



HEALTH, COMMUNITIES, DISABILITY SERVICES AND DOMESTIC AND FAMILY VIOLENCE PREVENTION COMMITTEE

Members present:

Mr AD Harper MP (Chair)
Mr MA Hunt MP
Mr BL O'Rourke MP
Ms JE Pease MP

Counsel assisting:

Ms Ruth O'Gorman

Staff present:

Mr R Hansen (Committee Secretary)
Mr S Finnimore (Principal Legal Advisor)

PUBLIC HEARING—INVESTIGATION OF THE CLOSURE OF THE EARLE HAVEN RESIDENTIAL AGED-CARE FACILITY AT NERANG

TRANSCRIPT OF PROCEEDINGS

FRIDAY, 20 SEPTEMBER 2019

Brisbane

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The committee met at 10.03 am.

CHAIR: Good morning. Before we start I request that mobile phones be switched off or to silent. I declare open this public hearing being held as part of the committee's investigation of the closure of the Earle Haven residential aged-care facility at Nerang. I start by acknowledging the traditional owners of the land on which we are meeting today. I am Aaron Harper, the member for Thuringowa and chair of the committee. The other members of the committee here today are: Barry O'Rourke, the member for Rockhampton; Joan Pease, the member for Lytton; and Marty Hunt, the member for Nicklin. We have apologies from: Mark McArdle, the member for Caloundra and deputy chair; and Michael Berkman MP, the member for Maiwar.

At the request of the Queensland parliament in November 2018, the committee is undertaking a wideranging inquiry into aged care, end-of-life and palliative care and voluntary assisted dying. As part of that inquiry, and given the disturbing events of July 2019 when the Earle Haven residential aged-care facility closed suddenly and without warning, our committee resolved to undertake an investigation into the sudden closure of the facility and into the quality and safety of care provided to the former residents. The committee, and the community, are greatly concerned about the way in which the sudden closure left vulnerable residents of the facility at risk. Through its investigation, the committee's aim is to prevent such events happening again in the future.

Today we will hear from Mr Arthur Miller, the Managing Director of the approved operator of the facility, People Care Pty Ltd. Mr Miller had been summonsed to attend before the committee on 11 September and 16 September. However, on each occasion the committee was provided with medical certificates and Mr Miller sought and received excusal from attendance on those days. The committee has scheduled this hearing today so that Mr Miller is able to attend and assist the committee with its investigation.

Today's proceedings are similar to the proceedings of parliament and are subject to the parliament's standing rules and orders. The proceedings are covered by parliamentary privilege, which means witnesses are protected from legal action in respect of the evidence they give the committee. If witnesses give evidence today which reflects adversely on an individual or organisation it should not be taken as proof of the allegations being made. The committee may choose to receive but not publish that evidence.

The hearing is being recorded and transcribed by Hansard and we have media present today so you may be filmed or photographed. Any media present will be subject to the chair's direction at all times. The media rules endorsed by the committee are available from committee staff if required. Please be advised that photography and/or video recording by members of the public during public hearings held by the committee is prohibited.

Today the committee is being assisted in its investigation by Ms Ruth O'Gorman, Counsel Assisting. Mr Miller is likely to be asked questions by both Counsel Assisting and by committee members. I now call on Counsel Assisting, Ms Ruth O'Gorman, to make an opening statement.

Ms O'GORMAN: As you will recall, last week the committee commenced its investigation into the closure of the Earle Haven facility at Nerang. The committee heard from a number of witnesses over two days, including those who were there on 11 July this year when the facility closed, and a number of community representatives who have made relevant submissions, which have been accepted by the committee. For the purposes of providing the committee with a brief recap of the evidence that you heard last week, might I remind the committee that the investigation commenced with evidence from Mr Cary Strong, a senior operations supervisor with the Queensland Ambulance Service. He provided evidence about being called out to the facility on 11 July 2019 and gave his account of what he saw there on that day and the operations that were required to be undertaken by both him and his colleagues in assisting the people at the facility who had been left in a position where they needed to be rehomed very urgently.

The committee also heard from Mr Ron Calvert, the Chief Executive Officer of the Gold Coast Hospital and Health Service, as well as Ms Karlene Willcocks, the Executive Director of the Gold Coast HHS. Both of those witnesses spoke of the fact that the events of 11 July triggered within the Brisbane

hospital and health service a code brown response. That in turn led to the setting up of a health emergency operations centre, which saw a number of key personnel marshalled to oversee the resourcing and the operations of what had to occur on 11 July.

The committee heard that it was the preference of at least Mr Calvert and probably others within the centre to keep the people at Earle Haven there in their homes if at all possible. However, the committee heard that as the afternoon and evening wore on it became apparent to those who were comprising the health emergency operations centre that that was simply untenable in the circumstances and that other avenues were looked at. Ultimately, of course, the committee heard, arrangements were made for all 70 residents to be moved to beds at nearby facilities. Ultimately, that did occur and was finalised by the early hours of 12 July.

Also on that day the committee heard from Telecia Tuccori, who was the clinical care coordinator at Earle Haven in the employ of HelpStreet on 11 July 2019. She spoke about events in the lead-up to that day. She was, as the committee members will recall, the person who made the triple O call on the afternoon.

The committee also heard from Ms Karen Heard, the nurse administrator engaged by People Care Pty Ltd at various times and for various periods in the lead-up to 11 July. She was also present on that day and spoke about the observations she had made. In the afternoon the committee was engaged in private sessions in which it heard from family members of residents and staff members as well.

On day 2 the committee heard from a number of submitters who participated by giving evidence in support of submissions they had previously made and had been accepted by the committee. The committee heard from the Policy Coordinator and Chief Financial Officer from the Council on the Ageing. The committee heard from the Chief Executive Officer from Aged and Disability Advocacy Australia. Dr Michael Wynne from Aged Care Crisis provided evidence. Representatives from the Queensland Nurses and Midwives Union spoke at length. Ms Meaghan Scanlon, member for Gaven, attended and also provided evidence including about her observations of what occurred when she attended at the facility on 11 July.

Mr Chair, today, as you have foreshadowed, the committee will hear from Mr Arthur Miller, who is here. Mr Miller was at the relevant time the Managing Director of People Care Pty Ltd, which was the approved provider under the regulatory regime in place at the time for the Earle Haven facility. When I speak of the Earle Haven facility for completeness I am referring in particular to Hibiscus House and Orchid House.

It is expected that Mr Miller will be asked about and will provide evidence about his history of involvement in aged care preceding his involvement with People Care and the Earle Haven facility; People Care's history of non-compliance with the regulatory oversight regime from 2007 right up until prior to 11 July; the arrangement that it, that is People Care, entered into with HelpStreet in 2018 for HelpStreet to manage the facility on People Care's behalf; and, in terms of the lead-up to 11 July 2019, his knowledge of any issues at the facility prior to that date and his role in the events on the day in question. That is the scope of the evidence that is expected to be traversed with Mr Miller.

CHAIR: Thank you very much, Ms O'Gorman. Before we proceed I would like to acknowledge that the member for Gaven is here. Meaghan Scanlon, welcome. I understand we will go through a process of Mr Miller being questioned now.

MILLER, Mr Arthur, Private capacity

Witness was affirmed—

CHAIR: Thank you very much.

Ms O'GORMAN: Mr Miller, I am going to commence by asking you some questions around the history of your compliance or the compliance of any corporate entities that you were involved in relevant to the aged-care sector prior to your involvement at Earle Haven. I am going to start by asking you about the Austin nursing home in Sydney. We understand that you were involved in management and operation of that nursing home from 1985 to 1990; is that correct?

Mr Miller: That is correct.

Ms O'GORMAN: During that period of time were there any occasions on which it was deemed that you were not compliant with regulatory requirements in place at that time?

Mr Miller: No.

Ms O’GORMAN: We understand that from 1991 through to 1992 you were involved in the management and operation of the WaveTree nursing home in Sydney, and that was done through Pilmont Pty Ltd.

Mr Miller: That is correct.

Ms O’GORMAN: For that period of time, were there any occasions on which it was deemed that Pilmont Pty Ltd was not compliant with regulatory requirements?

Mr Miller: That is not correct.

Ms O’GORMAN: No. I am asking were there any occasions?

Mr Miller: No, there was not. If you want my comments, I can tell you about it, if you want to know.

Ms O’GORMAN: No. My question is simply: were there any occasions during that period of time where it was deemed that Pilmont Pty Ltd was not compliant with regulatory requirements?

Mr Miller: There was not.

Ms O’GORMAN: We understand that from 1992 through to 1994 you were involved in the operation and management of a nursing home known as The Laurels in Meadowbank in New South Wales. That also was done through Pilmont Pty Ltd. Is that correct?

Mr Miller: That is correct.

Ms O’GORMAN: During that period of time, were there any occasions on which you or Pilmont Pty Ltd were deemed not to be compliant with any regulatory requirements?

Mr Miller: There was no indication, ever.

Ms O’GORMAN: I take it from your answer just now that it is your evidence that from the time that you were involved in the operation of Hume nursing home from 1994 to 1995 and the Bay nursing home in the late 1990s there were also no issues with your compliance with regulatory requirements?

Mr Miller: No. I do not recall anything at all. I can tell you why—because I sold the business. That is all.

Ms O’GORMAN: Because you?

Mr Miller: I sold the Hume nursing home, the Bay nursing home, the Austin nursing home—I sold all of them. There was no indication of any noncompliance on that. That is what I can tell you.

Ms O’GORMAN: Why is it that different corporate entities were involved in the ownership and management of those various nursing homes—that is, Pilmont Pty Ltd and Franmore Pty Ltd, which we understand is the organisation that you owned in the 1990s with respect to the Bay nursing home?

Mr Miller: You want some information about who ran that? Is that what you want? I do not understand what you mean.

Ms O’GORMAN: No. My question is whether you can explain why there were different corporate entities involved in those nursing homes.

Mr Miller: In that time the government required us to incorporate because the Austin nursing home was just in our names—myself and my wife. The other was incorporated, so we created a new company. That is what happened.

Ms O’GORMAN: During the time that you were involved in the management and operation of those nursing homes, did you subcontract out the services at any of those facilities to another organisation?

Mr Miller: No. I can explain, if you give me the details. My wife graduated from New South Wales university in gerontology, and she was running the care for the residents and dealing with the employees. Unfortunately, she passed away in 2012. Since then I had to get somebody else to run the place. That is why I failed because I am not a nurse myself. I graduated with a BA(BA)—Bachelor of Arts (Business Administration)—in Texas in the United States of America. I lived most of the time there and then I came to Australia. That is what happened.

When I met my wife, she was a matron—they used to call them the old name. Today they are called nursing manager or director of nursing. At that time they used to call them matron. She was a matron. We started our first nursing home, which was Austin nursing home, and she ran that. We did not have any problem with those nursing homes at that time until we got to the Gold Coast when we took over the Earle Haven Retirement Village.

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She got an illness which is called lupus and she was very sick. Actually in Sydney she had a hip replacement in Concord Hospital. Since then her health was not very good. In 2005 she retired completely. Then she was not working anymore. In 2012 she passed away. I can give you that history of why it changed from that time. We did not have any problem until after because we did not have my wife to run the place anymore.

Ms O’GORMAN: If I can just clarify in terms of the information that you have just provided us, during the time in which you were involved in the aged-care industry, operating and managing aged-care facilities, you were significantly supported by the nursing expertise that your wife could offer to you.

Mr Miller: That is correct.

Ms O’GORMAN: She was able to offer you that expertise and experience through to until about 2005 when she became ill. Is that correct?

Mr Miller: Well, not in general because I was not involved directly because we had our office outside, not on the site of the aged care. I handled all the management direct in finance of the business itself, dealing in payroll, in accounts receivable, in clerical work in general. I was involved in that area. This happened. Until now I do the same thing.

Ms O’GORMAN: We might be slightly at cross-purposes. What I was asking is whether or not your wife was able to offer you that significant expertise and experience in nursing through to when she became ill in 2005?

Mr Miller: Well, she was not directly because she used a wheelie walker. She used to give me some information—but not nursing care. I was not involved at all. That is why I had to get people from outside to run the aged care.

Ms O’GORMAN: When you say you ‘had to get people from outside to run the aged care’, are you referring to your engagement of HelpStreet at Earle Haven?

Mr Miller: Well, that was the case. There was one before, if you want me to comment I can do that.

Ms O’GORMAN: If you could just tell me for now what year the earlier instance of getting someone from outside to assist you occurred in?

Mr Miller: The first one I had a nursing manager. I had two nursing managers. Apparently they are supposed to report to me almost every day—but sometimes they were very busy and they could not—to tell me any changes or things. They have to do that. They failed because apparently accreditation channel—they did not inform me about things. When I found out that there were sanctions made by the Commonwealth at that time, they gave me a call—without knowing case—in my home and tell me you wanted sanctions. They said, ‘We’re going to send information later.’ Apparently they made a check in the home and found out some of the 44 standards required by the Commonwealth—they did not comply with most of them. What I did with that nursing manager is terminated her employment, but I still had the sanctions. I hired another person which I appointed—and the panel, the Commonwealth, agreed with—to deal with the case until the sanctions were lifted.

Ms O’GORMAN: Mr Miller, I am just going to stop you there. It might be of more assistance to the committee if we can work through that history by reference to some dates and the sanctions which were imposed. I intend to take you through that in a step-wise process shortly. Please know that you will have an opportunity to comment on all of those matters in due course, but I am just going to take you back now to the commencement of your involvement with People Care, because I want to clarify some things about that.

Mr Miller: Sure.

Ms O’GORMAN: As I understand it, People Care Pty Ltd came into existence in 2001. Is that correct?

Mr Miller: That is correct—when I took over Earle Haven Retirement Village.

Ms O’GORMAN: From that time you were the Managing Director of People Care?

Mr Miller: That is correct.

Ms O’GORMAN: You were the Managing Director of People Care on 11 July 2019?

Mr Miller: That is correct.

Ms O’GORMAN: And you remain the Managing Director of People Care?

Mr Miller: That is correct.

Ms O’GORMAN: Was your wife from 2001 ever a director of People Care?

Mr Miller: Yes, I was director of that.

Ms O’GORMAN: Your wife was?

Mr Miller: Yes, she was.

Ms O’GORMAN: Were the nursing managers that you have spoken of who assisted you after your wife was no longer able to direct of People Care?

Mr Miller: No, not directors. They were just nursing managers.

Ms O’GORMAN: Who are the other directors of People Care?

Mr Miller: There was nobody else—just myself and my wife.

Ms O’GORMAN: To make sure that we are quite clear about this, from the time of its inception in 2001, you and your wife were the only directors of People Care. Is that correct?

Mr Miller: That is correct.

Ms O’GORMAN: Since your wife passed away in 2012, you are the sole director of People Care?

Mr Miller: That is correct.

Ms O’GORMAN: As we understand it, People Care became the approved provider for both Hibiscus House and Orchid House in 2006. Is that correct?

Mr Miller: 2006? I do not recall that—all the details.

Ms O’GORMAN: You are not sure about that?

Mr Miller: Remember I am 77 to 78 years of age.

Ms O’GORMAN: Yes.

Mr Miller: Not everything in my mind is very good. I was very sick. That is why probably you did not understand why I could not come here. I was feeling very depressed with everything—the events that happened and all the business. I never had a case like that before in all my 45 years I have lived in Australia.

Ms O’GORMAN: What I might do to assist you with your memory is to take you through a series of documents. We might start with tab 4, please. When this document comes up, Mr Miller, I will just ask you to have a look at the front page of it while I ask you some questions. Are you able to see that document clearly, Mr Miller?

Mr Miller: Yes.

Ms O’GORMAN: Are you able to see that that document is a serious risk report issued by the Aged Care Standards and Accreditation Agency in relation to Hibiscus House Nursing Home? Can you see that?

Mr Miller: Yes, I can see that. Which date was that?

Ms O’GORMAN: I will ask that the document be moved right down to the bottom. If you look at the bottom left-hand corner, can you see that it is dated 29 April 2007?

Mr Miller: Yes.

Ms O’GORMAN: If we can go back towards the top of the document, can you see there that People Care Pty Ltd is listed as the approved provider?

Mr Miller: That is correct.

Ms O’GORMAN: Do you accept that at least by April 2007 People Care was the approved provider for Hibiscus House Nursing Home?

Mr Miller: That is correct.

Ms O’GORMAN: As of this date, that is April 2007, do you recall whether your wife was still involved in the operation and management of Hibiscus House?

Mr Miller: Part of it because she was very sick. She was not working there at the site anyway; she was at home.

Ms O’GORMAN: If she was very sick at that time and not able to fulfil her duties in full, it seems, did you at that time also have another nursing assistant?

Mr Miller: We did, yes.

Ms O’GORMAN: Would you consider that as of April 2007 you were still ultimately responsible for the way the facility was being run?

Mr Miller: Yes.

Ms O’GORMAN: Do you accept that part of your ultimate responsibility for the way Earle Haven, the facility, was being run meant that you were in ‘management’ at that time?

Mr Miller: Yes.

Ms O’GORMAN: Thank you.

Mr Miller: May I clear something up because—

Ms O’GORMAN: Certainly.

