

# OPUS 2

## INTERNATIONAL

Dr Giraldi Home Inquiry

Day 7

October 9, 2013

Opus 2 International - Official Court Reporters

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1 Wednesday, 9 October 2013  
 2 (10.00 am)  
 3 THE CHAIRMAN: Mr Levy, welcome to the Inquiry, I know that  
 4 you are here and thank you for coming.  
 5 MR LEVY: Thank you, sir.  
 6 THE CHAIRMAN: Good morning, everyone, this is Day 7 of the  
 7 Dr Giraldi Home Inquiry. A lot of you may have mobile  
 8 phones with you, some of which may be switched on.  
 9 Could I please ask you to switch them off while you are  
 10 in this room. Thank you very much.  
 11 We have quite a busy day, I think, Mr Englehart.  
 12 MR ENGLEHART: Sir, we do.  
 13 THE CHAIRMAN: So let's make a start.  
 14 MR ENGLEHART: Sir, the start is Mr Bossano.  
 15 MR JOSEPH BOSSANO (called)  
 16 THE CHAIRMAN: Good morning, Mr Bossano.  
 17 A. Good morning, Mr Chairman.  
 18 THE CHAIRMAN: Please sit down.  
 19 A. Thank you.  
 20 THE CHAIRMAN: Thank you very much, first of all, for your  
 21 statement and secondly for coming along to help us this  
 22 morning. Mr Englehart is one of the counsel to the  
 23 Inquiry, he is going to ask you some questions based on  
 24 your statement.  
 25 A. Yes.

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1 THE CHAIRMAN: Then there may be other counsel in the room  
 2 who may have one or two questions also that they would  
 3 like to ask. Is that okay?  
 4 A. I will be delighted to answer any question, Mr Chairman.  
 5 THE CHAIRMAN: Thank you very much. Mr Englehart.  
 6 Questioned by MR ENGLEHART  
 7 MR ENGLEHART: Mr Bossano, may we firstly identify the  
 8 statement that you have recently made? In this  
 9 electronic heap in front of you, it is bundle K, tab 2,  
 10 I hope. {K/2/1} Do you recognise that?  
 11 A. I do indeed.  
 12 Q. Is there any addition, subtraction, that you wish to  
 13 make, or is it accurate?  
 14 A. No, it's accurate, it's what I wrote, yes.  
 15 Q. You tell us that between 1988 and 1996 you were the  
 16 Chief Minister?  
 17 A. That is correct.  
 18 Q. I hope you will forgive me if I, as an outsider, don't  
 19 get these things entirely correct, but we will do the  
 20 best we can.  
 21 A. I think I was quite well known in the UK.  
 22 Q. You seem to have been Chief Minister at the time the  
 23 Dr Giraldi Home started operating?  
 24 A. Not under the agency.  
 25 Q. No, but I think under Government funding, wasn't it?

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1 A. I don't think so.  
 2 Q. Do you remember that, or do you not remember?  
 3 A. I think it was a private entity to which we provided  
 4 funding, but it was at arm's-length. We had no direct  
 5 involvement, from my recollection of it. As  
 6 I understand it, the Inquiry is dealing with things  
 7 between 2002 and now.  
 8 Q. That is correct.  
 9 THE CHAIRMAN: So you are talking about the 1990s at the  
 10 moment, are you?  
 11 MR ENGLEHART: 1994, I think.  
 12 A. Yes.  
 13 THE CHAIRMAN: You are quite right, Mr Bossano, it's 2002  
 14 onwards that we are looking at.  
 15 A. So I don't think I really -- you know, if I had known  
 16 that you wanted to go back to an earlier period, I would  
 17 have made the effort to find the information.  
 18 MR ENGLEHART: Do not be disturbed, I don't propose to take  
 19 up much time at all about this. I would like, if I can,  
 20 your general impressions, if you have any, as to how the  
 21 Home was in the early years?  
 22 A. Well, I can tell you that the initiative and the  
 23 identification of a need for a Home came from  
 24 a non-government organisation which was representative  
 25 of the interests of people in need of support of their

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1 families, and that their representations were made to me  
 2 to actually provide the place. The Dr Giraldi Home was  
 3 actually built by the GSLP Government at the request of  
 4 families and an NGO that looked after their interests.  
 5 But as far as I am concerned, my recollection is that it  
 6 was not run by the public service or part of the civil  
 7 service, and that involvement was purely in providing  
 8 money. And certainly in the time that I was there,  
 9 however perfect or imperfect it may have been, nobody  
 10 bothered to come and tell me that there was anything  
 11 wrong.  
 12 Q. It's entirely understandable, Mr Bossano, I just wanted  
 13 to see whether you had any knowledge. But the answer is  
 14 no?  
 15 A. No.  
 16 Q. Because it was run privately, albeit on Government  
 17 money?  
 18 A. Absolutely.  
 19 Q. Right. You are clearly a distinguished politician, I am  
 20 sure, at least I hope, you can agree with that?  
 21 A. Well, there are people that think there are no such  
 22 animals, I am afraid.  
 23 Q. Certainly it's obvious from the details you give that  
 24 you are a very able politician, and you have been  
 25 a leading light, I think, in your party for a number of

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1 years now; is that right?  
 2 A. I founded the party and I led it for 32 years.  
 3 Q. Would it be fair to say -- or unfair to say -- that you,  
 4 as a politician, have a natural antipathy to the  
 5 opposing party?  
 6 A. Well, the antipathy you would expect in parliamentary  
 7 democracies in the Western world, no more and no less.  
 8 Q. Absolutely, so you would agree that that was so in  
 9 general terms; obviously your job is to oppose if you  
 10 are in opposition and propose if you are in government?  
 11 A. Absolutely, yes, yes.  
 12 Q. As I understand the position, you are not in fact  
 13 I think a lawyer?  
 14 A. I am not a lawyer.  
 15 Q. But you do represent individuals, particularly union  
 16 members I think, before industrial tribunals?  
 17 A. Well, in fact I was involved in persuading the  
 18 Government in 1972 to create the Industrial Tribunal to  
 19 deal with unfair dismissals. So therefore I have been  
 20 involved in this from inception, in a way it's been my  
 21 baby in the sense that, you know, I mean the Government  
 22 didn't need a lot of persuading because in fact the  
 23 Minister for Labour at the time, who is now the Speaker  
 24 of the House, was very sympathetic to the idea and  
 25 therefore I was involved both in the creation of the

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1 vehicle and in participating and I have only  
 2 participated on behalf of dismissed employees, never  
 3 acted for an employer.  
 4 Q. That's what I gathered, that you were active for what  
 5 might be described as the underdog?  
 6 A. Absolutely, yes.  
 7 Q. That was your aim?  
 8 A. I am an underdog myself, you see.  
 9 Q. Yes, I understood that. Also, in this acting, you  
 10 actually represented people in the Tribunal proceedings  
 11 themselves?  
 12 A. Yes, in fact one of the things about the tribunals was  
 13 that when they were first started and for many years and  
 14 for most of the time that I was in Government, and until  
 15 quite recent times, they were conducted in a way which  
 16 I think was always the intention, that they were not  
 17 conducted as if they were in a court of law and it was  
 18 much more relaxed. Initially in the time that we were  
 19 in office, one of the things that we did was that we  
 20 appointed a non-lawyer as Chairman of Tribunals, who was  
 21 a highly experienced man with a lot of industrial  
 22 relations background, which I personally feel is more  
 23 relevant when you are dealing with issues of workers'  
 24 rights than somebody that has got a professional  
 25 background as a lawyer and may see things from

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1 a slightly different perspective.  
 2 THE CHAIRMAN: Somebody with direct experience of the  
 3 workplace?  
 4 A. Of having dealt with dismissals, yes.  
 5 THE CHAIRMAN: Yes.  
 6 MR ENGLEHART: Yes. We must get on with what's relevant,  
 7 but you were largely following, were you, the UK  
 8 experience, or branching out --  
 9 A. What happens is that in fact, because it's become more  
 10 and more like the UK, increasingly in recent times the  
 11 United Kingdom is used for sources of case law in order  
 12 to provide arguments and guidance in the Tribunal.  
 13 I actually think that this is not necessarily a good  
 14 thing, because it seems to me that -- the dismissed  
 15 employee doesn't get legal aid in these situation, and  
 16 it's almost impossible to challenge statements that are  
 17 made on the basis that there was some case in some --  
 18 THE CHAIRMAN: Some case in the UK.  
 19 A. -- in the UK that -- yes.  
 20 MR ENGLEHART: Dismissed employees don't have legal aid in  
 21 the UK either in industrial tribunals. Leaving that  
 22 aside, let us get on with some more germane questions to  
 23 why we are here.  
 24 You refer to being consulted by Joanna Hernandez?  
 25 A. Well, she was actually sent to me by the TGW.

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1 Q. I was going to ask that. So she went to the union for  
 2 assistance and help in pursuing a claim for compensation  
 3 or reinstatement?  
 4 A. Well, it was effectively for -- well, I mean, when  
 5 employers -- employees lose their job, the first thing  
 6 they would normally do, whether they come to the union  
 7 or to me, is to seek advice as to whether they have got  
 8 a case, and the union policy at the time -- it didn't  
 9 use to be the case when I was there, but the union  
 10 policy at the time that she was dismissed was that in  
 11 order to contain, I think, the number of cases that the  
 12 union was prepared to support --  
 13 Q. Yes?  
 14 A. -- the union had a rule which I didn't know of,  
 15 I discovered in her case, that the first step was to  
 16 seek advice from a lawyer as to the probability of  
 17 winning. And only if it was in excess of 51 per cent  
 18 would the union provide funding, and that is what  
 19 happened in her case.  
 20 Q. When you say "That is what happened", as I understand  
 21 it, the union didn't take it on, you took it on?  
 22 A. Well, this is one of the things that I mentioned in the  
 23 statement which frankly I find peculiar, because if you  
 24 say to somebody, if you want the union to fund you, we  
 25 will call a lawyer to give us the advice as to whether

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1 he thinks you are going to win and the advice comes back  
 2 saying, "Yes, we have got over 70 per cent chance of  
 3 winning", and then you say, "Ah, but the lawyer has  
 4 charged me so much for giving me the advice that now I  
 5 can't afford to defend you". It doesn't seem to me  
 6 a very logical way to proceed.  
 7 THE CHAIRMAN: That's what you tell me in your statement  
 8 happened here. Preliminary advice was taken, is this  
 9 right, and that the assessment of the chances of success  
 10 were well above 50 per cent?  
 11 A. Absolutely, yes.  
 12 THE CHAIRMAN: But nevertheless, in the event, funding  
 13 wasn't made available by the union to pursue the claim?  
 14 A. That's right, and although no explanation was given to  
 15 me or, as far as I know, to Ms Hernandez about why the  
 16 funding was not provided, the union said since there was  
 17 no funding because it had cost too much already, would  
 18 I take it on, because the union -- most of the cases the  
 19 union used to send to me were frankly not -- because the  
 20 funding was not being provided, notwithstanding the  
 21 advice, it was because if somebody came in and the  
 22 lawyer had said 49 per cent, the union would say "Well,  
 23 we are caught by the rule; will you take it on?" I won  
 24 most of the ones that they said would be lost anyway, so  
 25 it was a good thing I took them on.

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1 MR ENGLEHART: I am sure you did an excellent job for them.  
 2 So did Joanna Hernandez -- you say she was sent by the  
 3 union to you?  
 4 A. That's right.  
 5 Q. You didn't know her before at all?  
 6 A. I hadn't met her before then, no.  
 7 Q. You refer to a point that was taken by the Social  
 8 Services Agency that, when the legislation talks of  
 9 continuous calendar weeks, the argument was that means  
 10 complete calendar weeks beginning on a Sunday and ending  
 11 on a Saturday at midnight?  
 12 A. Yes, that was the second argument that was used to  
 13 challenge the jurisdiction of the Tribunal to hear the  
 14 case. As I --  
 15 THE CHAIRMAN: I am sorry, Mr Bossano. I am just looking at  
 16 your statement, I think the first point that was taken  
 17 was that the employment terminated on the date when the  
 18 notice was given --  
 19 A. That is correct, that was the first point.  
 20 THE CHAIRMAN: -- rather than the date when it expired?  
 21 A. So it was not based on the number of weeks that she had  
 22 worked, it was based on the, in my view, incorrect  
 23 interpretation of the law, that in fact if you give  
 24 somebody a month's notice the day of the notice is the  
 25 day of termination as opposed to the date of expiry of

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1 the notice.  
 2 THE CHAIRMAN: I understand.  
 3 A. In fact, if instead of doing that they had dismissed her  
 4 then and given her PILON, a month's pay in lieu of  
 5 notice, the argument would have been valid, but that is  
 6 not what they did.  
 7 THE CHAIRMAN: That wasn't what happened, no.  
 8 MR ENGLEHART: To be fair, I think, I am sure you want to be  
 9 fair to the employers, but they didn't run that point  
 10 very long, did they?  
 11 A. The point was run while the Attorney General's chamber  
 12 was dealing with it, and the point disappeared when  
 13 Mr Mark Isola came on the scene.  
 14 THE CHAIRMAN: I think it was Mr Fernandez originally from  
 15 the Attorney General's Chambers?  
 16 A. That's right, yes.  
 17 MR ENGLEHART: When Mr Isola was in -- talking in general  
 18 terms, it was quite a good idea of the Social Services  
 19 Agency to employ outside lawyers, wasn't it, rather than  
 20 continue in-house, once it was known that you as  
 21 an eminent politician were representing Ms Hernandez?  
 22 A. Well, as far as I am aware it was not the idea of the  
 23 Social Services Agency, it was the idea of Mr Caruana.  
 24 Q. Well, you say that; how do you know that?  
 25 A. Well, the statement from Mr Fernandez says that the

