So they were the main focuses. Pain management. Skin integrity management. All the issues that were outlined in the agency's report.

But, of course, on – as well as that, as the gap analysis identifies, there were quite a number of issues around trying to rev up, if you like, for want of a better phrase, the continuous improvement activities that were taking place onsite, the feedback mechanisms from families and from staff so that we could actually identify the issues and address those for both staff, relatives and residents.

MR BOLSTER: Were you able to – what was your role in terms of interacting with Mr Anderson about all of this? Did you speak to him regularly? Did you tell him what to do or did you just get in there and do it yourself?

MS HARDY: A bit of both depending on what the task was. I would have to say very openly that it was obviously a very painful time for Patrick, professionally and personally. And his inexperience made it very difficult for him to, I guess, manage his own feelings as well as manage the sorts of emotions that were present at the site, yes.

MR BOLSTER: As adviser and administrator were you tasked with reviewing the roster and were you given a role to reduce or to increase or to keep it as it was?

MS HARDY: I wasn't tasked with any of that. My role was an independent adviser and I reported to the Department. Clearly, I gave some advice to the organisation. I did review the roster and made some alterations.

MR BOLSTER: What did you do?

MS HARDY: Yes, would you like me to enlarge on that? Sure. So one of the things I noticed when I very first went to Yaraandoo was that unlike most – or all facilities that I had previously had an involvement with, there was a large involvement by nursing and care staff in preparing breakfast, which prevented them at the beginning of their shift from attending to assisting residents with feeding, with actually eating their breakfast. It kept them from attending to showers, bed changes, those sorts of things, because they were actually buttering toast, making drinks, etcetera. So one of the first workflow changes that we implemented was to increase catering hours so that the nursing staff were freed up. So it was a productivity gain, I guess, if you like, that was equivalent to actually employing more staff.

I also put on some extra leisure and lifestyle hours. From memory, it was around four hours a day, seven days a week, to ensure that in the afternoons the residents that had dementia were able to be cared for in a separate group because Yaraandoo did not have a discrete dementia wing. As well as that, some hours were added to the roster for continuous improvement activities. So a continuous improvement administration person and, look, from recollection, it's around two days a week. Because the CI processes and activities seem to have been fairly scant and that had impacted on the report and the – and yes, the results achieved.

I also put in a number of hours, eight hours I believe, a week for an Autumn Care implementation officer, it was – it was termed. That role was present at many other Southern Cross sites. That person's role was to, in fact, ensure that any new staff were trained in the Autumn Care system, which is our care planning and progress notes system and also be available for existing staff who had knowledge gaps.

MR BOLSTER: What other important structural changes did you make, for example, complaints handling; what did you find and how did you fix that?

MS HARDY: That, too, was fairly scant. So normally what you would expect to see with a robust feedback mechanism and robust CI system is a register of complaints, comments, compliments. And there was one but it was – it wasn't very

fulsome which indicated to me that the feedback mechanisms hadn't been supported and encouraged. So the organisation had what they call a Have Your Say Form so a lot more of those were distributed around the home and there were points where people could get those. Those forms were filled out. They were registered. They were given a number. So as I explained to staff and to residents and to relatives, "If you verbally tell me something there is the risk A, that I will forget it, and B, that it won't actually then be part of our formal CI system". So that was exactly what was undertaken. As a result there were a lot more feedback forms from all the various stakeholders.

MR BOLSTER: You talk about a recruitment drive.

MS HARDY: Yes.

MR BOLSTER: Did you give advice to management about the need to recruit staff?

MS HARDY: When you say "management"?

MR BOLSTER: That is Southern Cross, to Mr Anderson and those he reported to?

MS HARDY: Yes, I indicated that that's what was needed and that's what we were doing.

MR BOLSTER: Was the issue of budget raised with you in answer to any of the recommendations that you were making at that time?

MS HARDY: I would have to say only in as much as I was advised by both Carolyn Wallace, who was the executive manager, clinical services, and the chief executive officer that anything to do with the sanctions process was outside the normal budgetary protocols. I wasn't prevented from any purchase that I wished to make or any recruitment that I wished to undertake.

MR BOLSTER: Right. And you made some significant equipment purchases which you set out in your statement.

MS HARDY: Absolutely. Yes.

MR BOLSTER: What was the deficiency there that was obvious to you?

MS HARDY: Well, I believe it came from the feedback forms. I believe staff – this is from memory – I believe staff raised perhaps verbally but perhaps with a form, that they were actually spending periods of time traversing the facility looking for lifting equipment so that – residents all have differing requirements, so some residents may require a particular type of lifter. Another resident may require another sort of lifter.

MR BOLSTER: There was air mattresses raised.

MS HARDY: Yes.

MR BOLSTER: And that was a topic in the audit report.

MS HARDY: Yes.

MR BOLSTER: What did you see on the floor that led you to think that you needed to buy the seven or eight or nine air mattresses that you arranged to be bought?

MS HARDY: That there weren't enough – no.

MR BOLSTER: Palliative care, I don't know whether you were here for the evidence about Mr Harvey this morning, but there was some fairly harrowing evidence about the level of the palliative care that was provided to that one individual. What stood out to you about the knowledge and skill in that field?

MS HARDY: The resident cohort nationally has changed enormously in the past few years. So that for many aged care nurses who may have been trained some years ago, they are not used to nursing a palliative person. So that there were knowledge gaps around identification, for example, of pain in people with dementia. There were also – the facility hadn't seemed to reach out to external specialists so - - -

MR BOLSTER: Were there specialists in the area - - -

MS HARDY: Yes.

MR BOLSTER: - - - of public health that they could have called on?

MS HARDY: I don't know about public health but there was a palliative care nurse who we used a lot from pretty well the start of when I arrived who was excellent, and who also then gave a lot of education to staff around the palliating resident and palliative care.

MR BOLSTER: Did you have to give her instructions and directions as to where you were?

MS HARDY: Where I was, what do you mean?

MR BOLSTER: Well, had she been there before?

MS HARDY: I don't think I personally contacted the lady. From memory, I think it was either Kylie Bennett or Tammy Marshall.

MR BOLSTER: But was it apparent to you that she had visited the facility before?

MS HARDY: I couldn't answer that, sorry. I don't know.

MR BOLSTER: Okay. Now - - -

COMMISSIONER PAGONE: Just before he goes on to a different point, Ms Hardy, the impression that one gets from what you've told us and your statement, is that there were – there were organisational features of the facility that did not meet what you think should have been the way in which the facility should be organised, either at a board level or at a management level. I wonder whether you might share with us what you think would be a proper practice, either at the board level or at the management level for a facility of that kind?

MS HARDY: With the greatest respect, I had very little knowledge of the board organisation.

COMMISSIONER PAGONE: Right.

MS HARDY: Given the role that I had as adviser, there would be no reason for me actually to have knowledge of that. So I just cannot answer that question. In terms of management, I had indicated previously that the facility manager was very inexperienced and was offered very little support because of the absence of the area manager. So those two things in themselves impacted enormously on the care. There was a – you know, because of that, there was a lack of leadership.

COMMISSIONER PAGONE: Thank you.

MR BOLSTER: I just want to ask you about the practices of facilities bringing in experts such as yourself to assist them in advance of accreditation visits. Is that a widespread practice?

MS HARDY: I have never been – I've never done that. I've never been employed to do that. A lot of organisations will have a – large organisations will have a quality team or a quality person who, in fact, undertakes mock audits, etcetera, for – for that organisation. So in that sense, that exercise, I guess, is preparing for accreditation.

MR BOLSTER: And were you aware whether there was any such process in place at Southern Cross?

MS HARDY: When I first went, I had no knowledge of the structure, really, of Southern Cross, except an organisational chart. It became clear that there was a CI and training officer who was based in Hobart who was state-wide who did undertake some of those activities. That person was nonclinical so that was the only person I was aware of. There was some discussion, whether it actually occurred I don't know, about facilities peer reviewing each other, if you like.

MR BOLSTER: Yes. All right. What about the person in charge at an executive level of clinical performance; did you have much to do with her in your period of appointment?

MS HARDY: Yes. I would have had phone contact probably around once a week in order to advise her of what was occurring. Any purchases had to – I would scan to her or fax to her for her approval, but they were always approved. She was at site, I would say, from memory, once a month. I arrived late November. I believe it was the end of February, perhaps early March, that Carolyn retired. So there wasn't a great deal of time that I had with her.

MR BOLSTER: Just in closing, what – is there a message that you wish to convey to the Commission about the importance of organisational structure, given what you know about what happened at Yaraandoo in 2018? What's the most important thing that organisations get wrong, in your experience, that leads to people like you being appointed to fix the problem?

MS HARDY: Look, I would like to talk about, if I may, about the industry in general. There is a thing in the aged care industry called churn, where people are constantly moving from one organisation to another, trying to achieve the best outcomes they can in, really, very, very difficult circumstances. The role of a facility manager is incredibly onerous, incredibly wide in terms of its responsibilities. And there are – there is a need for people to be extremely well experienced before being placed in that kind of role.

It's a role where you need to be able to manage people, you need to be able to manage HR issues, you need to be able to manage rosters, you need to be able to manage finance, you need to be able to manage complaints. It's – you need to be able to understand clinical issues. It's a very wide-ranging role. And my personal belief is that the lack of experience and the lack of support to that person at Yaraandoo, but, more particularly, across the nation – I do think that the funding needs to be addressed. Definitely needs to be addressed.

MR BOLSTER: Thank you. Those are my questions. Thank you, Commissioners.

COMMISSIONER BRIGGS: You seem to be suggesting a systemic problem with a lack of training or guidance around facility managers; is that right?

MS HARDY: Sorry? Could you just repeat that.

COMMISSIONER BRIGGS: Yes. Is there a system-wide issue nation-wide around lack of effective training or support for facility managers? Or is it a case of facility managers needing more experience on the job before appointments occur?

MS HARDY: I think it's probably both, Commissioner. And it isn't just training that there's a lack of. If we're just talking about Yaraandoo, for example, it's in a very small city. It's in a rural and remote area. It's extremely difficult to attract quality staff. It's extremely difficult to attract enough staff. So we're talking about both quality and quantity. And then we're talking about retaining those staff, so that you have knowledge of the facility that's constant. They're the difficulties in that kind of environment.

COMMISSIONER BRIGGS: That's what I thought you were saying. Thank you.

MR BOLSTER: Thank you, Commissioners.

COMMISSIONER PAGONE: Yes. Thank you, Ms Hardy. Thank you for sharing your experiences with us. You're free to go.

MS HARDY: Thank you very much.

<THE WITNESS WITHDREW [12.18 pm]

MR BOLSTER: The next witness who I call is Kylie Maree Bennett.

<KYLIE MAREE BENNETT, AFFIRMED [12.19 pm]

<EXAMINATION BY MR BOLSTER

MR BOLSTER: Ms Bennett, you've made a statement for the Commission, haven't you?

MS BENNETT: Yes.

MR BOLSTER: And you have a copy of it in front of you?

MS BENNETT: Yes.

MR BOLSTER: And there should be another copy on the screen.

MS BENNETT: Yes.

MR BOLSTER: Is there anything in that statement that you want to change or correct?

MS BENNETT: No.

MR BOLSTER: And is the statement true and correct to the best of your knowledge and belief?

MS BENNETT: Yes.

MR BOLSTER: I tender witness statement 0500.0001.0001.

COMMISSIONER PAGONE: Thank you. The statement of Kylie Maree Bennett, dated 11 October 2019, exhibit 13-6.

EXHIBIT #13-6 STATEMENT OF KYLIE MAREE BENNETT DATED 11/10/2019 (WIT.0500.0001.0001)

MR BOLSTER: Now, Ms Bennett, you are currently the nursing administrator and adviser at Yaraandoo; correct?

MS BENNETT: Yes.

MR BOLSTER: And you replaced Ms Hardy.

MS BENNETT: Yes.

MR BOLSTER: Were you here for her evidence?

MS BENNETT: No.

MR BOLSTER: No. And you took over that role in July. But, before that, you had been the facility manager - - -

MS BENNETT: Yes.

MR BOLSTER: - - - since Mr Anderson's resignation on 12 February this year. Correct?

MS BENNETT: I was acting facility manager from February. And then I accepted a permanent appointment in April as facility manager.

MR BOLSTER: And who is the current facility manager? And if you can just speak up a little, I think, it might help us.

MS BENNETT: Sorry. Sorry. What was the question?

MR BOLSTER: Who is the current facility manager?

MS BENNETT: There's an acting facility manager at the moment.

MR BOLSTER: And who is that?

MS BENNETT: Her name is Alison Matthews.

MR BOLSTER: All right. Before you took up the role as acting facility manager, you were given the task of mentoring; correct?

MS BENNETT: Yes.

MR BOLSTER: Who gave you that role?

MS BENNETT: Within Southern Cross?

MR BOLSTER: Yes.

MS BENNETT: It was the executive manager for clinical services, Carolyn Wallace.

MR BOLSTER: Right. And when she came to give you the brief for that role, what did she tell you was the important thing that you needed to do with Mr Anderson and Yaraandoo?

MS BENNETT: Help him with what the role of facility manager was, find out what he thought, where there were some gaps and - - -

COMMISSIONER BRIGGS: Could you – I think we need to improve the - - -

MR BOLSTER: The sound.

COMMISSIONER BRIGGS: - - - sound. It's not - - -

MR BOLSTER: I think we might move - - -

COMMISSIONER PAGONE: Hard enough for people to hear.

MR BOLSTER: If you could move closer. And if you can just slide the microphone towards you.

MS BENNETT: Is that better?

MR BOLSTER: I think even closer, I think, would be even better.

MS BENNETT: Better?

MR BOLSTER: Right. If you could just keep your voice up, that would help. What was the particular things that indicated to you that you needed to focus on in mentoring Mr Anderson?