Mr Miller:—the media make a lot—I tried to issue some of the information. The Earle Haven Retirement Village is 48 acres of land. Because of the media information, everybody thinks Earle Haven is high care. It is not. We have more than a thousand people who live in the village. We have a facility which is one of the best, I would say, in Australia. Okay? I just tried to clear that up because Earle Haven is not high care. It was Hibiscus and Orchid House, or People Care, but the media put—our residents have a problem because they believed we were in receivership, in administration. Earle Haven Retirement Village do not have a debt to anybody.

Ms O’GORMAN: I might just stop you there, Mr Miller. I think what you are trying to convey is perhaps your frustration that the term ‘Earle Haven’ might have been used to refer to—

Mr Miller: Yes, that is right. I do not believe they should, because I want my lawyers to delete that to proper gather defamation because Earle Haven Retirement Village was not in receivership and Earle Haven Retirement Village was not in administration. Apparently, the state government sent the department of housing to look there if you worry if we had condition to maintain. The residents were very upset about it and they started to query me because of the misinformation by the media. The media in this country is disgraceful. Because they do not talk to me, they put a lot of things in the paper which are not true. I have a lot of evidence of the things that appear here which did not really happen. I am a very unobtrusive person and family. We have high integrity and morals, and I do not believe that. The other thing, our belief is that I came into this world with nothing, and the day I leave I will not take anything with me. The only thing is I am doing this for the community here. I have a lot of information here that I would like to pass on for you. There are a lot of veterans in the village. We celebrate Anzac Day every year. I put a monument to the Anzacs there. We spent a lot of money on the village and the residents love me. I am considered big family there and I treat them the same way. I just believe the misinformation mentioned by the media was terrible. I do not agree with that. I tried to show what Earle Haven is, what is the misleading information—

CHAIR: I think you have made your point, Mr Miller.

Ms O’GORMAN: I am going to stop you there because we do not have the time, nor is the scope of this inquiry, to look at some of the community contributions you have mentioned just now. The purpose of this inquiry is to look at the history of People Care's compliance with the regulatory regime in the lead-up to 11 July 2019 at Hibiscus House and Orchid House. For the purpose of this inquiry I am going to ask you a number of questions and I need you to respond to those questions. This is not an opportunity for speeches about other matters which are irrelevant to this committee's inquiry.

Can I just take you back to what we were talking about, which was the distinction between Earle Haven generally—which, as you have explained for us, is quite a large facility—and Hibiscus House and Orchid House in particular.

Mr Miller: That is correct. I agree with that.

Ms O’GORMAN: For the sake of clarity, can we just confirm that Hibiscus House and Orchid House are the facilities within Earle Haven which provide aged-care services to high-needs patients?

Mr Miller: That is correct.

Ms O’GORMAN: Just coming back to Hibiscus House and this document, if you have a look at it there can you see that at the time of this report in April 2007 Hibiscus House had 59 allocated places?

Mr Miller: Yes, that is right.

Ms O’GORMAN: That is what we are talking about. We are talking about 59 residents at Hibiscus House. If you can just direct your focus to this report and the questions that I am going to ask you about it. Can we turn, please, to page 2 of the report?

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Mr Miller: Are you talking about this page here?

Ms O'GORMAN: This is page 2.

Mr Miller: That one?

Ms O'GORMAN: Yes, it is up on the screen. Can you see under the heading 'Purpose of the serious risk report' are the words—

This is a report of serious risk to residents, for the purposes of section 4.4 of the *Accreditation Grant Principles 1999*.

Can you see that, Mr Miller?

Mr Miller: Yes, I do.

Ms O'GORMAN: A little further down that page you will see the heading 'Reason for risk and evidence of serious risk'. Can you see that?

Mr Miller: Yes, I do.

Ms O'GORMAN: Underneath that you can see the words 'Standard One', and standard 1 is 'Management systems, staffing and organisational development.' Can you see that?

Mr Miller: Yes, I do.

Ms O'GORMAN: Now we will turn to page 3, please. I would like you to have a look at the top of that page. Can you see there the auditor or the report writer has written under the heading 'Reasons for the serious risk'—and this is in relation to standard 1—

Management are not responsive to issues raised, including sufficiency of equipment, staffing requirements, risks in the care environment, and adverse clinical indicators.

Can you see those words there?

Mr Miller: Yes, that is right.

Ms O'GORMAN: Do you recall receiving this report from the agency sometime after 29 April 2007, Mr Miller?

Mr Miller: Yes. Can I explain that, or not?

Ms O'GORMAN: No, I am just asking you for the moment whether you recall receiving this report. Did you read the contents of this report, including that statement there?

Mr Miller: Yes.

Ms O'GORMAN: We will just move a little further down the page. You will see that there is a further subheading 1.1 'Continuous improvement'. Can you see that subheading?

Mr Miller: Yes, I do.

Ms O'GORMAN: The team's recommendation there is that People Care does not comply. Can you see that?

Mr Miller: Yes.

Ms O'GORMAN: Can you see the statement underneath that—

Management cannot demonstrate that continuous improvement is actively pursued in Standard One. Management and staff do not have a shared understanding of continuous quality improvement processes or the Accreditation Standards.

Can you see that there, Mr Miller?

Mr Miller: Yes.

Ms O'GORMAN: If we turn over to page 5 you will see heading 1.2 towards the bottom of that page. It relates to the topic 'Regulatory compliance.' I will just wait for that to come up. Can you see that there, 1.2, 'Regulatory compliance'?

Mr Miller: Yes.

Ms O'GORMAN: Can you see the team's recommendation, 'Does not comply'?

Mr Miller: Yes, I do.

Ms O'GORMAN: Underneath that can you see the words—

Management is not aware of the legislation or regulations relevant to Standard One and do not have systems in place to ensure compliance.

Can you see that?

Mr Miller: Yes, I do.

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Ms O'GORMAN: Going over to page 7, I ask you to confirm whether you can see heading 1.3, 'Education and staff development'. Can you see that?

Mr Miller: Yes, I do.

Ms O'GORMAN: Can you see the team's recommendation, 'Does not comply'?

Mr Miller: Yes, I do.

Ms O'GORMAN: And these words—

Management and key personnel do not have appropriate knowledge and skills about the Accreditation Standards and the home's systems and processes to ensure compliance with the Accreditation Standards.

You can see that?

Mr Miller: Yes, I do.

Ms O'GORMAN: We will move forward now, please, to page 21 of the document. I will ask you to confirm if you can see heading 2.3, 'Education and staff development'. You can see that there, Mr Miller?

Mr Miller: Yes, I can.

Ms O'GORMAN: Similarly, can you see the words 'Team's recommendation—Does not comply'?

Mr Miller: Yes.

Ms O'GORMAN: And the words in the first dot point a little further down—

The Care Services Manager, Clinical Nurse Manager and Education Coordinator reported that there is no mechanism in place to ensure that all staff have the necessary knowledge and skills to carry out their roles effectively on a day to day basis.

Can you see those words there?

Mr Miller: Yes, I do.

Ms O'GORMAN: Turning over to page 23, I am going to ask you if you can see heading 2.10, 'Nutrition and hydration'. You can see those words?

Mr Miller: Yes, I do.

Ms O'GORMAN: And again the team's recommendation, 'Does not comply'?

Mr Miller: Yes, I do.

Ms O'GORMAN: Looking at that first paragraph underneath there, can you see that the last sentence reads—

Mechanisms are not in place to ensure that residents receive adequate nourishment and hydration.

Can you see those words?

Mr Miller: Yes, I do.

Ms O'GORMAN: We will move over the page. This is still under the same heading. The first dot point at the top there includes this information—

The team observed six residents to have drinks placed on lockers and bedside tables that were not within their reach. Five residents were observed to have dry, coated mouths.

Can you see those words? I am looking at the first bullet point on the top of that page, Mr Miller. Can you see those words there?

Mr Miller: Yes, I do.

Ms O'GORMAN: Going over to page 25, can you see heading 2.12, 'Continence management'?

Mr Miller: Yes.

Ms O'GORMAN: There can you see the team's recommendation, 'Does not comply'?

Mr Miller: Yes, I do.

Ms O'GORMAN: And the words—

Processes are not in place for ensuring that residents' continence is managed effectively.

Can you see those words?

Mr Miller: Yes.

Ms O'GORMAN: Finally, I will just take you to page 26 of that document and ask you to confirm whether you can see heading 2.13, 'Behavioural management'?

Mr Miller: Yes.

Ms O'GORMAN: And the words, 'Team's recommendation—Does not comply'?

Mr Miller: Yes, I do.

Ms O'GORMAN: Similarly, can you see this statement—

Strategies to communicate challenging behaviours are not communicated to relevant staff. There is no mechanism to ensure that staff have the knowledge and skills in relation to behaviour management to minimise the occurrence of challenging behaviours.

Can you see that statement?

Mr Miller: Yes, I do.

Ms O'GORMAN: Do you accept the observations made by the departmental auditor as contained within this report?

Mr Miller: Well, I do. But can I answer the question now? Because it is very useful to write all that. I cannot write it down myself too. I dispute a lot of the questions they mentioned there, the auditors, because I have a nursing manager who said they comply. There was a dispute with the government. Until today we have disputed some of the decisions, especially the closure of the aged-care facility there. I have a very big dispute on that because I have never been consulted myself on anything. The operator, HelpStreet, rang the health department and dismissed all their employees and they gave a month's notice to leave the vacant building.

Ms O'GORMAN: Mr Miller, I am going to ask you to stop there.

Mr Miller: I am just trying to get the things right. It is very easy to trick me in questions, you know, so I have to say yes because it is all written. Any public servant can do it. I have disputed some of the things he did here and that which is not true. I go for the truth on that.

Ms O'GORMAN: Mr Miller, I am going to have to interrupt you again.

Mr Miller: Sure.

Ms O'GORMAN: Because you have started to talk about some matters relevant to HelpStreet which, of course—

Mr Miller: No, I just tried to tell what happened, because the main case was based on that—

Ms O'GORMAN: No, Mr Miller, I am sorry, I do have to stop you again. This process will go a lot more quickly if you listen to my question and answer just my question. If necessary, at the end of this procedure if you need to say some more things you will have an opportunity to do so, but for present purposes if you could listen to my question, please, and only answer my question we will be able to get through this a lot more quickly. Do you understand?

Mr Miller: Sure.

Ms O'GORMAN: My question was whether or not you accept that the contents of that report in April 2007 were accurate at that time. Do you accept it being accurate, or not?

Mr Miller: Well, we appealed some of the decisions mentioned there because the nursing manager did not agree with the decision on that, so that is why we did it.

Ms O'GORMAN: Mr Miller, I will just stop you there. You have indicated that you did not accept all of the findings at that time and you appealed it. Do you accept that nonetheless as a result of the audit that occurred in April 2007 the Department of Health and Ageing did impose a sanction on People Care requiring it to appoint a Commonwealth approved assister for six months?

Mr Miller: Yes, I do.

Ms O'GORMAN: You recall that occurring?

Mr Miller: Yes.

Ms O'GORMAN: What efforts, if any, were made by you and People Care more generally towards improvement of the services that you provided at Hibiscus House?

Mr Miller: First of all, let me tell you that I have a nursing manager looking after that. Like any business I probably am not the only one who does not run hospitals, but get a company who employs people to run the place.

Ms O'GORMAN: Let me stop you there then.

Mr Miller: Yes, but—

Ms O'GORMAN: You have a nurse manager in place.

Mr Miller: Yes.

Ms O'GORMAN: Following receipt of this report in April 2007, did it cause you any concern about whether the nurse manager that you had at that time was—

Mr Miller: That is why I did—

Ms O'GORMAN:—performing that job effectively?

Mr Miller: I terminated her employment. That is why I did that.

Ms O'GORMAN: You terminated their employment. Going back to the question that I asked you about whether or not you made any efforts towards improvement after—

Mr Miller: Well, these sanctions—

Ms O'GORMAN: Mr Miller, if you would just let me ask my question.

Mr Miller: Sure.

Ms O'GORMAN: Going back to my question, which was what efforts you made, if any, towards improving the services that you offered after receiving that report and the sanction, was one of the efforts that you made terminating the nurse assistant that you had at that time?

Mr Miller: Yes.

Ms O'GORMAN: Did you make any other efforts towards improvement at that time?

Mr Miller: As the Commonwealth appointed the panel and nursing manager to run for the period of six months, they were there until the sanction was lifted.

Ms O'GORMAN: So you had someone there—

Mr Miller: So, yes, everything was okay.

Ms O'GORMAN: You had someone there who was a Commonwealth approved adviser for a six-month period?

Mr Miller: Yes, that is right.

Ms O'GORMAN: Your recollection is that during the period in which you had the assistance of a Commonwealth appointed adviser everything was okay?

Mr Miller: It was okay, because she made the decision—I could not make any decision myself in that time.

Ms O'GORMAN: We will go forward now to the end of 2015, which is the next point in time where there was an audit that revealed significant difficulties at Hibiscus House or Orchid House. I will have a document put up on the viewer—tab 9, please. Just looking at the front page of that document, can you see there that we are looking at a 'Final Quality Review Report' issued by the Australian Aged Care Quality Agency after they had conducted a review of People Care's services at Hibiscus House and Orchid House? That is what that document appears to be?

Mr Miller: Yes.

Ms O'GORMAN: The date of that report is 27 November 2015. Can you see that?

Mr Miller: 2015, yes.

Ms O'GORMAN: You can see that? Yes?

Mr Miller: Yes.

Ms O'GORMAN: Just having a looking at page 2, under the heading 'Summary of findings' can you see there that the auditor at that time concluded, 'The service meets 6 out of 18 expected outcomes of the Home Care Standards.' Can you see that?

Mr Miller: Yes.

Ms O'GORMAN: Can we turn over to page 8 of the document, please? At the bottom of that page can you see the heading 'Expected outcome 1.2—Regulatory compliance' 'Not met'? You can see that?

Mr Miller: Yes, I do.

Ms O'GORMAN: Can you see underneath the heading the words 'Reasons for findings for home care service' this statement—

The service provider does not have effective systems and processes to consistently identify and ensure compliance with funded program guidelines, legislation and standards.

Can you see those words?

Public Hearing—Investigation of the closure of the Earle Haven residential aged-care facility at Nerang

Mr Miller: Yes, I do.

Ms O'GORMAN: Going over to page 10 of the report, can you confirm for me that you can see the heading 'Expected outcome 1.3—Information management systems' 'Not met'? Can you see those words?

Mr Miller: Yes, I do.

Ms O'GORMAN: Under the words, 'Reasons for findings for home care service' can you see this statement—

The service provider was not able to demonstrate there is an effective management system to support all aspects of care and service delivery.

Do you see those words?

Mr Miller: Yes, I do.

Ms O'GORMAN: Going over to page 13 of the report, can you confirm for me please that you can see the words 'Expected outcome 1.6—Risk management' 'Not met'?

Mr Miller: Yes, I do.

Ms O'GORMAN: And under the words 'Reasons for findings for home care service' can you see this statement—

The service provider was not able to demonstrate that it has processes in place to identify or manage risks.

Mr Miller: Yes.

Ms O'GORMAN: A little further in that paragraph can you see these words, 'and there are no medication management processes or guidelines for staff to follow'. Can you see those words?

Mr Miller: Yes.

Ms O'GORMAN: Finally, I will ask you to have a look at page 19 of the report, please. Can you see there towards the bottom of the page the heading 'Expected outcome 2.3'—

Mr Miller: Why are some of the things there crossed out? They are crossed out.

Ms O'GORMAN: They are redactions of people's names for the purposes of privacy. You do not need to worry about the redactions for a moment. I am not going to take you to those sections. If you could confirm for me, please, that you can see the heading 'Expected outcome 2.3—Care plan development and delivery' 'Not met'.

Mr Miller: Yes, I do.

Ms O'GORMAN: Under the words 'Reasons for findings for home care service', can you see this statement—

The service provider was not able to demonstrate that care recipients' assessed care and service needs are used to develop individualised care plans.

Can you see that?

Mr Miller: Yes, I do.

Ms O'GORMAN: Towards the end of that paragraph can you see this statement—

The service does not have a process in place to ensure information is sourced from relevant others such as medical practitioners to assist in the formation of service delivery.

Can you see that?

Mr Miller: Yes, I do.

Ms O'GORMAN: I have taken you to a selection of the findings there, but we have confirmed that you saw at the outset that the finding ultimately was that only six of 18 expected outcomes were met by People Care. Can I ask you this: do you recall receiving and reading that report in about November of 2015? Do you recall that?

Mr Miller: I do not recall all of the details there.

Ms O'GORMAN: No, I am not asking whether you recall all of the details. I am asking you whether or not you recall receiving and reading the report in about November of 2015.

Mr Miller: I do not recall that.

Ms O'GORMAN: You do not recall?

Mr Miller: No.

Ms O'GORMAN: Would you have read it? You were the Managing Director of People Care.

Mr Miller: Yes, I do, but I have a big business to run. I just do not run aged care. That is where the problem is. I employ people to do their work and that is where you perhaps do not understand.