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1 Gibraltar Government gave the instruction, not the  
 2 agency.  
 3 Q. Yes. Is not the agency part of the Government?  
 4 A. Well, yes, but I assume that lawyers are quite accurate  
 5 when they make statements, and therefore if he wanted to  
 6 say the agency, he could have said so.  
 7 Q. So you are drawing a distinction, are you, between the  
 8 government and the agency?  
 9 A. I think there is a distinction in the sense that the  
 10 agency as a statutory body -- for example, I am  
 11 the Chairman of the GDC and if you ask me questions in  
 12 my capacity as Chairman of the Gibraltar Development  
 13 Corporation then I will be wearing that hat and not the  
 14 hat of the Minister for Employment. In a situation  
 15 where you have different capacities, the question you  
 16 addressed to me is: wasn't it good idea that the agency  
 17 should have decided that, and my answer is to my  
 18 knowledge it wasn't the agency that decided it.  
 19 THE CHAIRMAN: You are not suggesting, are you, Mr Bossano,  
 20 that there was anything wrong in instructing Mr Isola  
 21 instead of Mr Fernandez, are you?  
 22 A. Well, it's neither right nor wrong, it's a prerogative  
 23 of the Government to do what they like. I think it's  
 24 peculiar that you should want to spend money, unless  
 25 they thought I was so good at my job that they would do

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1 it(?) with the Attorney General's Chambers.  
 2 THE CHAIRMAN: Well, that may well have been the case, one  
 3 doesn't know.  
 4 A. I think the case was so bad that anybody could have won  
 5 it.  
 6 THE CHAIRMAN: Well, yes. I mean, Mr Englehart is going to  
 7 ask you about this. Can I just ask you, because I think  
 8 you have gone past it, Mr Englehart, paragraph 12  
 9 {K/2/2} of your statement --  
 10 A. Yes.  
 11 THE CHAIRMAN: -- this is dealing with the --  
 12 MR ENGLEHART: I am coming to that. But I haven't asked  
 13 about it, of course.  
 14 THE CHAIRMAN: Can I ask you some questions about that,  
 15 Mr Bossano?  
 16 A. Sure.  
 17 THE CHAIRMAN: You have just referred to the funding  
 18 peculiarity and the fact that the preliminary advice was  
 19 very favourable but that funding was in fact not made  
 20 available to Ms Hernandez. Then you go on to say this:  
 21 "I bring this fact to the notice of the Inquiry  
 22 because I truly believe that from the very outset  
 23 attempts were made to influence people to prevent the  
 24 substance of the circumstances and reasons that led to  
 25 the dismissal being put in the public domain."

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1 Now, that is a very serious allegation. It's your  
 2 belief -- and please don't misunderstand me, I'm simply  
 3 asking you: what was the basis for that? Is there  
 4 a factual basis that you can give?  
 5 A. Well, I think in terms of the evidence that I am putting  
 6 before you, Mr Chairman, it is the evidence that I am  
 7 putting to you on the basis that, as a member of the  
 8 Government that has been involved in taking this  
 9 decision to have this Inquiry, we want to get the truth  
 10 and we want you to succeed, as far as is humanly  
 11 possible, arriving at the truth, and I want to assist  
 12 you in any way that I can.  
 13 THE CHAIRMAN: Of course.  
 14 A. Therefore what I am saying to you is: on the balance of  
 15 probability when I see things that are abnormal, I ask  
 16 myself: why should somebody want to do this? I mean,  
 17 why should a union want to say, having sent somebody to  
 18 a lawyer, you know, "we will only fund you if the advice  
 19 is positive", and the advice is positive and then they  
 20 say "We don't fund you now because the advice has cost  
 21 too much". To my knowledge, in the whole history of the  
 22 union funding cases in tribunals, this is the one case,  
 23 and therefore I say to myself: well, if that is what's  
 24 happened here, could it be that there was somebody  
 25 discouraging the union from funding on the premise that

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1 if there was no funding there would be no case to  
 2 answer?  
 3 THE CHAIRMAN: I do understand. You go on to make  
 4 a statement of fact in the next sentence. You say:  
 5 "There has been considerable pressure exerted on  
 6 individuals."  
 7 Now, I think it would help me to know a little bit  
 8 more about that, and what individuals, what pressure,  
 9 what form did it take?  
 10 A. I think through -- understanding Gibraltar is part of  
 11 understanding the implications of that statement,  
 12 Mr Chairman. The reality of it is that, like any small  
 13 village, even though we have pretensions to be a nation,  
 14 and I believe we are a nation, like any small village  
 15 you have a situation where everybody is either closely  
 16 connected or related to with somebody else.  
 17 THE CHAIRMAN: That is a fact with which I am very familiar,  
 18 Mr Bossano.  
 19 A. So then you see the pressure that is put is not the kind  
 20 of pressure you can get people to come out and say,  
 21 "Well, yes, I was influenced". I can tell you that  
 22 certainly Mr Sisarello was a district officer at the  
 23 time, told me that one of the factors that was  
 24 detrimental to Ms Hernandez was the fact that I was  
 25 defending her, because anybody that I defended would

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1 immediately be targeted by the Chief Minister as  
 2 somebody that had to be sort of buried.  
 3 MR ENGLEHART: Do you have any tangible facts?  
 4 A. Well --  
 5 Q. I appreciate there is talk and rumour and what have you,  
 6 but is there any actual fact you have?  
 7 A. You see, if people are being pressured, it's very  
 8 difficult to produce tangible facts, because if they  
 9 were willing or able to come out and say so in publicly,  
 10 and in a witness box like this one, the pressure  
 11 wouldn't work. The people who are pressured are the  
 12 people who are scared of being intimidated, and there  
 13 are many, many people who will say "I am intimidated,  
 14 I will tell you, please do something about it but don't  
 15 mention my name", and I can tell you that if I could  
 16 mention their names it would fill up half a telephone  
 17 directory.  
 18 Q. You would accept, I think you did right at the  
 19 beginning, that you have a natural antipathy to the  
 20 other parties?  
 21 A. Well, the same antipathy that they have to me it is  
 22 a mutual antipathy, I don't think it is wrong for either  
 23 of us.  
 24 THE CHAIRMAN: I am not really interested in antipathies,  
 25 Mr Bossano, I am sure there are lots in this room that

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1 I am equally not interested in.  
 2 That second sentence, it looks like a statement of  
 3 fact, but would it be fair to say that that is part of  
 4 your suspicion that something may have happened; you  
 5 can't actually give direct evidence of it, but you  
 6 suspect it may have happened?  
 7 A. Well, but it's not a suspicion in case -- that is what  
 8 the question about the antipathy was about. It's not  
 9 a suspicion flowing from my antipathy. Let me make  
 10 absolutely clear.  
 11 THE CHAIRMAN: I didn't suggest that.  
 12 A. It is a suspicion that I have based on the experience  
 13 I have of dealing with people who tell me that they will  
 14 not come forward because they are scared of what will  
 15 happen to them and that kind of thing. So you see in  
 16 a situation where you have people that may or may not be  
 17 willing to come out and say what they know, that is  
 18 because they are being intimidated or whether the  
 19 intimidation is intentional or not, they feel that they  
 20 are exposing themselves. And I know that there are  
 21 people that, throughout this episode, have been scared  
 22 to come out and speak, and part of the reason for this  
 23 Inquiry was because it would have been very difficult,  
 24 I felt, and other colleagues in the Government felt, for  
 25 us to come into Government, given the strong views we

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1 held before --  
 2 THE CHAIRMAN: I think, Mr Bossano, I understand entirely  
 3 what you are saying, but I have to focus on what this  
 4 Inquiry is about. The reasons why it was set up are  
 5 really not my business. I have been given the job to  
 6 do, and that is what I am doing.  
 7 A. I accept that, and I am saying, if I bring you to  
 8 paragraph 12, it says "I truly believe", and I truly  
 9 believe it.  
 10 THE CHAIRMAN: Yes, I understand.  
 11 A. And therefore I would say that I believe it based on my  
 12 knowledge and experience of dealing with people in  
 13 unfair dismissal cases and dealing as politician of  
 14 41 years with my electorate.  
 15 THE CHAIRMAN: Thank you very much. Yes, Mr Englehart.  
 16 MR ENGLEHART: Is the position in Gibraltar, forgive my  
 17 ignorance of the law here, as in the UK, that the  
 18 successful party does not get normally costs of  
 19 succeeding in the Industrial Tribunal?  
 20 A. That is correct, yes.  
 21 Q. That is correct. You also refer in your witness  
 22 statement to a very large sum of money that was charged  
 23 by the lawyers who assessed the case for the union?  
 24 A. Well, I don't know if it's large or not. I understand  
 25 lawyers tend to charge a lot of money for almost

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1 everything they do.  
 2 Q. Well, you say they charged £10,000; is that not a large  
 3 sum of money?  
 4 A. It would certainly would have been if Joanna had had to  
 5 pay it herself, clearly somebody that is sacked from the  
 6 job has no income, it's a fortune. I think the union  
 7 probably gets charged that kind of money every time.  
 8 I mean, I don't think it was excessive compared to other  
 9 cases of advice.  
 10 THE CHAIRMAN: Compared to other similar types of case?  
 11 A. That's right.  
 12 MR ENGLEHART: Do you think maybe one of the reasons the  
 13 union wasn't backing Joanna Hernandez was that it was  
 14 going to cost an awful lot of money?  
 15 A. Well, I know that that is what they say, and I don't  
 16 believe them.  
 17 Q. Well, that's --  
 18 A. And I don't believe them --  
 19 Q. Any reason for not believing them?  
 20 A. Because I'll tell you why I don't believe them, because  
 21 in all the years since 1973 that the original  
 22 legislation was brought in, it cannot be the case that  
 23 this is the only time that the union had a situation  
 24 where they decided not to proceed with a case they were  
 25 confident of winning because it would cost a lot of

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1 money. In fact it cost a lot of money only if the case,  
 2 you know, is -- drags on, because a case where the  
 3 preparatory work, in fact, that was done for the £10,000  
 4 involved much of what was needed to fight the case.  
 5 That was, you know, an awful lot of --  
 6 THE CHAIRMAN: So a lot of work had already been done?  
 7 A. The work had already been done when I got it --  
 8 THE CHAIRMAN: In order to advise on it, they must have done  
 9 an awful lot of work on the case?  
 10 A. Absolutely, Mr Chairman, that's right, sir. Looking at  
 11 it objectively, it seemed to me: look, why should the  
 12 union take that position on the basis that they spend  
 13 this money, when in fact the money they have already  
 14 invested will go to waste because I think, you know,  
 15 three-quarters of the analysis for the case had already  
 16 been done, I inherited that work and I didn't have to do  
 17 a great deal more to analyse the prospects of success.  
 18 The analysis had already been done. In any case, the  
 19 union to my knowledge has had other cases that they have  
 20 sent to the same firm and been charged, you know,  
 21 substantial amounts, and they never before thought they  
 22 shouldn't proceed for that reason.  
 23 THE CHAIRMAN: Right.  
 24 MR ENGLEHART: I think I am right in saying, aren't I, that  
 25 when you were in charge of the case, initially I think

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1 it was set down to be heard, it was going to take three  
 2 weeks to be heard; is that right?  
 3 A. I can't say from memory whether it was three weeks or  
 4 more, but it was set to be heard some time in early  
 5 2006, yes.  
 6 Q. Because you say at paragraph 14 of your witness  
 7 statement: {K/2/3}  
 8 "When Ms Hernandez filed her claim for unfair  
 9 dismissal, I advised her that she should cite  
 10 whistleblowing as the reason for her dismissal."  
 11 A. Yes.  
 12 Q. That was a matter of your advice, was it?  
 13 A. Yes.  
 14 Q. It wasn't what she was saying?  
 15 A. Well, I do not suppose she knew the concept of  
 16 whistleblowing. There was no legislation in Gibraltar  
 17 when she described to me the reasons, as far as she was  
 18 concerned, for her termination, and when I analysed the  
 19 analysis that had been done previously in terms of the  
 20 alleged misconduct or lack of ability or whatever,  
 21 I thought that the correct thing to do was to say, well  
 22 not simply -- I mean the law doesn't require a reason to  
 23 be given, by the way.  
 24 Q. Sorry?  
 25 A. I don't know whether it does in UK, but the law in

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1 Gibraltar does not require the complainant to say what  
 2 he or she thinks the reason is.  
 3 THE CHAIRMAN: Right.  
 4 MR ENGLEHART: No.  
 5 A. But this was what she thought the reason was, she  
 6 thought the reason is because I have taken the action of  
 7 asking for an investigation, and then I said to her,  
 8 "Well, that is what will be called in the United Kingdom  
 9 whistleblowing, and I think you should put  
 10 'whistleblowing' there".  
 11 Q. The consequence of this citation or advice to her was,  
 12 I suppose, that the ambit of the Industrial Tribunal  
 13 proceedings would be expanded greatly, wouldn't it?  
 14 A. Well, if the legislation that exists today had existed  
 15 then, and the one that existed in the UK had been in  
 16 application in Gibraltar, the effect would not have been  
 17 to expand the ambit, the effect would be that if  
 18 the Tribunal accepted that it was a complaint of  
 19 a detriment suffered as a result of whistleblowing, the  
 20 compensation would have been without a limit, and there  
 21 would have been no time limit of 52 weeks or one year or  
 22 anything else, because, you know, in a whistleblowing  
 23 case you can actually do it in your first hour of  
 24 employment, because this is intended to protect people  
 25 who are, if you like, out of a sense of civic duty, and

22

1 therefore it's like people being protected for example  
 2 in their right not to be discriminated against, or to  
 3 belong to the union. These cases are all given a higher  
 4 level of protection precisely because somebody is doing  
 5 it for altruistic reasons.  
 6 Q. Anyway, Mr Bossano, to get more to the point, the meat  
 7 of your evidence. You refer to an argument that  
 8 surfaced or concentrated upon, if I may put it that way,  
 9 when Mr Isola took over the conduct of the case, which  
 10 was that a week meant a period of seven days beginning  
 11 on Sunday and ending on Saturday?  
 12 A. Yes.  
 13 Q. You obviously didn't think that was a very good  
 14 argument?  
 15 A. Well, it's an argument that I never heard anybody use in  
 16 all the time that I had been involved, and certainly it  
 17 was an argument that the legislators, including me, had  
 18 not seen as a risk that would in effect deprive people  
 19 from the protection we intended to provide in the  
 20 legislation. And I produced the Hansards of the debate  
 21 of 1974 to show that throughout the debate both the  
 22 Government and I as our opposition kept on talking about  
 23 a year --  
 24 THE CHAIRMAN: And in the statute it came out as 52 weeks?  
 25 A. Absolutely.