MS BENNETT: As I was saying, talking with Patrick around how he saw the role of the facility manager and working out where there were some gaps.

MR BOLSTER: Did you figure out that there were gaps?

MS BENNETT: Yes.

MR BOLSTER: What were the gaps?

MS BENNETT: When talking with Patrick, he was talking around some of the difficulties and struggles he had with following through with information that had been – or decisions that had been given to him, as well as sort of the day-to-day stuff where, you know, continuous improvement, rostering and things like that, meetings. So I did things with him to see what he did and then talked around, you know, how I have done them in the same role, so that we could sort of make a plan together for him to improve on those things.

MR BOLSTER: Well, you had previously been the facility manager at Guilford Young Grove, which is another Southern Care facility in Hobart; correct?

MS BENNETT: Yes.

MR BOLSTER: And how long had you been the facility manager there for?

MS BENNETT: It was December 2018 – no – '17. Sorry.

MR BOLSTER: '17. Till about July 2018?

MS BENNETT: Yes.

MR BOLSTER: Yeah. And after that you were given a role as a facility manager special projects.

MS BENNETT: Yes.

MR BOLSTER: Which meant that you assisted the other southern division facilities on an ad hoc basis; correct?

MS BENNETT: The executive manager at the time gave me what topics or projects to work on. So – and she worked with me around what it was I was to do and how to do it, and then in the southern region, yes.

MR BOLSTER: Can you compare Guilford Young Grove with Yaraandoo? Are they comparable facilities?

MS BENNETT: No.

MR BOLSTER: One's a 43 bed facility in Sandy Bay; the other's - - -

MS BENNETT: Eighty - - -

MR BOLSTER: - - - 80-odd.

MS BENNETT: 82. 82.

MR BOLSTER: Yeah. How different are the residents between the two?

MS BENNETT: In terms of their clinical needs or - - -

MR BOLSTER: Acuity and clinical need, yeah.

MS BENNETT: When I started at Yaraandoo it took me a while to work out what was the level of acuity there. There was some, you know, complex clinical care. There were some that were still quite actively involved in the community. Guilford Young Grove had people who were actively involved in the community and had lived there for a long time, which I was learning that Yaraandoo had for quite a large number of their cohort that still had, you know, an area of quite new sort of residents.

MR BOLSTER: Is this a fair summary, that there was a cohort of residents at Yaraandoo who had needs, high care needs that you didn't see at the Sandy Bay facility?

MS BENNETT: No. No.

MR BOLSTER: Well, there were more of them, weren't there?

MS BENNETT: There were more of them, yes. If you were talking round percentages, it would probably be the same, but I never looked at it, so - - -

MR BOLSTER: How many high care people are at Yaraandoo right now?

MS BENNETT: I would have to look at something. High care is an old school language. So, you know - - -

MR BOLSTER: How many residents at Yaraandoo have, you know – would you describe in the old school language of high care?

MS BENNETT: So high care is based on the funding model where you need to have certain ratings. So it is a large amount, I think. The last time I looked at it there were 52 residents. And I think it was around 48 are classified in that.

MR BOLSTER: Yeah. At the previous facility that you were the manager of, did the – was the proportion the same or similar?

MS BENNETT: From what I can recall, I think when I was at Guilford Young Grove where there were 42, I think there was around 31.

MR BOLSTER: Right.

MS BENNETT: So – that were under that high care rating.

MR BOLSTER: One of the things that Southern Cross do is benchmark all of their facilities against national averages; correct?

MS BENNETT: Yes.

MR BOLSTER: So every month you, as a facility manager, would be sent, both in terms of quality and in terms of ACFI, where you sat against national averages; correct?

MS BENNETT: Not monthly for quality, no.

MR BOLSTER: Well, how – quality three monthly?

MS BENNETT: Three monthly, yeah.

MR BOLSTER: ACFI monthly.

MS BENNETT: ACFI monthly.

MR BOLSTER: And what was the message that you received as a facility manager from the head office about the way in which you should approach those figures?

MS BENNETT: What do you mean?

MR BOLSTER: Well, were you told that it was desirable that you meet the national averages?

MS BENNETT: No.

MR BOLSTER: What were you told about where you stood in terms of ACFI on a monthly basis?

MS BENNETT: Just for comparatives within Tasmania and nationally. So variances within your own site and within the organisation and how they sat within.

MR BOLSTER: And there was a gentleman by the name of Mr George-Gamlyn who provided high level advice on that to you as the facility manager; correct?

MS BENNETT: Information?

MR BOLSTER: Yes.

MS BENNETT: Yes.

MR BOLSTER: Did he tell you how your particular facility stood on the national benchmark for ACFI?

MS BENNETT: Yes.

MR BOLSTER: And did he tell you where you were falling behind and where you were ahead of the national average?

MS BENNETT: The statistics were there, yes.

MR BOLSTER: Yeah. And were you given any direction from management about the way in which you should view those results?

MS BENNETT: No.

MR BOLSTER: No. Were you given direction from management about budgetary matters?

MS BENNETT: What do you mean?

MR BOLSTER: Well, were you told that you had to live within a particular budget for a particular year or even for a particular month?

MS BENNETT: What period of time? Just - - -

MR BOLSTER: Well, when you were – you were a facility manager at Guilford Young Grove for some time.

MS BENNETT: Yeah. So at Guilford Young Grove I was given financial information, and so yes, we were given the budget, annual and monthly variances.

MR BOLSTER: Who was in control of the roster and staffing discussions at Guilford Young Grove?

MS BENNETT: In terms of day to day or - - -

MR BOLSTER: If you wanted – if you went to your supervisors – I'm sorry. I will withdraw that. If you felt that you needed more care staff, what did you do about it?

MS BENNETT: So I would do a monthly board report and I would include that information there.

MR BOLSTER: And did you ever feel compelled to do that whilst you were the facility manager?

MS BENNETT: At GYG I reviewed the roster and made improvements and went through with the person above me around that.

MR BOLSTER: Was that Ms Robson?

MS BENNETT: Yes.

MR BOLSTER: And how did you fare in getting extra staff at that facility?

MS BENNETT: Successfully.

MR BOLSTER: All right. Were you ever asked to cut staff at that facility?

MS BENNETT: There was a discussion around how – numbers of staff and workflows. So whilst there might have been a reduction in one area, I was successful in transferring those hours from that shift time to another shift time to ensure that the workflow still went to the needs of the residents.

MR BOLSTER: Do you recall a policy called the Pathway to Break Even; was that conveyed to you?

MS BENNETT: I believe at facility management meetings it was referred to.

MR BOLSTER: And what did you understand it to mean?

MS BENNETT: Having a plan for the financial viability of each of the sites within the organisation.

MR BOLSTER: Was that a plan you developed or - - -

MS BENNETT: No.

MR BOLSTER: - - - was that a plan developed at head office?

MS BENNETT: I wasn't involved in developing it, no.

MR BOLSTER: What was the – describe the lines of communication between you as a facility manager at Guilford Young Grove and, indeed, you as the acting facility manager at Yaraandoo with the executive; how did that work? How did they direct you and how did you report to them and describe the flow of information?

MS BENNETT: So at GYG, Pauline was my line manager, if you like. So she would come to site, she would make a plan to come weekly. Most times she was there weekly. If there was something that was affecting the facility on a day-to-day – so whether it be an infection or rostering or concerns or compliments, I would email her the information. I – there was a template for the board report that was to be done monthly, so I completed that. If there was something I needed a decision on or some guidance on, straightaway I would ring her. Most times I got through to her. She was quite available on her phone. If not, I left a message and she did return the phone call.

MR BOLSTER: Did you deal with Mr Crane, the executive manager finance?

MS BENNETT: He would attend the facility manager meetings. I do believe I met with him once at Guilford Young Grove when I first started there, so he could – there had been some refurbishments so he came and had a look at that and we were able to compare within the home the positive outcomes of that refurbishment and he spoke to me around finances and understanding how to read the budget information.

MR BOLSTER: He gave you assistance about that, did he?

MS BENNETT: We sat and talked around what it all means.

MR BOLSTER: And did he explain to you that he had a goal that there was a 30 per cent – 30 per cent was an important figure when it came to the expenditure on care?

MS BENNETT: No.

MR BOLSTER: You've never heard a 30 per cent being a significant figure in budgeting for - - -

MS BENNETT: Not 30 per cent, no.

MR BOLSTER: What was the figure that you heard?

MS BENNETT: In the – in the facility management meetings they would talk around something in the 60 per cent around direct care.

MR BOLSTER: What did they say about 60 per cent?

MS BENNETT: So it's on your report. It would have the percentage and in comparison to – for direct care costs.

MR BOLSTER: All right. Let's clarify what we're talking about. 60 per cent of what? 60 per cent of the total income - - -

MS BENNETT: Direct care costs.

MR BOLSTER: Right. So let's just make it clear. The 60 per cent was the 60 per cent of the income would be spent on direct care costs; correct?

MS BENNETT: That was my understanding, yes.

MR BOLSTER: And did you understand that he was talking to you about making sure you were under 60 per cent?

MS BENNETT: It was sort of like a ballpark figure and it was something in the 60 per cent that was referred to.

MR BOLSTER: Yes.

MS BENNETT: I can't remember if it was 65 or 66 but - - -

MR BOLSTER: When you're at 65 or 66 what was the message that you were getting from head office?

MS BENNETT: I didn't get feedback around financial performance.

MR BOLSTER: All right. How did you get feedback? What sort of feedback did you get about your performance?

MS BENNETT: The financial performance?

MR BOLSTER: Any performance? Who delivered feedback to you?

MS BENNETT: When Pauline came, she would give me feedback around certain things.

MR BOLSTER: Such as?

MS BENNETT: There had been complaints raised by residents to the CEO and she came to me to tell me that information.

MR BOLSTER: And are we talking about Yaraandoo now or Guilford Young Grove.

MS BENNETT: Guilford Young Grove.

MR BOLSTER: Okay. So that's about a specific complaint. I'm talking more about your performance and how you were going running a facility.

MS BENNETT: No.

MR BOLSTER: When you went to Guilford Young Grove, that was the first facility that you had run as a facility manager?

MS BENNETT: With Southern Cross Care as a facility manager, yes.

MR BOLSTER: You had worked for another organisation before that?

MS BENNETT: Yes.

MR BOLSTER: As a facility manager?

MS BENNETT: Assistant facility manager.

MR BOLSTER: So how many years before you graduated did you take up employment as a facility manager?

MS BENNETT: I graduated 2016. And - - -

MR BOLSTER: And when were you appointed facility manager at Guilford Young Grove?

MS BENNETT: 2017, wasn't it?

MR BOLSTER: What training did you take before accepting a role as a facility manager?

MS BENNETT: I was acting facility manager at another site in Southern Cross.

MR BOLSTER: Is that, in your opinion, enough to - - -

MS BENNETT: And my previous work in another organisation where I was assistant facility manager.

MR BOLSTER: Is there any course available to you to learn the skills to become a facility manager?

MS BENNETT: Not specific for facility management that I am aware of. There are some business and there are some – now there are some aged care management courses available but not when I first started doing it in Queensland.

MR BOLSTER: It must have been a daunting task to accept that responsibility when you first took it on, was it?

MS BENNETT: It was what I wanted. It was what I had been working towards.

MR BOLSTER: Well, were you nervous about taking up that responsibility?

MS BENNETT: In some way. yes. The facility, I had never been to. It's always hard being the new person in a team especially being in a leading role.

MR BOLSTER: And can you compare the support that you received with the support that you understand that Mr Anderson received?

MS BENNETT: I don't think that I got all the information around the support Mr Anderson received. We did talk around the support and how he found the support.

MR BOLSTER: What did he tell you?

MS BENNETT: That he – he found it difficult.

MR BOLSTER: Who suggested that you be appointed as adviser and administrator of Yaraandoo?

MS BENNETT: It was after there had been other avenues.

MR BOLSTER: Yes.

MS BENNETT: And I was at a meeting and then I said, "Robin, if the Department accepts it, I would be happy to do it".

MR BOLSTER: You had never done it before?

MS BENNETT: No.

MR BOLSTER: Did you feel that you had the skills to step into that role?

MS BENNETT: Yes. In some ways, yes, yes.

MR BOLSTER: What do you think is the most important thing that – I withdraw that. What was the most important part of your experience and your skills that led you to believe that you were qualified for that role?

MS BENNETT: The positive influence that I had had at the facility in the time between January and July.

MR BOLSTER: And what do you mean by that? What had you been able to achieve in being the acting facility manager there with the assistance of Ms Hardy?

MS BENNETT: A positive change in the culture. A positive change by staff and residents and family to understand that there were improvements that needed to happen and that it was going to take a lot of work by everyone to do that and to work together.

MR BOLSTER: Well, so what were the deficits in the culture that you observed from the time you were his mentor that - - -

MS BENNETT: There was a lot of negativity.

MR BOLSTER: From who?

MS BENNETT: The majority of the staff.

MR BOLSTER: Towards?

MS BENNETT: Southern Cross.

MR BOLSTER: And did you talk to them about that?

MS BENNETT: Yes. Yes.

MR BOLSTER: What was the – what were the key themes that came through?

MS BENNETT: From the staff – and this is not Mr Anderson, this is the general workers, that they were very upset that the situation that they were in, that they felt that – they described themselves as being the poor cousins.

MR BOLSTER: Poor cousins to who?

MS BENNETT: So within Southern Cross, there's sites in Launceston, there's sites in Hobart, but then there's them out in the north-west.

MR BOLSTER: Yes.

MS BENNETT: I would say to them around how the industry, the expectations, the practice in the ageing industry has changed but it seems to have changed around Yaraandoo.

MR BOLSTER: Were you able to convey that message to the executive?