Ms O'GORMAN: It is not a matter of whether I understand something or not. I am seeking to elicit your recollection about what occurred when a government agency audited and reviewed the services that you were providing at Hibiscus House and Orchid House to people with very high needs in November 2015. As I understand your evidence, it is that you do not recall whether you read that report at all because you are a very busy businessman—

Mr Miller: No, no, excuse me. Do not misunderstand. I say I run it. I have so much paper to read all the time—emails and things like that. I cannot recall every single bit of information.

Ms O'GORMAN: We established that you cannot now recall whether or not you received this report. My next question, Mr Miller, is whether or not you would have received this report. It is a significant and important question for you to answer because you have established that you were the managing director in 2015.

Mr Miller: Yes.

Ms O'GORMAN: We can see that this is a report produced by a government agency following a review and an audit of Orchid House and Hibiscus House, facilities that provided services to high-needs patients. Would you have read this report?

Mr Miller: I think I probably have, because I have my answer person, Mr David Lang, who is my accountant, financial manager. He is the nominee for all the information and passes some information to me. That is why I know.

Ms O'GORMAN: I still do not understand. Is your evidence that you would or would not have read this report or you simply do not recall one way or the other?

Mr Miller: I cannot recall every single word of that information that was made in that time. I do not recall all the words. You would like to ask a question I cannot answer.

Ms O'GORMAN: Mr Miller, I am not asking you to recall or whether you can recall all of the details in every single word in this report. What I am asking you to do is to give us a very clear and straight answer to this question: would you have read this report back in November of 2015 or do you simply not recall one way or the other?

Mr Miller: I probably read the information. I take action based on that. I pass on to somebody to deal with that. That is what I do.

Ms O'GORMAN: Who would you have passed this information onto?

Mr Miller: To the nursing manager and query her to find out what is the procedural action to be taken in this case. That is what I did.

Ms O'GORMAN: If you had read this report back in November of 2015, including some of the passages that I have just taken you to, would it have caused you significant alarm as to the level of service your nursing manager was providing at Orchid House and Hibiscus House?

Mr Miller: That is why I made sure, when I had the cases, I terminated that person. Anybody else—even in government—does the same thing. If there is some problem in a department, they terminate that person and put in somebody else in, and that is what I did. What is wrong with that?

Ms O'GORMAN: Is your evidence that you, following November 2015, terminated another nursing manager?

Mr Miller: I have to find out, because I do not recall the details. I have to read all of these things here. You ask me all of these details. I have to read it again to find out, because I do not recall it. I can read it now. Later, I will forget.

Ms O'GORMAN: Just to be clear—and the answer might simply be that you do not recall—did you or did you not terminate a nursing manager following the receipt of this report in November 2015?

Mr Miller: When was the—

Ms O'GORMAN: Mr Miller, if you could just let me finish—

Mr Miller: You want me to answer your question, I will say yes to everything, because that will be up to the end. If I cannot expose my side of the story, there is no—I am a member of the Institute of Company Directors. I do not like to see those things said to me. When you ask a question, I am supposed to give you an answer, but you cannot ask a question and get 'Yes' or 'No', 'Yes' or 'No.' It

looks like you are tricking me on that. I am a very sedate person. If there is any question based on the subject, you have to let me explain that. Some of that information was dealt with at the time, but you do not want to know that and that is what happened.

Ms O'GORMAN: Mr Miller, I will return to my question and give you an opportunity to answer it. Do you recall whether or not you terminated the services of a nursing adviser after the November 2015—

Mr Miller: It depends—

Ms O'GORMAN: Mr Miller, I am going to have to stop you again. Please let me ask each of the questions and then you can answer them.

Mr Miller: You are making me stressed. I do not believe that I can stay very longer if you continue like that. You remember I am 77 to 78. Some people are already in aged care at my age. I try to be considerate and understand, but you have to put my side of the story. Any question must be answered, but let us get the simple question that I can answer. It is very easy to get to what has happened years ago—

CHAIR: Mr Miller, we would appreciate if you could answer the question.

Mr Miller: Sure. Okay. I can answer exactly what you want. I will tell you that that is the way it is, because that is what you want.

Ms O'GORMAN: If I can just try again and if you could just wait to hear what my question is and then answer it. Do you recall whether or not you terminated the assistance of a nursing adviser after receiving the report from the government in November 2015?

Mr Miller: Not a nurse adviser. I did not have a nurse adviser, as far as I know. I had a nursing manager who used to run the place.

Ms O'GORMAN: In May 2016—this is the following year, about six months later—do you recall that the agency conducted a further review of both Hibiscus House and Orchid House, which found that People Care failed to meet a number of the expected outcomes at that time, including in the areas of continuous improvement, clinical care, catering, cleaning and laundry services?

Mr Miller: I do not recall that.

Ms O'GORMAN: You do not recall?

Mr Miller: But there is a case—can I explain that? Orchid House was a hostel. It was not high care. That is why the misunderstanding happened on that. There are three different numbers there. There was one for home care, one for Orchid House, which used to be a hostel, and the other one is high care, which is Hibiscus House.

Ms O'GORMAN: Can I ask that tab 15 be put up on the viewer just to see if this can assist you with your memory, Mr Miller? Looking at the first page can you see a letter from the Australian Aged Care Quality Agency to Mr Lang. Can you see that?

Mr Miller: Yes, I do.

Ms O'GORMAN: Mr Lang was employed at People Care Pty Ltd, was he not, in May of 2016?

Mr Miller: Yes.

Ms O'GORMAN: Can you see there that this letter to Mr Lang relates to Hibiscus House? Do you see that?

Mr Miller: Yes, Hibiscus House.

Ms O'GORMAN: We are just talking about Hibiscus House for the moment. Scrolling down the page, can you see there that the agency found at that time that People Care failed to meet the accreditation standards in nine expected outcomes. Can you see that?

Mr Miller: Yes, I do.

Ms O'GORMAN: Can I take you to a couple of these passages just to see if this assists with your memory. Looking at page 2, can you see the heading 'Expected outcome 2.4—Clinical care'?

Mr Miller: Yes, I do.

Ms O'GORMAN: Can you see these words—

Care recipients are not receiving care and services that reflect current assessed needs and preferences.

Do you see that?

Mr Miller: Yes, I see.

Ms O'GORMAN: Moving down a little, can you see the heading 'Expected outcome 2.7—Medication management'?

Mr Miller: Yes, I do.

Ms O'GORMAN: And these words 'medications are not administered in a safe and correct manner to ensure correct delivery of medications to care recipients as prescribed'?

Mr Miller: Yes, I do.

Ms O'GORMAN: At the bottom of that page can you see the heading, 'Expected outcome 2.10—Nutrition and hydration.'

Mr Miller: Yes, I do.

Ms O'GORMAN: And these words, 'Processes for identifying and monitoring care recipients at risk of unplanned weight loss are ineffective.'

Mr Miller: Yes, I do.

Ms O'GORMAN: Finally, on page 3, can you see the first heading on that page is, 'Expected outcome 2.11—Skin care'?

Mr Miller: Yes, I do.

Ms O'GORMAN: And can you see these words, 'Processes to monitor, review and evaluate wounds are not effective in ensuring effective wound care or prevent skin breakdown.'? Can you see that?

Mr Miller: Yes, I do.

Ms O'GORMAN: Do you recall Mr Lang providing you with this report from the agency in May 2016?

Mr Miller: Possibly he did, but, I come back to the point, you mention a lot of things I am not involved with directly. Medication—I am not a doctor. We have doctors in the village. We have a surgery in the village dealing with those case. I do not deal with that. If there was any case it would be directed to him and the nursing manager or the clinical nurse.

Ms O'GORMAN: Do you recall whether, following receipt of this report in May 2016, you personally did anything to rectify those issues or did you leave that to other people in your employ?

Mr Miller: That is right, I designated somebody else to deal with that. That is what I do all the time.

Ms O'GORMAN: Did you consider that it was appropriate? This is not the first time that People Care has received a sanction from the government. Did you consider that it was appropriate simply to leave rectification of quite serious failures to other people in your employ?

Mr Miller: I cannot answer that question because—

Ms O'GORMAN: Do you recall that following that report, that finding, the department issued a notice of noncompliance and imposed sanctions on People Care which were in place from June to December 2016? Do you recall that period of sanction?

Mr Miller: Yes, I do.

Ms O'GORMAN: Do you recall that during that period of time there was in place a Commonwealth appointed adviser to assist you to try to meet these outcomes?

Mr Miller: That is correct.

Ms O'GORMAN: Is it your recollection that during that period of time you personally did anything else to make efforts towards improvement of People Care's services?

Mr Miller: Yes, I did.

Ms O'GORMAN: Can I take you to another document now. This is tab 26. Can you see there an email which is headed, 'Fw: *Confidential: Advice to Terminate Consultancy Services'? Can you see that?

Mr Miller: Yes, I can see it.

Ms O'GORMAN: Sorry, Mr Miller, you were being shown the wrong document. Can you see this one dated 13 September 2016 and addressed to People Care Pty Ltd.? Can you see that, Mr Miller?

Mr Miller: Yes, I do.

Ms O’GORMAN: Going down to the bottom of that page can you see that it is a letter sent by, and the actual name is redacted, but the person's role is the Commonwealth nurse adviser? Do you see that?

Mr Miller: Yes, I do.

Ms O’GORMAN: And that is the nurse adviser who had been appointed by the Commonwealth during the period of the sanctions from June to December 2016. Do you see that?

Mr Miller: That is correct, yes.

Ms O’GORMAN: Do you recall, and feel free to have a read of the document if you need to, we can scroll up towards the top of it, at that time the purpose of that letter was to advise you that the Commonwealth appointed nurse adviser was discontinuing their services for the four reasons set out there in the email? The first one reading—

Mr Miller: I do not recall that at all.

Ms O’GORMAN: You do not recall receiving—

Mr Miller: No, nothing at all.

Ms O’GORMAN: Do you recall the Commonwealth appointed nurse adviser leaving during the period of the sanctions?

Mr Miller: No.

Ms O’GORMAN: Do you recall then, moving towards the end of 2016, that in November 2016 the agency conducted a further review at which some improvements were noted, but it was determined that People Care did not meet the expected outcomes for regulatory compliance and information provision? Do you recall that there was further failures found in November 2016?

Mr Miller: I do not recall that.

Ms O’GORMAN: I might just show you a document and ask whether or not it assists in your recollection. This is tab 32. Can you see that that appears to be a report from the Australian Aged Care Quality Agency titled 'Final quality review report'? It is issued to People Care Pty Ltd on 30 November 2016. Can you see that?

Mr Miller: Yes, I can see it.

Ms O’GORMAN: Just going over onto page 2, can you see there under the heading, 'Advice of failure to meet the Home Care Standards', 'The service does not meet the following expected outcomes' and it lists 'regulatory compliance' and 'information provision'. Do you see those words?

Mr Miller: Yes, I can see it.

Ms O’GORMAN: Does that assist you to recall that in November 2016 the agency had conducted a further review and determined that People Care had failed to meet those two expected outcomes at that time?

Mr Miller: I don't recall that.

Ms O’GORMAN: Do you recall that there was a further assessment conducted by the agency in April 2017 at which time the agency concluded that both of those expected outcomes—that is, regulatory compliance and information provision—were still not being met and by that time neither was a third? Do you recall a further assessment in April 2017?

Mr Miller: I probably saw it, but I do not recall the details.

Ms O’GORMAN: If you do not recall the details or have an independent recollection of receiving either of those reports—that is, November 2016 and April 2017—is it a fair assumption on my part that you also do not recall what steps you took, if any, personally to rectify the issues raised in those reports?

Mr Miller: I always try to rectify it and take any action on that.

Ms O’GORMAN: When you say you always tried to rectify and take any action, are you talking about steps that you took personally or that you directed others in your employ to do?

Mr Miller: I directed the other people dealing in that area.

Ms O’GORMAN: We are still talking about this period in November 2016 and April 2017. Were you, during that period of time, still of the view that because your business was so large you required other people within your employ to ensure regulatory compliance with the aged-care standards?

Mr Miller: Yes, I do.

Ms O’GORMAN: I am now going to ask you some questions about the motivation behind People Care's decision to engage the subcontractor HelpStreet. Firstly, do you recall that People Care did engage another organisation by the name of HelpStreet—

Mr Miller: Yes, I do.

Ms O’GORMAN:—to manage Hibiscus House and Orchid House in about April 2018?

Mr Miller: That is right.

Ms O’GORMAN: Is it the case that by that stage at least you had come to the realisation that you were not the right person to be running Orchid House and Hibiscus House?

Mr Miller: That is correct.

Ms O’GORMAN: Is it the case that you had come to the realisation that you simply were not up to that task?

Mr Miller: That is correct.

Ms O’GORMAN: We have stepped through a number of reviews that had been conducted by the agency in 2007, 2015, 2016 and 2017 which showed repeated failures by People Care to comply with its expected outcomes. I want to ask you this: are you able to explain why it took you so long to come to the realisation that you were simply not up to the task of running Hibiscus House and Orchid House?

Mr Miller: The history, what happened, I decided, I say perhaps—I cannot explain the facts. We will be just going in circles. All that time I was planning to do that, but I did not because I could not find a suitable provider for that. And that is why you do not ask that question, just ask that question there. I had been running around for a long time to try to get the right people to run the place, but I could not find them.

Ms O’GORMAN: Why was it then in April 2018 that you decided to engage HelpStreet?

Mr Miller: Can I explain all the details so then we get to know the history?

Ms O’GORMAN: Please.

Mr Miller: What happened, they came to me, their managing director of—probably you know his name, Kristofer Bunker—the global business HelpStreet in London. He said he had a facility there. They have a business in Singapore and they have a business in New Zealand and they have a business in Sydney and they believe they could run the aged care very well. I started to believe they were right. They had good credentials on that and I believed them on that. That is why I accepted them to run the aged care. Before that RSL Care came to us. It was for one year. They did the due diligence on the business and all that and after 12 months said that they did not want to do it because there was a problem between them and the government. I do not know what it was. They cancelled that. I had been running it for some time. I did not find the proper people to run that. That is what happened.

Ms O’GORMAN: You have just mentioned towards the end of that answer another organisation that you might have been engaged with for 12 months. You are not talking about HelpStreet there?

Mr Miller: No, it was RSL Care. They change their name. They call Bolton—

CHAIR: Clarke.

Mr Miller: They change their name after that. They are the ones that for 12 months took over there.

Ms O’GORMAN: Is it your recollection that People Care approached HelpStreet for assistance or that Mr Bunker approached you?

Mr Miller: No, they came here because Mr Bunker came from London and actually went back to London—I do not understand why. That is another question. Mr David Lamb, he was the CEO of HelpStreet in Australia and New Zealand—came and talked to me and then I went to see my lawyer.

Ms O’GORMAN: Can I ask you this: what checks, if any, did you do to satisfy yourself that the directors of HelpStreet were suitable people to be involved in the aged-care industry?

Mr Miller: I used to have a bit of trust. I am going to tell you this. I employ people. Sometimes I believe they are good and they have good credentials. Later on I find out they are no good so I terminate them. That is what I do. But I cannot on an impression make assumptions. We got some information which was okay.

Ms O’GORMAN: Do I take it from that answer that you acted on trust?

Mr Miller: That is correct.

Ms O’GORMAN: That the people from HelpStreet who approached you to take over the management of these facilities at Hibiscus House and Orchid House would be appropriate people?

Mr Miller: I thought they were, yes.

Ms O’GORMAN: Did you do any checks, beyond acting on trust, to satisfy yourself that they were, in fact, a suitable organisation to be providing assistance to high-needs, aged-care residents?

Mr Miller: I thought they were good, in my point of view.

Ms O’GORMAN: I understand that you thought they were good, but I understand you thought they were good based on trust.

Mr Miller: That is correct.

Ms O’GORMAN: What I am asking you is: did you do any other checks, other than trusting your instincts, to satisfy yourself that they would be appropriate?

Mr Miller: I went to see my lawyer there too. They gave some information before I made the agreement with them and that is why I did it.

Ms O’GORMAN: Mr Chair, I note the time. I wonder if this might be a convenient time for a break because I will move to my next topic then?.

CHAIR: Thank you, Ms O’Gorman. We will adjourn for 15 minutes and return at 11.30. Mr Miller, can we remind you just to stay on the parliamentary precinct and use the facilities here on level 5.

Mr Miller: Okay, good.

CHAIR: We will recommence at 11.30.

Proceedings suspended from 11.14 am to 11.35 am.

CHAIR: We will recommence the hearing. Thank you, Ms O’Gorman.

Ms O’GORMAN: Mr Miller, when we concluded our session a little earlier I had been asking you about what process you had undertaken as part of your decision to engage HelpStreet. What I want to turn to now is questions about what People Care did once HelpStreet was engaged. Can I ask you this: did you personally notify the department—that is, the Commonwealth department—that People Care had engaged HelpStreet to provide services on its behalf at Hibiscus and Orchid houses?

Mr Miller: I did not.

Ms O’GORMAN: And why not?

Mr Miller: Because I passed it onto our finance manager, Mr Bruce Lang, who is the secretary who received all the information from the department and deals with that.