23

1 MR ENGLEHART: Mr Bossano, I quite understand, and you  
 2 thought -- and you were representing obviously  
 3 Ms Hernandez -- it was a thoroughly bad point and --  
 4 A. Well, I thought it was a thoroughly spurious point.  
 5 Q. But you were representing Ms Hernandez, weren't you?  
 6 A. Yes.  
 7 Q. But you tell us that, in paragraph 18, although you were  
 8 successful before the Tribunal -- that's you personally,  
 9 as I understand it; is that right?  
 10 A. Well, the -- I was the one that put the arguments to  
 11 the Tribunal, clearly.  
 12 Q. That's right, because I believe you can represent --  
 13 although you are not a lawyer -- people before the  
 14 Industrial Tribunal?  
 15 A. In Tribunal, yes.  
 16 Q. Exactly. The Tribunal nevertheless gave leave to appeal  
 17 to the Supreme Court --  
 18 A. Yes.  
 19 Q. -- on a point of law. Can you tell me, in Gibraltar is  
 20 it a requirement of giving leave to appeal that a point  
 21 be arguable, as it is in the UK?  
 22 A. You are asking me now to give you an opinion on a point  
 23 of law which really I am not really qualified to give.  
 24 But I would have thought it would make sense that it  
 25 should be like that. And I would have thought that

24

1 the Chairman should not have given leave to appeal.  
 2 Q. I appreciate that.  
 3 THE CHAIRMAN: I quite understand your view of the point,  
 4 Mr Bossano. Obviously the Chairman thought there might  
 5 be something in it.  
 6 A. The Chairman presumably thought there was something in  
 7 it, even though nobody else in Gibraltar apparently did.  
 8 MR ENGLEHART: Mr Bossano, I'm absolutely appalled when  
 9 people give leave to appeal against decisions where I am  
 10 on the other side, sometimes --  
 11 A. And I suppose you are delighted when it's you, no?  
 12 Q. The fact of the matter is, we know this because we have  
 13 seen the law reports, the case went up to -- in fact  
 14 eventually went up the Court of Appeal, didn't it?  
 15 A. Yes.  
 16 Q. Your view was upheld, and the point was rejected?  
 17 A. Yes.  
 18 Q. But the fact of the matter is, isn't it, that it was,  
 19 although wrong in your view and indeed in the view of  
 20 the courts ultimately, it was a respectable argument,  
 21 wasn't it?  
 22 A. Well, it depends, frankly if you are doing that with  
 23 your own money or with taxpayers' money, because I think  
 24 if the respectable argument is that you are going to  
 25 fight it all the way to the Supreme Court at vast

25

1 expense and at the same time maintain that you are  
 2 confident that you can win the unfair dismissal case,  
 3 then why do you want to go to such lengths to stop the  
 4 case being heard? And the fact that the Government  
 5 chooses to do it in a -- in a situation where, for  
 6 example, when -- I remember very clearly that when the  
 7 Supreme Court first heard the Government and my  
 8 colleague Mr Licudi had brought along massive volumes of  
 9 arguments to prove the case, the judge said to him  
 10 "I don't think I need to hear anything you say, this is  
 11 clearly wrong and I am dismissing it now".  
 12 The Government then decides that they will continue  
 13 to do it. I think it cannot be ignored that these  
 14 things were happening in situations where, if  
 15 the Tribunal had proceeded, there was already in the  
 16 hands of the Agency and of the Government copies of all  
 17 the witness statements of what they could expect to come  
 18 out into the open, which conceivably they might have  
 19 considered to be politically unwelcome to them.  
 20 THE CHAIRMAN: But I think it's right to say, isn't it,  
 21 Mr Bossano, that the witness statements hadn't actually  
 22 been exchanged at the time when this 52 week point was  
 23 taken?  
 24 A. They were exchanged when the ruling first was made by  
 25 the Chairman.

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1 THE CHAIRMAN: Yes.  
 2 A. Because then, when the ruling came and we agreed that  
 3 the case was going on, the leave of appeal was given,  
 4 but the representative of the agency said that he would  
 5 have to take instructions, and there was no indication.  
 6 It is my view, but I cannot prove it since I do not have  
 7 access to what might have been privileged information  
 8 between the client and the lawyer at the time, that once  
 9 they saw the evidence that we had, they came back and  
 10 decided they were going to appeal. The witness  
 11 statements were in their hands when we were told they  
 12 were appealing.  
 13 THE CHAIRMAN: Can I just explore that with you a little  
 14 bit, because you described the point a few moments ago  
 15 as a spurious point. Do you mean that it was a false  
 16 point, nobody really believed it was going to be  
 17 successful?  
 18 A. I believe the Government did not believe it was going to  
 19 be successful, and I believe the Government's intention  
 20 in proceeding with all these appeals was that, not that  
 21 they would win but that the stretching out of the case  
 22 meant that the witness statements would never see the  
 23 light of day. Look, if Ms Hernandez had had to fight  
 24 all those cases in court herself and pay for it, the  
 25 answer is she wouldn't have got there.

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1 THE CHAIRMAN: So are you suggesting bad faith?  
 2 A. Well, I think it was wrong of the Government --  
 3 THE CHAIRMAN: Why was it wrong?  
 4 A. Because I think they were not doing it because they  
 5 thought they could win and they didn't want the case  
 6 heard.  
 7 THE CHAIRMAN: You thought they took the point because they  
 8 didn't want the case heard; is that correct?  
 9 A. That is what I believe is the reason. It was not  
 10 because they didn't want the case heard because it would  
 11 have -- you see, if you had had a situation where it was  
 12 important to establish as a matter of law the rights of  
 13 people, I mean one of the things for example that I went  
 14 back to the union and they refused to provide support,  
 15 they refused to provide support, precisely on the point  
 16 of this appeal, because I went back to the union and  
 17 I said, I addressed the committee of the union and said  
 18 "Don't you understand that this is no longer an issue of  
 19 the agency, or the dismissal of an agency employee, what  
 20 is now being challenged is the entire established case  
 21 law of all previous tribunals since they started because  
 22 all of them have been people starting on Monday."  
 23 THE CHAIRMAN: I think, Mr Bossano, there may be a slight  
 24 error here, it is not a question --  
 25 A. And the union said they wouldn't support it.

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1 THE CHAIRMAN: I think the point was not that the employment  
 2 had to start on a Sunday, but that in computing how  
 3 many weeks an employee had been employed, this was the  
 4 argument, you take a week starting on a Sunday, so you  
 5 could start your employment any day you like, but you  
 6 don't start to count the weeks until you get to a Sunday  
 7 and then it's a complete week. Now we --  
 8 A. The consequences of that, Mr Chairman --  
 9 THE CHAIRMAN: I'm sorry, just let me finish a second.  
 10 We don't need to debate whether that's right or  
 11 wrong and you made it very clear what your view is, and  
 12 it was supported by the Chief Justice and the Court of  
 13 Appeal, so there is no doubt the point was in the event  
 14 a bad one. What I am concerned about is to understand  
 15 what you are saying about the decision to pursue the  
 16 point or take it in the first instance. That's really  
 17 what I am after.  
 18 A. I am trying to explain that, Mr Chairman.  
 19 THE CHAIRMAN: Right.  
 20 A. You see, I think when you are looking at decisions that  
 21 people make, at the end of the day you have to put  
 22 yourself in their place and say: why would I want to do  
 23 this? So you have a situation where the Government of  
 24 the day decides to parade an argument, which is in  
 25 conflict with all previous cases, which has

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1 consequences, in effect it would mean that everybody  
 2 that started work on a Monday and got sacked at the end  
 3 of the 52nd week by counting the first week would no  
 4 longer have a right to protection. This is why  
 5 I thought: look, this is now -- the issue now is the  
 6 protection of all the workers who start work on Monday  
 7 and get sacked in the 52nd week. Because if this  
 8 interpretation which has been defended by this  
 9 Government were to stand, I don't know, I'm not  
 10 a lawyer, it would have enabled people to say the people  
 11 who were previously unfairly dismissed are no longer  
 12 right because the courts were wrong.  
 13 So in that context, it's not -- it wasn't a decision  
 14 to be taken lightly, you were doing something which had  
 15 enormous repercussions beyond this case in terms of  
 16 protection of workers' rights after working 52 weeks in  
 17 a situation where normality is starting on Monday.  
 18 I remember some convoluted arguments that were made in  
 19 the context of arguing this in the Tribunal about the  
 20 Gregorian calendar which nobody understood, and I am not  
 21 even sure that the guy was delivering it understood it.  
 22 And the context in which all this was being done seemed  
 23 to me clearly, clearly one where the purpose of the  
 24 exercise was to push into the future the day of  
 25 reckoning in the expectation that the further into the

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1 future it was pushed and the more the hurdles in the way  
 2 of the hearing, it might well be the case that perhaps  
 3 somebody with less stamina or somebody that would have  
 4 had to fund the cost of this exercise would have given  
 5 up. And let's face it, I assume that if the case had  
 6 not been defended in the Supreme Court or in the Court  
 7 of Appeal, then I don't know enough about the law to  
 8 know whether the ruling would have gone the other way,  
 9 if there had been nobody to defend it.  
 10 THE CHAIRMAN: Well, it wouldn't, but can I just put to you  
 11 a possible different interpretation, just to hear what  
 12 you say about it?  
 13 A. Yes.  
 14 THE CHAIRMAN: The agency was faced with, after the exchange  
 15 of the witness statements anyway, a case which was going  
 16 to last possibly up to three weeks, quite a few days,  
 17 and a very expensive exercise for everybody concerned.  
 18 There was, it was thought, I am just putting this to  
 19 you, a possibility of stopping the case in its tracks by  
 20 taking a preliminary point of law which would simply be  
 21 argued and either right or wrong. If right, it would  
 22 have avoided a very substantial piece of litigation; is  
 23 that a fair summary? Do you understand what I am  
 24 putting to you?  
 25 A. Well, I think it's a possible alternative explanation of

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1 the first attempt in the Tribunal, because that had zero  
 2 cost. The person that was putting the argument was  
 3 already been paid. But I think having lost the case at  
 4 that point, the decision to then appeal against the  
 5 decision of the Tribunal in the Supreme Court would not  
 6 make sense in terms of value for money.  
 7 THE CHAIRMAN: I see. So can I put it this way, without  
 8 intending to imply anything: your suspicion is that in  
 9 deciding to go on to appeal, the purpose was really  
 10 simply to delay matters and push the hearing into the  
 11 future?  
 12 A. That's right, with the possibility frankly that the  
 13 future might be that the person that was fighting the  
 14 case would give up.  
 15 THE CHAIRMAN: The future might not happen.  
 16 A. The future might not happen, yes.  
 17 THE CHAIRMAN: Right.  
 18 MR ENGLEHART: Did you know, Mr Bossano, that the Social  
 19 Services Agency in fact took UK counsel's advice over  
 20 this in relation to a possible appeal?  
 21 A. No, I wasn't aware of that, nobody has told me that  
 22 before.  
 23 Q. That's not surprising, of course, because it would  
 24 normally be privileged, wouldn't it?  
 25 A. I assume so, yes, but I didn't know that that had

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1 happened and I don't know whether the advice was good or  
 2 bad.  
 3 Q. That's a different matter. No doubt you think that it  
 4 was terrible advice. But let's look at it. It's at  
 5 {M26/2/1}. It's on the screen, do you see it's headed  
 6 "Advice"? I will try and find my hard copy, if you give  
 7 me one moment. (Pause). It goes on until page 4.  
 8 {M26/2/4} Would you like to turn to the end? Would you  
 9 like to read to yourself paragraph 14?  
 10  
 11 A. "I conclude that the respondent has a respectable  
 12 argument" --  
 13 Q. To yourself, we can all read it.  
 14 (Pause)  
 15 A. Yes.  
 16 Q. So certainly it's the position, isn't it, that Mr Barr  
 17 of 1 Temple Gardens on 23 December 2006, was advising  
 18 that the point was not hopeless, it's a respectable  
 19 argument, but he was not able to say it was more likely  
 20 to win than not; that's broadly the thrust of it, isn't  
 21 it?  
 22 A. Well, no, it says more than that, because it also says  
 23 that it is for the respondents to consider the  
 24 importance of the case, whether others might follow on  
 25 the same point, its attitude to costs, in pursuing