MS BENNETT: I – when I was there up until July it was the executive manager home care residential services and, yes, I did talk to her around that.

MR BOLSTER: And was that done in a formal way? Is there a report from you to her about where the facility was at? Did you give a - - -

MS BENNETT: I do recall doing some board reports in that period to her. I'm not 100 per cent sure but I generally do write around staff practice.

MR BOLSTER: And what's been the result from your conveying those concerns to the board?

MS BENNETT: I've fed information up and then worked with the facility to have a plan to improve and we've been successful in improving.

MR BOLSTER: What other significant changes – and I'm talking about your interaction with the board and executive – can you point to that have made a difference, have made a change from what the previous position was?

MS BENNETT: So as the acting facility manager and facility manager it was – her name is Ms – Jaqui Martin-Bell that I reported to; she gave a lot of support, a lot of guidance around how to create change in a timely manner, how to, you know, work with the staff to get them onboard and things like that. As nurse adviser, I report to the CEO so I do that regularly, at least every week. I also do a teleconference with the Department of Health and the agenda and the information that I send to them, I send to him as well. And that includes staff morale and such things.

MR BOLSTER: The audit process that's been in place at Southern Cross, does it simply let the manager know that they're at an acceptable level, or does it indicate that they've gone beyond an acceptable level and they're perhaps at an A or a B or a C grade? Do you understand what I mean? Does it indicate how much better than the expected outcome the facility is, or does it just indicate - - -

MS BENNETT: No.

MR BOLSTER: - - - just expected.

MS BENNETT: You get a percentage from your audits. With the instructions it says if you're between, say, 80 and 85 per cent is your result, then this is the following actions that you need to do. If it's, I think, 85 to 90 and so on and so forth. That's only around instructions for the audit.

MR BOLSTER: Where is the benchmark of meeting the standard? Is that at the 80 level or higher?

MS BENNETT: I think off the top of my head it's around the 85, yes.

MR BOLSTER: All right.

MS BENNETT: And then there's the QPS audit schedule.

MR BOLSTER: Is there anything you wanted to raise with the Commission that it would be important for it to know about how organisations should communicate with facility managers, particularly in situations where there are problems, such as we know were the case at Yaraandoo?

MS BENNETT: I feel that feedback should constantly be given, whether it's, you know, good performance or bad performance. It helps you to – to learn to reflect around why is an element good, especially to compare to an element that's not bad, around how you can make those improvements, so that you have good in all your sort of KPIs, if you like.

MR BOLSTER: In your experience, though, does the excellent side of it come out? Are there mechanisms for bringing that out, making you better than just good?

MS BENNETT: With what I've worked with in Southern Cross, you mean?

MR BOLSTER: Yes.

MS BENNETT: No.

MR BOLSTER: I have no further questions. Thank you, Commissioners.

COMMISSIONER PAGONE: Have you finished with this witness?

MR BOLSTER: I have. Thank you.

COMMISSIONER BRIGGS: One of the things we're interested in clearly, Ms Bennett, is governance and how to get the best results. In reading in preparation for these hearings this week, what we're seeing is sanctions are introduced, then organisations react and inject funds, training, all of that sort of support. To what extent, in your experience, do organisations like Southern Cross Care, are they proactive in seeking to improve performance and delivering better quality of care, or do they just simply collect data?

MS BENNETT: In my 20-year experience, I would say that it is a proactive approach that has been taken with what I've experienced in the three organisations I've been in. Understanding of what care is, is – has been different between organisations.

COMMISSIONER BRIGGS: And what distinguishes that difference?

MS BENNETT: For me, maybe the understanding of people in those higher roles in the different organisations I've been in.

COMMISSIONER BRIGGS: Thank you.

COMMISSIONER PAGONE: Yes. Thank you, Ms Bennett. You're excused from further attendance. Thank you for giving your evidence and sharing your experience.

MS BENNETT: All right. Can I go?

<THE WITNESS WITHDREW [12.47 pm]

MR BOLSTER: That's all, Commissioners, before lunch.

COMMISSIONER PAGONE: If I've not misread the running sheet, we're a bit ahead of time.

MR BOLSTER: Yes, that's deliberately because I think Mr Anderson will take a bit more time.

COMMISSIONER PAGONE: I see. All right. So we will resume still in an hour's time, will we?

MR BOLSTER: Thank you, Commissioners.

COMMISSIONER PAGONE: All right. Well, 10 to 2.

ADJOURNED **[12.48 pm]**

RESUMED **[1.51 pm]**

MR BOLSTER: Commissioners, the next witness is Mr Patrick John Anderson, who I call.

<PATRICK JOHN ANDERSON, AFFIRMED **[1.51 pm]**

<EXAMINATION BY MR BOLSTER

MR BOLSTER: Your full name is Patrick John Anderson.

MR ANDERSON: Yes, that's correct.

MR BOLSTER: And you prepared a statement in relation to this Commission.

MR ANDERSON: Yes.

MR BOLSTER: And you have a copy of that in front of you?

MR ANDERSON: Yes.

MR BOLSTER: And there should be a copy on the screen if the need arises.

MR ANDERSON: Okay.

MR BOLSTER: Is there anything in the statement that you wish to change or vary?

MR ANDERSON: No.

MR BOLSTER: Is the statement true and correct to the best of your knowledge?

MR ANDERSON: To the best of my knowledge, yes.

MR BOLSTER: All right. I tender statement WIT.0578.0001.0001.

COMMISSIONER PAGONE: Yes. Thank you. The statement of Mr Anderson dated 26 October is exhibit 13-7.

EXHIBIT #13-7 STATEMENT OF MR ANDERSON DATED 26/10/2019 (WIT.0578.0001.0001)

MR BOLSTER: Mr Anderson, you were employed as the facility manager of Yaraandoo from 23 August – 23 October 2017 till February of this year; correct?

MR ANDERSON: That is correct.

MR BOLSTER: And in total you've been a nurse – a registered nurse for about three and a half years; correct?

MR ANDERSON: That is correct.

MR BOLSTER: And how long had you been a nurse before you got the job at Yaraandoo?

MR ANDERSON: About 1.75 years.

MR BOLSTER: So - - -

MR ANDERSON: One and three-quarter years.

MR BOLSTER: All right. And previously you worked at Bupa.

MR ANDERSON: Yes.

MR BOLSTER: In Hobart.

MR ANDERSON: In Hobart and in Tamworth.

MR BOLSTER: All right. And had you had any nursing or caring experience before that?

MR ANDERSON: Yes. I worked for two years as an assistant nurse while I was obtaining my registered nursing qualification.

MR BOLSTER: So did you get a cert III or a cert IV in that time?

MR ANDERSON: No. At least in New South Wales, once you've completed the first year of a registered nursing qualification, you're considered equivalently qualified to a certificate III. And that's how I gained employment as an assistant nurse.

MR BOLSTER: Did you feel it was a big step up in October 2017 to apply for a facility manager's job?

MR ANDERSON: Yes, I did. And when I was interviewed I was assured that it was an appropriate role for a first time manager, that I would be receiving a lot of support and that the site was very, very stable, in particular that it was very clinically stable, because it had a very capable clinical care coordinator.

MR BOLSTER: Do I take it from that answer that you expressed your own doubts in your ability, but you were reassured by whoever it was you were talking to?

MR ANDERSON: I didn't directly express concerns about my ability.

MR BOLSTER: Yes.

MR ANDERSON: But, obviously, it was – you know, I was honest in my résumé about my level of experience, so it come up in the interview.

MR BOLSTER: Yes.

MR ANDERSON: And it was something that I was concerned – not concerned about, but it was, obviously, something I had thought about. And I – if I had gotten a different answer in the interview, if they had said, you know, "You're really going to be on your own," or - - -

MR BOLSTER: Yes.

MR ANDERSON: - - - "This is really something for a seasoned veteran," then I with have withdrawn my application, because I wouldn't want to willingly set myself up for failure.

MR BOLSTER: Just pausing there. Looking back at Yaraandoo with the benefit of hindsight – it's very easy to do.

MR ANDERSON: Yes.

MR BOLSTER: Was it a facility that was right for someone with your level of experience?

MR ANDERSON: In retrospect, no, I don't think so. And, in fact, on my last day I stated as much to Mr Richard Sadek that I felt, in replacing me, that it really was a site much more appropriate for a veteran manager.

MR BOLSTER: Well, we will come back to the letter you wrote in due course in some detail. Was it Mr Sadek who recruited you?

MR ANDERSON: No. It was Mrs Pauline Robson. And I was interviewed by Mrs Pauline Robson, Carolyn Wallace and the CFO at the time, who – I know that his first name is Andrew.

MR BOLSTER: Mr Crane.

MR ANDERSON: Yes, Andrew Crane. Those were the three that interviewed me.

MR BOLSTER: Right. Did you get a picture from them about the sort of resident cohort you were dealing with? Was this a comfortable position or were these people in some need?

MR ANDERSON: I can't say I got any impression of what the resident cohort was like in the interview.

MR BOLSTER: You are critical of the induction process and what was promised to you. Can you explain to the Commission what it was that you were told you would get by way of support and what actually transpired?

MR ANDERSON: What I was told was that I would have, I think, a week-long orientation process.

MR BOLSTER: Yes.

MR ANDERSON: And that I would receive a handover – sort of where the facility was at and I would have ongoing support. At the start of my employment there was an issue with – I needed a brand new police check. There was a delay with that coming through, which threw a spanner in the works for what had been planned.

MR BOLSTER: Yes.

MR ANDERSON: So it – then my orientation was, essentially, I would only be able to honestly describe it as being taken to the state office and being introduced to key people and being given the policies and procedures to read.

MR BOLSTER: What form did the policies and procedures take?

MR ANDERSON: An Excel spreadsheet, which had hyperlinks to the documents on the intranet.

MR BOLSTER: All right. Were you taken through those by someone at Southern Cross or were you meant to take it home as a form of homework?

MR ANDERSON: I was expected to read them in my own time.

MR BOLSTER: And did you?

MR ANDERSON: Yes.

MR BOLSTER: What struck you about those guidelines and that framework?

MR ANDERSON: Having come from Bupa, what struck me was that they were quite lacking in both quantity and in how specific they were in their wording. They were quite vague. And there were policies and procedures that seemed like they should exist that didn't and that they were quite – it was quite a short list of policies and procedures.

MR BOLSTER: So what were the most important things that were missing? What should have been there that wasn't?

MR ANDERSON: Something that stood out was that there was no specific policies. There was no procedure guidelines for inserting catheters, there was no procedure guidelines for ACFI submissions. The list would be – there was no procedure guidelines for most clinical and non-clinical procedures, at least at the time. I don't know if that's been rectified now, but at least at the time that I started. Having come from Bupa where there's a work instruction or a procedure for everything. So giving a resident a bath or putting in a catheter, everything had a procedure that had been, I assume ,designed or at the very least signed off on by the senior clinical management.

MR BOLSTER: The papers – the board papers seem to suggest that you shadowed the facility manager at Esk for two days.

MR ANDERSON: Yes.

MR BOLSTER: Did that happen?

MR ANDERSON: I was sent to Mount Esk for two days.

MR BOLSTER: And what did you learn at Mount Esk?

MR ANDERSON: Not much. The facility manager that I was supposed to shadow was not given any time put aside to – to teach me. So they were incredibly busy going about their day to day, so we didn't actually have much of a chance to engage.

MR BOLSTER: All right. So after two days at Mount Esk in an introductory visit at state office, do you travel up to Yaraandoo?

MR ANDERSON: Yes, then I went to Yaraandoo.

MR BOLSTER: How – had you been provided with accommodation? Had that been arranged or were you left to do that for yourself?

MR ANDERSON: No. I was – I had organised a rental for myself.

MR BOLSTER: All right. And when you got there, what struck you about Yaraandoo?

MR ANDERSON: I can't say that anything in particular really – really struck me about – about the facility itself, no. I don't - - -

MR BOLSTER: Well, you had a clinical care consultant who reported to you, Ms Marshall.

MR ANDERSON: Yes, that's correct.

MR BOLSTER: Did you – was there – were you introduced to her by your superior? Was there a handover process from Ms Marshall, who had been the acting facility manager to you?

MR ANDERSON: Not that I can recall, although I'm at the disadvantage that I'm basing this completely off my memory from quite a while ago now. We did meet on the – on the first day, but I cannot recall the extent or the content of what kind of handover I received from Mrs Marshall.

MR BOLSTER: All right. Was there anything else at Yaraandoo that was, in terms of folders or organisational structures, organisational policies, organisational guidelines that was there to help you into the role?

MR ANDERSON: No, not that I – not that I can recall.

MR BOLSTER: All right. Did anyone give you any briefing about financial accountability and the sorts of systems that were to apply for expenditure?

MR ANDERSON: Yes. I was given a document called Financial Delegations Manual, which outlined – essentially, it outlined where – whom I needed to seek approval from for purchases of different varieties and what amounts I was authorised to purchase without approval for.

MR BOLSTER: All right. That was at Yaraandoo or was that something you were given in Hobart?

MR ANDERSON: I believe it was – actually, I believe it was sent to me in an email whilst I was at Yaraandoo.

MR BOLSTER: And was there a formal reporting structure communicated to you at any stage?

MR ANDERSON: For what specifically?

MR BOLSTER: Well, who was the person that you would report to on a regular basis?

MR ANDERSON: Right. Yes. The person I report to on matters financial and, basically, everything was Mrs Pauline Robson.

MR BOLSTER: Yeah. And was there a framework that set out the way in which that was all to happen? Was that monthly, fortnightly, weekly?

MR ANDERSON: There was a monthly written report that I was to provide to Mrs Pauline Robson, which was a general snapshot overview called a board report.

MR BOLSTER: Yes.

MR ANDERSON: Other than that, it was – on an as needed basis.