Ms O’GORMAN: As I understand your answer just now, what you did was pass on the information to Bruce Lang?

Mr Miller: No, normally what happens is that they pass it to me because most of the information is sent to him because he is the secretary of the company.

Ms O’GORMAN: Did anyone at People Care, to your knowledge, formally notify the Commonwealth department that People Care had engaged HelpStreet to provide services on its behalf?

Mr Miller: I believe Mr Lang did that.

Ms O’GORMAN: When you say that you believe that Mr Lang did that, is that what you had knowledge of at the time or something that you have come to know about or believe since that time?

Mr Miller: I think he made some comments about that, I believe, in the past. I think in the royal commission—I do not know if you know; you probably did not speak to him yourself—he probably was involved. He is the finance manager.

Ms O’GORMAN: Do you recall whether you asked any direct questions of him as to whether and in what form he had notified the Commonwealth department that People Care had appointed HelpStreet to manage the facilities?

Mr Miller: I think he did. That is what I can tell you. Directly I did not do it myself.

Ms O’GORMAN: Did you understand that, notwithstanding People Care’s appointment of HelpStreet, People Care remained the approved provider for the facility?

Mr Miller: That is correct.

Ms O’GORMAN: You knew that?

Mr Miller: Yes, I do.

Ms O’GORMAN: Did you know or understand that as the approved provider People Care continued to retain the responsibility for regulatory compliance?

Mr Miller: Yes, I do.

Ms O’GORMAN: Did you understand that as the Managing Director of People Care, and by this time the sole director of People Care, that ultimately that responsibility rested with you?

Mr Miller: I believe that.

Ms O’GORMAN: After April 2018 what steps did you take, if any, to keep yourself informed about whether HelpStreet was operating Hibiscus House and Orchid House in an appropriate manner?

Mr Miller: Do you have the heads of agreement we had with HelpStreet?

Ms O’GORMAN: I do.

Mr Miller: I think there are some clauses that mention that they have to contact us with any changes they do, I believe.

Ms O’GORMAN: I did not understand that last answer, if you could repeat that.

Mr Miller: I mean in those conditions in the heads of agreement they have to consult us about any changes in the two homes—Hibiscus House and Orchid House.

Ms O’GORMAN: You have mentioned the heads of agreement. That is a document which was compiled either by People Care or its lawyers or HelpStreet or its lawyer which purported to be the agreement entered into by People Care and HelpStreet. That is right, isn’t it?

Mr Miller: That is right, yes.

Ms O’GORMAN: But you recall, don’t you, that ultimately that document was never in fact signed?

Mr Miller: No, the document was signed. The only thing that happened is that the document was for a short period of time until they make the proper agreement. I think, they had 90 or 120 days until they had to provide a proper agreement. They would like to take over the aged care immediately and run the aged care. I would not mind that. I said, ‘I don’t mind. You can come over and do that.’

Ms O’GORMAN: Mr Miller, is it your recollection today that the heads of agreement was in fact signed by both People Care and HelpStreet?

Mr Miller: I think yes. I think it was. We had a copy that was the draft copy and that is probably the one—you probably had a copy of that. The official one was.

Ms O’GORMAN: What is your understanding of the effect of the heads of agreement? Was it that HelpStreet, by virtue of that agreement, was engaged effectively as a subcontractor to provide aged-care services at Hibiscus House and Orchid House?

Mr Miller: Yes, I do.

Ms O’GORMAN: Did you understand at any point around April 2018 that there was to be an agreement between People Care and HelpStreet that ultimately HelpStreet was to purchase?

Mr Miller: In the condition of the agreement—perhaps you see the problems I have with high care—they planned to buy the licence badge from me in that agreement. I say, ‘Yes, we can do that.’ That idea was planned. I did not want to run the aged care anymore.

Ms O’GORMAN: When you talk about the licence, are you talking about the licence in relation to the beds or the approved provider status?

Mr Miller: Yes, the 89 beds.

Ms O’GORMAN: You are talking about the licence in respect of the 89 beds. What did you anticipate—and this is back in April 2018—was going to be the arrangement with respect to People Care’s approved provider status?

Mr Miller: I did not quite follow what you said.

Ms O’GORMAN: In April 2018 was it in your mind that People Care was going to continue to be the approved provider for the facility or did you hope that in the future HelpStreet would take over the approved provider status?

Mr Miller: The agreement was that they would buy the licence badge and ultimately they were going to run it themselves and we will not be involved anymore.

Ms O’GORMAN: I asked you a little earlier what steps, if any, you took to keep yourself informed about whether HelpStreet was operating Hibiscus House and Orchid House in an appropriate manner. When I asked you that question before, you answered it by reference to there having been a heads of agreement. We have talked about that heads of agreement now. I want to ask you: after April 2018 what steps did you take to satisfy yourself that HelpStreet continued to operate Hibiscus House and Orchid House in an appropriate manner? What checks did you do?

Mr Miller: The reason I interviewed Ms Karen Heard—she was appointed by me in that time to run it until they were satisfied they could run the thing properly. That is what I can tell you.

Ms O’GORMAN: As I understand your answer, what you did was engage Ms Karen Heard—and we understand that she is a nurse administrator that you engaged—to liaise with HelpStreet to make sure they were running the facility properly. Is that correct?

Mr Miller: That is correct.

Ms O’GORMAN: What period of time was Ms Heard engaged by you for that purpose?

Mr Miller: I beg your pardon?

Ms O’GORMAN: What month did you engage Ms Heard for that purpose?

Mr Miller: In my best recollection, I think it was in May I believe. I am not certain. It was April or May. I think it was May that she was involved there, but it was a period to HelpStreet start to manage there. She was involved there as well—until that point, I think our manager for the aged care. Then she told me, ‘I think they are able to continue on there,’ and that is why I released her in that time. Then she come back to me later to audit HelpStreet when I had a lot of complaints by residents. I had a meeting to satisfy the level of care by HelpStreet.

Ms O’GORMAN: I am going to come in due course to the meeting that you had with the residents about the level of care that HelpStreet was providing. Please, do know that I will come to that meeting soon. What I want to ask you about, though, is your recollection of Ms Heard’s engagement. As I understand it, your recollection is that HelpStreet was engaged by People Care in about April 2018?

Mr Miller: That is right.

Ms O’GORMAN: And that you thereafter engaged Ms Heard in April or May 2018?

Mr Miller: No. The question I said is because she came there. She was there before, I think. I am trying to remember all the details, but I believe it was when HelpStreet started to manage there—until they get their own manager to run there which I believe was interviewed by ourselves—Karen Parsons. The clinical nurse was Telecia Tuccori, or something like that. She was the clinical nurse.

Ms O’GORMAN: You recall Telecia Tuccori came on board as the clinical care coordinator?

Mr Miller: Yes, that is right.

Ms O’GORMAN: And that Karen Parsons came on board effectively as the executive director?

Mr Miller: Yes, that is correct.

Ms O’GORMAN: Your recollection is that you—that is, People Care—were involved in the hiring at least of Karen Parsons?

Mr Miller: I did not.

Ms O’GORMAN: You did not?

Mr Miller: It was HelpStreet that did that, but I think I was advised by Karen Parsons on that—no, Karen Heard. Karen Heard was the one who was cross-examined and made the decision there.

Ms O’GORMAN: Does it fit with your recollection that Ms Parsons and Ms Tuccori were engaged by HelpStreet to fulfil their roles towards the end of 2018?

Mr Miller: I do not recall the dates there, because I was not involved directly at the level of staff they needed to run the aged care.

Ms O’GORMAN: We have heard evidence that they did, in fact, commence in their roles towards the end of 2018. Bearing in mind that you have just told us that you do not have a direct recollection of that, does it fit with your time frame that they would have started at the end of 2018?

Mr Miller: Yes, I believe that is probably what happened.

Ms O’GORMAN: What I am interested then is in the period between April 2018 when HelpStreet commenced at Hibiscus House and Orchid House and the time frame at the end of 2018 when Ms Parsons and Ms Tuccori were engaged by HelpStreet to manage the facilities. My question was: what were you doing during that period of time to keep yourself informed as to whether or not HelpStreet were operating the facility in an appropriate manner? As I understood your answer, it was that you engaged Karen Heard to liaise with HelpStreet to oversee their operation. Is that right?

Mr Miller: Well, I think that is my recollection.

Ms O’GORMAN: Can it take it from that answer that, having engaged Ms Heard for that purpose, you then personally did not do anything to check whether or not HelpStreet was running the facility in an appropriate manner?

Mr Miller: No, I did not.

Ms O’GORMAN: Looking back now, do you consider it appropriate that you did not personally do anything to check whether or not HelpStreet was operating the facility in an appropriate manner in that period from April 2018 to the end of 2018?

Mr Miller: I was under the impression that they were going to take time for them to get to know the business very well and then we start to see if they are managing properly, so I gave them a chance to start to manage the building, the business, and see if they run the business properly.

Ms O’GORMAN: My question was, Mr Miller, whether now, looking back, you consider it was appropriate that you did not personally do anything to check that HelpStreet was running the facility in an appropriate manner from April through to the end of 2018?

Mr Miller: That is correct. No, I did not.

Ms O’GORMAN: I know you did not. My question is whether or not now you think it was appropriate that you did nothing?

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Mr Miller: I would say, if you come back here, I would probably say that I made a mistake in that time.

Ms O’GORMAN: Okay. You mentioned before the meeting with the residents at which time they expressed concerns about the level of care that they were receiving from HelpStreet. I want to turn now to some questions about that meeting. What I might do is place on the viewer some minutes that were taken at a meeting on 20 March 2019 and ask whether or not these are the minutes from that meeting that you were referring to. If I could please have tab 76? What I have had put up on the viewer, Mr Miller, is a document which in handwriting at the top says, ‘Minutes,’ and in typewriting says—

Earle Haven Residents Meeting

Held in Auditorium, Wed. 20 March, 2019 opened 10.00am.

Can you see that document?

Mr Miller: Yes, I do.

Ms O’GORMAN: You asked before about the sections of a document which were blacked out. My answer about that document remains for this one—that is, there are certain names which have been redacted for people’s privacy. Bearing that in mind, can you see that there is listed on that document the name of the facilitator but it has been blacked out? We are looking towards the top of the document, can you see word ‘Facilitator’?

Mr Miller: Yes.

Ms O’GORMAN: Thank you. Then underneath that can you see there the word ‘Attendees’ and your name is listed?

Mr Miller: Yes, I can see it.

Ms O’GORMAN: And can you see there, looking further along that line, that there were at that meeting approximately 60 residents, family and friends?

Mr Miller: Yes, I do.

Ms O’GORMAN: Does that accord with your memory of the meeting that took place on 20 March 2019—that is, that you were there along with approximately 60 people?

Mr Miller: Yes. I did not count, but I believe that is what was there.

Ms O’GORMAN: I understand. Is that the meeting that you were talking about a little earlier when you told us that there was a meeting where residents were expressing concern about the level of care HelpStreet was giving?

Mr Miller: That is correct.

Ms O’GORMAN: Can I ask you to have a look, please, over the page to page 2 of the meeting minutes? I will just ask you to bear with me while I find my copy of those minutes. Sorry for this, but I will have you go back to page 1, please. I am just going take you to a couple of the parts of the minutes, Mr Miller, to see whether or not you can recall these particular concerns being raised. Can you see towards the top there is a paragraph which commences with a blacked out section and then the words, ‘... concerned about casual staff in the nursing home’? Can you see that?

Mr Miller: Yes, I do.

Ms O’GORMAN: Can you recall one of the residents saying that he was—

... concerned about casual staff in the nursing home, who he claims do not pay enough attention to their patients. He says all good staff have been put off.

Do you recall that?

Mr Miller: Yes, I do.

Ms O’GORMAN: A little further down, two lines down in fact, can you see a complaint that there were a number of casual staff instead of permanent staff?

Mr Miller: Yes, I do.

Ms O’GORMAN: Do you recall that being one of the complaints that were raised by the residents at that meeting?

Mr Miller: Yes, that is right.

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Ms O’GORMAN: Coming down a little further, can you see a paragraph, again commencing with a blacked out portion but then with these words—

... summed up last comments—in a situation where, say on a weekend when several people become ill and there is a shortage of staff there should be more casual staff available that can be drawn on to help out.

Do you see those words?

Mr Miller: Yes, I do.

Ms O’GORMAN: Then it says, ‘In short, not enough staff most of the time.’ Do you see those words?

Mr Miller: Yes.

Ms O’GORMAN: Do you recall that being a complaint that was raised by the residents at that time?

Mr Miller: Yes, I do.

Ms O’GORMAN: Coming down to the final paragraph on the first page, it appears that a resident at this point in time is making a complaint. The resident says, ‘Dad is in HH’—that is a reference to Hibiscus House—‘and she sees him regularly.’ Can you see those words?

Mr Miller: Yes I do.

Ms O’GORMAN: That paragraph continues. Can you see these words about halfway down—

But that closeness, the love, the bit of time they spend, that gives an uplift through the day. It is sad to see that if you want a nurse now you’ve got to go searching for one.

Can you see that?

Mr Miller: Yes.

Ms O’GORMAN: Then the last sentence in that paragraph reads—

She mentioned the kitchen staff, and said that again, it was difficult to find them.

Do you see that?

Mr Miller: Yes, I do.

Ms O’GORMAN: Can you remember that being one of the complaints that were made at that time?

Mr Miller: Yes, I do.

Ms O’GORMAN: I am going to ask that we go over to page 3 of the minutes and about two-thirds of the way down the page can you see the heading, ‘Mr Miller:’ and thereafter some paragraphs attributed to a speech that you made to the residents?

Mr Miller: Yes.

Ms O’GORMAN: Can you see that? You started apparently, according to these minutes, talking about the new single rooms in Hibiscus House and describing at length the way the rooms are fitted out. Do you see that there?

Mr Miller: Yes, I do.

Ms O’GORMAN: Apparently you talked then about staffing and said that you did not like casual staff. Do you see that?

Mr Miller: Yes.

Ms O’GORMAN: Moving over the page to the top of page 4, can you see these words—

Mr Miller said that he understands our problem and as many of the residents from the village may eventually end up in the nursing homes, as he himself could be in the same position because of his age (77), he will try to help as much as he can.

Do you see those words?

Mr Miller: Yes, I do.

Ms O’GORMAN: Do you remember saying something to that effect to the people at the meeting?

Mr Miller: Do you want me to explain the case?

Ms O’GORMAN: No. I am just asking whether or not you remember saying those words?

Mr Miller: I do not recollect that. I do not know. I probably said it—I do not remember that.

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Ms O’GORMAN: The part that I do want to ask you about is this next sentence. It reads—
... because HS—
that is HelpStreet—
lease the nursing homes he does not have the right to say anything to them but he can only make sure that they (HS)—
HelpStreet—
comply with the contract.

Can you see those words?

Mr Miller: That is correct, yes.

Ms O’GORMAN: Do you accept that they are words that you said or words to that effect?

Mr Miller: Are you talking about the first paragraph there?

Ms O’GORMAN: The words that I just read out starting with the words, ‘because HelpStreet lease the nursing homes’. Do you accept that that is an accurate record of what you said to the residents at that time?

Mr Miller: I do not know what is inferred there because I did not make the minutes of the meeting myself. The mention about the age 75: is that talking about myself or somebody else, because I am 77. I do not know if that is based on that.

Ms O’GORMAN: We have already talked about that earlier sentence where you have mentioned your age, 77. I am now talking to you about this sentence and I will just say it again—
... because—

HelpStreet—

lease the nursing homes he does not have the right to say anything to them but he can only make sure that they—

HelpStreet—

comply with the contract.

This is my question at this point, Mr Miller.

Mr Miller: The contract, yes—they should comply with the conditions of the contract, yes.

Ms O’GORMAN: Sure. I just want to make sure that you are answering the question that I am asking.

Mr Miller: Yes.

Ms O’GORMAN: My question is: do you accept that that is an accurate account of what you said to the residents at that meeting?

Mr Miller: It possibly was.

Ms O’GORMAN: If that is the case, this is my next question: did you honestly believe, as of 20 March 2019, that you did not have the right to say anything to HelpStreet about the manner in which they were operating Hibiscus House and Orchid House? Did you honestly believe that to be true?

Mr Miller: I cannot tell you now. In that time it probably could have been the case. I would say so.

Ms O’GORMAN: Let me see if I can understand that answer. Are you telling me that as of 20 March 2019 it may well be the case that you believed that you did not have the right to say anything to HelpStreet about the way they were operating Hibiscus House?

Mr Miller: I can explain based on that, because I cannot run the business for them because I lease for them—the way they run, but any changes they have to notify, you get approval by People Care first.

Ms O’GORMAN: You have already established that you accepted, once People Care engaged HelpStreet, that People Care remained the approved provider for Hibiscus House and Orchid House.

Mr Miller: That is correct.

Ms O’GORMAN: And you understand, don’t you, that as the approved provider you held very special responsibilities to the residents of those facilities?

Mr Miller: That is correct.

Ms O’GORMAN: You understood that?

Mr Miller: Yes, I agree.

Ms O’GORMAN: Those responsibilities were regulatory responsibilities that you owed at law. Do you accept that?