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1 an appeal that might be unsuccessful, and the  
 2 desirability of clarifying the law on this point. Well,  
 3 look, that deals, Mr Chairman, with the point that I was  
 4 making before about wanting to create a precedent that  
 5 would deprive everybody in Gibraltar of being able to  
 6 claim unfair dismissal after 52 calendar weeks and  
 7 requiring them all to have to knock out of the  
 8 calculation the first week of employment which hardly  
 9 ever starts on a Sunday. Hardly ever, I mean.  
 10 THE CHAIRMAN: I think --  
 11 A. So in fact in my view what this -- the advice is  
 12 qualified in the second part of paragraph 14 by  
 13 expecting all these other considerations to be taken  
 14 into account in making the decision, and I am saying all  
 15 those other considerations, in my judgment, would have  
 16 pointed towards not appealing. You know, you can't be  
 17 sure you are going to win, you may lose, and it costs  
 18 you a lot of money, so if you -- if there are factors  
 19 like whether others might follow on the same point, if  
 20 there are factors as to clarifying the law, well, look,  
 21 perhaps if Mr Barr had been told that -- had been  
 22 provided with a copy of the Hansard and been told what  
 23 the law had been doing for the last 20 odd years, he  
 24 might have given different advice.  
 25 THE CHAIRMAN: I think the point really, Mr Bossano, is

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1 this: advice of English counsel was taken, I know that  
 2 we don't agree, or the judges didn't agree, with the  
 3 point being a good one, but he doesn't say that the  
 4 point is a good one, he says it is a respectable  
 5 argument:  
 6 "... not hopeless, in my view."  
 7 And then he ends up:  
 8 "If this is an important case, or if there is felt  
 9 to be a need for clarification of the law, the  
 10 respondent [that's the agency] may well feel justified  
 11 in contesting the point at appellate level, [that's to  
 12 say appealing] even against the odds."  
 13 Better or worse that's what he said. Does the fact  
 14 that that advice was given alter your view at all or do  
 15 you still maintain the belief that the purpose -- sorry,  
 16 let me--  
 17 A. If I had been given this advice and I had been the  
 18 Government I would have interpreted that advice as  
 19 advice that would be pointing to not proceeding. That's  
 20 what I am saying, Mr Chairman. I don't know how you  
 21 read it.  
 22 I understand from my limited experience of seeking  
 23 advice from lawyers that lawyers tend to tell you, "Yes,  
 24 maybe you will win" or, "Yes, maybe you will lose, it's  
 25 not 100 per cent clear", and therefore it's very rare,

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1 I think, for a lawyer to say to you, "I give you  
 2 a 100 per cent guarantee that you will win the case",  
 3 or, "It is absolutely sure that you will lose it."  
 4 THE CHAIRMAN: Obviously you will never get that. But what  
 5 I want to know is: does this change your view at all or  
 6 do you still maintain --  
 7 A. No, it reinforces my view, that's what I am saying,  
 8 because it says "It is not hopeless". Well, look, for  
 9 it to be hopeless, you would have to say "I can  
 10 guarantee you that no self-respecting judge will ever  
 11 say you are right, and I don't suppose a lawyer can say  
 12 that.  
 13 But the point that I am making to you, Mr Chairman,  
 14 is that what the lawyer is telling the agency or the  
 15 Government, that a lot of other factors would weigh one  
 16 way or the other, which are unrelated to the specific  
 17 case, including the need to clarify a law. Well, look,  
 18 if you had a situation where the law was being  
 19 introduced and it was a test case which would determine  
 20 how it was going to be interpreted in future, that might  
 21 be an important point to have to settle. But if you  
 22 have got a situation where the law has been crystal  
 23 clear to everybody for a generation ...  
 24 MR ENGLEHART: Can I ask you, I just want to show you two  
 25 other passages in this opinion, to see whether this

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1 changed your mind. I suspect your answer will be "no, I  
 2 am reinforced, I think it is an absolutely hopeless  
 3 point that can only have been raised in bad faith."  
 4 But if you look at paragraph 7, you see on page 2,  
 5 {M26/2/2} he points out that he is specifically asked to  
 6 advise on the merits of an appeal against the Industrial  
 7 Tribunal's decision. So it was in the context of  
 8 an appeal that his advice was sought. Do you see that?  
 9 A. Paragraph 7?  
 10 Q. Yes. Then going to paragraph 10, on page 3, {M26/2/3}  
 11 he says:  
 12 "Given that the Oxford English Dictionary  
 13 acknowledges that a week is generally reckoned from and  
 14 to midnight on consecutive Saturdays, and given the  
 15 absence of any definition in the Employment Ordinance  
 16 [that's the Gibraltar one] it seems to me that there is  
 17 a respectable argument that a week should be io  
 18 interpreted accordingly. It is also logical to expect  
 19 that a provision specifying a minimum qualifying period  
 20 should be read to mean whole weeks in the absence of any  
 21 express provision to the contrary."  
 22 Then it deals with the English Parliament decision  
 23 necessary to make a particular.  
 24 Then:  
 25 "In my view the proper interpretation of [paragraph

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1 11] ... the Employment Ordinance is a question of law  
 2 and not simply one of fact. It is therefore apt for  
 3 consideration on appeal."  
 4 Do those passages make you change your mind or do  
 5 they reinforce your decision?  
 6 A. Well, that was the two arguments as to the two  
 7 interpretations were the arguments that were rehearsed  
 8 in the Tribunal. I mean, you know I think the lawyer  
 9 for the agency actually produced the dictionary in  
 10 the Tribunal, so I am familiar with the two arguments,  
 11 and therefore the fact that it is possible to consider  
 12 going to appeal is not in dispute, because in fact if it  
 13 had not been possible it would not have happened.  
 14 Whether it was necessary to go to an appeal in order to  
 15 clarify a law which nobody had ever found unclear until  
 16 then and was only clouded by this innovative argument on  
 17 that workers should only be protected if they -- in  
 18 52 weeks, that could be counted from the Saturdays, and  
 19 not from the Mondays, that -- it wasn't that there was  
 20 a law that it was desirable to clarify.  
 21 I mean, every legislator wants the laws to be clear,  
 22 so that citizens know their rights and their obligation,  
 23 and I -- you know. But when you are talking about the  
 24 fact that it is possible to argue one way and it is  
 25 possible to argue the other, then by definition if the

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1 two arguments are permissible interpretations, one can  
 2 go to a third party to make a ruling as to which of the  
 3 two arguments is right.  
 4 Well, the courts ruled that the right argument was  
 5 that the week should be counted as a calendar week. The  
 6 Parliament intended that argument, and the tribunals and  
 7 the courts of Gibraltar had interpreted it that way  
 8 until that point in history, and ever since.  
 9 THE CHAIRMAN: Well, you have made that point, Mr Bossano.  
 10 Could I ask you this: would you accept that there might  
 11 be another possible explanation for the decision to  
 12 appeal, namely that having been advised that the point  
 13 was arguable, although unlikely to succeed, shall we put  
 14 it that way --  
 15 A. Yes.  
 16 THE CHAIRMAN: -- the Government or the agency or whoever  
 17 it may be or the lawyers said to themselves: given that  
 18 we are otherwise faced with a very substantial and  
 19 lengthy and expensive and public dispute of fact, let's  
 20 try the point and hope it does succeed in the hope of  
 21 putting an end to the litigation there and then? That  
 22 wouldn't have been an improper decision, would it?  
 23 A. But it's not a logical one, Mr Chairman.  
 24 THE CHAIRMAN: You say it's illogical.  
 25 A. And I'll explain why it's illogical. Because first of

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1 all if you believe that you are going to win the case,  
 2 then it would not have needed to be very long and  
 3 expensive, compared to the cost of appealing. Because  
 4 if you are talking about, you know, can I save money by  
 5 appealing? Well, I think if you find what the appeal  
 6 costs and what the case would have cost if it had  
 7 continued, then there would have been no savings. And  
 8 in any event --  
 9 THE CHAIRMAN: Really?  
 10 A. Yes.  
 11 THE CHAIRMAN: I am quite surprised by that, Mr Bossano.  
 12 A. Well, yes.  
 13 THE CHAIRMAN: You need counsel to argue a point of law in  
 14 the Court of Appeal? I don't know how long the argument  
 15 took. The way that you are describing the point, it  
 16 might only have taken half an hour.  
 17 A. Well, the legal costs involved in going to the appeal  
 18 must have run into hundreds of thousands of pounds.  
 19 THE CHAIRMAN: Hundreds of thousands of pounds?  
 20 A. I imagine, I haven't seen the figure.  
 21 MR ENGLEHART: A half hour case in the court of appeal  
 22 doesn't cost that.  
 23 A. Mr Chairman, the position that I am taking is that if  
 24 I put myself in the place of the employer, and I am  
 25 faced with a situation where it says, you know, there is

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1 a possibility of winning and a possibility of losing and  
2 the only point of doing it was the amount of money  
3 I would save, then it would have to be a question of  
4 doing the thing that cost least money.

5 THE CHAIRMAN: Well, you --

6 A. There will have to be a very substantial amount of  
7 savings involved, if it wasn't that I wanted to keep out  
8 of the public domain the evidence, if that was not the  
9 reason -- which I believe it was -- then there would  
10 have to be a very strong case for, of saving money to  
11 want to do something that actually had much wider  
12 repercussions on workers' rights which until then had  
13 been accepted in previous cases by Government.

14 This is not the first case of unfair dismissal that  
15 affects somebody in the public sector. The Government  
16 has never before tried to stop a case using this  
17 argument. No employer has ever done it. If this case  
18 had gone ahead and for the sake of limiting the cost,  
19 the position had been that the law would have been  
20 interpreted in the way that it was being argued, then  
21 that is one factor that in the advice would have to be  
22 taken into account and I cannot imagine that it would  
23 have been ignored by any government that, until then,  
24 had respected the interpretation of the law and had  
25 interpreted themselves like that.

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1 THE CHAIRMAN: Right.

2 MR ENGLEHART: Would you be prepared to accept -- I suspect  
3 not -- the possibility that the agency was being advised  
4 by Mr Isola that -- in ways that seemed perfectly  
5 ordinary advice given by a lawyer to his client, about  
6 the costs involved of the proceedings and the problems  
7 involved as far as the Social Services Agency was  
8 concerned?

9 A. I don't know, I would imagine that Mr Isola was giving  
10 the advice that he professionally thought was correct.  
11 I don't know whether Mr Isola was actually advising that  
12 it was preferable to go and appeal or that it was  
13 preferable to not go on appeal, but given -- you know,  
14 given the fact that the limits on the compensation in  
15 Gibraltar, you know, which is a maximum of a cut of  
16 a ratio of the minimum wage. Look, the minimum wage at  
17 the time would have cost the Government less than two  
18 years later when the minimum wage was higher. They  
19 could have settled simply by saying, "Look, we are not  
20 proceeding because we haven't got the proof in day one"  
21 and they would have saved a lot of money, which is what  
22 they did eventually.

23 Q. I am anxious not to take up your time unduly, but can  
24 I just quickly take you through a few documents --

25 A. Yes.

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1 Q. -- just to see whether your mind has changed, having  
2 seen these, because I appreciate you will not have seen  
3 them before. They are internal communications between  
4 the lawyer and their client. {1/115/27}. This is  
5 a letter of 20 April 2007 from Mrs del Agua, the  
6 Minister for Social Affairs at the time instructing --  
7 not instructing the lawyers to do whatever they possibly  
8 could to avoid the hearing:

9 "Please proceed to do whatever work is necessary in  
10 anticipation of the Industrial Tribunal hearing. I will  
11 instruct you on whether we should appeal any further in  
12 due course."

13 Wanting of course the Chief Justice's written  
14 judgment. Are you surprised that the lawyers were  
15 instructed to do whatever was necessary in anticipation  
16 of the hearing?

17 A. Well, after they had lost all the appeals. Is that not  
18 the case?

19 Q. No. It's the Chief Justice. It's pending the decision  
20 of the Chief Justice, and before the decision of the  
21 Court of Appeal, before indeed the appeal was made, as  
22 I understand it.

23 THE CHAIRMAN: It looks as if it may have been pre the  
24 Industrial Tribunal hearing. I don't know if that is  
25 the case.

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1 MR ENGLEHART: I think it was after the Industrial Tribunal  
2 but before the appeal to the Supreme Court.

3 THE CHAIRMAN: Okay.

4 A. Mr Chairman, I am surprised that if they thought they  
5 could win the case they should be preparing to behave on  
6 the premise that they were going to lose it.

7 MR ENGLEHART: They might. They might lose it, obviously.  
8 They had been told, hadn't they, there was a very fair  
9 chance they might lose it? So the lawyers were being  
10 instructed to prepare for the case, weren't they?

11 A. Well, the letter says that they should prepare for the  
12 case before they know that they are going to lose it,  
13 yes.

14 Q. Right. Let's look at page 29, if we may. {1/115/29}  
15 This was advice being given by Mr Isola to the then  
16 Chief Executive Officer of the Social Services Agency,  
17 Mr Chris Wilson. Just glance through it, would you, the  
18 sort of advice that's being given.