MR BOLSTER: That typically is, really, a two-page document that summarises how many people have left the facility in a month and how many have come in, what the vacancies are, talks about some of the activities that have been ongoing. It's not really a - - -

MR ANDERSON: It also talked about audit results. It also talked about ACFI submissions, planned ACFI uplifts, any issues with Medicare, any staffing issues, any workers compensation or injuries, as well.

MR BOLSTER: All right. When you reported on those things, what sort of feedback did you get from the board or from executive by way of response?

MR ANDERSON: None.

MR BOLSTER: None?

MR ANDERSON: The board in particular, nothing.

MR BOLSTER: When was the first time you saw a board member at the facility?

MR ANDERSON: I believe the first time I saw a board member at the facility was – I've forgotten his name – the previous chairman of the board.

MR BOLSTER: Is that Mr Groom?

MR ANDERSON: Yes. When Mr Groom was retiring, he came and visited each site. I'm fairly certain that's the only time I've seen a board member at the site physically.

MR BOLSTER: How common were other members of the board in visiting the facility?

MR ANDERSON: I've never seen any other member of the board at the facility other than Mr Groom.

MR BOLSTER: All right. Before the sanctions were put in place, how often did the chief executive officer come up to and Yaraandoo visit you?

MR ANDERSON: Maybe once or twice a year. I think I might have seen him – sorry.

MR BOLSTER: Sorry. I didn't mean to cut you off.

MR ANDERSON: When he visited – I recall one time he visited when we were about to vote for the new enterprise bargaining agreement.

MR BOLSTER: Yes.

MR ANDERSON: And then I think he might have visited another time when he was up in the area, because he was meeting with some of the independent living unit members, or there was some kind of meeting going on for either the home care or the independent living unit side of the business. And he was in the area, so he popped in.

MR BOLSTER: Was there a line of communication between you and the CEO so that you could ring him up about matters that were concerning you? Or was that a matter that was – if you would raise in the ordinary course with Ms Robson?

MR ANDERSON: I would raise that in the ordinary course with Pauline Robson. And there was an expectation that there was a strict chain of command, that if we were raising something for the first time, in particular, it was appropriate that that was followed. And it would be perceived as being undermining to Pauline to go directly to Richard with an issue.

MR BOLSTER: How many times do you recall speaking to Mr Sadek about – well, let's talk about rostering. Did you indicate to him that you had concerns about what was being discussed in the first half of 2018?

MR ANDERSON: Not to him, because I wasn't holding those discussions with him. Those discussions, on my side, anyway, were held exclusively with Mrs Pauline Robson and Mr Andrew Crane.

MR BOLSTER: All right. Well, we will also come to all of those discussions.

MR ANDERSON: Okay.

MR BOLSTER: Mr Sadek says a number of things in his statement about staffing. He says that the number and profile and rostering of staff depended upon occupancy, ACFI income, clinical data, staff incidents – that's accidents – and staff and consumer feedback. That all sound like the sorts of things that would inform a roster. Do you agree with that?

MR ANDERSON: Yes, I agree with that.

MR BOLSTER: How did staffing, though, work when you were reporting to Ms Robson? And we'll talk about the period before the cuts were in contemplation.

MR ANDERSON: I could only honestly say that the staffing was purely financially decided. I understand that that – that sentence is probably in a document somewhere, but that was not my experience at all. I'll relay, if I can, a specific incident I recall from, I think, the earlier part of 2018 where we were hosting a respite resident. And this respite resident was a quadriplegic. They – they required daily enemas. They were three assist for transfer.

So they were quite a large man. And I had requested to Mrs Pauline Robson that, as he required a shower every day, that on – for this two week period, may we have an extra one hour a day care staff, so that that doesn't impact on the flow of the operations for everyone else. And that was denied on the basis that we were already losing money, so we were already over our staffing budget, so that would not be allowed.

MR BOLSTER: Roughly when was that compared to the 2 to 8 November audit review?

MR ANDERSON: That was probably in the earlier part of 2018, but I can't recall.

MR BOLSTER: Yeah. So was it before then an agreement was reached about what the size of the roster reductions would be?

MR ANDERSON: Yes. Yes. It was definitely before that.

MR BOLSTER: All right. Okay. Well, you had a roster in place when you arrived.

MR ANDERSON: Yes.

MR BOLSTER: What were you told about that roster?

MR ANDERSON: I was told that that roster was – that there had been over-rostering done by the previous manager. Essentially, what I was told was that the previous roster – what the manager before me, Mr Glen Wickham, had done was whenever they were doing particularly well with funding, they would add in extra services. But they would be added in on a permanent – on permanent contracts, so that when that funding would then fluctuate, there wasn't an ability to then ebb and flow the roster with the funding level and with the care needs levels. So I was told that the current roster was surplus to requirement and that we were losing at least as defined, operationally, that we were losing in the realm of 30 to 40 thousand dollars a month.

MR BOLSTER: Right. Who told you that?

MR ANDERSON: That was told to me by Mrs Pauline Robson and Mr Andrew Crane.

MR BOLSTER: Roughly when was that?

MR ANDERSON: Well, I was first informed that we were losing money as soon as I started.

MR BOLSTER: All right. Let's have a look, can we please, at tab 308 of the tender bundle, and if we go down one page to 0003 – two pages – yes, please, and if we could highlight the first – that top left-hand quarter under Yaraandoo. See Yaraandoo is the first column on the left. Yes. Thank you. If you could go further down on the page – perhaps if you go back out and if you go down about halfway down the page, you will see a heading Operational Expenditure. If we could go down to and include that figure, please. Same sort of box. And across to there. Thank you very much. So you see there the line Operational Expenditure towards the bottom of the page?

MR ANDERSON: Yes.

MR BOLSTER: And you see the figures, resident care as a percentage of operational income and you have your budget figure for 2017/18 which was set, obviously, well before you arrived. That was 65.80 per cent. Can you see that?

MR ANDERSON: Yes.

MR BOLSTER: What did Mr Crane tell you about that sort of figure?

MR ANDERSON: That the benchmark that we're attempting to achieve was below 60 per cent.

MR BOLSTER: What did he want you to do as the facility manager at Yaraandoo?

MR ANDERSON: Well, I was told that these staffing cuts were necessary to achieve that going forward.

MR BOLSTER: Did you make a calculation or did he tell you what a five per cent – 5.8 per cent cut in that ratio would mean in terms of the bottom line?

MR ANDERSON: I can't recall. I – I believe I was – I was just told. I wasn't doing the financial calculations myself so - - -

MR BOLSTER: Who – did you have the skills to perform that sort of analysis?

MR ANDERSON: No, I don't have any accounting background, nor was I given any kind of training in that.

MR BOLSTER: Just pausing there though; how adequate was the staffing roster? From your position as a nurse, was there waste? Was there fat there to be trimmed?

MR ANDERSON: I don't believe so. I don't believe that any aged care facility in Australia has too many staff. I don't really honestly believe there's such a thing as excess staffing in a care environment. I believe that the more staffing that it is possible to have, obviously within reasonable limitations, that that just means that you can provide better care. So I would state that I don't think there is such a thing as excess fat when it comes to the staffing.

MR BOLSTER: All right. Well, did you explain that to Mr Crane and Ms Robson? In the first half of - - -

MR ANDERSON: I believe I had a conversation with Pauline Robson to that effect.

MR BOLSTER: All right.

MR ANDERSON: But I – I was told that these cuts were a matter of financial sustainability and that going forward that we wouldn't be able to sustain this level of spending and that it would mean, not imminently but at some point, closing the doors if it wasn't rectified.

MR BOLSTER: I understand that. Was the issue of the sustainability of the level of care considered in the same breath?

MR ANDERSON: Yes, it was. We had made similar cuts to similar staffing levels at other facilities and I was assured when I raised that concern that we've already got the staffing level at other sites. It's manageable. It's going fine at the other sites. We'll – you know, we'll – it might be a little bit difficult in an adjustment period but I was assured that it's already functioning at other sites and that would – we would be okay going forward.

MR BOLSTER: Other sites are other sites. Was there an analysis carried out about what the effect might be on the floor at Yaraandoo?

MR ANDERSON: No, I don't believe so.

MR BOLSTER: Did you ask for that sort of analysis to be carried out?

MR ANDERSON: No, I didn't.

MR BOLSTER: Do you think it would have been a good idea to do it before the decision was made to - - -

MR ANDERSON: Yes, absolutely, I do. And I do feel that – that that was an oversight on my behalf, but I felt that – I was, I guess, really under the false impression at the time that I was in good hands and that I was not being asked to do

anything that would have a negative outcome and I was being reassured by these senior experienced people that this was appropriate.

MR BOLSTER: All right. Let me ask you another question: it seems as though the discussions began sometime in 2017, relatively straightaway after you were appointed. The cuts weren't implemented until the middle of August, say. What was the reason for the delay?

MR ANDERSON: I'm not – I imagine it was the – doing the cuts at other sites was part of the delay. It may have changed now, but at the time I was there, there was a – I believe a single HR staff member for nearly 1000 employees, so these kind of processes were very slow in how they could be implemented so that there were cuts that were made at multiple other sites. That was one delay. I guess also the availability of the senior executive team members that needed to be involved in the process.

MR BOLSTER: Who was involved? Was Mr Sadek involved in this process?

MR ANDERSON: Not directly. Actually, I can't remember having a single conversation with him about the cuts specifically. It was Mrs Pauline Robson, Andrew Crane and then Mrs Jenny Thomas was the HR manager at the time.

MR BOLSTER: Was it conveyed to you by any of the people you did speak to that Mr Sadek was across the process and the decision?

MR ANDERSON: Yes. I was fully under the impression that these directives were coming from Mr Sadek, just indirectly.

MR BOLSTER: Did you raise with anyone, "Hang on a minute, is there a procedure or is there a framework that we need to go through to formalise this? Does the board need to know about this?"

MR ANDERSON: No, because I was under the impression that this was coming from the board.

MR BOLSTER: Yes.

MR ANDERSON: In fact, I was directly told that this is – this is what the board is asking for.

MR BOLSTER: Who told you that?

MR ANDERSON: Mrs Pauline Robson stated that this was coming from the board.

MR BOLSTER: Once? Twice?

MR ANDERSON: Multiple times when it was discussed.

MR BOLSTER: If we could bring up, please, tab 50, of the tender bundle. I want to show you a document there that has your name on it. Can you see that clearly?

MR ANDERSON: Mmm.

MR BOLSTER: You see it's headed Yaraandoo half year budget review and pathway to break even. It bears the names of yourself and Ms Robson and Mr Crane.

MR ANDERSON: Yes.

MR BOLSTER: It's dated 22 December. Do you remember how that document came into existence?

MR ANDERSON: Yes, I believe I wrote it in conjunction with Pauline Robson and Andrew Crane.

MR BOLSTER: And how did you do that? Did they come to see you, or did you go to see them? They're based in Hobart, aren't they?

MR ANDERSON: I believe Pauline came to see me once and then when we had the final discussion about it, I went to see both of them in Hobart.

MR BOLSTER: All right. If we go, please, to the second page, you see there some action steps and dates and the blacked-out portions are the names of residents obviously. What was the thrust of turning around the budget position? What was the – where were you heading with referring to ACFI and reducing hours and removing handovers, etcetera? Were these things that you came up with or were these things that came from Ms Robson or from Mr Crane?

MR ANDERSON: May I just take a moment to - - -

MR BOLSTER: Yes, sure.

MR ANDERSON: I haven't seen it in 18 months.

MR BOLSTER: Feel free.

MR ANDERSON: I can't recall exactly who come up with – with what. I know the water cooler suggestion was definitely completely my idea, as was the removal of a podiatry shift. There was a shift that was – existed in the roster purely for for bussing residents to and from podiatry appointments. The rest of it, I think might have been a combination of my ideas – I did speak to other facility managers about what they had cut at their sites to – you know, in their process, and so just the result of collaboration with Mrs Pauline Robson about what could be cut.

MR BOLSTER: Well, a minute ago I thought you said that the message you received was that these cuts had all been done at other facilities and that, effectively,

what you were being asked to implement was the same roster at Yaraandoo as was in existence at somewhere else.

MR ANDERSON: Yes. Any of these things on here that aren't what was already happening at other sites are things we didn't actually go - - -

MR BOLSTER: Yes.

MR ANDERSON: - - - ahead with.

MR BOLSTER: All right. The process – this is December.

MR ANDERSON: Yes.

MR BOLSTER: When was the final decision made about eight in the morning, six in the afternoon, the nurse down an hour and a bit a day, and the servery staff down an hour a day. When was that decision actually made?

MR ANDERSON: The decision for the writing of this document or the decision for - - -

MR BOLSTER: No, the final cuts.

MR ANDERSON: - - - ..... went ahead in?

MR BOLSTER: The final cuts, yes.

MR ANDERSON: Perhaps it might have been late June. I'm not sure.

MR BOLSTER: All right. If you go back to the first page, please, and the top of that, if you look at the last line there above action steps and dates. It says:

Our task is to deeply understand and implement changes that deliver $17 per resident per day over January to March 2018, ensuring that they are apparent in financial statements in the last quarter of 2018.

MR ANDERSON: Mmm.

MR BOLSTER: "Deeply understand and implement"; what did you understand that to mean? Was that about understanding the effect on the floor or was it something – am I getting that wrong?

MR ANDERSON: I know for a fact that line was added by Mr Andrew Crane but – at least to my memory rings a bell how he phrases things. I'm not really sure what he – he meant by that. You would have to ask him what was meant by that sentence.

MR BOLSTER: All right. If that could come down, please. If we produce tab number 54. This is a report – I think we have the wrong one. I'm after SCT.0012.0004.0073. It should be a 1 February document.

We will try and find that document but let me put the proposition in it to you, that the document that you see there is a typical feedback from the quality audit system at Yaraandoo, isn't it?