Mr Miller: Yes, I do.

Ms O’GORMAN: So you cannot possibly have believed at 20 March 2019 that you, in fact, had no right to speak to HelpStreet about the way they were managing the facilities which you were the approved provider for. You could not possibly have believed that to be true, could you, Mr Miller?

Mr Miller: That depends on putting the two factors there. I use the term ‘not say yes or no’. My point of view is based on the employees and the way they ran it, because they could run it more efficiently than we did ourselves. I did not know that, okay.

Ms O’GORMAN: No. I do not understand that answer. Are you saying that you could have run the facility more efficiently yourself?

Mr Miller: No. They could have run it better than we did in the past. That is all.

Ms O’GORMAN: You are talking about your acceptance that People Care failed to comply with regulatory compliance in 2007, 2015, 2016 and 2017?

Mr Miller: That is correct, yes.

Ms O’GORMAN: You considered that HelpStreet was operating the facility in a better way than you had during that period I have just talked about?

Mr Miller: That is correct.

Ms O’GORMAN: Did you consider that HelpStreet was operating the facility in a way which did, in fact, comply with regulatory requirements?

Mr Miller: I believe they did.

Ms O’GORMAN: What checks had you done to ensure that they were—to ensure that your belief was based on fact?

Mr Miller: Apparently there was two reports from the health department which says everything is all right. When they visit the home, they say there was no problem, so that is why I can tell you.

Ms O’GORMAN: Is it your evidence then that until 20 March 2019, the time of this meeting where residents are exposing a lot of complaints about the services they are receiving from HelpStreet, that you had no knowledge of the problems with HelpStreet’s services?

Mr Miller: I did not.

Ms O’GORMAN: You did not know?

Mr Miller: I did not know.

Ms O’GORMAN: What inquiries had you made of the residents, their family or their friends prior to 20 March 2019 to check whether or not they were being appropriately cared for?

Mr Miller: That is why they convened a meeting and then I went to there. Then I got all the information.

Ms O’GORMAN: We have established that at least by 20 March 2019 you were aware that there were significant problems with the services being offered by HelpStreet to the residents of Hibiscus House and Orchid House. Is that correct?

Mr Miller: That is correct.

Ms O’GORMAN: Do you recall giving evidence at the royal commission last month or so in which you said words to the effect that after this meeting on 20 March 2019 your view of the services being offered by HelpStreet at Orchid House and Hibiscus House was that those services were, to use your words, ‘very poor’. Do you recall telling the royal commission that?

Mr Miller: Yes, I do, because that comes back to the explanation. You do not let me do it, so I cannot finish on that.

Ms O’GORMAN: You said it comes back to an explanation that I will not let you do. Please, if you need to, expand on this. The question I asked you was firstly—

Mr Miller: I believe we send a mail to HelpStreet. The CEO of Australia and New Zealand came to see me. They are going to fix all those problems there.

Ms O’GORMAN: To make sure I am following you, you said ‘in May’. Are you talking about May 2019 or May 2018?

Mr Miller: No, it was not at that time because all the things I used to tell them—again, verbally we used to do that and tell them. Some we sent in mail to them on that.

Ms O’GORMAN: I am getting quite confused now. We have been talking about a meeting on 20 March 2019, a meeting at which you say is the first time that you had any knowledge that there were any problems with the services being offered by HelpStreet. You are now talking about something in May and I am trying to establish are you talking about May 2018 or May 2019?

Mr Miller: Well, I am talking about 2019.

Ms O’GORMAN: You are talking about 2019. We have not come to May 2019 yet. We are still back in March 2019.

Mr Miller: Can I explain that?

Ms O’GORMAN: We will come to May and you can tell me about May shortly. My question relates though to the period around the time of this meeting on 20 March 2019. You have accepted that you recall telling the royal commission that after this meeting your view of the services being offered by HelpStreet was that they were, and I quote, ‘very poor’. Is that correct?

Mr Miller: Yes, I do. I cannot tell because that is unacceptable. I accept that it was poor. That is personal opinion.

Ms O’GORMAN: Okay. What did you do following the 20 March 2019 meeting to fix the problems that you were by then very well aware of?

Mr Miller: I contacted the person to tell them there is a problem with the residents. There were more after that, and then I took the decision to terminate the agreement with them.

Ms O’GORMAN: We will come to the decision to terminate the agreement because, as you will accept, no doubt, that did not come until quite some time later. I am interested for the moment in this earlier period of 2019. You have said a number of times now that you had no knowledge of any problems with the level of service being offered by HelpStreet until this meeting on 20 March 2019. Let me ask you this: leaving aside the quality of care that HelpStreet was providing to the residents, do you recall being aware in January and February 2019 of issues with staff, HelpStreet staff, complaining about pay delays and even allegations by HelpStreet that they were engaged in fraudulent activity? Do you recall that being brought to your attention?

Mr Miller: Some of these things I tried to investigate, but there were a lot of allegations which were not true. I tried to investigate that, but the only thing I can say on that is that this problem I hear allegations about and I spoke to them about it to rectify that. That is what I said.

Ms O’GORMAN: So you were aware of some issues with respect to pay and some allegations that HelpStreet staff were concerned that they were being alleged to be engaged in fraudulent activity, but you investigated those and you were satisfied there was no problem.

Mr Miller: Well, not that there was no problem. I exposed the problem and said, ‘Will you rectify that? You have to rectify that because I am approved provider.’ They said they will do it.

Ms O’GORMAN: And did they?

Mr Miller: Yes, I took over on that.

Ms O’GORMAN: Did they fix the problem to your satisfaction?

Mr Miller: I believe they did because I did not have any more complaints about it. After, more came in because some of our employees worked there for years and they terminated those employees, and I started to get more and more concerned about things. Gradually I lost trust and confidence that HelpStreet would be able to run aged care.

Ms O’GORMAN: Do I understand it from that answer that you had some concerns, gradual concerns, from at least January or February 2019 that HelpStreet was not able to run the facility properly?

Mr Miller: Well, I believe in those conditions, I would say, yes—like I say, ‘poor’. Yes, I would say if they made the wrong things for our residents, I would not agree with that.

Ms O’GORMAN: Coming back to the meeting on 20 March 2019, the minutes of which we have up here on the viewer, if we scroll through the minutes can you see that they run to some seven pages of typed script. We can see ‘Page 4 of 7’ down there. We are now scrolling through, I think, page 5 of 7, page 6 of 7 and page 7 of 7. Can you see that?

Mr Miller: Yes.

Ms O’GORMAN: Apparently the meeting, which had commenced at 10 am, concluded at approximately 11.30 am.

Mr Miller: Yes.

Ms O’GORMAN: So it went for about an hour and a half.

Mr Miller: I would say probably so.

Ms O’GORMAN: Do you recall now that some of the complaints that were being made by residents and their family and friends were extremely alarming?

Mr Miller: Well, I would say so, yes.

Ms O’GORMAN: Did you, at any time later than 11.30 am on 20 March 2019, report those complaints to either the Commonwealth agency or the department?

Mr Miller: I did not.

Ms O’GORMAN: Why not?

Mr Miller: Because I gave them a chance to fix it, because if you can have anything in business—in my experience of 40 years running a business, you always give a chance to people to fix it before you take action.

Ms O’GORMAN: Even when you are, as the approved provider of a high-care needs aged-care service, being confronted with graphic and alarming concerns of those residents and family and friends?

Mr Miller: I agree with that too because I will give them a chance to fix it first. All my life I have been running a business. I give a chance for the person to fix it. I do not take a decision on the run. What was being done by the government?

Ms O’GORMAN: Now I am going to turn to the chances that you gave HelpStreet to fix the problems and we are going to step through these in a chronological manner.

Mr Miller: Sure.

Ms O’GORMAN: It is the case, isn’t it, that after 20 March 2019—that is, after this meeting—you engaged Karen Heard to conduct an audit of Hibiscus and Orchid houses, didn’t you?

Mr Miller: Yes, I did.

Ms O’GORMAN: And that, in fact, Ms Heard conducted an audit between 20 and 24 May 2019. Do you recall that?

Mr Miller: Yes, I did.

Ms O’GORMAN: What did you do between 20 March and 20 May, a period of two months, to check whether or not HelpStreet was able to rectify any of the significant concerns that were aired on 20 March?

Mr Miller: Because I do not run it. I am the director. I do not run the aged care. There are two buildings. It is separate to where my office is. I asked her to look at that and give me a report to me, which she did. In that report she recommended that they do not comply with government regulations.

Ms O’GORMAN: Mr Miller, you have said that you engaged someone to look at the facility. Are you referring to Karen Heard?

Mr Miller: That is right.

Ms O’GORMAN: Do you agree with me that the first audit she conducted at Hibiscus House and Orchid House was between 20 and 24 May?

Mr Miller: I believe that is when it was.

Ms O’GORMAN: What, if anything, did you do in that two-month period between this meeting and when you engaged Ms Heard to conduct that audit to check whether or not any of these concerns had been rectified by HelpStreet? What had you done?

Mr Miller: Well, that is why I got a specialised person to deal with that.

Ms O’GORMAN: Who?

Mr Miller: Karen Heard to look at it, and when I got the report from her, that is why I terminated the agreement with them.

Ms O’GORMAN: We are getting ahead of ourselves again because you did not terminate the agreement with HelpStreet for quite some time and we are not up to that point in time. I am interested in the period between 20 March and 20 May. Is it the case that you did nothing between those two months to check whether or not HelpStreet had rectified any of the problems raised in that meeting?

Mr Miller: Well, I mentioned it to them and their CEO came to me and said they were going to do it—they were going to do something about it. That is what I can tell you.

Ms O’GORMAN: You mentioned something to them. Did you speak directly to Kristofer Bunker?

Mr Miller: Yes, I think it was Mr David Lamb was the one. I notified him. I do not know if they passed it on to Mr Kristofer Bunker, too. I am not sure of that. Because he was the CEO for Australia and New Zealand, I contacted him and notified him. We had the minutes of the meeting, because at this meeting there were minutes. We passed them on to them.

Ms O’GORMAN: Right. Do I understand you to have just said that you passed on the minutes of this meeting to David Lamb from HelpStreet?

Mr Miller: I believe we did.

Ms O’GORMAN: In that way, you notified HelpStreet that you were aware that there were significant complaints from residents?

Mr Miller: That is correct.

Ms O’GORMAN: They told you that they would do something to fix the problems?

Mr Miller: That is what they said to me.

Ms O’GORMAN: Did you do anything else before Karen Heard conducted her audit between 20 and 24 May to ensure that HelpStreet did, in fact, do anything to fix those problems?

Mr Miller: No.

Ms O’GORMAN: Turning then to the audit that was conducted by Ms Heard between 20 and 24 May—we might go to it. I am reminded that this document will not be available for the viewer but is in the bundle of materials before the committee members. Mr Miller, I am being told that you also have a copy of it before you. Could I ask you to turn to page 2 of the bundle? Can you confirm for me, please, that you are looking at a document headed ‘People Care Pty Ltd Independent Audit, Hibiscus and Orchid House, May 20-24, 2019’? Can you see that?

Mr Miller: You are talking about the page here?

Ms O’GORMAN: Yes. Can you see that?

Mr Miller: Yes, that one.

Ms O’GORMAN: That is the document that I am going to ask you some questions about now. That document—that report—in fact revealed many failures in the quality and safety of the service being offered to the residents in May 2019, didn’t it?

Mr Miller: A date in May?

Ms O’GORMAN: Yes. This report was May 2019.

Mr Miller: That is right, yes.

Ms O’GORMAN: If you could go to page 2 of the report, the one that commences with the heading ‘Audit findings’?

Mr Miller: Yes, ‘Engage a complete audit’.

Ms O’GORMAN: No, I think you are looking at page 2 of the bundle. I am talking about page 2 of the report.

Mr Miller: Page 2, ‘Audit findings’; is that right?

Ms O’GORMAN: That is it, yes. Can you see there that what Ms Heard has done is set out a number of the concerning findings that she made. I am going to ask whether or not you can see there under the heading ‘Staffing levels’ she indicated—

- New faces all the time
- Handful of older staff
- Agency staff—not understanding routines or residents needs
- New staff not trained
- Old staff member visiting was asked to leave
- Staff hours reduced

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Do you see that?

Mr Miller: Yes, I do.

Ms O’GORMAN: Similarly under the next heading ‘Complaints and complaint handling’, can you see these findings—

- No communication between HelpStreet and consumers
- Harassment by management when an official complaint was made to the Aged Care Quality and Complaints Commission ...

Do you see those words?

Mr Miller: Yes, I do.

Ms O’GORMAN: Under this heading ‘Pharmacist change’, can you see these words—

- Residents “tricked” into signing with new chemist
- Delay in medication arriving
- Some residents still relying on the “goodwill” of—

a particular—

Chemist to provide some medication

Do you see that?

Mr Miller: Yes, I do.

Ms O’GORMAN: Under this heading ‘Volunteers’, can you see the words—

- Being pushed away
- “if not there, residents not fed”

Do you see that?

Mr Miller: Yes, I do.

Ms O’GORMAN: Under this heading ‘Catering and outsourcing food’, can you see these findings by Ms Heard—

- Delay in service delivery
- Cold plates
- Quality of food is satisfactory and there is improvement
- Concerned about nutrition & hydration
- Personal example states husband lost a lot of weight; (this complaint currently being investigated by the Commission)
- Some residents not being fed

Can you see those findings by Ms Heard?

Mr Miller: Yes, I do.

Ms O’GORMAN: Ultimately, was this report given to you by Ms Heard at about 24 May?

Mr Miller: Yes, I got this report. This report is the reason I terminated the agreement with David, which was in July.

Ms O’GORMAN: Sure.

Mr Miller: Because there was a gap to address with my lawyer to deal with the case. It took time to come back to me to look at the agreement and then it was 9 July when we sent a letter to terminate the agreement with HelpStreet.

Ms O’GORMAN: Long before that happened, it is the case, isn’t it, that on 31 May 2019 you wrote to David Lamb setting out ‘some solutions I have to working towards an improved partnership with HelpStreet’. Do you recall writing to him about some solutions?

Mr Miller: Yes, because my idea is that they run in partnership with us and fix the things and we do not have a problem.

Ms O’GORMAN: Looking back now, Mr Miller, do you think it was appropriate that, as of end of May 2019, you were still seeking to engage in an ongoing partnership with HelpStreet?

Mr Miller: No, we did since the beginning. If you look, in the beginning that was the idea. The heads of agreement say we work in partnership.

Ms O’GORMAN: Yes.

Mr Miller: And when I sent the letter I lost my trust and confidence in them to run the aged care. That is why I terminated them.

Ms O’GORMAN: Given all the things that we have just looked at and that you have accepted occurred in early 2019, why on 31 May 2019 did you think that it was appropriate for People Care to want to continue in a partnership with HelpStreet?

Mr Miller: I did not say ‘continue’ the partnership. I just say that is what I did—work in partnership, because they run the aged care; we do not. That was the idea—working in partnership in consultation and make sure that they are doing those things. That is what we did.

Ms O’GORMAN: Mr Miller, you have told us this morning that on a number of occasions in the years from 2007, when there was the first sanction imposed on People Care, that you terminated the services being given to People Care by nursing assistants.

Mr Miller: Yes, I did.

Ms O’GORMAN: Why did you not terminate the services of HelpStreet at any time in the early part of 2019 based on what you knew after 20 March?

Mr Miller: At 20 March, or are you talking about May? I am a bit confused what you are trying to get at.

Ms O’GORMAN: Okay, I am sorry.

Mr Miller: Was it 20 March or May? In March I mentioned to them that to meet the agreement they had to rectify that.

Ms O’GORMAN: Just to clarify for you, Mr Miller, at least by 20 March you have accepted that you were aware that there were serious concerns about the quality and safety of the services being offered by HelpStreet. Is that correct?

Mr Miller: That is correct.

Ms O’GORMAN: We are now talking about your desire to work towards an improved relationship with HelpStreet on 31 May. What I am interested to know now is, given your history of readiness of terminating services, why had you not terminated the services of HelpStreet after 20 March?

Mr Miller: Because, first of all, you want me to explain but you do not let me do it. I had to consult my lawyer—that took me time because I think the lawyer was away—and deal with the legality to terminate the agreement with them and to make sure that we did not break any laws on that. Then I got the report from Karen Heard. We had to terminate the agreement with them. It was because Mr Kristofer Bunker was coming to Australia in that time, so I thought that is the time we can do that—and that is why we did it.

Ms O’GORMAN: We have spoken about one audit report that Ms Heard provided you. That is the one related to her audit between 20 and 24 May 2019, but it is not the only one. I am now going to ask you about another report that she provided to you related to an audit that you engaged her to do between 4 and 6 June 2019.

Mr Miller: Yes.

Ms O’GORMAN: I am just going to find where in your bundle of documents you will be able to find it so that I can direct you to the right report, Mr Miller.

Mr Miller: I know that report, anyway. She made that report to me on that, but I gave a copy to the manager of HelpStreet to address that first.