19 (Pause)

20 A. Mm.

21 Q. Going over the page. {1/115/30}

22 A. Yes (Pause).

23 Q. Would you agree that there is nothing particularly  
24 unexceptional about that, it's a lawyer advising as if  
25 a case was going to go to a hearing in perfectly

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1 conventional terms? Leave aside whether you agree with  
 2 the advice, that's another matter.  
 3 A. Well, I never advised employers, so I am not in  
 4 a position to compare this to the advice that other  
 5 lawyers give their employers. I mean, all the employers  
 6 that I have to face in tribunals have all lost.  
 7 Q. All the employers?  
 8 A. All the employers have always lost.  
 9 Q. You have always won?  
 10 A. Yes.  
 11 Q. Many congratulations.  
 12 A. Thank you.  
 13 Q. Would you now possibly just look at page 35 of this  
 14 bundle? It's {J1/115/35} .  
 15 A. Mm.  
 16 Q. Letter (h), I think a point that the Chairman raised  
 17 with you. We have seen this, in fact, when I was  
 18 opening the case, I referred to this document. (h) does  
 19 draw attention to the fact that the costs of preparing  
 20 for and attending a three week hearing will be  
 21 substantial?  
 22 A. It does say so there, yes.  
 23 Q. If you think that a half hour hearing in the Court of  
 24 Appeal will cost hundreds of thousands of pounds, which  
 25 I suggest is perhaps a bit of a hyperbole, but certainly

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1 a three week hearing will be a very substantial affair,  
 2 won't it?  
 3 A. Well, I would be able to give you a view as to whether  
 4 substantial if I knew what the cost was. It's  
 5 described, this is the lawyer saying it, is it?  
 6 Q. Yes.  
 7 A. It's the lawyer who says its substantial.  
 8 Q. Yes, advising his client.  
 9 A. Well, if the lawyer says it's substantial, then  
 10 I imagine it must be enormous.  
 11 THE CHAIRMAN: I think it's fair to say, Mr Bossano, you are  
 12 not suggesting Mr Isola did anything improper at any  
 13 stage?  
 14 A. No, no, I'm not suggesting that -- he did what his  
 15 client wanted him to do. This is what lawyers do.  
 16 THE CHAIRMAN: Most of the time.  
 17 A. Most of the time, yes. The guy that pays the piper  
 18 calls the tune, most of the time; no? Unless what they  
 19 are being asked is something that is outrageously  
 20 impossible.  
 21 MR ENGLEHART: Simply, before I conclude my questions, to  
 22 finish this section of my questions, pages 38 to 39,  
 23 bundle {J1/115/38} to 39. I would like you again to  
 24 read that to yourself to save time, 38 to 39.  
 25 (Pause)

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1 A. Mm.  
 2 Q. I was just wondering whether you would think that there  
 3 was anything unusual about this sort of advice that the  
 4 Social Services Agency was getting from Mr Isola in the  
 5 context?  
 6 A. Well, Mr Chairman, I have never myself advised  
 7 an employer on how to defend himself or herself against  
 8 a complainant that complains to be unfairly dismissed,  
 9 and therefore I don't know if this is the standard way  
 10 that lawyers advise their clients, because this is the  
 11 first time I'm seeing what goes on in the head of the  
 12 other side.  
 13 THE CHAIRMAN: So you can't really comment on --  
 14 A. I cannot comment on any of it. All I -- I think it's  
 15 interesting that they are talking here at the end of  
 16 the -- on page 29(sic), {J1/115/39} on the adjournment  
 17 to the 4 February 2007, and that they were asking  
 18 Isabella Tosso to confirm her availability.  
 19 MR ENGLEHART: Yes. Well, the adjournment was for three  
 20 weeks, wasn't it?  
 21 A. Because you know, of the fact that they finally said  
 22 they didn't know where she was and that they couldn't  
 23 get hold of her. Apparently at that stage they could.  
 24 Q. I was going to ask you that. There is no doubt, is  
 25 there, that Ms Isabella Tosso would have been a critical

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1 witness in any Industrial Tribunal proceedings?  
 2 A. Well, she would have been in a position where I would  
 3 have been able to cross-examine her.  
 4 Q. I follow that, yes. She would have been a critical  
 5 witness, wouldn't she?  
 6 A. They said she was their star witness, because she was  
 7 the one that took the decisions.  
 8 Q. And that was right, wasn't it? You knew that?  
 9 A. Well, I knew that they said it. I mean, I would have  
 10 known how critical she was, if she had actually turned  
 11 up and I had been able to cross-examine her.  
 12 Q. She wrote the letter dismissing Joanna Hernandez, didn't  
 13 she?  
 14 A. Presumably she wrote it. She signed it, anyway.  
 15 THE CHAIRMAN: She would have been obviously a central  
 16 witness, let's put it that way?  
 17 A. She would have been an important witness for them  
 18 because it was allegedly her decision, yes.  
 19 MR ENGLEHART: Right. Sir, I have no more questions.  
 20 Questioned by THE CHAIRMAN  
 21 THE CHAIRMAN: Can I go back for a moment to the question  
 22 I asked you about Mr Isola?  
 23 A. Yes.  
 24 THE CHAIRMAN: You said you were not suggesting that  
 25 Mr Isola did anything improper. Can I just ask

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1 a supplementary: are you suggesting that he was asked to  
 2 do anything improper?  
 3 A. Well, I think the Government wanted to do the appeal,  
 4 right? And therefore I don't think that Mr Isola -- you  
 5 know, I mean, I had the opportunity of being  
 6 face-to-face with him when he is arguing his case, and  
 7 a lot of publicity was being given to this, and I have  
 8 told you, Mr Chairman, that he produced this complex  
 9 thing about the Gregorian calendar, and when he was  
 10 asked to produce case law he mentioned a case from  
 11 Scotland of 1976 when in the United Kingdom the  
 12 requirement was for six months and not for a year. So,  
 13 you know, in my judgment, based on my experience, it  
 14 seemed to me that this was somebody who was stretching  
 15 every conceivable argument as far as it was possible  
 16 logically to do, because there was a requirement from  
 17 the client that that is where we should finish up.  
 18 I have been in many tribunals with many lawyers, and  
 19 it's possible to make an evaluation of whether this is  
 20 a lawyer saying to a client, "Look, this is a winner, we  
 21 have got to go for it", and someone who is giving the  
 22 impression that he is actually using all his skills,  
 23 ingenuity and knowledge, you know, to defend the  
 24 indefensible and argue a case, and this is the clear  
 25 recollection that I have of that. I mean, you know, the

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1 whole concept was being stretched in a way which -- and  
 2 when I remember that when the case first came up for the  
 3 appeal in the Supreme Court, which I went to listen to,  
 4 the judge asked Mr Isola, "Have you got any case law at  
 5 all about the first week?", and the answer was no.  
 6 THE CHAIRMAN: . Thank you very much, Mr Bossano, you have  
 7 given very, very clear evidence, and I am not going to  
 8 invite any questions unless somebody wants any aspect of  
 9 Mr Bossano's evidence clarified, in which case I would  
 10 like to hear what -- sorry, Mr Levy.  
 11 Questions suggested by MR LEVY  
 12 MR LEVY: I would like just one aspect of his evidence to be  
 13 clarified, but I didn't want to interrupt my learned  
 14 friend or yourself, Mr Chairman.  
 15 We are talking about the cost of a half an hour in  
 16 the Court of Appeal.  
 17 THE CHAIRMAN: Yes. Cross out half an hour. I don't know  
 18 how long it would take.  
 19 MR LEVY: It doesn't really matter, I am not the sort of  
 20 lawyer who would stand up asking for half an hour.  
 21 Really it's the chronology is, with respect, incorrect.  
 22 Because this is an advice given before the Supreme Court  
 23 hearing appeal and not before the Court of Appeal  
 24 hearing.  
 25 THE CHAIRMAN: Right.

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1 MR LEVY: That's what I wanted to clarify.  
 2 THE CHAIRMAN: Thank you very much.  
 3 MR LEVY: It's important in terms of chronology.  
 4 THE CHAIRMAN: I've got it.  
 5 MR LEVY: A lot was made as to this half an hour in the  
 6 Court of Appeal, so it's important Mr Bossano should  
 7 realise that this advice by Mr Barr, I think his name  
 8 was --  
 9 THE CHAIRMAN: Yes, that's right.  
 10 MR LEVY: I have no benefit of any papers, my Lord, so I am  
 11 speaking from memory.  
 12 THE CHAIRMAN: David Barr, yes.  
 13 MR LEVY: So that was given before the Court of Appeal. Is  
 14 that acceptable, Mr Chairman?  
 15 THE CHAIRMAN: Yes. That's right, isn't it, Mr Bossano?  
 16 MR LEVY: Before the Supreme Court.  
 17 THE CHAIRMAN: It's probably my fault for confusing the  
 18 chronology.  
 19 MR LEVY: On the questions of Mrs Tosso, was it ever  
 20 clarified, was she ever found or not? Perhaps  
 21 Mr Bossano can be of some assistance to the Inquiry on  
 22 that.  
 23 THE CHAIRMAN: Do you want to say something more about that,  
 24 Mr Bossano?  
 25 A. When they asked for more time, because they were trying

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1 to track her down, I think the references that were made  
 2 to her whereabouts were that she was on a cruise  
 3 somewhere in New Zealand, that they didn't know whether  
 4 she was in the UK. To my knowledge she was contactable  
 5 all the time. In fact, Mr Chairman, if you go into the  
 6 internet and you find the register of social workers in  
 7 the United Kingdom and you type in her name, it  
 8 immediately gives you where she is. So in fact --  
 9 I don't know whether they were still so keen to have  
 10 her. I think we need to bear in mind, of course, that  
 11 in the initial stages when she was a vital witness she  
 12 was still in their employment. In the later stages when  
 13 she was finally going to have to appear, she was no  
 14 longer in their employment and she left, and therefore,  
 15 you know, at that stage I am not sure that she would  
 16 have been as vital a witness any more as she would have  
 17 been when she was still working for the agency.  
 18 THE CHAIRMAN: Thank you very much. Mr Enright, what would  
 19 you like --  
 20 MR ENRIGHT: Just a single point of clarification.  
 21 THE CHAIRMAN: That was the point? Do you want to raise  
 22 another point? No.  
 23 Mr Bossano, we are very grateful for your help  
 24 today, you have given very clear evidence and thank you  
 25 for taking the time to come here.

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1 THE WITNESS: Thank you for the opportunity, Mr Chairman.  
 2 THE CHAIRMAN: Thank you.  
 3 (The witness withdrew)  
 4 THE CHAIRMAN: Ladies and gentlemen, I think that has worked  
 5 out quite well. We will take our quarter of an hour  
 6 break now, and I will come back at 25 past 11.  
 7 (11.10 am)  
 8 (A short break)  
 9 (11.30 am)  
 10 THE CHAIRMAN: Yes, Mr Englehart.  
 11 MR ENGLEHART: Sir, the next witness is Denise Hassan.  
 12 THE CHAIRMAN: Right.  
 13 MS DENISE HASSAN (called)  
 14 THE CHAIRMAN: Ms Hassan, good morning.  
 15 A. Good morning.  
 16 THE CHAIRMAN: Thank you very much for coming. Have you  
 17 been in the room before?  
 18 A. Yes, I have.  
 19 THE CHAIRMAN: So you know roughly how things go. We won't  
 20 detain you longer than necessary. Thank you very much  
 21 for your assistance, both in your statement and also by  
 22 coming here today. Mr Englehart will ask you some  
 23 questions in a moment, and there may be other questions  
 24 from the room. Can I ask you just to start with giving  
 25 your full name and address for the record?

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1 A. Denise Hassan, 25 Bridgetown Court, Harbour Views.  
 2 THE CHAIRMAN: Good, thank you very much. Yes,  
 3 Mr Englehart.  
 4 Questioned by MR ENGLEHART  
 5 MR ENGLEHART: Is it Ms Hassan?  
 6 A. Yes.  
 7 Q. Ms Hassan, you were working at the Giraldi Home, as you  
 8 tell us, from 1999 and left at the end of 2005?  
 9 A. (Witness nods)  
 10 Q. So you left at about the same time as Joanna Hernandez?  
 11 A. Yes, more or less, yes. She was there, when I left she  
 12 was already there.  
 13 Q. So you left right at the end of 2005?  
 14 A. Right at the end, yes.  
 15 Q. You say you were a support worker?  
 16 A. I was.  
 17 Q. May I just see if I understand that? That's someone who  
 18 hasn't got a contract of employment, is it, you just  
 19 worked as and when needed? Is that the position?  
 20 A. No, sorry, I was a care worker there.  
 21 Q. You were a care worker?  
 22 A. At the beginning I was a support worker and then I was  
 23 a care worker.  
 24 Q. I see, when did you become a care worker?  
 25 A. After a year, when I got the contract.

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1 Q. So 2000?  
 2 A. I think so, yes.  
 3 Q. Yes?  
 4 A. Yes.  
 5 Q. Right. We have all read your witness statement, so  
 6 I think we know the drift of it. Would it be fair to  
 7 say that you didn't like Sharon Berini at all?  
 8 A. Yes, it would.  
 9 Q. That's certainly the message that was coming across from  
 10 your witness statement. You say the reason you left was  
 11 due to Sharon Berini, "since she took exception to  
 12 a report I drafted on 13 June"?  
 13 A. Mm. Yes.  
 14 Q. I am sorry, we ought to get that up. Your witness  
 15 statement is {F/23/1}. I was reading paragraph 5, do  
 16 you see, over the page? {F/23/2} I know it's difficult  
 17 for you, in your position, but I mean, if we look at the  
 18 report, which we will come to in one moment, it's not  
 19 particularly surprising that she was not very happy with  
 20 what you had written; do you agree?  
 21 A. I do.  
 22 Q. You do, yes. You say in paragraph 6 of this witness  
 23 statement that that's your report and you say you have  
 24 no additional information?  
 25 A. No, that's all.