MR ANDERSON: Yes.

MR BOLSTER: So throughout the year, you would have a couple of nurses on staff who were solely devoted to entering into a computer system – Autumn Care, isn't it?

MR ANDERSON: Yes, Autumn Care.

MR BOLSTER: All of the clinical indicators for all of the residents and a profile was built up about how you were going against certain benchmarks.

MR ANDERSON: Correct, yes.

MR BOLSTER: That was presented to you or came back to you from the system on a monthly basis; correct?

MR ANDERSON: No, not precisely. It wasn't – the – a lot of the audits weren't from Autumn Care specifically. Many of them were conducted, you know, manually so like medication audits; a lot of the care existed outside of Autumn Care so it's not precisely correct to say it's all being automatically generated out of Autumn Care, but yes, on a monthly basis I would receive audit results.

MR BOLSTER: We have it. We will come back to that in a minute. One of the criticisms that's made of you in some of the other statements, which I don't know whether you've had a chance to see yet - - -

MR ANDERSON: Yes, I have.

MR BOLSTER: - - - is that there was no feedback of this process in the time you were facility manager, that you had all of this clinical information about wounds, about pressure injuries, about restraint, about employee satisfaction, etcetera, resident satisfaction, and that didn't feedback to your staff, including Ms Marshall. What do you say about that?

MR ANDERSON: I would say there was an issue with that. I do feel I wasn't open enough with feeding back audit results to staff members. I'm by no means trying to claim that I was, you know, completely perfect in the way I performed my role, and that's something that in retrospect I've regretted. It wasn't a conscious effort. It was just simply being preoccupied with other – with other things.

MR BOLSTER: Was it something that you were not given sufficient guidance and training about, when you took up the role?

MR ANDERSON: Well, yes, there wasn't a – again, there's no procedure about the dissemination of clinical information, not that I was aware of.

MR BOLSTER: After – just skipping ahead.

MR ANDERSON: Yes.

MR BOLSTER: Just while we're on this discrete topic, after Ms Hardy was appointed as the administrator, were you given advice by her about how this could be changed to make the situation better?

MR ANDERSON: Not really. I found that the – my experience after the sanction process was that I was not so much given guidance to improve; it was more that I was given tasks to do.

MR BOLSTER: If we can go back to that document that was on the screen and we're going back now to a document that's from 1 February 2018. You see that records the QPS employee satisfaction outcome in February.

MR ANDERSON: Yes.

MR BOLSTER: It's no surprise to you, that figure; you've seen that before?

MR ANDERSON: I've – yes, I have.

MR BOLSTER: And was that a concern to you, since in February you must have been talking to Ms Robson and Mr Crane about making the work of the staff even harder?

MR ANDERSON: Absolutely it was a concern to me. As surprising as it may be, that was actually a significant improvement on the last – on the previous employee satisfaction survey. And I tried multiple things to try and improve morale. I made improvements to the break room, moved the break room to a larger space so people could have breaks together – at the current time that I started, the break room was a very small space – and tried to, you know, put in place some measures for the staff that would improve morale. So it was something that was on my mind. I believe it was somewhere in the range of 45 to 50 per cent in the previous year.

MR BOLSTER: All right. If we could go, please, to tab 80. Let's hope we get the right one. I want you to assume from me that this is from March – sorry, from 16 April so it's a few months later. The figure is remarkably the same but here we have comments by the staff about the position and you wouldn't have been at all surprised for staff to be telling you that they didn't – there weren't enough of them and that there were issues about staff working short just about every day.

MR ANDERSON: Working short just about every day I think is an exaggeration. That's not – not to undercut the detrimental impact of working short but "every day" I do feel is an exaggeration.

MR BOLSTER: Every second day, even if it was every second day.

MR ANDERSON: If it's any day, it's bad enough. I am not – like I said, I'm not trying to downplay the negative impact of working short but no, I'm not surprised to see – I was not surprised by that.

MR BOLSTER: Assuming that these actually were both at the same time, the two documents, and they may have been at the same time, assume that there was – you were given that information only once, did you pause to inform the process between Ms Robson and Mr Crane and yourself about those concerns?

MR ANDERSON: No, I didn't discuss these specific concerns with them.

MR BOLSTER: The whole point of – well, I withdraw that. To be successful, the sorts of reductions that you were contemplating required a cooperative and engaged staff.

MR ANDERSON: Yes.

MR BOLSTER: Do you agree with that?

MR ANDERSON: 100 per cent, yes.

MR BOLSTER: And there was discussion, I think, in the papers about that?

MR ANDERSON: Yes.

MR BOLSTER: With staff expressing themselves in those terms, that must have suggested to you that you would have serious difficulties with these sorts of reductions.

MR ANDERSON: Yes, and whilst I didn't specifically reference this document or show this document to Mrs Pauline Robson or Andrew Crane although I will state that they have access to all of the QPS information for themselves and I was under the assumption that at least Pauline Robson read them, I did have discussions with them to the effect of this is going to be very damaging to the staff morale. The staff morale is already very low and we're going to have a lot of trouble with this.

MR BOLSTER: All right. If we could turn, please, to tab 62, there's an email here from Jenny Thomas which shows a timeframe for roster changes which she has sent to you and Ms Robson. You will see there that there was an extended period of consultation with the unions and staff. Four weeks notice of the changes. There was a process for dealing with any redundancies that flowed from it.

MR ANDERSON: Mmm.

MR BOLSTER: And we will come back to the Andrew, Danny and Barbara situation later.

MR ANDERSON: Yes.

MR BOLSTER: But that timetable had you implementing by 9 April.

MR ANDERSON: Yes, initially.

MR BOLSTER: And you didn't implement until 13 August.

MR ANDERSON: Yes.

MR BOLSTER: Again, you can't – can you explain why there was the delay?

MR ANDERSON: Well, as I stated before, there were cuts being made at other sites.

MR BOLSTER: Yes.

MR ANDERSON: There was a lack of availability of staff involved in this, and that's – that's actually all I can think of in regards to why the – they were delayed.

MR BOLSTER: But that process, though, in general terms, leaving aside the dates, that wasn't followed, was it, when you ultimately came to announce these changes?

MR ANDERSON: I wouldn't say that that's correct. So the task – so for 16 February was done.

MR BOLSTER: Yes.

MR ANDERSON: The - - -

MR BOLSTER: Okay.

MR ANDERSON: Yes.

MR BOLSTER: I'm talking about – let me be more precise. The steps that involved you communicating with other people who were interested in the process, the unions and the residents; when did they find out about the changes in relation to 13 August when they were introduced?

MR ANDERSON: The unions were informed on the same day that it was announced to the staff. I recall they were both informed in writing.

MR BOLSTER: Which was what date?

MR ANDERSON: I can't recall.

MR BOLSTER: Well, let me help you. There was a residents' meeting, which we will come to the minutes of in a minute, on 7 August.

MR ANDERSON: Yes.

MR BOLSTER: Were the residents told before the staff or the staff told before the residents?

MR ANDERSON: The staff were told before the residents.

MR BOLSTER: How long were the staff told before the residents?

MR ANDERSON: I – it would have been at least four weeks.

MR BOLSTER: Four weeks.

MR ANDERSON: I can't remember the exact date.

MR BOLSTER: Okay. All right. Can you go, please, to tab 68 of the tender bundle, please, and if we could go to the second page. And if we could focus in on finances and the two paragraphs there. This is one of your monthly board reports?

MR ANDERSON: Yes.

MR BOLSTER: It says:

Increased focus on carefully selecting residents for admission is showing early promising results that would yield an ACFI uplift across the coming months and years.

Was that another way of saying that people with low care needs and low ACFI assessments were being turned away at Yaraandoo?

MR ANDERSON: No. It was a way of saying we had had an issue in the past with people being admitted that were not needing 24-hour care, that were, in fact, inappropriate to have admitted at all. One, in fact, was a family member of a previous manager.

MR BOLSTER: Yes.

MR ANDERSON: And all I meant by that was careful as in, careful that we're choosing people that (1) need care, and (2) are people that we can provide care for. So we are not a facility that – you know, every facility has its strengths in terms of

how it's laid out, what kind of equipment we have, availability of, you know, ceiling hoists, security of the facility, that's all that was meant by that.

MR BOLSTER: All right. Is that another way of saying that people that did not yield sufficient ACFI were told that, despite having an ACAT assessment, they would not be admitted to Yaraandoo?

MR ANDERSON: No, I don't feel that's another way of saying that.

MR BOLSTER: Right. Okay. Moving on, please, if we go to tab 92, this is an email from Mr Crane to Ms Robson on 1 June. Have you seen – if you can please just read that. Have you seen that email before?

MR ANDERSON: No, I have not.

MR BOLSTER: Did you – did either Mr Crane or Ms Robson ever seek to gauge your views about the effect of the reductions at about that time, that is, in June, which according to your earlier evidence is probably about the time you were telling the unions what you were planning?

MR ANDERSON: No.

MR BOLSTER: Right. Did you have reservations on 1 June?

MR ANDERSON: Well, yes, I had reservations about the staffing cuts. Anyone would have reservations about the staffing cuts.

MR BOLSTER: And what were your reservations?

MR ANDERSON: That they, as I said, that they would cause a disruption to service, because it's not positive to reduce staff. I - - -

MR BOLSTER: Just pausing there, knowing what you now know, and having been there in November when the auditors came in, did these cuts affect care and safety and quality at Yaraandoo?

MR ANDERSON: Yes. Yes.

MR BOLSTER: In what way?

MR ANDERSON: I feel in the – the main impact was with waiting times for staff, simply, you know, there's fewer staff, the response times are going to be slower. And that makes – obviously, is a negative and makes people very – very unhappy with the service that they're provided.

MR BOLSTER: They mention being concerned that you were effectively complying under pressure. Their words. Did you feel under pressure from them?

MR ANDERSON: Yes, I did.

MR BOLSTER: How was that pressure felt? What did they say or do to you in around June or in the lead-up to 1 June that made you feel as though you were under pressure?

MR ANDERSON: Well, as I said, the cuts were presented to me as something that was a necessity. It was, we would be shutting down at some point in the future if we did not make these cuts, and there was a sense of urgency that was conveyed to me, in particular by Pauline Robson, every time we met about it saying that the board is – is – I believe one time her exact words were, "The board is hopping mad. They're jumping up and down about this. They're demanding that, you know, action be taken about this." And I guess the most honest way I could put it is I felt as though if I didn't comply that my employment would be ceased. I feel that I may be wrong, but in – and in retrospect maybe I should have stood up to them more but at the time I felt that if I had thrown in the towel and said, "I'm not doing this," that the only impact would have been that it would have been a different manager sitting in this chair right now.

MR BOLSTER: Go please to tab 222 which I am sure you will recognise. This is a document that you refer to in your statement as having provided to Mr Sadek at the time of your resignation.

MR ANDERSON: Yes.

MR BOLSTER: It was a resignation, wasn't it?

MR ANDERSON: Yes. Yes.

MR BOLSTER: If we could go, please, and given the time just focus on one or two things, to the fourth page, which is headed with number 3; if you focus on that paragraph, please. When did – you're familiar with that?

MR ANDERSON: Yes.

MR BOLSTER: When do you think you – I withdraw that. When do you recall saying to Ms Robson and Jenny Thomas that you thought things were going too quickly?

MR ANDERSON: I believe it would have been in the last week of July.

MR BOLSTER: If you go down to the third last paragraph, it says:

Yaraandoo's current situation is owing largely to vocal angry residents and relatives –

these are your words –

who legitimately believe that the staffing was cut in order to increase profits with no regard for resident care, and that all the current issues have been caused entirely by the staffing cuts.

Leave aside the last bit of that sentence, was staffing cut without regard for the effect on care?

MR ANDERSON: I wouldn't say it as bluntly as that. I would say it was perhaps cut without adequate regard for care.

MR BOLSTER: Right. And you would accept, having taken advice from Ms Hardy and having been assisted by Ms Bennett - - -

MR ANDERSON: Yes.

MR BOLSTER: - - - that there were other issues at Yaraandoo that were problematic.

MR ANDERSON: Yes.

MR BOLSTER: Not just staff.

MR ANDERSON: Yes. Yes.

MR BOLSTER: And I don't think we need to go through them at the moment, but there was one other change that I wanted to discuss with you. And that was the shift of two of the team leaders.

MR ANDERSON: Yes.

MR BOLSTER: The enrolled nurses. You know who I'm talking about.

MR ANDERSON: Yes. Mr Challis and Mr Celzner.

MR BOLSTER: This follows the staffing cuts in August.

MR ANDERSON: Yes.

MR BOLSTER: This was sometime in September.

MR ANDERSON: Yes.

MR BOLSTER: Whose idea was it to take two of your leading team leaders off the floor and give them an ACFI assessment role?

MR ANDERSON: I believe it was jointly on the advice of Ms Pauline Robson. And, also, I believe, Mr Andrew George-Gamlyn, our ACFI consultant, was

involved in that. He had given advice that he felt it was – it would benefit that process, to have whoever was doing the ACFI, not them necessarily, be solely dedicated to that role.

MR BOLSTER: Well, as the facility manager, the person who had the responsibility for looking after the residents, did you think that was a good idea?

MR ANDERSON: I did, because I felt it would have yielded an improvement to our ACFI processes, which would, I was hoping, allow us to reinstate the staff that we had had cut, so, yes, I did think it would ultimately benefit the residents if we were able to improve our funding level.

MR BOLSTER: All right. If we could go, please, to tab 139. This is the residents meeting minutes of the 7th of August. Routinely, someone on your staff kept the minutes of those meetings.

MR ANDERSON: Yes.

MR BOLSTER: And do they record, as best you can recall, what was said on that day?

MR ANDERSON: Yeah. To the best of my – as per what's on that page, yes.