Ms O’GORMAN: Mr Miller, just to be fair to you, I want you to have the report in front of you as I ask you some questions. If you can just bear with me until I can direct to you the right page. I am sorry, Mr Miller, these are not numbered or tabbed, so I am just having someone show you the document I am referring to now. Just to recap, as I understood your evidence, it was that, even after the report that Ms Heard provided you following her audit between 20 and 24 May 2019, you did not act immediately because you wanted to liaise with your lawyers about the legality of terminating HelpStreet services. Is that correct?

Mr Miller: Yes.

Ms O’GORMAN: What you should have in front of you now is another report provided by Ms Karen Heard to you following an audit that was conducted between 4 and 6 June 2019. Can you see on that front page at the bottom right-hand corner there are the words ‘Audit Report June 2019’?

Mr Miller: Yes.

Ms O’GORMAN: I am going to take you to some parts of this report. Could you turn to page 2?

Mr Miller: May I tell you something, okay?

Ms O’GORMAN: No, Mr Miller.

Mr Miller: I was away. I was overseas at that time. She made that report, but I was not here at that time. You know that.

Ms O’GORMAN: All right. I am going to come to the question of whether you were informed about the contents of this report but, before I get to that point, what I want to do is take you through the report. Could you have a look at page 2? It is the bottom left-hand corner, which sets out the pages of the report. That will help you follow along with me. Can you see on page 2 the heading ‘Summary assessment, documentation and evaluation’?

Mr Miller: Yes.

Ms O’GORMAN: Can you see under that heading that her first finding—that is, in the first bullet point—was, ‘Inconsistent assessment and care planning over past 6 months’? Do you see that?

Mr Miller: Yes.

Ms O’GORMAN: Can you see in the third bullet point that her finding is, ‘Assessments are not consistently updated at time of care plan review’? Do you see that?

Mr Miller: Yes.

Ms O’GORMAN: Can you see in the fifth bullet point these words, ‘Use of behaviour monitoring chart by carers indicates lack of understanding ...’? Do you see that?

Mr Miller: Yes.

Ms O’GORMAN: And can you see these words, ‘... on two occasions carer enters: “making physical sexual advances”’—and there is a reference there to a resident—‘this then has not been flagged to RN’—being the registered nurse—‘for appropriate follow-up or reporting ...’? Can you see that?

Mr Miller: Yes, I do.

Ms O’GORMAN: Can you go to page 4, please? Can you see the heading ‘Summary pain management’?

Mr Miller: Yes.

Ms O’GORMAN: In the first bullet point can you see Karen Heard’s conclusion, ‘RN’—registered nurse—‘pain assessment not consistently carried out ...’? Do you see that?

Mr Miller: Yes, I do.

Ms O’GORMAN: And in the fourth bullet point can you see the finding, ‘As noted above, when pain was identified at time of wound care, nil further assessment followed up and or not reported to senior staff’? Do you see that?

Mr Miller: Yes.

Ms O’GORMAN: Going over to page 5, can you see the heading ‘Wound management summary’?

Mr Miller: Yes.

Ms O’GORMAN: Looking at that summary of her findings, can you see in the second bullet point the words ‘Wound care directions not consistently followed’?

Mr Miller: Yes.

Ms O’GORMAN: Going over to page 6, can you see the heading ‘Current wound care management summary’?

Mr Miller: Yes.

Ms O’GORMAN: Then in the second bullet point can you see the finding, ‘Nine consumers have wounds greater than three months’?

Mr Miller: Yes, I can see it.

Ms O’GORMAN: Can you see this: ‘Six pressure injuries recorded as below’ and a table setting them out? Can you see that?

Mr Miller: Yes.

Ms O’GORMAN: Turning over to page 9 of the report can you see the heading ‘Observation’?

Mr Miller: Yes.

Ms O’GORMAN: Can you see these words: ‘TV on for long periods in both houses’? It is the first bullet point under the observations made by Ms Heard. Can you see that?

Mr Miller: Yes.

Ms O’GORMAN: Can you see this: ‘Consumers in rows watching TV for long periods’?

Mr Miller: Yes, I can see that.

Ms O’GORMAN: Turn over to page 9 if you will. You can see that the date of the report, or at least the audit, is listed as being 4 to 6 June 2019. Can you see that?

Mr Miller: I see June 2019. Yes, that is correct.

Ms O’GORMAN: As I understood you before, you said to me, ‘Let me explain something to you. I wasn’t even here. I was overseas and I didn’t know about this report.’ Do you remember saying that?

Mr Miller: Excuse me, I was in Poland and I was in Israel. I was nearly a month away in June when this report was made. She was working for me at that time.

Ms O’GORMAN: Okay. I will just stop you there. If you could turn over to the next page, please, can you see there an email which was sent from ‘Book Keeping’ to an email address which is your email address. I will not read out the email address. Just confirm that it is yours.

Mr Miller: Which number, the last one was No. 9.

Ms O’GORMAN: The next page—yes, you are looking at page 9 of the report. Please turn over the page. Can you see there an email?

Mr Miller: Yes.

Ms O’GORMAN: Can you see that at the top of that email it says it is an email from ‘Book Keeping’ to your address? It is headed, ‘Hello Mr Miller.’ Can you see that, the words ‘Hello Mr Miller’? Mr Miller?

Mr Miller: Yes, yes.

Ms O’GORMAN: You can see that it is addressed to you. Looking down the bottom of that email, can you see it is concluded with the words, ‘Kind regards, Karen Heard’? Can you see that?

Mr Miller: Yes, I can.

Ms O’GORMAN: If you go back up to the top of the page, can you see that it was an email sent to you on 19 June 2019. Can you see that?

Mr Miller: Yes.

Ms O’GORMAN: After the salutation, ‘Hello Mr Miller,’ are these words, ‘Hope you are both enjoying your time away’. Can you see that? It is the first line of the email, Mr Miller—‘Hope you are both enjoying your time away’. Mr Miller, I am not asking you to read the whole report at this stage.

Mr Miller: No, you want me to confirm. I had to read it—what I am going to say.

Ms O’GORMAN: I understand you might want to read what is in it. I will give you an opportunity to do that in a moment. I am just asking whether you can see the words—

Hello Mr Miller

Hope you are both enjoying your time away

I am just having someone to come over and check that you are looking at the same document as me, Mr Miller, because we seem to be having some difficulty.

Mr Miller: I do not have that one.

Ms O’GORMAN: You do not have that document? Okay. Keep it with you for a moment. Can you see there that what you have just been provided with appears to be an email sent to you on 19 June 2019 from Ms Karen Heard?

Mr Miller: Yes, that is when I was away. I told you. The salutation is—

Hello Mr Miller

Hope you are both enjoying your time away

That is what I said to you. I was away.

Ms O’GORMAN: Yes, I understand that. Can you see, having a look about halfway down the page or two-thirds of the way down the page, Ms Heard says, ‘I’m attaching the report from my audit.’

Mr Miller: ‘My report, as attached’—is that the one you are talking about?

Ms O’GORMAN: Yes, that is the one I am talking about. Can you see those words there?

Mr Miller: Yes, I can see that.

Ms O’GORMAN: Does that help you to recall that, even though you were away in June 2019, you were nonetheless provided with that report by Ms Heard?

Mr Miller: Say that again?

Ms O’GORMAN: You were provided the report by Ms Heard—

Mr Miller: I was provided it, but I was not here to make a decision.

Ms O’GORMAN: I see. Let’s see if I can unpack that a little bit. Do you recall receiving the email from Ms Heard and the report that it attached?

Mr Miller: Yes.

Ms O’GORMAN: Did you consider that because you were in Poland or somewhere else overseas that you were not in a position to make any decision about the contents of it?

Mr Miller: I did not read the report because I did not take a laptop with me when I went on my holidays.

Ms O’GORMAN: Mr Miller—

Mr Miller: I left things running here the way that Mr David—Mr Bruce Lang was here and he could not tell me anything that happens by mail.

Ms O’GORMAN: Mr Miller, I am a little surprised by your answer. By 19 June 2019 you were aware that there were very significant concerns related to the quality and safety of care being provided by HelpStreet to the residents of Hibiscus House and Orchid House, so concerned that you had engaged the services of Karen Heard to conduct an audit between 20 and 24 May, so concerned that you had engaged her services on another occasion to conduct an audit between 4 and 6 June. But your answer appears to be that as of 19 June you were overseas, did not have access to a laptop and so did not read the report she sent you? Have I understood that correctly?

Mr Miller: When I came back from overseas—

Ms O’GORMAN: No, no, Mr Miller, please. I have just asked you a question—

Mr Miller: Okay. That was in June. It was July when I terminated the agreement—the beginning of July—with them.

Ms O’GORMAN: Mr Miller, again you are getting ahead of me. We are not up to July yet. I am asking you about 19 June. I am expressing—

Mr Miller: What is the next month from June? It is July, isn’t it?

Ms O’GORMAN: Mr Miller, I told you that we would work through this in a chronological order, and we are. I am still in June. What I am expressing some surprise about is your testimony that, given your history of the knowledge of the quality and safety concerns at your facility for which you were the approved provider and ultimately responsible, as of 19 June when you were provided with an email from Karen Heard attaching a report from an audit that you had instigated, you did not read it because you had not taken your laptop overseas. I want to be fair to you and I want to give you an opportunity to confirm that that is indeed your testimony.

Mr Miller: I left it because Karen Heard would be running things on my behalf there, because I was not running the aged care myself personally, too.

Ms O’GORMAN: All right. Am I right that you did not read the report at that time?

Mr Miller: I did not feel very happy with that. I am stressed with that because I have been accused for all that—the media and everybody. I am guilty for everything. I will not run the aged care anymore. Okay? I already told the Commonwealth. I will not run the aged care anymore. Okay? I already finalised this case because I am fed up with that. I have been accused of a lot of things and I know some of the public servants are anti-Semitic because they know I am Jewish, and I know that. Okay? They tried to crucify my business there completely based on that. I am fed up with that because the way it is—the royal commission and everything done—why? May I answer the question why? Because the state government and the federal government decided to move the residents from Hibiscus and Orchid House to somewhere else. Some went to Brisbane, far away from Earle Haven Retirement Village. Most of them are husband and wife—one is in high care and the other one lives in the village. The residents are furious about that, because they explained to the government that they want to have a meeting. They sent emails and things but they never took notice. But they blame me for everything.

I accept a bit of responsibility about HelpStreet. I do that. This letter I sent to the residents. I am going to give it to everyone here who is a member of parliament to look at, because I apologised to them, even though HelpStreet never did anything to apologise to the residents. They just framed it in such a way—they told the government that there was nobody to look after the residents. So what did they do? Ultimately the government decided to send the ambulance there. It cost quite a lot of money to the state government which could have avoided all that and the federal government as well. I am a busy man. I am not very well and I tell you that they waste too much money.

Ms O’GORMAN: Mr Miller—

Mr Miller: If they had given me a call to speak to me—I was there—and tell me, ‘There is this problem. Come here and let’s see if we can fix that,’ and keep the residents onsite. Mrs Karen Heard said we had the staff there to look after the residents—

Ms O’GORMAN: Mr Miller—

Mr Miller: The ambulance—

Ms O’GORMAN: Mr Miller, I am going to cut you off there and just let you know that I will give you an opportunity to comment on what happened on 11 July 2019, which is the day that you are talking about. I do, however, want to bring you back to June. We will move on from that email that I have been asking you questions about. I am going to move on to another report that I understand you had commissioned for Ms Karen Heard to provide to you. Do you recall commissioning her to do a further review which she, in fact, conducted between 19 and 20 June 2019?

Mr Miller: That is here.

Ms O’GORMAN: You have that there in front of you, do you?

Mr Miller: Yes.

Ms O’GORMAN: Can I just inquire of the committee members if you also have the report there from the audit on 19 and 20 June?

CHAIR: Yes.

Ms O’GORMAN: Can I ask you to turn page 2 of that report, Mr Miller? Can you see the heading at the top of that report? I will give you an opportunity to get there. The heading is ‘Documentation’.

Mr Miller: Is it page 2?

Ms O’GORMAN: Page 2 of the report from the audit conducted between 19 and 20 June?

Mr Miller: ‘Documentation’ you are talking about?

Ms O’GORMAN: Yes. Can you see towards the top of page 2 the heading ‘Documentation’? I will just have someone check if you are looking at the right document.

Mr Miller: Yes, I do. I can see that.

Ms O’GORMAN: My question is whether or not you can see the heading ‘Documentation’?

Mr Miller: Yes.

Ms O’GORMAN: Can you see the first bullet point there contains Ms Heard’s conclusion, ‘Accurate, timely documentation overall remains an issue’?

Mr Miller: Yes.

Ms O’GORMAN: Moving down the page, can you see the heading ‘Behaviour management/documentation’?

Mr Miller: Yes, I do.

Ms O’GORMAN: Can you see Ms Heard’s conclusion—

- as noted above, the understanding of accurate documentation and reporting by care staff of any behaviours or concerns experienced by consumers is necessary and urgent.

Can you see that?

Mr Miller: Yes, I do.

Ms O’GORMAN: Under the heading ‘Nutrition and Hydration’, can you see these words—

During June 2019, approximately 35% of consumers have been reviewed by the dietitian; mostly for unplanned weight loss management.

Can you see that?

Mr Miller: Yes, I do.

Ms O’GORMAN: Can you see that of the 15 consumers reviewed, 100 per cent of them were presenting as being malnourished?

Mr Miller: Yes, I do.

Ms O’GORMAN: A little further down, can you see that of the 12 consumers reviewed later in June of 2019, 63 per cent of them presented as being malnourished and the remaining 36 per cent were still at risk of malnutrition?

Mr Miller: Yes, I do.

Ms O’GORMAN: Were you still overseas when Ms Heard provided that report to you?

Mr Miller: Yes. I think I came back after that.

Ms O’GORMAN: Did you read that report while you were overseas?

Mr Miller: I do not recall I read it, because I did not have any information there. I was very busy there overseas.

Ms O’GORMAN: You were really busy when you were overseas?

Mr Miller: Yes.

Ms O’GORMAN: I see.

Mr Miller: I was doing business in Israel and then I was in Poland for three days checking out some of my family members who died in a concentration camp in Krakow in Poland. It was a very sad time for me. When I got to hear I got more problems for me on that, I tried to eliminate one by one. Nobody can imagine how much stress I had because you are not there. It is very easy to blame somebody else for everything. I have been lately for all that.

Ms O’GORMAN: Can I ask you to turn to the next page and tell me whether or not that is a document which appears to be a report from the Aged Care Quality and Safety Commission to People Care Pty Ltd on 25 June 2019? Have you got that in front of you?

Mr Miller: I have the People Care one by Karen Heard here. Then it jumps to my lawyer here which will be the next case.

Ms O’GORMAN: Yes. If you could keep that bundle of papers open, we will return to those. The document that I was referring to is available on the viewer. Can you see on the screen a report from the Aged Care Quality and Safety Commission to People Care Pty Ltd on 25 June 2019? We might need to scroll down a little to see it. Can you see that there?

Mr Miller: Yes.

Ms O’GORMAN: Can we go to page 5, please? Can you see the heading ‘Response to seven opening questions’? I want to take you to what is contained in bullet point No. 6. Can you see in the first sentence these words—

- Care recipients are prescribed regular and as needed psychotropic medications. The service utilises chemical and physical restraint.

Can you see those words?

Mr Miller: Yes, I can see them.

Ms O’GORMAN: Do you understand ‘chemical restraint’ being medications prescribed and issued to patients in order to keep them restrained?

Mr Miller: Well, I do. As I mentioned before, I do not run direct medication to the residents. If you look at that, the majority of the nursing homes, even the nursing homes run by the state, they do it the same way.

Ms O’GORMAN: Mr Miller, we are at cross-purposes. All I am asking is your understanding of the definition of the words ‘chemical restraint’. All I am asking for the purpose of this question—

Mr Miller: And the medications as well, I know that.

Ms O’GORMAN: So you understand ‘chemical restraint’ refers to medications issued to keep people subdued or otherwise restrained, and you understand the words ‘physical restraints’ being physical means to restrain people.

Mr Miller: Yes, I do.

Ms O’GORMAN: Can you see this next sentence, ‘There are currently 71 percent of care recipients receiving psychotropic medication’? Can you see that?

Mr Miller: Yes, I do.

Ms O’GORMAN: Did you understand that to mean that 71 per cent of the care recipients at Hibiscus House and Orchid House were subjected to chemical restraint as of the date of this report—that is, 25 June 2019?

Mr Miller: Let’s break up the two. The medications are given by the doctor, not by myself. So you cannot blame me for the medication given to the residents.

Ms O’GORMAN: Mr Miller, I am not blaming you for anything. I am simply asking whether or not you can see those words there?

Mr Miller: It is there, definitely.

Ms O’GORMAN: Moving on a little, can you see these words—

Both areas of the service are secure and care recipients can only exit using a keypad. Fifty percent of care recipients have physical restraint.

Can you see those words?

Mr Miller: Yes, I can.

Ms O’GORMAN: Do you accept that, as of 25 June 2019, 71 per cent of care recipients were subjected to chemical restraint?

Mr Miller: According to the report, yes, but I do not have evidence. The report says that; I believe that.