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1 Q. So we had better go to your report --  
 2 A. Yes.  
 3 Q. -- to look at what you were saying. As I understand  
 4 it, Ms Hernandez asked you to write this report, did  
 5 she?  
 6 A. Yes.  
 7 Q. And --  
 8 A. Not exactly this report, but a report.  
 9 Q. Sorry?  
 10 A. Not exactly this report but a report on anything that's  
 11 happened that I've seen in the Home.  
 12 Q. Right. Involving Ms Berini?  
 13 A. No, no, in general.  
 14 Q. Just general, I see.  
 15 I am looking just at your witness statement briefly,  
 16 although I know you say you have no additional  
 17 information to add to what you had done earlier, but  
 18 could we look at paragraph 10:  
 19 "Management did not provide sufficient support for  
 20 the care workers in general."  
 21 Who do you mean by management?  
 22 A. By seniors, managers, mostly seniors, we couldn't go to  
 23 them and say anything.  
 24 Q. Would you include Joanna Hernandez in the management?  
 25 A. No, not Joanna Hernandez, because we could go to her and

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1 talk to her, that's why all this came up.  
 2 Q. It's everyone else except her, is it?  
 3 A. Mm.  
 4 THE CHAIRMAN: Everyone else above her, would it be?  
 5 A. I never went above her, just to my seniors.  
 6 THE CHAIRMAN: Well, senior to her?  
 7 A. Seniors.  
 8 THE CHAIRMAN: Yes.  
 9 MR ENGLEHART: Like whom?  
 10 A. At the time, seniors were Sean Matto --  
 11 Q. Sean Matto, senior to Joanna Hernandez?  
 12 A. No, sorry, Sean Matto --  
 13 Q. No, I think you ...?  
 14 A. Gabbie. Gabrielle Llambias, she was a senior there.  
 15 Q. Yes, but she was underneath Joanna Hernandez?  
 16 A. Yes. But we couldn't go to the seniors to talk to the  
 17 seniors to say anything.  
 18 Q. So you are talking about those underneath  
 19 Joanna Hernandez?  
 20 A. Underneath Joanna Hernandez.  
 21 Q. I see. You say that you didn't -- this is way back, so  
 22 I don't think really -- just in passing. You didn't get  
 23 any training in 1999?  
 24 A. No, not at all.  
 25 Q. Right. You refer to an incident at paragraph 19 of your

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1 witness statement. {F/23/3} I think I am right in  
 2 saying, I may not be right, that this would be 2000?  
 3 A. More or less, yes.  
 4 Q. It was a long time ago?  
 5 A. Mm.  
 6 Q. So before 2002, I think; would that be right?  
 7 A. Yes.  
 8 Q. Then you refer in paragraph 22 {F/23/4} to something we  
 9 have had other witnesses allude to, and it looks as if  
 10 you thought it was a rather heavy-handed joke?  
 11 A. Yes.  
 12 Q. Would you agree?  
 13 A. Yes, I would.  
 14 Q. Yes. Now, turning to the report that you did of  
 15 13 June, you mention an occasion -- it's {M24/1/1},  
 16 page 1, if anyone wants that. Yes. The first bullet  
 17 point, you refer to an incident with, you say, Mr Matto?  
 18 A. Yes.  
 19 Q. And he was out all night?  
 20 A. Yes.  
 21 Q. You assumed that nothing was done about any criticism of  
 22 that, but you don't know, do you, obviously?  
 23 A. I think something should have been done, they left  
 24 the -- actually they left the residents unattended.  
 25 Q. Sorry?

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1 A. The residents unattended.  
 2 Q. Yes, that's right, and you say you assume that nothing  
 3 was done about --  
 4 A. Nothing at all, I never heard anything, they actually  
 5 just told me to keep quiet and never say anything, like  
 6 I've never seen anything.  
 7 Q. You had never heard anything, right. Can we date that?  
 8 A. That was when I started, just a month and a half later.  
 9 Q. So 1999?  
 10 A. (Witness nods).  
 11 Q. Right. So that's 1999. Then the next incident is  
 12 Mr Bassadone had a lady friend, I think, visit him in  
 13 the flat?  
 14 A. Yes.  
 15 Q. Again, can we date this?  
 16 A. That was about a year and a half later.  
 17 Q. So 2000?  
 18 A. 2000, yes.  
 19 Q. 2000?  
 20 A. (Witness nods)  
 21 Q. Then the next incident you refer to is when, an occasion  
 22 when you say Mr Bassadone arrived under the influence --  
 23 A. Yes.  
 24 Q. -- of drink?  
 25 A. (Witness nods).

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1 Q. Can I ask you to look at a document, which is bundle  
 2 {E/2/18} ? Do you see that?  
 3 A. (Witness nods)  
 4 Q. Do you see the date of it? It's 6 February 2002.  
 5 A. (Witness nods).  
 6 Q. I want to get that date in my mind, to see whether this  
 7 is the occasion you are talking about.  
 8 A. Probably, I can't remember exactly the dates, because  
 9 this was many years ago.  
 10 Q. It's entirely understandable, if I may say so. I am  
 11 just wondering whether this triggers your memory.  
 12 Nigel Bassadone, do you see that, "Re: Disciplinary  
 13 Hearing"?  
 14 A. Yes.  
 15 Q. There was going to be a disciplinary hearing with  
 16 Duncan Jones team leader -- no, sorry, following  
 17 a meeting with Duncan Jones. Do you see in the middle:  
 18 "The matters under the disciplinary procedure that  
 19 will be considered are:  
 20 "A complaint of gross misconduct ... in that you are  
 21 said to have been intoxicated on the premises ... on  
 22 27 January 2002?"  
 23 A. Yes.  
 24 Q. Does that trigger your memory that the occasion you are  
 25 talking about was 27 January 2002?

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1 A. Yes.  
 2 Q. Yes, it is the same thing?  
 3 A. (Witness nods)  
 4 Q. Yes?  
 5 A. Yes.  
 6 Q. You nod, but that lady over there can't write down  
 7 "nods". Well, she does sometimes write down "witness  
 8 nods", actually but I am sure she would prefer it if you  
 9 said "yes".  
 10 You were not there, as I understand it, from what  
 11 you were saying in your report?  
 12 A. I've got it in my other reports, not in this one.  
 13 Q. You say in this report you weren't there. "I was not  
 14 there when all this happened".  
 15 A. No, no, when that was happening, I was actually in the  
 16 flat, in flat 3.  
 17 Q. That's what I thought.  
 18 A. Sorry.  
 19 Q. You heard this?  
 20 A. Yes, I heard this.  
 21 Q. Would it be fair to say you don't have any direct  
 22 knowledge of this yourself?  
 23 A. Yes.  
 24 Q. It would be fair to say that?  
 25 A. Yes.

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1 THE CHAIRMAN: Just one thing, Ms Hassan, in relation to the  
 2 earlier incident, you said "They told me to be quiet" or  
 3 words to that effect. Who was "they"?  
 4 A. She told me to be quiet, Manolita Adamberry.  
 5 MR ENGLEHART: Yes, we are going to hear from her.  
 6 Then turning to the next bullet point down that  
 7 begins:  
 8 "Another incident which upset me", when you thought  
 9 that Sharon Berini was acting unfairly towards you  
 10 because she wanted you to stay on night shift.  
 11 A. Yes.  
 12 Q. Can we date this again?  
 13 A. I was up in Bishop Healy, this must have been 2003, more  
 14 or less.  
 15 Q. You say you were working in Bishop Healy?  
 16 A. Yes, they transferred us to Bishop Healy, all the  
 17 residents.  
 18 Q. When there was a flood, I think, was that it?  
 19 A. Yes.  
 20 Q. Right. What you were told was that Angie had a motherly  
 21 bond with this young man?  
 22 A. Yes.  
 23 Q. And Sean Matto said the same?  
 24 A. Yes.  
 25 Q. But you didn't believe it?

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1 A. No.  
 2 Q. Is that right?  
 3 A. Yes.  
 4 Q. The general thrust of what I am reading seems to be that  
 5 you didn't like Sharon Berini at all?  
 6 A. Once she gave the statement, no, even at the beginning  
 7 we used to give a report, tell about incidents, and she  
 8 always used to just leave it on a side. Because it was  
 9 all to do with her boyfriend working there,  
 10 Nigel Bassadone, or with her friends.  
 11 Q. You are talking about, what, 2002, are you? 2000?  
 12 A. An incident from 1999 until 2005 since I was there.  
 13 Q. I know, but I don't think he was her boyfriend -- no  
 14 doubt we will hear about it, I really don't know, but  
 15 I think by the time we get to 2005 I don't think  
 16 Mr Bassadone was her boyfriend, was he?  
 17 A. They were going out together since the beginning, they  
 18 were always on and off.  
 19 Q. Could I ask you to look at two documents before  
 20 I conclude my examination? The first one is at  
 21 {M16/3/1}. You didn't write this letter, so I am not  
 22 going to ask you about the content. But it does refer  
 23 to you in a few places. It's a letter by Ms Berini to  
 24 Isabella Tosso of 29 August 2005. I am going to ask you  
 25 about the places where you personally are referred to,

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1 to see if you have any comment on that.  
 2 In the third paragraph she says:  
 3 "I informed you at this time that I was being  
 4 victimised by my manager ... Joanna Hernandez, a senior  
 5 support worker Gabrielle Llambias, an acting senior  
 6 support worker Denise Hassan ..."  
 7 Did you think that she was being victimised by you?  
 8 A. By me, no.  
 9 Q. By the others?  
 10 A. By the others, no.  
 11 Q. You didn't. Right.  
 12 Going on over the page, over two pages, in fact  
 13 {M16/3/3} in the first full paragraph, the matter, do  
 14 you see, with regards to this gentleman?  
 15 A. Yes.  
 16 Q. Do you see she says in the third sentence:  
 17 "I was never misleading in my report and in fact  
 18 I did not dwell too much on ... Denise Hassan's  
 19 involvement in the miscommunication of information ..."  
 20 Do you know what she might have been referring to or  
 21 not?  
 22 A. She might have been referring to where I actually had to  
 23 lend the money to be with [name redacted] and Gabbie  
 24 when we had to take him to the hospital to.  
 25 Q. Was she perhaps referring to your report, do you think,

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1 because that was June and this letter is August?  
 2 A. I don't know, but I know ... (Shakes head).  
 3 Q. Then if you go down from, do you see down the page,  
 4 two-thirds of the way down:  
 5 "From Saturday 11 June and out of working hours  
 6 Joanna Hernandez, Gabrielle Llambias, [you] and  
 7 Stacey McKay were all involved in calling staff members  
 8 into the office ..."  
 9 Is that right?  
 10 A. Yes.  
 11 Q. That is right. This was out of working hours?  
 12 A. Yes.  
 13 Q. Anyway, the four of you were all involved together in  
 14 collecting the information?  
 15 A. Yes.  
 16 Q. Right. Could I now ask you finally to look at  
 17 a document at bundle {D48/46/43} ?  
 18 This refers to you, that's why I am asking you about  
 19 it. It's an email from Marie Gomez, who I'm not sure,  
 20 you didn't really have any dealings with her?  
 21 A. No, none at all.  
 22 Q. To Jaime Netto about the Industrial Tribunal case. Do  
 23 you see at the end:  
 24 "The bottom line ..."  
 25 A. Yes.

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1 Q. "... was that ... Hernandez could not manage the  
 2 place -- during the witch hunt period she allowed  
 3 Denise Hassan, a support worker, to act as assistant  
 4 manager and even manager when Denise was not even  
 5 a senior whilst there were other people who were seniors  
 6 with experience and qualifications eg Liz Gallagher or  
 7 Sean Matto."  
 8 Is there anything you would like to say about that?  
 9 Is it accurate?  
 10 A. It's accurate.  
 11 Q. It's accurate? Well, I am sure --  
 12 THE CHAIRMAN: What's the reference to the witch hunt  
 13 period, Ms Hassan?  
 14 A. I don't believe there was a witch hunt --  
 15 THE CHAIRMAN: Can you tell? Do you know what she's  
 16 referring to?  
 17 A. I have no idea I don't believe there was a witch hunt.  
 18 MR ENGLEHART: I was going to say, I am sure I don't think  
 19 you agree with the expression "witch hunt", do you?  
 20 A. No.  
 21 Q. Although that's what I believe, don't you know, that  
 22 Isabella Tosso was telling Joanna Hernandez was going  
 23 on? Do you or don't you know?  
 24 A. Sorry?  
 25 Q. Do you know that Isabella Tosso described the collecting

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1 of this information, these reports, as a witch hunt  
 2 against Sharon Berini?  
 3 A. I knew that.  
 4 Q. You knew that?  
 5 A. Yes.  
 6 Q. Right. Anyway, you were promoted, is that the position?  
 7 That is accurate, what's --  
 8 A. I was acting, yes. Not by Joanna Hernandez but by  
 9 Marie Gomez, who told me to be there and try and do as  
 10 best as I could.  
 11 MR ENGLEHART: I am sure you did, yes, very well.  
 12 I have no further questions, sir.  
 13 THE CHAIRMAN: Right. Mr Vasquez, do you want to ask some  
 14 questions?  
 15 MR VASQUEZ: Yes. But prior to asking a question, sir, the  
 16 incident in bullet point 1 and paragraph 26 of the  
 17 statement has now been dated 1999. I am going to make  
 18 the assumption, unless I am guided otherwise by you,  
 19 that I don't need to deal with it.  
 20 THE CHAIRMAN: You don't need to, Mr Vasquez, if and insofar  
 21 you think the incident plays into some later period --  
 22 MR VASQUEZ: Well, I may ask about that.  
 23 THE CHAIRMAN: You can touch on it briefly if you want to  
 24 set the context.  
 25 MR VASQUEZ: Yes, that is an issue I wanted to clarify, I am

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1 grateful.  
 2 THE CHAIRMAN: Yes.  
 3 Questions suggested by MR VASQUEZ  
 4 MR VASQUEZ: I represent Sharon Berini, and I represent  
 5 Sean Matto, and I also represent Richard Muscat.  
 6 I don't think that concerns you in relation to the  
 7 evidence you have given.  
 8 You have expressed, you have explained that on  
 9 13 June 2005 you made this report?  
 10 A. Yes.  
 11 Q. That report came about why?  
 12 A. That report came about why? Because when they asked me  
 13 to write a report --  
 14 Q. Who asked you, Joanna Hernandez?  
 15 A. Joanna Hernandez asked me to write a report, I wrote  
 16 everything I couldn't say before, because I was trying  
 17 and trying and nobody did anything, for the reports that  
 18 were done before.  
 19 Q. You couldn't say before?  
 20 A. Sorry?  
 21 Q. That you couldn't say before?  
 22 A. Yes.  
 23 Q. Did you try and say it before?  
 24 A. Yes, I did.  
 25 Q. To whom?