MR BOLSTER: You see, staff were telling you on 7 June their concerns about call bells not being answered quickly enough.

MR ANDERSON: Staff were?

MR BOLSTER: Sorry, not staff. Resident representatives. If you go to the second page, please.

MR ANDERSON: Yes.

MR BOLSTER: Stop at the second page. Call bells:

Call bells are still not being answered quickly enough. Residents are waiting 90 minutes.

That was a common theme, was it, in the time you were facility manager?

MR ANDERSON: I think call bells are a common theme everywhere, yes.

MR BOLSTER: Yeah. Did you have an opportunity to hear any of the evidence this morning, particularly the evidence about Mr Hardy?

MR ANDERSON: No.

MR BOLSTER: All right. All right. If we could go, please, to tab 158, finally. And if you could go to _0010. Yes, please. So there's a paragraph beginning:

The EMF indicated –

if we could box that paragraph and the next paragraph after it. So these are the minutes of the August board meeting. So it's the first board meeting after the implementation of the cuts:

The EMF –

that's Mr Crane –

indicated that a restructure of Yaraandoo was underway. It would correct the loss. Remedial action was being taken on FWR.

What's that, forward work rosters, is it?

MR ANDERSON: I'm not actually sure what - - -

MR BOLSTER: All right. Well, we'll ask him about that:

Rosters look - - -

MR ANDERSON: It might actually be Fairway Rise.

MR BOLSTER: Fairway Rise.

MR ANDERSON: Yep.

MR BOLSTER: Yes. Yes. Okay. Well, let's look at what he says about:

The EMF reported progress towards break even had been slower than anticipated.

He mentioned that the solution was to find a suitable ACFI management system that would result in an average ACFI of 175 per resident per day. Do you know if the details of the cuts were ever conveyed by anyone to the board at board level?

MR ANDERSON: I don't know. And these board – board minutes were never made available to us. I would have no way of finding out.

MR BOLSTER: So the only thing that you would know that went to the board about Yaraandoo was the report, the two pager, you did once a month?

MR ANDERSON: That's all I could confirm 100 per cent. And, in relation to that document, I am not actually sure whether paper copies of those were made available to the board or whether the contents of them is merely verbally conveyed to them.

MR BOLSTER: All right. How could this process have worked out better, Mr Anderson? How could the process of considering forming a view about whether, to what extent changes to the roster could have been made without compromising care, without affecting the obligation to meet the accreditation standards? How should it have been done?

MR ANDERSON: I feel the way it should have been done is, first of all, the cuts shouldn't have been made at multiple sites within a short space of time. That was, basically, guaranteeing the – particularly at the senior executive level that there wouldn't be able to be much individual attention given to each site during that process. But if I was – if I could go back in time and I was completely in control of how it was done, I would say that it would need to be done in conjunction with the clinical director, had the clinical director sign off on the rosters, to have that analysis done based on the current average ACFI for the – for the site and for that to be signed off by the board.

MR BOLSTER: Do you recall discussing this issue with the clinical director at any time?

MR ANDERSON: No. I was liaising through the – this whole process, as I've already said, was handled through Pauline Robson and Andrew Crane.

MR BOLSTER: All right. That's looking upwards. Looking downwards, what about Ms Marshall? Was she consulted at all and asked for her input into what was going to happen to her staff?

MR ANDERSON: I do recall having discussions with her about it, although I can't give you any more specific detail than that.

MR BOLSTER: Well, you don't recall her being supportive of the cuts, do you?

MR ANDERSON: No. No.

MR BOLSTER: What was the reaction?

MR ANDERSON: That it was – that it was negative, that it was not – she – I believe she also stated, as I stated and agreed to, that it would make staff very unhappy and that it was not going to be good for anyone. And the discussions that we had around the cuts with – that I had around the cuts with Tammy Marshall were largely around the changes to Andrew and Danny's role.

MR BOLSTER: Yes. And what was – she quite vociferous about that, wasn't she?

MR ANDERSON: About the changes to Andrew .....

MR BOLSTER: Yes.

MR ANDERSON: Yes. Yes.

MR BOLSTER: And you got a sense of why, didn't you?

MR ANDERSON: Yes, I did.

MR BOLSTER: Why was that?

MR ANDERSON: Well, obviously, they were very supportive to her role and it would be – it was, essentially, a resource that was being taken away from her which would then add to her workload.

MR BOLSTER: I have no further questions. Thank you, Commissioners.

COMMISSIONER PAGONE: Yes. Thank you, Mr Anderson. You're excused from further attendance.

MR BOLSTER: Might the witness be excused?

COMMISSIONER PAGONE: I just have.

MR BOLSTER: Sorry.

<THE WITNESS WITHDREW [2.54 pm]

MR BOLSTER: And Ms Maud has the next witness.

COMMISSIONER PAGONE: Yes. Thank you, Ms Maud.

MS MAUD: Thank you, Commissioners. I call Mary Sexton.

COMMISSIONER PAGONE: Yes. Thank you.

<MARY CATHERINE SEXTON, SWORN [2.55 pm]

<EXAMINATION BY MS MAUD

COMMISSIONER PAGONE: Yes, Ms Maud.

MS MAUD: Have a seat. Come nice and close to the microphone.

MS SEXTON: Thank you.

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

MS SEXTON: Mary Catherine Sexton.

MS MAUD: Thank you. And you live in Launceston, Tasmania.

MS SEXTON: Yes.

MS MAUD: And you're a registered nurse.

MS SEXTON: Yes.

MS MAUD: And you've worked in acute surgery, but also at times worked in residential aged care yourself - - -

MS SEXTON: Yes.

MS MAUD: - - - and your husband is also a registered nurse and midwife.

MS SEXTON: Yes.

MS MAUD: You've prepared a statement for the Royal Commission in relation to the care received by your mother-in-law, Lois Parravicini, at Glenara Lakes.

MS SEXTON: Yes.

MS MAUD: Is that right? Have you got a copy of the statement there in front of you?

MS SEXTON: I've got a copy.

MS MAUD: And is there also a copy on the screen dated 6 November 2019?

MS SEXTON: Yes.

MS MAUD: With a code WIT.0602.0001.0001.

MS SEXTON: Yes.

MS MAUD: You recognise that as your statement.

MS SEXTON: Yes.

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

MS SEXTON: Yes.

MS MAUD: Are there any corrections that you would like to make to it?

MS SEXTON: I've got two corrections.

MS MAUD: Yes.

MS SEXTON: Paragraph 61. The first sentence should read:

Lois fell out of bed on the morning that I phoned Southern Cross Care. That was the day before Carolyn Wallace was visiting. She then fell out of bed again the afternoon of Southern Cross Care visit.

MS MAUD: Okay.

MS SEXTON: Paragraph 78, last sentence:

Lois passed away the next night.

MS MAUD: Okay. With those corrections, is your statement otherwise true and correct to the best of your recollection and belief?

MS SEXTON: Yes.

MS MAUD: I tender the statement, Commissioners.

COMMISSIONER PAGONE: I think I didn't hear you, but yes.

MS MAUD: I beg your pardon. I just seek to tender the statement.

COMMISSIONER PAGONE: Yes. The statement of Mary Sexton, dated the 6th of November, is exhibit 13-8.

EXHIBIT #3-8 STATEMENT OF MARY CATHERINE SEXTON DATED 06/11/2019 (WIT.0602.0001.0001)

COMMISSIONER PAGONE: It is a little difficult to hear you - - -

MS MAUD: Okay. I'll try to - - -

COMMISSIONER PAGONE: - - - in this room as well as other rooms, but, relevantly, this room.

MS MAUD: Thank you. I will take note, Commissioner. Now, Ms Sexton, your husband Daniel was one of five children.

MS SEXTON: Yes.

MS MAUD: And he grew up in Moonee Ponds, Essendon area.

MS SEXTON: Yes.

MS MAUD: And his mum Lois was a scout club master and also played tennis and the piano. And later in life she learned English grammar and Italian.

MS SEXTON: Yes.

MS MAUD: And then did she have an opportunity to use her Italian language skills when she was in her 80s?

MS SEXTON: Yes. She taught the grandchildren in Melbourne Italian. And she also went to Italy to use her language and reconnect with some family.

MS MAUD: And in February 2016 Lois moved to Tasmania - - -

MS SEXTON: Yes.

MS MAUD: - - - to live next door to you and your husband.

MS SEXTON: Yes.

MS MAUD: Is that right? And at that time, she was 89.

MS SEXTON: Yes.

MS MAUD: How was her health then?

MS SEXTON: Well, she's an 89 year old, but she was still mentally very alert. But we did notice after she moved there she did become quite forgetful, just having more than one breakfast and forgetting she'd eaten breakfast. So we suspected that maybe she had the early signs of dementia.

MS MAUD: And she lived next door - - -

COMMISSIONER BRIGGS: Excuse me for a moment. I think we're having the same problem with audio with you. If we could turn up these mics, that might be useful, I think.

COMMISSIONER PAGONE: And, maybe, rather than you moving close, we might move the microphone closer to you, so that you can feel comfortable when you're speaking.

MS SEXTON: Thank you.

COMMISSIONER PAGONE: Thank you.

MS MAUD: See how we go. Lois lived next door to you for about 12 months.

MS SEXTON: For about 12 months.

MS MAUD: And in that time did her care needs change?

MS SEXTON: Dramatically. She was quite alert and walking around and quite with it when she came to us, but within a short time her care needs increased, because she became more forgetful. So we had to give her her tablets and make sure we were there for breakfast and showering and just to be with her generally to make sure she got to bed safely. And by the end of the 12 months she was needing a lot more care, because she had started falling.

MS MAUD: And were you and Daniel providing that care or - - -

MS SEXTON: We were providing the care.

MS MAUD: And did it get to a point where you weren't able to continue on your own? You needed some help?

MS SEXTON: Yes.

MS MAUD: And in October 2016 Lois had a fall and spent some time in hospital.

MS SEXTON: Yes.

MS MAUD: And, after that, was she able to manage at home?

MS SEXTON: She was frail when she came home, but with family care we could still manage her care with some help. So she started getting some Meals on Wheels and someone to come in and shower her a couple of times a week.

MS MAUD: Was she assessed for an ACAT – did she undergo an ACAT assessment?

MS SEXTON: Yes, she did have an ACAT assessment. And that took a while. It took a couple of months to have that assessment done after we had applied for it.

MS MAUD: Was she assessed as being eligible for a particular package?

MS SEXTON: Level four package.

MS MAUD: And did she ultimately receive that package?

MS SEXTON: No.

MS MAUD: No. Right. And in December 2016 she had another fall - - -

MS SEXTON: Yeah.

MS MAUD: - - - during the night. And family made a decision that she needed to go – move into residential care; is that right?

MS SEXTON: My brother-in-law was in the house with her and she didn't hear her get up. It was quite an undignified fall. And we had been waiting for family to agree with us that we might need some respite – we might need some respite care. And that fall was the clincher.

MS MAUD: Did she sustain injuries in that fall?

MS SEXTON: In had that fall, no, not serious injuries.

MS MAUD: And then in January 2017 she was admitted as a permanent resident at Glenara Lakes.

MS SEXTON: Yes.

MS MAUD: And she was 90 then.

MS SEXTON: Yep.

MS MAUD: What were your initial impressions of the care she received at Glenara Lakes?

MS SEXTON: We really loved Glenara Lakes. It's very beautiful out there, beautiful scenery, very flat. And it seemed to us that everyone is very friendly and helpful.

MS MAUD: How often would you and Daniel visit Lois?

MS SEXTON: We visited every day, because she was settling into a new home.

MS MAUD: And at that stage she was mobile?

MS SEXTON: Yes.

MS MAUD: And was she, in fact, getting up quite frequently to go to the toilet?

MS SEXTON: She was getting up very frequently to go to the toilet. She had an irritable bladder.

MS MAUD: And she was a high falls risk.

MS SEXTON: Yep.

MS MAUD: In the first month at Glenara Lakes, were you satisfied with the care that she was receiving?

MS SEXTON: I think we were surprised that she wasn't being showered more. And she was in her room a lot for meals in that early stage. And I don't know whether that was because they wanted her to familiarise herself or – I wasn't sure why she wasn't really being taken to the dining room. So we brought that up with them and she started going to the dining room for meals.

MS MAUD: And in terms of the medical assistance that Lois needed, was there a GP who was able to visit her at Glenara Lakes?

MS SEXTON: No, not that – not in the early days. It took a couple of months to get a GP.

MS MAUD: What was the issue? Why did it take so long.

MS SEXTON: Well, we lived in the West Tamar, which is about 20 minutes drive from the nursing home, which is on the other side of the river. And those GPs do not service nursing homes on the other side of the river. So then the home offered to try and find her a GP that would take on her care but had difficulty. So she was a couple of months without a GP.

MS MAUD: During the first few months at Glenara Lakes, did Lois have any falls?

MS SEXTON: Yes. I think she had about five falls in the first couple of months.

MS MAUD: Were any of those serious requiring hospitalisation?

MS SEXTON: No, I don't think.

MS MAUD: No.

MS SEXTON: Hang on.

MS MAUD: Do you recall in your statement you say that she had a fall on the 4th of March?

MS SEXTON: 4 March, yes.

MS MAUD: Yes. And broke some ribs.

MS SEXTON: Yes.

MS MAUD: And then in – later that year in August, you were visiting Lois on one occasion and noticed a bandage on her leg.

MS SEXTON: Yes.

MS MAUD: What was that?

MS SEXTON: She had a squamous cell carcinoma on her leg. It was a dry crusty little thing that was on the side of her knee that we had been watching. And she had had previously a large squamous cell carcinoma taken off her face the Christmas before. So we had gone away. And when we came back from holidays. She had a bandage on her leg. And I took it off to have a look and she had a large area of fleshy wound that looked like a squamous cell that had gone a bit rampant.

