

**ROYAL COMMISSION INTO AGED CARE QUALITY AND SAFETY  
SYDNEY HEARING  
GARDEN VIEW AGED CARE PTY LTD CASE STUDY**

**SUBMISSIONS IN REPLY TO COUNSEL ASSISTING THE ROYAL COMMISSION**

**SUBMISSIONS OF REEVES FAMILY IN RELATION TO GARDEN VIEW CASE  
STUDY HEARD IN SYDNEY ON 6 & 7 MAY 2019**

The family of Terrance Reeves makes the following submissions in relation to the Case Study conducted by the Commission into the conduct of Garden View Aged Care Pty Limited in respect of Mr Reeves:

1. They agree with the submissions advanced by the Counsel Assisting the Commission in his written submissions dated 31 May 2019 in relation to this case study. They urge that the Commission make the findings advanced by Counsel Assisting.
2. They also ask the Commission to make the following further findings:
  - (a) The 'East Wing' of the Garden View facility was a locked facility within Garden View Aged Care, that is, its occupants, including Mr Reeves, were unable to leave. It follows they were confined regardless of whether they were otherwise physically restrained, for example, by lap belt;
  - (b) No lawful consent for such confinement was obtained either from Mr Reeves himself or from any family member and in particular, not from his lawfully appointed guardian, Mrs Lillian Reeves;
  - (c) No evidence was adduced by Garden View which might form the basis for a defence to an allegation that Mr Reeves' confinement was unlawful;
  - (d) For the reasons above, confinement in the East Wing, whether of Mr Reeves or others, was unlawful.
3. Relevant to the submissions advanced at [2], the family of Mr Reeves note as follows:
  - (a) Michele McCulla gave evidence that her father was placed in the east wing from 16 May until he left;<sup>1</sup>
  - (b) Mrs Lillian Reeves gave evidence that the east wing was secured with a keypad door;<sup>2</sup>
  - (c) Garden View's Director of Nursing, Ms Lau said that the East Wing was a secure unit for residents with dementia.<sup>3</sup>

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<sup>1</sup> Exhibit 3-9, Statement of Michelle Lauren McCulla, 23 April 2019, WIT.0097.0001.0004 at [35]-[37]

<sup>2</sup> Transcript, Lillian Sonya Reeves, 6 May 2019, 1212.5-1212.30.

<sup>3</sup> Exhibit 3-15, Statement of Kee Ling Lau, 2 May 2019, WIT.0137.0001.43 at [43]

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4. The family also submits that Garden View procured the prescription of Risperidone for Mr Reeves and administered it to him not as a form of medical treatment, but as a form of chemical restraint. That conclusion flows necessarily from the fact that both the lap-belt restraint and the Risperidone were administered **for the same reason**, that is, to stop Mr Reeves wandering and (the staff of Garden View perceived) being disruptive. So much is apparent from the sequence of evidence set out at [26]-[32] and [45]-[49] of Counsel Assisting's submissions dated 31 May 2019. In short, Risperidone was clearly administered at and for the convenience of Garden View, not as a medical treatment.
5. Ms Lau gave evidence that Garden View Aged Care was not responsible for any chemical restraint because there is nobody on staff who is able to prescribe medication which might be used by way of restraint.<sup>4</sup>
6. That evidence is not a correct statement of Garden View's duty. Regardless of whether or not medication is prescribed by third parties (in this case doctors who visit Garden View), Garden View had, and has, a duty to ensure that its residents, including Mr Reeves, are only prescribed and administered medication where that is the subject of the informed consent of the appointed guardian or, in New South Wales, the "person responsible" pursuant to ss.36-41 of *Guardianship Act 1987* (NSW).
7. However, to the extent that the medication has the effect of, and is for the purposes of, restraint, neither the appointed guardian nor the "person responsible" is able to consent to that medication. That is because such medication is not being prescribed or administered as medical treatment.

A Crossland  
Counsel for M McCulla, L Reeves and N Smith

R Lewis  
Elderlaw Legal Services  
Solicitor for M McCulla, L Reeves and N Smith

7 June 2019

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<sup>4</sup> Exhibit 3-15, Statement of Kee Ling Lau, 2 May 2019, WIT.0137.0001.18 at [101].