Ms O’GORMAN: Do you accept that, as of 25 June 2019, 50 per cent of care recipients were subjected to physical restraint?

Mr Miller: I found that out when Karen Heard sent it to me, because I did not know before then.

Ms O’GORMAN: Were you aware that in 2018 or 2019, while HelpStreet was in charge, there had been at least three identified instances of elder abuse which had been reported to the police?

Mr Miller: It was reported to the police, but I did not have any reports. Some of the information they never notified me. I did not know that.

Ms O’GORMAN: Do you think it is acceptable that you were not notified of the fact that there had been elder abuse complaints serious enough to warrant a report to the police?

Mr Miller: Well, in that case you should ask HelpStreet. You need to speak to them.

Ms O’GORMAN: What would you have done if you had known?

Mr Miller: Yes, I would have taken notice of that and found out.

Ms O’GORMAN: And what would you have done?

Mr Miller: Well, I would have investigated the police to find out what happened, because I cannot make a decision on the run. I have to get the facts right first.

Ms O’GORMAN: We will come now to July 2019. I know you have been eager to talk about the events in that time. I want to turn now to People Care’s decision in July 2019 to terminate the arrangement that it had with HelpStreet. Do you have a document in front of you which is on the—

Mr Miller: This document I have is from my lawyer.

Ms O’GORMAN: I see. Is it a document—

Mr Miller: The next one after that one you gave to me from the page 3 from the Karen Heard report of 19 to 20 June. After that, I got a letter from my lawyer to terminate the agreement with them. That is what I did.

Ms O’GORMAN: That is what we are coming to now. Do you have in front of you a letter from your lawyers dated 8 July 2019 addressed to the directors of HelpStreet Villages? Do you have that document?

Mr Miller: Yes, I do.

Ms O’GORMAN: Turning to page 3 of that document, can you see a paragraph, the third paragraph down, which commences with the words, ‘Whilst given the level of concern’?

Mr Miller: That was 8 July?

Ms O’GORMAN: Yes. I will have someone assist you just to make sure that we are looking at the right document together.

Mr Miller: That was a letter addressed to Mr David Lamb and Mr Kristopher Bunker?

Ms O’GORMAN: No, we might be looking at different documents. Just a moment. I am talking about a document which is a letter from your lawyers on 8 July 2019 to the directors of HelpStreet. On page 3, can you see a paragraph, the third paragraph down, commencing with the words, ‘Whilst given the level of concern’?

Mr Miller: Yes.

Ms O’GORMAN: Do you agree with me that that paragraph reads—

Whilst given the level of concern that our client has in relation to the ongoing management of its business, our client is minded to revoke the terms of the Licence to Occupy immediately, however, given that the welfare of the residents of Orchid House and Hibiscus House is our client’s main priority and concern, our client seeks an orderly withdrawal from the premises and hand over of the management and control of the business over a period of time and therefore we have been instructed to advise that our client hereby revokes the licence to occupy the premises known as Orchid House and Hibiscus House effective as at **5pm Friday the 9th August 2019.**

Can you see those words?

Mr Miller: Yes, I do.

Ms O’GORMAN: Was your lawyer accurately conveying your instructions that you wished HelpStreet to vacate at 5 pm on Friday, 9 August 2019?

Mr Miller: Yes, it was that and it could be up to the 30th because remember we have to hire the employees, put in our payroll and start to run again, take over the business ourselves. That was the idea. You give a bit of time for that. That is why we did it.

Ms O’GORMAN: Did you think it was appropriate that HelpStreet remain in charge, knowing what you were aware of what was happening at Hibiscus House and Orchid House, until 9 August—

Mr Miller: Karen Heard was there in that time to look after instructions and deal with me directly.

Ms O’GORMAN: I see. Had you notified the department or the agency at this time—

Mr Miller: That decision—

Ms O’GORMAN: Mr Miller, you have not heard my question. Did you notify the department or the agency on or about 8 July 2019 that you had terminated HelpStreet’s services effective as of 9 August?

Mr Miller: I think my financial manager told them, because we got a copy of that letter and sent it to them. I believe he did that. I am suspicious that my lawyer did it too, because I am not sure.

Ms O’GORMAN: Let’s turn to another document and see if it is the one you are referring to. Do you have an email dated 10 July 2019 from Bruce Lang addressed to qldplaces@health.gov.au? Do you have that? Is that the notification that you were referring to?

Mr Miller: It probably was. Until we say they leave there, we could not notify the health department on that, because in the meantime they still have an agreement with us.

Ms O’GORMAN: Is that, to your knowledge, the extent of the efforts that People Care went to to notify the department about the termination of HelpStreet’s services?

Mr Miller: The letter from my lawyer was on the 9th. On the 10th we sent that to the health department. What is wrong with that?

Ms O’GORMAN: Well, I am not here to answer any questions from you, Mr Miller. It is my purpose to ask you questions. My question was: is that the extent of the efforts that People Care went to to notify the appropriate department that it had terminated the services of HelpStreet?

Mr Miller: That is correct.

Ms O’GORMAN: Looking at that email now, the email address it was sent to and the terms of the notification, do you consider that that was an appropriate or sufficient means of notifying the department?

Mr Miller: I think it was right, yes.

Ms O’GORMAN: I want to turn then to the lead-up to 11 July 2019. Some time on 10 July 2019 you became aware that HelpStreet had removed the servers from the facility, didn’t you?

Mr Miller: No, I did not.

Ms O’GORMAN: I am not sure whether you have access to a document which I need to show you, so I am just going to make that confirmation now before I ask you the next question, to be fair to you.

Mr Miller: Sure.

Ms O’GORMAN: You do have this next document I want to take you to, Mr Miller, in your bundle. So I am going to arrange for someone to point it out to you. For the benefit of the committee members, I am referring to a document headed ‘People Care—HelpStreet’ and it is an email from Gerry Epstein dated 10 July 2019. Can you see that email, Mr Miller?

Mr Miller: Yes, I do.

Ms O’GORMAN: I would like you to turn to page 3 in the email chain and tell me if you can see an email sent from Gerry Epstein, your lawyer, to Kris—who I assume to be Kristopher Bunker—on 10 July 2019. Can you see an email commencing on page 3?

Mr Miller: Yes.

Ms O’GORMAN: Looking at the last paragraph on the bottom of that page, can you see these words—

In the meantime we note your advices to us during the course of our telephone conversation that you have removed the computer server from the premises and our client has confirmed that that server has indeed been removed.

Can you see that?

Mr Miller: Yes, I can.

Ms O’GORMAN: Does that help you to recall that you had in fact confirmed for yourself that the server had been removed?

Mr Miller: No. Excuse me, I did not know they had been removed. Apparently, I think probably Karen Heard spoke to my lawyer and told them, because we needed them back to run the aged care. We needed the documentation of the residents. Apparently, as far as I know, the law does not allow him to remove any of the documentation from the aged care because of privacy. The documents belonged to the home, so what HelpStreet did is wrong. Let me tell you another thing there.

Ms O’GORMAN: Mr Miller, before you do—

Mr Miller: He made an offer to my lawyer. He could give the computers back to me if I give \$100,000 to him.

Ms O’GORMAN: Mr Miller, I just want to confirm whether or not you had any personal knowledge that the servers had been removed—

Mr Miller: Well, I did not know that they had been removed. What they mentioned at the beginning is that they mentioned that they were going to upgrade the computer, but when you upgrade the computer you do not need to remove it from the site.

Ms O’GORMAN: Certainly. Do I understand it that you personally did not know that the servers had in fact been removed by HelpStreet?

Mr Miller: I did not know.

Ms O’GORMAN: I see. If you had known, would that have caused you considerable concern given that the patients’ medical records were contained on the servers?

Mr Miller: Yes, that is right. I could not even run the business of aged care and even take back from HelpStreet because we did not have the documentation of the residents on site.

Ms O’GORMAN: Let’s come to the evening of 10 July 2019. This is the crux of the contractual dispute between yourself and Mr Bunker. Staying with the email chain that you have been looking at, could you turn, please, to page 2. Can you see that page 2 contains an email from Kristofer Bunker to Gerry Epstein, your lawyer, on 10 July 2019 at 5.17 pm?

Mr Miller: Yes, I do.

Ms O’GORMAN: Looking down towards the bottom of that page, can you see that after setting out a number of different categories of payments, Mr Bunker says—

This totals—

and there is a sum there which is \$3.8 million—

required to be paid to HelpStreet Villages (QLD) Pty Ltd in order to complete on an orderly exit, although the time frame suggested by People Care I feel is unrealistic, when the Unions get involved, this is going to drastically slow the process down.

Can you see those words there?

Mr Miller: Yes, I can.

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Ms O’GORMAN: Do you recall that at that time you were being asked—and turn over to page 3 if you need to remind yourself of this. You can see the words in the second paragraph on that page—

I require confirmation and certainty in writing today before 11.59 pm, 10th July 2019 of the payment to be made to HelpStreet and then 12pm tomorrow, 11th July 2019 for receipt (remittance) of 50% of payment with cleared funds following, a further 25% paid as cleared funds on the 30 July 2019 and the final 25% being made on the 9th August 2019 (or the final day should the exit term be extended) completing the transition to People Care Pty Ltd.

Do you recall being—

Mr Miller: Yes, I do.

Ms O’GORMAN:—told that that was HelpStreet’s requirement at that time?

Mr Miller: Yes, and I spoke to my lawyer. They said, ‘Don’t take any notice of that.’ That is what I did.

Ms O’GORMAN: Finally, with respect—

Mr Miller: And we did not pay a cent to them until today. Actually, they owe a lot of money to us anyway.

Ms O’GORMAN: Finally, in relation to that requirement and what you were being told on that date, can you see in the next paragraph these words—

Due to uncertainty in the future of HelpStreet Villages (QLD) Pty Ltd due to lack of confirmation of payment from People Care in any form, at the time of writing this email, should the deadlines set out in this email pass, we will have no choice but to place HelpStreet Villages (QLD) Pty Ltd into administration with immediate effect, ultimately causing the home to be closed, my fear should staff get wind of the current situation before we agree terms and make an official press release, or worse the agency, or local press, this situation could become unavoidable.

Mr Miller: That is right.

Ms O’GORMAN: Can you see those words?

Mr Miller: They did exactly that. They warned that. I agree 100 per cent. They blackmailed us, framed us very well.

Ms O’GORMAN: Yes. Did you understand, having read that paragraph, that HelpStreet was effectively threatening that, if you did not make payment or confirm payment was to be made, they would immediately shut the facility?

Mr Miller: They did.

Ms O’GORMAN: Did you understand that to be the case?

Mr Miller: Yes, I did, but I never thought that they would do that. In my opinion, they would never do that.

Ms O’GORMAN: Did you notify the department or the agency or the police or anybody—

Mr Miller: I did not want to because—

Ms O’GORMAN: Mr Miller, I have not finished—or anybody in a position of authority about HelpStreet’s threat to immediately close the facility?

Mr Miller: I did not know they were going to close the facility. They mentioned it, but a lot of people say things but they do not act on it. Until they act, I would not take any notice.

Ms O’GORMAN: On 11 July 2019, the next day, HelpStreet did in fact abandon the facility, didn’t it?

Mr Miller: Mmm.

Ms O’GORMAN: Yes?

Mr Miller: Well, they decided to leave there.

Ms O’GORMAN: Yes. So management from HelpStreet effectively decided to leave on 11 July and did leave on 11 July, didn’t they?

Mr Miller: Okay.

Ms O’GORMAN: Yes?

Mr Miller: Yes.

Ms O’GORMAN: When was the first time on 11 July 2019 that you became aware that HelpStreet management were leaving the premises effective immediately?

Mr Miller: I did not know. I was in my office and I saw the ambulance there, but the ambulance used to come and collect some of our residents from high care. I did not pay any notice, but when I saw the police around and quite a lot of ambulances, that is why I went there to the building to find out something. I did not know. They did not tell me that they were going to do that.

Ms O'GORMAN: Let me just see if I understand exactly what you are saying. Is it your testimony that the first time you became aware that HelpStreet management was abandoning the facility was at some time on the afternoon of 11 July 2019 when ambulances and police cars arrived? Was that the first time you knew they were leaving?

Mr Miller: Well, the first time I knew they were doing something was when I investigated myself. I went there. My manager, Bruce Lang, went there too and the office—the people working in our office went there as well, so they found out all the problems there.

Ms O'GORMAN: A little while ago, Mr Miller, as I understood it, you told us that the first time you knew that management from HelpStreet were leaving was after the ambulances and police cars arrived?

Mr Miller: Yes, but because I did not know that they were there.

Ms O'GORMAN: As I understood it just a moment ago, you then changed your evidence or clarified it—to be fair to you—to say that you had had some knowledge sometime earlier, and I just want to see if we can be clear about when you first became aware that HelpStreet management was leaving the facility.

Mr Miller: I did not. I did not know they were leave the building.

Ms O'GORMAN: Did you attend at Hibiscus House or Orchid House on 11 July 2019 at any time prior to the afternoon when police and ambulance cars arrived?

Mr Miller: Yes, I went there.

Ms O'GORMAN: What time did you go there?

Mr Miller: I do not recall the time.

Ms O'GORMAN: Do you recall seeing removal vans there taking out items like fridges, dishwashers, beds and the like?

Mr Miller: That is why I would like to come back to my report, personal statement. That is why I would like to tell what happened.

Ms O'GORMAN: Well, feel free to tell us what happened. What did happen when you went there?

Mr Miller: Okay, let me tell you first—

Ms O'GORMAN: Before you do, just so that we can follow along, can you tell us what time you attended, please?

Mr Miller: I do not recall the time, because I do not go there and look at the time on my watch. I do not go there to deal with something else and say, 'Oh, that's the time.' I am not—

Ms O'GORMAN: Was it before breakfast or after breakfast?

Mr Miller: I think I could have been there around probably 11 or 12 o'clock. I am not sure. I went there, but I went late in the afternoon.

Ms O'GORMAN: If I can just stop you there, because we are trying to be precise—

Mr Miller: You want me to pick any figure, number, and tell you, you will say, 'You said that.'

Ms O'GORMAN: No, I do not want you to pick any number or figure.

Mr Miller: I want to be absolutely accurate at the time I went there.

CHAIR: Ms O'Gorman, if I could, it might be helpful if we see those photos that we had in the two-day hearing on the Gold Coast. I asked one of the witnesses if that was Mr Miller. Can we bring those photos up?

Mr Miller: Most of those photos have been taken by our cameras. We have 60 cameras in the village, and that is where we get evidence that they are stealing our documents and our equipment from the building.

Ms O'GORMAN: Mr Chair, as I recall, the particular photograph you are referring to was taken later in the afternoon.

CHAIR: Thank you.

Ms O’GORMAN: Mr Miller, I appreciate you may not be able to be entirely accurate, but you have been able to narrow down the window considerably already. Is it your recollection now that you might have attended at Orchid House or Hibiscus House between 11 am and 12 pm on 11 July?

Mr Miller: I did not go Orchid House at all—just Hibiscus House.

Ms O’GORMAN: Just Hibiscus House. Although you cannot be precise about the time, it might have been around 11 am or 12 pm. Is that right?

Mr Miller: Yes, I do not know. I do not recall. I cannot tell you. You want to confirm some date and time. I am not too sure. I cannot tell you.

Ms O’GORMAN: I understand that. The other thing I want to clarify before you go on to tell us what you observed at that time was whether there was only one occasion that you attended at Hibiscus House on 11 July before the ambulances arrived?

Mr Miller: I went more than once. Yes, I went more than once.

Ms O’GORMAN: How many times did you attend prior to attending after the police cars arrived?

Mr Miller: I do not recall. I know I stayed there very long, even at evening time, because there was so much confusion there I could not understand, so I had stayed a long time. I tried to get the facts right. I could not.

Ms O’GORMAN: For the moment I am only interested in the period of time before the ambulances and police cars arrived, not the evening. Let us just say you cannot recall, as I understand it, how many times you attended on the morning or the early afternoon, but certainly you were there at some point. Tell us what you saw.

Mr Miller: I saw complete anarchy in the system there, and I took photos I have in my mobile phone—I can show them to you—how they left our building. Paperwork, everything was a mess completely. I took some of those photos to have with me as evidence in the case.

Ms O’GORMAN: When you were there, were there removal vans?

Mr Miller: They went there. I do not know when they started to go there or how many times they went there. I know there were removalists there but I did not count how many. What they had been taking from the building I do not know, because when I gave the building to HelpStreet there was everything there. So if they decide to remove things from there, ultimately they are stealing things from our building.

Ms O’GORMAN: They were stealing things?

Mr Miller: The crucial thing that the police saw it there—and that is why I do not understand why the police let them collect it and fill it up. Why didn’t they come to talk to me? That is why I said the state government had to look at that first of all instead to make a decision of—

Ms O’GORMAN: Mr Miller, I am just going to stop you. I understand you have some things to explain.

Mr Miller: You are cross-examining me, but you do not want me to give the facts right. That is the truth. It is the absolute truth.