MS MAUD: Had that been identified by anyone at Glenara Lakes?

MS SEXTON: No. They had told me that it was a boil.

MS MAUD: Did you agree with that?

MS SEXTON: No.

MS MAUD: What did you do?

MS SEXTON: Well, we told them that we didn't think it was a boil and had a doctor been called to have a look at it. And no doctor had been called that we knew of – or no doctor had come to see her with regards to that. But I do believe she was started on antibiotics sight unseen.

MS MAUD: Without seeing it.

MS SEXTON: Because they thought it was a boil.

MS MAUD: Did she subsequently see a doctor about that?

MS SEXTON: I took her to a skin doctor just off our own back. And she said it was a squamous cell and gave a treatment plan to try and clean it up a bit.

MS MAUD: What was the treatment plan?

MS SEXTON: They put some just special dressings on her and silver dressings, things like that.

MS MAUD: Did she ultimately have to have surgery in relation to that?

MS SEXTON: Yes. She saw a GP about – it would be two weeks after we found it on – after we got back from holidays. And the GP said he thought it was a squamous

cell, as well. And he was happy to clear it in his room, but the better option would be to go for theatre and have a skin graft and cut it out, which we did. Took her to a specialist.

MS MAUD: And when Lois returned to Glenara Lakes, were they able to manage the wound as a result of that surgery?

MS SEXTON: No. Not effectively, no.

MS MAUD: What was being done?

MS SEXTON: Well, when she came back, she wore compression stockings to help with fluid in her legs. But the top of the compression stocking was halfway across the graft site. The new graft had indents in it where the pressure stockings were continually rolling down into the graft that was near her knee, which is no good for a skin graft.

MS MAUD: And were there any complications in relation to that?

MS SEXTON: Probably not directly related to that. There was some black areas, so it's a bit dicey whether the graft will take. But she developed a big area of cellulitis under that skin graft that was quite extensive down her whole leg.

MS MAUD: And did that require treatment?

MR ANDERSON: Yeah. We took her back to the specialist and they were watching it to see what would happen.

MS MAUD: And did you say you took her back?

MS SEXTON: Yeah. We took her back. And they tried different antibiotics to try and clean it up.

MS MAUD: And why was it necessary for you to take her to the doctor, rather than having a doctor come to Glenara Lakes?

MS SEXTON: I don't think the specialist would come and we didn't see the GP. I'm not sure if they called the GP.

MS MAUD: Okay. You said that during her time at Glenara Lakes Lois had a number of falls. Are you able to estimate in the first year that she was there in 2017 how many that might have been?

MS SEXTON: Looking at my diaries, I would say probably between 20 and 23 falls.

MS MAUD: Were measures put in place by Southern Cross Care to manage Lois's falls risk?

MS SEXTON: They had chair alarm and a bed alarm on the call bells for her. And they did suggest some crash mats, which are alarmed mats that would go off if she stood on the floor. But they would be a trip hazard – a huge trip hazard for her, because she was mobile, so that wasn't in place. They did swap a chair to one that she couldn't get out of more – quite easily. And there was a bed change down the line, too, but I don't know if that was for that.

MS MAUD: The bed and chair alarms, were they effective in managing the risk?

MS SEXTON: If they're answered, they're effective, but there was too much time between when she stood up and when the alarm went off and people came to help her.

MS MAUD: So when you were visiting, what was your observation of the delay when the alarm was triggered before somebody would attend?

MS SEXTON: It was a long wait sometimes. And there was one wait where she, basically, stood up to stretch her back and then sat back down. And it was about 40 minutes later someone came to see if she was okay. And other times we – I would take her to the toilet, sometimes shower her and get her back to bed, and then someone would walk in and say, "Your alarm's gone off."

MS MAUD: And were the alarms reliable?

MS SEXTON: No.

MS MAUD: What was the issue with the reliability?

MS SEXTON: Quite often the alarms weren't plugged into the wall or they were half pulled out of the wall or they weren't answered or they were actually faulty, which was a problem, or out of her reach. The hand cord was often out of her reach.

MS MAUD: Were there other measures that you raised with Southern Cross Care to try to manage the falls risk?

MS SEXTON: Yes. We really wanted half bed rails in to stop her falling head first onto the floor.

MS MAUD: And were they able to be installed?

MS SEXTON: No.

MS MAUD: Why was that?

MS SEXTON: Because it's policy at Southern Cross Care not to use bed rails.

MS MAUD: In May 2018, Lois had another fall and fractured some ribs and was admitted to hospital. After that fall, did her care needs increase?

MS SEXTON: Can you just refer me to the number on the statement.

MS MAUD: It's paragraph 48 of your statement.

MS SEXTON: Thank you. Her care needs increased significantly after that fall. She – the hospital wanted to discharge her after two days. And she couldn't breathe, couldn't walk, couldn't do anything. So we pushed and got her to rehab at a private hospital where she stayed for two weeks.

MS MAUD: And when she returned to Glenara Lakes, were they able to manage her care needs then?

MS SEXTON: It was – really, nothing changed from when – from before hospital, but she was significantly frailer.

MS MAUD: All right. I want to take you to the 31st of May last year. Do you recall visiting Lois on that day?

MS SEXTON: I do remember that day. I – I came in at lunchtime to visit Lois. It was about 1.30, thereabouts. And Lois was sort of slumped down in the chair with her head on the inside arm of the chair and her feet out in front of her balancing on her hip ready to fall off and really feebly crying out for help.

MS MAUD: Were you able to help her?

MS SEXTON: I tucked her legs back up, so she wouldn't slide out, but I had already injured my shoulder from lifting her, so I pulled her feet in and put a blanket on and called an RN that was sitting in her room having her lunch. And the RN told me to ring the bell, which I did. And then I waited for 10 minutes and no one came, so I rang the bell again and no one came.

So I called the home from my mobile and asked for the director of nursing, because I was getting pretty cheesed off. And the director of nursing wasn't there that day. So I asked for the clinical care manager and waited and she didn't come. So I rang again and asked for the clinical care manager to come. And she still didn't come. And then eventually a carer came and all her lunch – Lois's lunch was there uneaten, drinks not drunk, breakfast still there, bed not made, sitting in a wet nappy, no coat on, blanket on the floor, call bell behind the bed.

MS MAUD: On the 4th of June – so a few days later – Lois had another fall and was back in hospital and this time had hip surgery. How did her physical condition change after that surgery?

MS SEXTON: She became totally dependent on nursing staff.

MS MAUD: So she was no longer mobile.

MS SEXTON: Not mobile, couldn't lift a cup, couldn't eat or drink without help.

MS MAUD: Was she able to return to Glenara Lakes?

MS SEXTON: While she was in hospital they were keen on discharging her back to Glenara Lakes, but we didn't feel it was safe, because we had seen no evidence of there being enough staff to care for her and to keep on top of pain and her care needs. So there was a problem trying to keep her in hospital until we could put – get her some rehab or something so she could at least get out of bed or just do basic care, you know, for her. So I rang Helen Marshall, the director of nursing, to discuss her care needs, because they were quite significant.

MS MAUD: What in particular did you discuss with Helen Marshall?

MS SEXTON: On the 12th – I really wanted to know about the alarms. And I wanted to know about bed rails, and just generally how they would look after her staff-wise, because I hadn't seen that the staff attended very often.

MS MAUD: So around this time in mid-2018, did Lois need assistance with other activities of daily living?

MS SEXTON: This is after the fall when she went home, she needed all care, bathing, sitting, feeding. She couldn't feed herself.

MS MAUD: And, in your observation, was she receiving that care in an adequate and timely way?

MS SEXTON: No.

MS MAUD: How did the family manage in that situation?

MS SEXTON: It's just heartbreaking to watch, actually, because you know the care she needed and it was things as simple as just having a drink of water. She couldn't get to the cup to give herself a drink of water and relied totally on people to do that for her, and there were days I actually marked the cup and I would come back at night and nothing would go, there would be no water gone from her cup and she would be looking really dry and parched. They're just basic – or meals wouldn't come so we would come up to help feed her, knowing that she took a long time to feed, and we would have to go looking for a meal. There would be no meal delivered.

MS MAUD: Even though Lois was by this time, after the hip surgery, immobile, did she continue to have falls?

MS SEXTON: She did have falls which was quite surprising for me. She – they had her on a winged mattress at one stage and somehow she fell out of bed, and I have no idea how she fell out of bed but she did, because she couldn't move. And I was really quite angry about that, so I rang Southern Cross. I just decided to escalate to the top and rang Southern Cross.

MS MAUD: When you say you rang Southern Cross, who do you mean?

MS SEXTON: I spoke to Carolyn Wallace, and she was coming up the next day coincidentally to Glenara, and on that day Lois fell out of bed yet again.

MS MAUD: And when you say you rang Carolyn Wallace, what was your understanding of her position; was she was the director of clinical services?

MS SEXTON: She was, yes.

MS MAUD: What did she say when you raised the issue with her?

MS SEXTON: I wanted to talk about bed rails again, because I really think they would have prevented that fall – those falls. And she said she was coming out and that she would deal with it, check it out and get back to me.

MS MAUD: Did she get back to you?

MS SEXTON: No.

MS MAUD: You didn't hear back from her. Were there ultimately some measures put in place in the nature of bed rails - - -

MS SEXTON: Pardon?

MS MAUD: Were there ultimately some kind of – not rails but wedges placed in Lois's bed?

MS SEXTON: There were wedges placed in the bed, yes.

MS MAUD: And were you satisfied with those as addressing the falls risk?

MS SEXTON: There were wedges put in that were – decreased her bed size so significantly that lying on her side one knee was touching one side of the wedge and her body was on the other side of the wedge, so for a single bed there was no space in there.

MS MAUD: After the hip surgery was Lois experiencing pain.

MS SEXTON: Yes.

MS MAUD: And was that managed adequately at Glenara Lakes?

MS SEXTON: No.

MS MAUD: In what way?

MS SEXTON: Because she was given opiates – morphine every two hours which sort of kept the pain up and down so one minute she'd sort of – relieve the pain and then she would go into the ditch and have a lot of pain, and they would give her morphine and up and down, up and down. So then they tried some patches just to try and level out the pain, mostly because family were asking for pain relief for her. If they gave opiates before lunch, Lois would not be able to eat lunch because she would be knocked out. Her body didn't process morphine very well and it would make her incredibly groggy.

MS MAUD: And in the days leading up to Lois' death, were there any particular issues with the care that she received?

MS SEXTON: We had really been complaining about her not sitting out or whatever, but she started with some vomiting and diarrhoea, probably about three or four days before she died, and that became faecal fluid and a doctor wasn't called to assess that. And I went to visit her at lunchtime one day and she wasn't in her room and someone had sat her out for the first time in a while, and to feed her. And she was sort of having a bit of icy pole and then vomiting faecal fluid, and she was ashen in colour and looked terrible. And I said "Has someone called a doctor? She looks really sick". And they basically told me that no, they didn't feel the doctor needed to be called, and that that was a decision by the RN, the doctor didn't need to be called.

And some of the carers that were helping to feed people sort of did a bit of an eye-roll at that one. And I said, "I think you should call the doctor", because I had taken her pulse and it was about 160, and Lois' normal pulse was 50 and her respiration rate was about 40 and it usually should be about 18 to 20, and she just looked so ill. So I insisted that the family wanted them to call the doctor, and they very reluctantly called but couldn't get the local GP so they called the 1300 doctor to come and told me they couldn't come till 7 o'clock that night. So I said, "I think you need to come and take her pulse and do some observations on her". And her oxygen saturations were low, very low, and her – they realised, you know, she was probably in atrial fibrillation. So then, "Okay. We should call the doctor, then." And the doctor was called and came at 3 o'clock instead and said that Lois was dying.

MS MAUD: And she passed away the next night.

MS SEXTON: Yes, that was one big blur. That's why that statement was changed - - -

MS MAUD: Yes.

MS SEXTON: - - - because she just went downhill.

MS MAUD: Based on your experience with Lois at Glenara Lakes, have you made observations about how it could have been improved?

MS SEXTON: It just comes to staffing; you know, if the RNs, the registered nurses or the medication endorsed enrolled nurses are there by themselves with a lot of patient who are high needs to look after, and they have no-one to bounce suggestions or ideas off, they're left to themselves. The carers work really hard and all credit to them, but they – they can't possibly do the amount of work that needs to be done safely and properly. And we came across that with her physiotherapy. They weren't trained to do any basic physiotherapy exercises with Lois and she suffered because of it. And some of the registered nurses are junior or just culturally different.

MS MAUD: Thank you, Ms Sexton. No further questions Commissioner.

COMMISSIONER PAGONE: Yes. Thank you. Ms Sexton, thank you very much for giving your evidence.

MS SEXTON: That's okay.

COMMISSIONER PAGONE: These are very difficult things for you to go through again. I'm sure the wound is still fresh in your mind, but they're important for the Commission and for the community to hear. I do thank you for coming to us.

MS SEXTON: Thank you.

COMMISSIONER PAGONE: You're excused from further attendance.

MS SEXTON: Thank you.

COMMISSIONER PAGONE: Thank you.

<THE WITNESS WITHDREW [3.22 pm]

MS MAUD: I call the last witness now, Ann Mary McDevitt.

<ANN MARY McDEVITT, SWORN [3.23 pm]

<EXAMINATION BY MS MAUD

MS MAUD: Have a seat. Can you state your full name for the transcript, please.

MS McDEVITT: Yes.

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

MS McDEVITT: Ann Mary McDevitt.

MS MAUD: Thank you, Ms McDevitt. You live in Sandy Bay.

MS McDEVITT: Yes.

MS MAUD: You're a radiation therapist.

MS McDEVITT: Yes.