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1 A. Sharon Berini.  
 2 Q. And all these said to her?  
 3 A. Not those things but like for example anything that  
 4 would happen in the Home, I have seen this, an incident,  
 5 and she would tell me --  
 6 Q. Can we date some of the things? Sharon Berini was  
 7 acting manager from when?  
 8 A. Then at the time she was senior, at the time at the  
 9 beginning she was senior, this was at the beginning when  
 10 I got in, when I just started work.  
 11 Q. She was a senior carer?  
 12 A. Yes.  
 13 Q. Okay, so you are suggesting that this was reported to  
 14 her?  
 15 A. Yes.  
 16 Q. At that time?  
 17 A. At that time, yes.  
 18 Q. My understanding is, for example, in relation to the  
 19 incident in 1999 when Sean Matto left, is that there is  
 20 no recollection of that by the person you say who told  
 21 you about it? Do you have anything to say?  
 22 A. Yes, I actually told that night that Sean Matto left, he  
 23 just told me "I'll be off for an hour, if you need  
 24 anything just call Manolita Adamberry, who is just  
 25 beside in flat 2". I couldn't leave the residents

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1 unattended, so I actually phoned her and told her, "It's  
 2 been about two hours, he is still not back".  
 3 Q. Do you have any reports that you made to Sharon Berini  
 4 about all these incidents?  
 5 A. They told me: just keep quiet, do not say anything --  
 6 Q. Who is "they"?  
 7 A. They, Manolita Adamberry and Sharon Berini, "because if  
 8 not, you will get into trouble."  
 9 Q. I am talking about all the incidents, not just that one.  
 10 They just always told you to be quiet?  
 11 A. Yes. They had their own little group.  
 12 Q. And you accepted that?  
 13 A. I couldn't do anything else. They would actually tell  
 14 me --  
 15 Q. There were people above them.  
 16 A. But I was new so I didn't know, so I actually used to  
 17 say -- always go to your seniors, so I would go to my  
 18 seniors.  
 19 Q. You were new in 1999, but by 2002 you weren't new?  
 20 A. No I wasn't new, I was already victimised so many times  
 21 I did not want to, I was afraid.  
 22 Q. I don't want to fall into the trap of cross-examining  
 23 you and being stopped.  
 24 Did you make at any stage before the 13 June 2005  
 25 any written report?

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1 A. I made reports, yes, I did.  
 2 Q. Where are they?  
 3 A. I gave them to the seniors?  
 4 Q. To who?  
 5 A. Sharon Berini got a few reports of mine, to the seniors.  
 6 Q. No, above Sharon Berini? You said you didn't pay any  
 7 attention to ...  
 8 A. She was my senior at the time, I didn't give it to  
 9 anybody else.  
 10 Q. Did you make any written reports to the manager of the  
 11 Home?  
 12 A. No.  
 13 Q. Did you make any written reports to the assistant  
 14 manager of the Home?  
 15 A. No, only when Joanna Hernandez came in, then when she  
 16 asked me, I did the reports.  
 17 Q. When she asked you. That's important. Only when she  
 18 asked you?  
 19 A. I recall an incident, I went to her, spoke to her, and  
 20 she told me "make a report, for it written down".  
 21 Q. As I understand it, correct me if I am wrong, you helped  
 22 organise all the other people who made reports at the  
 23 time?  
 24 A. I never told anybody to do a report. I just called them  
 25 in the office --

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1 Q. That Saturday. did I understand incorrectly that  
 2 Saturday you helped --  
 3 A. I called people in the office.  
 4 Q. -- call people to make reports?  
 5 A. Yes. Not to make reports, "Please come in the office".  
 6 Q. Just to come into the office?  
 7 A. Yes.  
 8 Q. So who asked them to make the report?  
 9 A. Joanna Hernandez.  
 10 Q. Joanna Hernandez. Can we go to {E/2/18} ? This is the  
 11 letter relating to the disciplinary. Do you have that  
 12 on your screen?  
 13 A. Yes.  
 14 Q. If we go to the, after the numbered paragraphs, two  
 15 paragraphs down, starting "The management representative  
 16 will call witnesses ..."; yes?  
 17 A. Yes.  
 18 Q. "The management representative will call witnesses to  
 19 the hearing."  
 20 Do you see that?  
 21 A. Yes.  
 22 Q. Can you read the next sentence?  
 23 A. "They will be Yvette Gonzalez, Jenny Garrett,  
 24 Sharon Berini, Angelica Williams and  
 25 Mandy Spencer-Ball."

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1 Q. So Sharon Berini was a witness to the incident they were  
 2 investigating? She was not accused of any disciplinary  
 3 matter, she was a witness; is that right?  
 4 A. Yes.  
 5 Q. Okay, thank you. But you complain about her?  
 6 A. Yes, I do.  
 7 MR VASQUEZ: I think that's all for now, thank you very  
 8 much.  
 9 THE CHAIRMAN: Thank you, Mr Vasquez.  
 10 MR NAVAS: Sir.  
 11 THE CHAIRMAN: Mr Navas, you want to go next?  
 12 MR NAVAS: I am happy to go next.  
 13 THE CHAIRMAN: Yes, you appear for Manuela Adamberry?  
 14 MR NAVAS: That is correct. Sir, before I go on, I think  
 15 I have understood your response to Mr Vasquez in  
 16 relation to the incident in 2009 involving  
 17 Mr Sean Matto. My understanding is that that does not  
 18 come within the relevant period for the Inquiry, so I am  
 19 reluctant to ask any questions if they won't take the  
 20 matter any further.  
 21 THE CHAIRMAN: This was 6 February 2002, when was the  
 22 incident supposed to --  
 23 MR NAVAS: No, this is the incident in the report of  
 24 13 June 2005, the incident at the first bullet point  
 25 where Mr Matto allegedly left the premises.

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1 THE CHAIRMAN: Right. That was 1999, I think the evidence  
 2 was.  
 3 MR NAVAS: That's correct.  
 4 THE CHAIRMAN: Mr Navas, as I said to Mr Vasquez, the  
 5 Inquiry is not directed at events which occurred  
 6 pre 2002. If you think that the evidence about this  
 7 incident is in some way relevant to or impacts upon  
 8 later matters, well then --  
 9 MR NAVAS: No.  
 10 THE CHAIRMAN: You don't?  
 11 MR NAVAS: No.  
 12 THE CHAIRMAN: I needn't trouble you, then, Mr Navas.  
 13 MR NAVAS: Then, Mr Chairman, I have some questions  
 14 regarding another matter, I would like some  
 15 clarification of which, it's a matter of 2003.  
 16 THE CHAIRMAN: Right. So now we are within the timeframe of  
 17 the Inquiry?  
 18 MR NAVAS: That's correct.  
 19 Questions suggested by MR NAVAS  
 20 MR NAVAS: Sir, if I could take Ms Hassan to paragraph 20 of  
 21 her recent statement, at {F/23/3} , please.  
 22 THE CHAIRMAN: Right.  
 23 MR NAVAS: Sir, I have a number of questions for Ms Hassan,  
 24 but I would like to put them through you initially, just  
 25 in case you feel that they are somehow inappropriate or

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1 irrelevant.  
 2 THE CHAIRMAN: You are certainly entitled to ask questions  
 3 about this incident, because your client was allegedly  
 4 directly involved, so proceed, and if there is something  
 5 I am concerned about, obviously I'll draw it to your  
 6 attention.  
 7 MR NAVAS: Perhaps, Ms Hassan, before you answer my first  
 8 questions, just wait for the Chairman to decide whether  
 9 it's an appropriate question or not.  
 10 Could I just ask you to read to yourself  
 11 paragraph 20, please?  
 12 A. Yes.  
 13 THE CHAIRMAN: That's certainly an appropriate question!  
 14 MR NAVAS: Sorry. Before we go on, the Inquiry is referring  
 15 to the resident mentioned in that paragraph as  
 16 Resident N. When you refer to that resident, please  
 17 refer to him as Resident N and not by his name.  
 18 THE CHAIRMAN: Do you see that, Ms Hassan, because we have  
 19 been trying to keep the names out of it if possible.  
 20 A. Yes.  
 21 MR NAVAS: Now, you say that you recall seeing Ms Adamberry  
 22 and Ms Borastero trying to arouse Resident N.  
 23 A. Yes.  
 24 Q. What do you mean by that?  
 25 A. Playing with him. Playing around with him, fooling

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1 around with him, in the sense of touching his bum.  
 2 Q. Touching his buttocks?  
 3 A. Yes.  
 4 THE CHAIRMAN: What age was Resident N at that stage?  
 5 A. I really can't recall his age.  
 6 THE CHAIRMAN: Give me a rough idea.  
 7 A. He must have been in his 40s.  
 8 THE CHAIRMAN: Right.  
 9 MR NAVAS: You go on to say that Ms Adamberry then went into  
 10 his room --  
 11 A. Yes.  
 12 Q. -- and lay on top of Resident N?  
 13 A. Yes.  
 14 Q. Can you give us a little bit more information about  
 15 that, what do you mean exactly?  
 16 A. She laid on top of him, on his bed, on one of the  
 17 resident's bed, and just started jumping up and down,  
 18 like.  
 19 Q. She started jumping up and down?  
 20 A. She laid on top of him and she started moving.  
 21 Q. How do you mean? Can you explain a little further?  
 22 A. I don't know how to explain it as.  
 23 Q. I am just asking you so that the Inquiry can better  
 24 understand what you are saying.  
 25 A. She was lying on top of him, as like ...

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1 THE CHAIRMAN: Did you think it was a joke, or how did you  
 2 -- what did you think of it?  
 3 A. It was a really bad joke --  
 4 THE CHAIRMAN: A really bad joke?  
 5 A. A really bad joke. It's like when you get involved with  
 6 someone and you are in the bed with someone, that's how  
 7 she was doing it.  
 8 MR NAVAS: You are saying that Ms Adamberry was mimicking  
 9 a sexual act --  
 10 A. Yes.  
 11 Q. -- on Resident N. Right.  
 12 THE CHAIRMAN: Was Resident N distressed at all? What was  
 13 his reaction?  
 14 A. Yes.  
 15 MR NAVAS: Did these events occur at the same time and on  
 16 the same day?  
 17 A. I just saw it that once.  
 18 Q. On the same day?  
 19 A. On the same day.  
 20 Q. Where were you when you saw the --  
 21 A. In the kitchen.  
 22 Q. -- incident?  
 23 A. I was in the kitchen and you could see through to the  
 24 bedroom.  
 25 Q. Right. What did you do about this?

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1 A. I couldn't do anything.  
 2 Q. You couldn't do anything?  
 3 A. No.  
 4 Q. Why not?  
 5 A. Because they always used to make fun of them, and they  
 6 were all in a group, they got their little groups.  
 7 Q. So you couldn't do anything, so you didn't report it to  
 8 anyone?  
 9 A. No, if you would have reported to the senior they  
 10 wouldn't have done anything. They didn't want to know.  
 11 Q. Who was the senior?  
 12 A. The senior at the time was Michelle Garro.  
 13 Q. Are you sure about that?  
 14 A. Yes, I am sure. She was the senior in flat 2, and this  
 15 used to happen in flat 2.  
 16 Q. My understanding is that -- my instructions are -- this  
 17 occurred in flat 1?  
 18 A. No, this occurred in flat 2. I was there.  
 19 Q. You were working in flat 2?  
 20 A. I was there, I was working that night, it was in  
 21 a Christmas, it was Christmas.  
 22 Q. This was a serious incident; you agree?  
 23 A. Yes.  
 24 Q. And you were quite distressed about it yourself?  
 25 A. Yes.

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1 Q. You are quite distressed about it now, when you are  
 2 retelling it.  
 3 THE CHAIRMAN: Are you all right, Ms Hassan?  
 4 A. Yes.  
 5 MR NAVAS: Could I take you to {M24/1/1}, which is page 1  
 6 of the 13 June 2005 report, please. You were referred  
 7 to that before, Ms Hassan. Could you read the first  
 8 line, after the date, to yourself?  
 9 THE CHAIRMAN: The two lines at the top of the page?  
 10 A. Yes.  
 11 MR NAVAS: Yes, please, that's what I am referring to.  
 12 A. Yes.  
 13 Q. Right. It reads:  
 14 "... some of the incidences of malpractice that  
 15 I have unfortunately either witnessed or been  
 16 involuntarily involved in."  
 17 A. Yes.  
 18 Q. Okay. If I could have the paragraph 20 on the previous  
 19 document {F/23/3} brought up again, please. Thank you.  
 20 If I could refer you to paragraph 20 again. You say  
 21 that you actually recall seeing this yourself?  
 22 A. Yes.  
 23 Q. My question to you is: if you didn't mention it on the  
 24 13 June 2005 report, why have you mentioned it in this  
 25 statement nearly eight years later?