Ms O’GORMAN: Mr Miller, what I am trying very hard to do at the moment is establish a bit of a chronology of what occurred on 11 July. I am very interested in the facts, but if you could just bear with me and just answer my questions so that we can try to work out exactly what you saw when.

Mr Miller: Sure.

Ms O’GORMAN: I am not going to deny you an opportunity to tell us. I just need to be quite clear. Is it the case that, doing the best you can to recall now, you might have attended at Hibiscus House sometime between 11 am and 12 pm?

Mr Miller: I do not—look, you would like me to guess it. You can make up any figure you like: 10 o’clock, nine o’clock, 11 o’clock. I did not—when I go to run anywhere around the village; you have never been there. If you go there, you are going to see how big the place is. I did not check my watch what time I went there.

Ms O’GORMAN: Mr Miller, just to be very clear, I am not picking the figure 11 to 12. That is the time that you told me a little earlier.

Mr Miller: Well, I believe it was that, but I am not sure.

Ms O’GORMAN: Let’s leave it at that. I am satisfied with that. When you attended at that time, Mr Miller, did you see any removal vans?

Mr Miller: There were removals there, yes. There was—

Ms O’GORMAN: Just stop, if you could. I am just going to ask you a series of questions. At that time you did see removal vans. Was it at that time that you saw that there was paperwork in disarray in the office?

Mr Miller: Mmm.

Ms O’GORMAN: Yes?

Mr Miller: Say that again?

Ms O’GORMAN: Was it at that time that you saw there was paperwork in disarray in the office?

Mr Miller: Yes, it was all over the rooms there. The paperwork was on the floor, everywhere.

Ms O’GORMAN: At that time did you notice that beds or mattresses were being removed from the facility?

Mr Miller: I noticed there was, but I did not go to check everything that they took. There were a few people who collected things from the building, but I did not know what things they took from there.

Ms O’GORMAN: Why at that time did you not make a call to the Queensland Ambulance Service or some other authority to step in?

Mr Miller: I did not ring anybody at that time.

Ms O’GORMAN: As I understand it, your view was that items were being stolen from the facility and the facility was in complete anarchy.

Mr Miller: That is right.

Ms O’GORMAN: Why did you not make a call to someone in authority to ensure that the residents were safe?

Mr Miller: Because the police were there and the ambulance. The police asked me to leave the building. I try to give the facts. You do not want me to.

Ms O’GORMAN: No, Mr Miller, I do want to hear your facts. We have established that you attended at a time prior to the police arriving. I want to know why you—

Mr Miller: No, not the police—I found that they were there because the lights were blinking there, and that is why I decided to go there and look at it.

Ms O’GORMAN: Mr Miller, you did tell us a little earlier on quite a number of occasions that in fact you attended at a time prior to the police and the ambulance being there.

Mr Miller: No, not—

Ms O’GORMAN: You said that it might have been around 11 or 12. I am asking you about that time and I want to know, given what you saw about the place being in anarchy—

Mr Miller: You are trying to say the words on my behalf. I do not agree with that. I said I did not look there. I noticed there was blinking. I decided to find out what happened. First of all, I found out that the ambulance was there. I thought it was because the ambulance used to come there and collect the residents and take them to hospital anyway.

Ms O’GORMAN: Mr Miller, have I misunderstood your evidence? Did I misunderstand you? I understood you to say that you did in fact attend well before the ambulances and police were there. Did I misunderstand that?

Mr Miller: Yes.

Ms O’GORMAN: I misunderstood that. You did not attend at the facility prior to the ambulance and police vehicles already being there?

Mr Miller: Well, I did not know, because I did not know the reason for that. I did not know if HelpStreet were going to do that.

Ms O’GORMAN: I am giving you an opportunity to correct me if I am wrong. I understood that you said before—Mr Miller, please could you put your phone down while I ask you this question. Could you just put it away so that we can be clear about this. I understood you to say to us before that you did attend at Hibiscus House on 11 July 2019 prior to the police and ambulance vehicles being there. Did I understand that correctly, or not?

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Mr Miller: Look, I used to go there almost every day to look at the things there, but I do not recall that I went especially there because the police was there or the ambulance was there. I found out later—

Ms O'GORMAN: Mr Miller, stop. You have not answered my question, and I will ask it again to give you an opportunity to do so. I understood you to tell us before that you attended at Hibiscus House on 11 July 2019 prior to the ambulance and police vehicles being there. This is my question: did I understand that correctly, or not?

Mr Miller: Check the camera there, because I have a camera in there too. It will show in the cameras there. You will try to prove something and tell me you have the evidence there. You are trying to confuse me on that.

Ms O'GORMAN: I am absolutely not trying to confuse you.

Mr Miller: You are trying to.

Ms O'GORMAN: I am absolutely not trying to confuse you. I am giving you an opportunity to see if you can recall whether you attended at Hibiscus House prior to the arrival of the police. Do you recall that you attended there, or not?

CHAIR: It might it be helpful, Ms O'Gorman, if we—

Ms O'GORMAN: Have a short break?

CHAIR: Yes.

Ms O'GORMAN: Certainly.

CHAIR: We might adjourn for a couple of minutes.

Proceedings suspended from 1.17 pm to 1.22 pm.

CHAIR: Thank you, Ms O'Gorman, we will continue.

Ms O'GORMAN: Mr Miller, I will not be very much longer. Can I ask the question that I was asking a little earlier this way: if you had been at Hibiscus House on 11 July 2019 prior to the arrival of the police, would you have made a call to any authority seeking assistance for the residents?

Mr Miller: I did not speak to anybody about that at all. I was very confused at that time. I was completely in confusion there. I did not know what to do. My mind was not clear. I was very upset because of what was happening, and one of the reasons I did not like it—because that is why I would like to give my personal statement as to the best of my recollection the events on that. I did not go into nitty-gritty and say I did this, I did that, because that is not the way I work.

Ms O'GORMAN: Given that I have now almost finished my questions, perhaps this is an appropriate time for you to give us your personal statement of your recollection.

Mr Miller: My statement will answer all your questions—all of them.

Ms O'GORMAN: What I am inviting you to do now is to tell the committee members anything that you wish for them to know about the events of 11 July and your involvement in them.

Mr Miller: May I tell them now?

Ms O'GORMAN: Of course. This is your opportunity.

Mr Miller: The first thing that happened there is when I arrived in the building there were plenty there—there was ambulance there, the police are there. The first thing I noticed there, they started to remove things from the building. The police asked me, and I said, 'I am the director of the company that owns this place here.' They said, 'You have to leave the building because you make it a risk against removing the residents.' I said, 'What rights do you have to remove the residents?' They said, 'It is an order from the health department to relocate the residents.' Then I found out that HelpStreet decided to terminate all their employees. They told them they are in receivership.

Then Ms Karen Heard said, 'Mr Miller, we could keep all the residents here, but they ordered the police to interfere there and the ambulance is to remove the residents from the site.' That was very odd for me because some of the residents came to talk to me. They said, 'Mr Miller, I would like to stay in the house. I would like to stay here. Why are these people moving us out?' I said, 'Look, it is not my decision.' It was a decision by the health department. I think the ambulance did a terrible thing there. I used to give a contribution to them. I will not give a cent for them anymore.

The other thing, the police behaved very badly because if the health department had come to see me and talk to me, the residents would be there. We would not have the media misleading all over and the government—state government and the federal government—would save heaps of Brisbane

money because we are going to look after the residents like we did before. Karen Heard was there. She said they had enough staff for there. Why did they make that decision? The decision was made on the run there.

The other thing I do not understand is the federal government, without any information—I will take action on that too—rang on the Saturday. Normally I do not answer calls on Saturday. But because I thought there could be some people in the village stressed or whatever, I thought I would go there to help. The federal government say I am in sanctions. I say, 'We do not have any proof, anything to say we are in sanctions.' I said, 'Why are we being sanctioned when I did the right thing to get rid of these people who created a lot of problems?' They tried to extort money from me. They have found out later through my lawyer that Mr Kristofer Bunker was struck off as a company director and they had two receiverships in Sydney. I did not know that. Then my broker, the one who does all the insurance for our business, found out that Kristofer from HelpStreet—there is no information they have a business in Singapore, there is no information they have a business in New Zealand, and they could not find anything in England. I asked him, 'How did you find out?' Because we checked all the insurance around the world when we are make insurance. They could not certify they existed there, so that is my point.

I believe if they had talked to me in that time we could have the residents there. We would not have a royal commission. I do not know how much it cost for the government. We would not have this hearing today. The state government would save a lot of money. It would have cost money for the police and that. The ambulance moved the residents. Some of the residents they took from our facility there—and that is why the residents are very upset—are going to take action on that. They are upset because they moved some of the residents to Brisbane, more than an hour away. It took them more than 1½ hours to get here. To move them here—moved to several places far away—created a problem for most of the residents who live in the village, because sometimes their partner is in high care and the other one is in a unit in the village and they see each other. It proves there was no compassion, no care by the government on that.

They should have said, 'Look, let's find a way to keep the residents here.' I have a building there. We spent \$1.5 million to renovate a building that complies with all government regulations, single rooms and ensuites, and they move residents from our village—from our aged care down to shared accommodation with three or four people in another aged-care facility. They come and complain to me, 'Why did this thing happen?' I said, 'I don't know. You have to ask the government.' Because the decision was made by the government; it was not by me. I did not even know. The police will probably arrest me if I dare say anything, because that was the fact. The police said, you know, 'We are here to enforce that we move the residents.' The ambulance should give an answer to the state government for their action they did. I believe it was premature. It was done wrong. They should have contacted us so we would fix all that. I would not be here today.

Ms O'GORMAN: I only have a few more questions. These first lot of questions relate to things which were within your personal knowledge on the afternoon of 11 July. If you can just bear in mind what I am interested in is what was within your personal knowledge at that time. On the afternoon of 11 July 2019 did you personally know and were you personally satisfied that if People Care took over the running of Hibiscus House and Orchid House you would have immediate access to the medical records contained on the servers?

Mr Miller: No.

Ms O'GORMAN: On the afternoon of 11 July 2019 did you have personal knowledge, personal satisfaction, that People Care would immediately be able to access all of the appropriate medication that needed to be dispensed to the residents that afternoon?

Mr Miller: According to Ms Karen Heard—

Ms O'GORMAN: I will stop you there, because I am only interested in your personal knowledge.

Mr Miller: I try to get to that, because you asked a hypothetical question there.

Ms O'GORMAN: Sorry, I will explain to you why I am not interested in where you are going at the moment. We have heard from Ms Karen Heard. We have heard her evidence. I am not interested in anything that she told you and I am not interested in anything that she might have believed. To be clear—

Mr Miller: She was my consultant. I ask her anything.

Ms O'GORMAN: I understand and we have heard from her. I just need to ask a couple of questions to clarify exactly what you knew on 11 July. Were you personally satisfied that you would be able to give all of the residents all of their required medication on 11 July?

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Mr Miller: According to Karen Heard, yes I could. You want me to ask a question and not to run a director there. Be understanding of that, I cannot follow that. It confuses me and puts me in more distress. I do not want to deal with that.

Ms O'GORMAN: I am certainly not trying to confuse you or put you under distress.

Mr Miller: You are.

Ms O'GORMAN: Is it the case that you were reliant on Ms Karen Heard's belief as to whether or not People Care could provide appropriate services on 11 July?

Mr Miller: She said she could carry on the work there and keep the residents. Beyond that, the residents' relatives were prepared to help maintain the residents there.

Ms O'GORMAN: I understand. How many residents have returned to Orchid House and Hibiscus House since they left on 11 July?

Mr Miller: None. The two buildings are empty there.

Ms O'GORMAN: My final question is this: do you presently consider yourself to be a suitable person to be an approved provider of aged-care services?

Mr Miller: I already told the health department that I am not prepared to run anymore.

Ms O'GORMAN: That being the case, Mr Chair, that concludes the questions that I have for Mr Miller.

CHAIR: Thank you, Ms O'Gorman. I will just check with the committee if there are any particular questions? Mr Miller, did you want to conclude with any other remarks?

Mr Miller: There are a lot of people involved in that additional answer—not me—because the media and everyone blamed me for everything. My business, Earle Haven Retirement Village—that is the confusion—has nothing to do with the high care. The media mention, 'We do not know if the employees from Earle Haven Retirement Village will get paid.' We do not have employees in the retirement village direct. It is all contractors from outside who do that. We do not. More than 1,000 people live there. A lot of politicians come to see us. John Howard came and Julie Bishop came to see us and was dealing with us.

We have a dining room at the retirement village that serves more than 20,000 meals a month. We have 112 serviced apartments. It is a huge place. There is also live entertainment provided. We provide a bus for the residents who cannot drive a car anymore. We drive it twice in the morning and twice in the afternoon to take them out. We have golf buggies to move residents when they need to see a consultant. There is a doctor's surgery in the village. We have a hairdresser and a podiatrist. We have everything so they can be attended to. We provide the best service you can buy anywhere else. Most of them do not know that.

When I tried to deal with a retirement village in Connecticut, America, we did not do that, because of the Greens. I do not like the Greens very much. I believe the Greens are watermelons. They are green outside and red inside. That is what they are. With the bushfires, they should have been there to try to extinguish the fire, but they were not. They are hypocrites. But in America, they stop there. There was a doctor at Yale University and many others with Jewish interests interested in building something similar to what we have here. They say it is unique. They stopped because the Greens said there was a beetle there. What happened? They went to court and put an injunction on it, so we never did it. That was nearly 10 years ago. That is what happens.

My comment in general is that the government should look at their employees. They are called public servants. I do not believe in public servants because they do not serve the public. That is the only thing they do not do. I have so much difficulty in dealing with them. It is crazy. I do not believe it. The government should accredit their apartments, which they do not do.

Ms O'GORMAN: Mr Miller, I will just stop you there. Mr Chair, the matters which Mr Miller has now made a statement about go well beyond the scope of this inquiry. They do not relate to Hibiscus House or Orchid House, and that being the case unless there are any further questions Mr Miller might be excused.

CHAIR: I will make some closing remarks before we excuse Mr Miller. We did have two days of hearings on the Gold Coast where we heard from Queensland Health and the Queensland Ambulance Service and their decisions around why they thought those 70 residents at Hibiscus House and Orchid House were at risk because of medications and records not being there. We also heard from Ms Heard. We also heard in private from staff and families of the residents. Of course, it

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is now our job to ensure that we do not see another collapse. Essentially, this was a business transaction between HelpStreet and People Care that went wrong. There were 70 residents left in the middle of that.

Mr Miller: But the residents did not want to leave their premises. They would like to stay there. We could provide—

CHAIR: Mr Miller, we got very good advice on the decision made. It is our job now to report to the parliament on the closure of Earle Haven, particularly Orchid House and Hibiscus House.

Mr Miller: You should take Earle Haven out of that, because they are high-care people. Karen could not say, but when you create a lot of anxiety and frustration for our nearly 1,000 residents I have to go and explain to them that with Earle Haven there is no debt. The Queensland government is \$90 billion in debt. Earle Haven Retirement Village does not owe a cent to anybody.

CHAIR: Mr Miller, would you like to table any of the information?

Mr Miller: We treat our veterans very well. Every year in our auditorium we put a photo right there for our residents. The armed forces, people from RSL Care, came to look at the members there. There are a lot of veterans in our village. They are not really happy with that.

CHAIR: I do not think there is a lot of people happy, Mr Miller.

Mr Miller: At the next election, a lot of people are going to pay a big price for what they did to our residents.

CHAIR: I might make a final closing remark. If you want to table anything, give it to Mr Hansen beside you. Leave is granted to table that information. I have one question to wrap up. We have examined this, heard evidence and heard you today, as the provider who has ultimate responsibility over the residents in Hibiscus House and Orchid House, do you believe that you have a moral and ethical responsibility for their welfare?

Mr Miller: Yes I do because I look after them. That is why when they start to move residents from high care there they say, 'Oh, my mum or my husband is there; what am I going to do?' The other failure was that they did not care where the residents were going, nobody knew. They asked us. I do not know. They moved somewhere else. They were never told. There was a lack of communication on that, too. They were devastated because they used to live in the village. 'My husband moved to somewhere else, I don't know where to go now.' That is bad marketing for our village and that is what the problem is. I believe if they had common sense and came to talk to me, we could find a fix and the residents would be there. We can stop this shambles with what happened. We would not have had bad publicity for our business. Nobody apologised for that at all. Even the government did not. I have a meeting in November with Mr Josh Frydenberg, the Treasurer—he is Jewish too—and I will explain some of the things I believe are wrong with the legislation. They should make legislation which is fair to everyone. The decisions of some of the public servants were very bad. I always think government and private business should work in partnership.

CHAIR: In the interests of time, I might ask you to wrap up now. You mentioned the royal commission and you mentioned this inquiry. The royal commission was a result of incidents like Oakdale. They are looking at quality and safety of patients and we are working very closely with them. A year ago we were tasked, well before your closure, to look at aged care, palliative care, end-of-life care. Because of the closure of those two homes at Earle Haven, we have been tasked with this inquiry. That is why you are here today. We thank you for your testimony and we will now excuse you, thank you very much. I now declare this public hearing closed. Thank you to Counsel Assisting.

The committee adjourned at 1.43 pm.