MS MAUD: You've prepared a statement for the Royal Commission in relation to the care received by your mother, Janet Hellyer, at Glenara Lakes residential aged care facility. Have you got a copy of that in front of you and also on the screen?

MS McDEVITT: Yes.

MS MAUD: It's dated 4 November 2019, and it's got a code, WIT.0600.0001.0001.

MS McDEVITT: Yes.

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

MS McDEVITT: Yes.

MS MAUD: Are there any corrections you would like to make to it?

MS McDEVITT: Yes. Just in relation to some dates. Paragraph 52 and 55 should read Saturday, 1 September.

MS MAUD: So 31 August 2019 should be 1 September in each of those paragraphs?

MS McDEVITT: Yes.

MS MAUD: Yes. Is there anything else?

MS McDEVITT: Yes, paragraphs 59, 61 and 63 should read September 2018, not 2019.

MS MAUD: Okay. With those corrections is your statement true and correct to the best of your recollection and belief?

MS McDEVITT: Yes.

MS MAUD: I tender the statement, Commissioners.

COMMISSIONER PAGONE: Yes. Thank you. The statement of Ann McDevitt will be exhibit 13-9.

EXHIBIT #13-9 STATEMENT OF ANN MCDEVITT DATED 04/11/2019 (WIT.0600.0001.0001)

MS MAUD: Thank you. Can you start by telling the Commissioners a little bit about your mum.

MS McDEVITT: Yes. Well, she was a great, what I would call all-rounder. She had a lot of interests. She played tennis. She gardened, she loved antiques. She did work for Legacy. She sewed. She really ran our household because my father was an engineer on a ship that went interstate a lot. So she was the chief financier, if you like, of the household. They had a great friendship group. They had a lovely social life. Mum loved her champagne. Yes, she was certainly a strict mother, but a very fair mother and subsequently a wonderful grandmother.

MS MAUD: Did she always live in Launceston?

MS McDEVITT: Yes. She wasn't born in Tasmania; she was English but came out here as a very young child.

MS MAUD: Right. And in 2015 she moved to a standalone apartment or unit in the retirement village at Glenara Lakes; is that right?

MS McDEVITT: Correct.

MS MAUD: And she lived there independently.

MS McDEVITT: She lived independently. She was – she did have Meals on Wheels but she was certainly able to care for herself insofar as doing her own washing and, you know, a little bit of housework. She did have a good care package, level four, but she was still able to enjoy pottering around, going out in the garden and that sort of thing.

MS MAUD: And then in May 2018 she had a fall in the night.

MS McDEVITT: Yes.

MS MAUD: How did you find out about that?

MS McDEVITT: Well, sadly, I didn't find out until the next morning when she was actually already in the LGH in emergency. An acquaintance that works at Glenara as

a clinical care coordinator actually rang me the next morning and she said, "How's your mum?" and I said I didn't know what she was talking about, and she said, "I think she might have gone to hospital". And then she was somewhat probably embarrassed and apologetic that I hadn't known and she said, "Look, let me get back to you". She rang me back and she said, yes, she is in there but couldn't give me any more details about what was clinically wrong.

MS MAUD: Can I just clarify with you. You said your acquaintance was the clinical care coordinator. I just want to clarify that.

MS McDEVITT: Yes.

MS MAUD: Was she a nursing - - -

MS McDEVITT: She had a nursing background, but she wasn't, to my knowledge, clinically active in that role.

MS MAUD: Was she in a coordination role, not - - -

MS McDEVITT: I believe so. Yes.

MS MAUD: All right. So after that fall was your mum able to continue living independently?

MS McDEVITT: No, she had some time in hospital. The shoulder break that she experienced would have taken some time to heal so when she left hospital she went to a private rehab hospital, probably for about four or five weeks and in that time this same acquaintance was able to very kindly and help us facilitate getting a room at Glenara. Can I just add in there that Mum's fall was thought to be precipitated by a mini-stroke which didn't leave her with any neurological deficit.

MS MAUD: Okay. So she became a permanent resident of Glenara Lakes aged care facility on 15 June 2018.

MS McDEVITT: Yes.

MS MAUD: And what were her care needs at that time?

MS McDEVITT: Well, her right shoulder break really meant that she was quite reliant on nursing staff. She learnt to feed herself quite well with her left hand, but, of course, dressing and undressing and going to the toilet, showering, then she needed full assistance.

MS MAUD: And how often were you able to visit your mum?

MS McDEVITT: Well, initially a lot, because I felt she was quite sad at having had to move out of her unit. But I – I live in Hobart, so at that point I would have gone up weekly.

MS MAUD: Were you able to contact her via telephone, as well?

MS McDEVITT: Well, it wasn't easy initially, because she just had a house phone, I suppose, for want of a better expression, which meant that we had do go through the Glenara reception. So we put in a private line, so it was easy for us both to communicate backwards and forwards.

MS MAUD: What was your initial impression of the care she was receiving at Glenara Lakes?

MS McDEVITT: Actually, I was happy with her care. I thought the staff were very friendly. Mum had a very keen sense of humour, so I think it would be fair to say they enjoyed that. I thought that she had most things that she needed. Again, the ringing of the bell for going to the toilet became a bit of an issue. She seemed to need to have to go when – you know, when she wanted to go, she had to go. So some – well, when I was there, there were prolonged times when she couldn't get assistance and my brother, who lives in the north, when he visited, he would say – he would go looking for someone to take her to the toilet.

MS MAUD: And when you say prolonged times, what sort of - - -

MS McDEVITT: Well - - -

MS MAUD: ..... time?

MS McDEVITT: - - - probably anywhere between 10 and 20 minutes, which doesn't seem an extraordinarily long time, but it is if you haven't a lot of bladder control.

MS MAUD: Now, I want to take to you to the 15th of August 2018. Do you recall visiting your mum on that day?

MS McDEVITT: Yes.

MS MAUD: And can you tell - - -

MS McDEVITT: On – that was a Wednesday, I remember, because I started having every second Wednesday off, so that was my Launceston visit day. And Mum seemed okay, except I was a little bit surprised that she offered me her lunch.

MS MAUD: Why were you surprised by that?

MS McDEVITT: Because she loved her food. She was, probably, you could describe at that point, a little bit overweight. She was in her, probably 80-odd kilos. And I said, "Why don't you want your food?" And she said, "I really sit here a lot and just eat because, you know, there were breakfast, morning tea, lunch and afternoon tea and dinner." So I didn't really think too much of that, but I stayed with her for the day and - - -

MS MAUD: Did you otherwise have any concerns about her on that day?

MS McDEVITT: Not on that day.

MS MAUD: All right. And then subsequently there were occasions when you were talking to her on the phone. And did you notice any change?

MS McDEVITT: Yes. There were a few times when I thought she was, like, choking or she would say, "I've got something stuck in my throat" as she was talking. And it did happen a couple of times, not necessarily close together. But I'd say, "I will just ring you back then, Mum." And then she was fine. So I didn't think too much of that.

MS MAUD: Later in August, in your statement, you say there was an occasion on the 29th of August where you called her and she didn't answer. Were you concerned .....

MS McDEVITT: Yes. I had tried to ring her on both of those phone lines. But she – she didn't answer. So I rang my acquaintance, the clinical care – and I just said, "Would you mind popping by to see if Mum" – or if the phones are working, actually, was my first thought. And she said, "Sure." And she got back to me later that day to say, "Yes. Well, the phones are okay, but I don't think your mother is." And then she said, "She looks unwell and she – I tried to give her some water, but what she did drink took probably half an hour." So, in the meantime, I think what happened was that she thought that she might have had a UTI, perhaps. And some pathology was taken. I don't know what the results of that test were.

MS MAUD: Other than the acquaintance that you refer to, did anyone from Glenara Lakes ring to you tell you about whether there was a change in your mother - - -

MS McDEVITT: No, nobody.

MS MAUD: Then was there a UTI subsequently diagnosed?

MS McDEVITT: I have never heard what the result was.

MS MAUD: Okay. On the 31st of August, you called your Mum to check in with her?

MS McDEVITT: Yes. Well, despite my acquaintance out there ringing for a doctor, and the doctor – the surgery that they used was my mother's regular GP practice. A doctor said, "Oh, she's probably got a UTI. I will fax a script anyway." So I felt that once the result – or once Mum was started on antibiotics that she might feel better. But I rang her on the Friday and she sounded terrible. She said, "Something's not right."

MS MAUD: So after she told you that, what did you do?

MS McDEVITT: Well, two things. She had a lifelong friend of 70-odd years living in the residential care unit. And I rang her and I said, "Have you seen Mum lately?" And she said very apologetically, "Ann, I'm so sorry. I should have rung you. I saw her during the week and she looked dreadful." So I did panic at hearing that. And the next morning I got in the car, left here at 6.30, to go to her.

MS MAUD: And when you arrived at Glenara Lakes, how did you find your Mum?

MS McDEVITT: Terrible.

MS MAUD: In what way?

MS McDEVITT: She looked very much in distress to me. She – her breathing was clearly erratic and arrhythmic and she kept saying "I don't feel right. I don't want to live another day feeling like this."

MS MAUD: Did you speak to staff about your mum's condition?

MS McDEVITT: Well, on my way up from Hobart in the car, I rang the doctors' facility – or surgery, as soon as it opened, and asked that a doctor go to my mother. And the receptionist told me that I would have to get Glenara staff to sanction that. So I then rang my acquaintance, although I knew she wouldn't be working at the weekend. And she was on her way up the east coast and she said "Look, I will ring the surgery if I can get through to them." She said, "Other than that, I will get one of our registered nurses to assess your Mum".

MS MAUD: And did that happen?

MS McDEVITT: Yes. No. He came to the room. He did not assess her.

MS MAUD: What did he do?

MS McDEVITT: Well, I said that – and, to be honest, I would have thought he would have known, if he'd spoken to my acquaintance, that she was having some swallowing difficulties. He asked her to swallow some water, which she did. He asked her if she was feeling nauseated. She said, "No", but he gave her a Maxolon anyway. And I kept expressing my concern for how she was. I had before that

arrived at her room, I had taken her to the toilet myself, which was, you know, a matter of a few metres away.

And it took an extraordinary long time. She needed to rest. This was so unlike her. She needed to rest before I got her halfway there. She was slumped. Nothing happened, actually, in the bathroom at all. And so I took her back. And I said to both the RN and the EN that, you know, I felt she was very weak. And to me, she had lost a lot of weight, although that was disputed. But I hadn't seen her for 10 – or 10 or 12 days and it was glaringly obvious to me and my family.

MS MAUD: What did you think needed to happen?

MS McDEVITT: Well, I said, "I want a doctor to see her." Other than that, I said "She needs – I need an ambulance to take her to hospital".

MS MAUD: Was that arranged?

MS McDEVITT: No.

MS MAUD: Why not?

MS McDEVITT: Not initially. Well, the RN said to me, "If you think your mother is that ill, why don't you take her to the doctors' surgery yourself?", to which I said "Well, I have just tried to take her to the toilet. And I could not manage to get her to a doctors' surgery. So perhaps you need to get an ambulance." They both said to me, "She's not urgent. There's not a lot wrong with her." I don't know how they could have assessed that without even getting a stethoscope out or, I don't know, pulse. I don't know. But - - -

MS MAUD: Did you stay all – for the whole day?

MS McDEVITT: I stayed until probably – can't remember the exact time. I know I got Mum ready for bed. I had repeatedly asked for an ambulance during the day. The EN who had been looking after Mum was about to finish her 2.30 shift and I saw her in the corridor and I said, "Look, I'm just going out to the car", because I needed to try and charge my phone. But I said "I'll be back in five minutes." And when I came back she had left her shift.

MS MAUD: And was your mum subsequently taken to hospital?

MS McDEVITT: She was.

MS MAUD: And what was she – was a diagnosis made when she was at the hospital?

MS McDEVITT: The initial diagnosis that evening when I rang was pneumonia. I suspect aspiration pneumonia, which would have come about from her inability to swallow and pooling fluid.

MS MAUD: And your Mum passed away in hospital?

MS McDEVITT: So that was – she went to hospital on the Saturday. And on the Sunday an emergency doctor at the LGH rang me to say she had two to 48 hours to live.

MS MAUD: And your mum in the end was not at Glenara Lakes for a long time.

MS McDEVITT: Three months, roughly.

MS MAUD: Yes. In that time, what were the matters that you think would have improved the care that she received there?

MS McDEVITT: Well, a lot of what we as a family and others have discussed was, like, really, when Mum was in palliative care after the LGH for a short few days, wondering how this could have happened that she had deteriorated without us knowing or be it that the staff did and didn't communicate it or be it that the staff didn't recognise the symptoms.

So that would be one thing, you know, whichever area of medical expertise you work in, you generally are attuned to signs and symptoms of that particular part of care. I don't think that that could have been the case in – at Glenara. My understanding is that anyone who's suffered a stroke or a mini stroke are susceptible to swallowing difficulties that are easily rectified. So that would be one thing.

I definitely think the staff to patient ratio is a big issue. And the other thing that I have thought of, because I think my mother was a bit sad when she went in there, that perhaps new residents need some – well, for want of a better word – counselling, but just to help in adapting to what might be conceived as their last port of call in a way.

MS MAUD: Thank you, Ms Sexton. Commissioners, I have no further questions.

COMMISSIONER PAGONE: Yes. Thank you. Ms McDevitt thank you very much for coming to give your evidence. As you heard me say before, we know how difficult going through this publicly can be. And we do appreciate the effort that you have done in coming to tell us. Thank you very much.

MS McDEVITT: Yes. Thank you.

<THE WITNESS WITHDREW [3.46 pm]

MS MAUD: Thank you, Commissioners.

COMMISSIONER PAGONE: I think we now adjourn until tomorrow morning.

MATTER ADJOURNED at 3.46 pm UNTIL TUESDAY, 12 NOVEMBER 2019

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