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1 A. Because I couldn't talk about everything at that time.  
 2 Q. But this was a serious incident in your own description?  
 3 A. Yes, it was. Yes, it was.  
 4 Q. And at the time you were being asked to report on issues  
 5 of malpractice which you yourself had witnessed?  
 6 A. Yes, yes, but I was so scared to actually report it  
 7 because of the -- because where it might have happened  
 8 they would have told me "you are going to lose your job  
 9 if you say anything", no?  
 10 Q. But I mean not at the time, you have explained why you  
 11 didn't report it at the time, I mean in your report?  
 12 A. Now?  
 13 Q. No, in your report of 13 June 2005?  
 14 A. 2205, I didn't report it.  
 15 Q. You didn't report it either?  
 16 A. No, I didn't.  
 17 Q. But you say that -- and why didn't you report it in  
 18 your --  
 19 A. I didn't think of it at the time. I think it was too  
 20 strongly to say a thing like that in a report.  
 21 Q. You didn't think of it, or you decided not to include it  
 22 in your report?  
 23 A. I decided not to include it because it was too strong,  
 24 I couldn't say it, I couldn't bring it out.  
 25 Q. Right, but the --

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1 THE CHAIRMAN: Why couldn't you bring it out, Ms Hassan?  
 2 A. I was finding it so hard already writing all the other  
 3 incidents.  
 4 THE CHAIRMAN: You have described it as a serious incident  
 5 and obviously --  
 6 A. Yes, it was.  
 7 THE CHAIRMAN: -- from your description, it would have been  
 8 one, so why --  
 9 A. It didn't come to my mind that day.  
 10 THE CHAIRMAN: Right.  
 11 MR NAVAS: So is it that you didn't remember it at the time?  
 12 A. I didn't remember it at the time.  
 13 Q. Not that you were scared of making that allegation at  
 14 the time? There is a difference. Do you see what  
 15 I mean?  
 16 A. To tell you the truth, it was both things. I was scared  
 17 of making the allegation, and the next that you said(?)  
 18 just now.  
 19 Q. So you were scared of making the allegation but you  
 20 didn't remember it anyway?  
 21 A. I didn't remember it anyway.  
 22 Q. So which of the two is it?  
 23 A. I didn't remember.  
 24 Q. Right. Your report of June 2005 is quite comprehensive  
 25 in terms of allegations of sort of, shall I call it sort

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1 of staff interpersonal issues, and it's very  
 2 comprehensive. You were certainly not scared of making  
 3 those allegations against --  
 4 A. No.  
 5 Q. -- quite a number of people?  
 6 A. No.  
 7 Q. So then why were you scared of making allegations of  
 8 alleged abuse against residents?  
 9 A. It's like I said, I didn't remember at the time.  
 10 Q. So the reason you didn't make the allegations of abuse  
 11 which you have now made in your more recent statement,  
 12 and there are a number of allegations of abuse, only one  
 13 of which concerns my client, are because you did not  
 14 remember them at the time --  
 15 A. No, no, at the time it was too much. I had too much  
 16 on -- I had too much on me saying, and I didn't remember  
 17 at the time, that's why I never wrote it down.  
 18 Q. What has made you remember them now, eight years later?  
 19 A. Because when I went through it again, then it came, it  
 20 came to my mind. Everything, the whole story again.  
 21 Q. So incidents, serious incidents --  
 22 A. Yes.  
 23 Q. -- of abuse, alleged abuse against residents --  
 24 A. Yes.  
 25 Q. -- you could not remember a few years, possibly,

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1 months, weeks, after they occurred, but you can remember  
 2 them now after eight years?  
 3 A. Yes.  
 4 THE CHAIRMAN: I think that's really a comment, Mr Navas.  
 5 MR NAVAS: I apologise. I'll move on.  
 6 I have just one more question for you, Ms Hassan.  
 7 Is it not the case that it was in fact Resident N  
 8 himself who had a tendency to grab the buttocks of  
 9 female carers?  
 10 A. Not that I ever saw.  
 11 Q. You never saw that?  
 12 A. No.  
 13 Q. Never saw that?  
 14 A. No, never saw that.  
 15 Q. How many times did you work with Resident N?  
 16 A. With Resident N just a few weeks.  
 17 Q. A few weeks?  
 18 A. (Witness nods)  
 19 Q. How long did you work at the Home?  
 20 A. At the Home in total about six years.  
 21 Q. Six years?  
 22 A. Because I was in other flats, and then I was moved to  
 23 other teams.  
 24 Q. So you have no knowledge of what I am asking you  
 25 about --

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1 A. No, none at all.  
 2 Q. -- about Resident N's tendency to grab --  
 3 A. Never at all, at least not personally, never saw  
 4 anything.  
 5 Q. Right, and you never heard of that either?  
 6 A. Heard, yes, but never saw it.  
 7 Q. What did you hear?  
 8 A. That he used to touch women's buttocks, but not that  
 9 I saw, I didn't see it.  
 10 Q. Right. Bear with me one second. In your live evidence,  
 11 I may be at risk of repeating myself with this question,  
 12 today you have said that Ms Hernandez requested that you  
 13 report on anything that had happened at the Home?  
 14 A. Yes.  
 15 Q. That was a pretty wide instruction, yet do you not think  
 16 it is odd that in your report you failed to mention any  
 17 allegations of abuse?  
 18 A. Because I was really -- I had a depression then, I could  
 19 remember only certain things, not everything.  
 20 MR NAVAS: I have no further questions, thank you.  
 21 THE CHAIRMAN: Thank you very much. Mr Borastero Porter?  
 22 MR BORASTERO PORTER: Yes, Mr Chairman.  
 23 Questions suggested by MR BORASTERO PORTER  
 24 MR BORASTERO PORTER: Ms Hassan, I act for Nigel Bassadone  
 25 in this matter, and I would like to ask you a few

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1 questions.  
 2 I would like to refer to document {M24/1/2} , the  
 3 report made on 13 June, page 2, the first bullet point  
 4 in that report.  
 5 A. Yes.  
 6 Q. You claim that you were working on flat 2. What hours  
 7 were you working? What was your shift pattern that day?  
 8 A. I was that morning.  
 9 Q. You were a mornings ...  
 10 A. No, sorry, that day I was on nights.  
 11 Q. What time was nights?  
 12 A. We used to start at 9 and finish at 9 in the morning.  
 13 Q. 9 pm to 9 am, and you claim that at 7 o'clock in the  
 14 morning my client came into the flats?  
 15 A. Yes.  
 16 Q. Is that correct? You were working with whom that night?  
 17 You can refer to your statement, the first paragraph.  
 18 A. That night I was working in respite.  
 19 Q. If you read the first sentence on the first bullet  
 20 point.  
 21 A. No, in flat 2, sorry, I was working in flat 2 that  
 22 night.  
 23 Q. You were doing a sleep-in?  
 24 A. Yes.  
 25 Q. With Yvette Gonzalez; is that correct?

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1 A. Yes.  
 2 Q. You claim that about 7 o'clock in the morning --  
 3 A. Yes.  
 4 Q. -- Mr Bassadone came in, he looked under the influence,  
 5 he took off his clothes, and he went to sleep in  
 6 flat 2's sitting room; is that correct?  
 7 A. Yes.  
 8 Q. You state that he was under the influence, he went to  
 9 the sofa, and you left the flat; is that correct?  
 10 A. They told me to leave the flat, to rush into respite,  
 11 and to try and hold Mandy, not to come into flat 2.  
 12 Q. No, no, if you read this statement, read down from where  
 13 I have just taken you:  
 14 "He took off his clothes, covered himself with  
 15 a quilt and went to sleep in flat 2's sitting room."  
 16 A. Yes --  
 17 Q. "At that stage I left for flat 3" --  
 18 A. Yes, because Yvette was there nights, and I was sleeping  
 19 and I had to go to flat 3 to work.  
 20 Q. No, you said:  
 21 "... as I preferred not to be part of that kind of  
 22 practice or behaviour?"  
 23 A. Yes, it's true.  
 24 Q. Even though there was this person who was under the  
 25 influence, you left the other care worker there on her

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1 own?  
 2 A. Yes.  
 3 Q. You then go on to say that you remained in flat 3 for  
 4 the remainder of your shift?  
 5 A. Yes.  
 6 Q. Which I presume was until what time?  
 7 A. Until 9.  
 8 Q. Then at 9 what did you do?  
 9 A. I started my shift. My 9 am shift to work. I was on  
 10 a sleep-in, finished at 9, and I started my shift to  
 11 work from 9 until 9 in the night.  
 12 Q. So you were working from 9 to 9 --  
 13 A. I was working on a sleep-in that night, and then  
 14 I started my shift in flat 3 from 9 am to 9 pm.  
 15 Q. So --  
 16 A. So I was sleeping, I was in a sleep-in on a night.  
 17 Q. But you were awake at 7 o'clock?  
 18 A. At 7 o'clock, yes, I was getting ready.  
 19 Q. Okay. If we can carry on down that paragraph, right to  
 20 the part where you say:  
 21 "I am unsure of how that incident was dealt with  
 22 after that."  
 23 THE CHAIRMAN: That's about six or seven lines up from the  
 24 next bullet point.  
 25 MR BORASTERO PORTER: Sorry, Mr Chairman, I have missed --

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1 if you go further up, you say you went to flat 3, then  
 2 you carry on and say:  
 3 "I am not able to give a first-hand account of what  
 4 happened ..."  
 5 That is line 14 from the bullet point.  
 6 THE CHAIRMAN: Can user that, Ms Hassan?  
 7 A. "I am not able to give a first-hand account of what  
 8 happened at flat 2", yes.  
 9 THE CHAIRMAN: That's right, that's the bit, yes.  
 10 MR BORASTERO PORTER: "... but I witnessed how, after  
 11 a while, Nigel left flat 2 via the kitchen exit,  
 12 followed by Mandy."  
 13 A. Yes.  
 14 Q. Then:  
 15 "Mandy asked Nigel to leave the premises, and return  
 16 the following day."  
 17 Is that correct?  
 18 A. Yes.  
 19 Q. Would it surprise you -- and you were in flat 3 all the  
 20 time?  
 21 A. From 7 am, when I got ready, yes, I went to flat 3 and  
 22 I stayed there.  
 23 Q. Were you standing by the door when you saw this happen?  
 24 A. Yes.  
 25 Q. Would it surprise you, if we turn to a document which

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1 was prepared for the Tribunal, which is at tab E/2/19,  
 2 {E/2/20}, the tenth line down, it says --  
 3 THE CHAIRMAN: Sorry, Mr Borastero Porter, just remind me,  
 4 this was a document prepared for the Industrial  
 5 Tribunal.  
 6 MR BORASTERO PORTER: That is correct. No, this was  
 7 a document prepared for the disciplinary, I apologise.  
 8 THE CHAIRMAN: I see. Right.  
 9 MR BORASTERO PORTER: On the tenth line down, it says:  
 10 "I managed to remove Nigel Bassadone from the  
 11 situation down to the office in respite."  
 12 Wasn't respite flat 3?  
 13 A. Yes.  
 14 Q. You say you saw him leave?  
 15 A. Flat 2 coming into flat 3.  
 16 Q. That is not what -- you have said he left the premises.  
 17 A. I saw him in the corridor coming down to flat 3.  
 18 Q. So he stayed with you in flat 3?  
 19 A. No, he didn't stay with me, he was coming with Mandy  
 20 down the corridor to flat 3.  
 21 Q. You say here in the previous document on the report:  
 22 "Mandy asked Nigel to leave the premises and return  
 23 the following day."  
 24 A. That was in the actual flat.  
 25 Q. So he said that in your presence in the flat 3?

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1 A. He stayed in flat 3. I can't remember exactly the point  
 2 but I heard it, I heard what she told Nigel Bassadone.  
 3 Q. If we go further down your report, where you start:  
 4 "It was quite surprising that Nigel continued to  
 5 work without any kind of disciplinary action taken  
 6 against him."  
 7 Were you not aware that they collected statements  
 8 that same day?  
 9 A. No, I wasn't aware, I wasn't aware of that.  
 10 Q. Were you not aware that a full disciplinary was held?  
 11 A. No.  
 12 Q. You weren't. Did you not speak to the manager of the  
 13 home of what you had experienced?  
 14 A. No.  
 15 Q. Did you make a report on the day of the incidents?  
 16 A. No.  
 17 Q. So you just made believe that nothing had happened?  
 18 A. Yes.  
 19 Q. And this was not to Sharon Berini that you had to make  
 20 a report; is that correct?  
 21 A. Yes.  
 22 Q. This would have been to the manager at the time, who  
 23 was --  
 24 A. Yes --  
 25 Q. -- dealing with the situation?

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1 A. Yes.  
 2 Q. Which was Mandy Spencer-Ball?  
 3 A. Yes.  
 4 Q. And you never informed her either?  
 5 A. No.  
 6 Q. How long did this situation take, when -- can you  
 7 remember whether it was hours after this --  
 8 A. I can't remember, I can't recall that.  
 9 Q. You can't recall. But you must have spoken about the  
 10 situation with other people? Or you just made believe  
 11 that you had never ...  
 12 A. I just carried on with my work.  
 13 Q. Because you do put on your statement:  
 14 "... but I can assure you that no-one expected Nigel  
 15 to return to work after that incident."  
 16 So you must have discussed it with other people?  
 17 A. Probably my colleagues.  
 18 Q. And your colleagues would have been?  
 19 A. I can't remember, this was years ago, I can't remember  
 20 who was there at the time.  
 21 Q. You can't remember who was there on that day?  
 22 A. I just remember talking to Sharon and Yvette, because  
 23 they were there at the time.  
 24 Q. And Mandy?  
 25 A. And Mandy.

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1 Q. So you must have spoken to the manager about the  
 2 incident?  
 3 A. I never spoke to Mandy about the incident.  
 4 Q. I put it to you that Sharon gave a statement for the  
 5 disciplinary, and so did the other care workers which  
 6 you have spoken about, so you must have known that there  
 7 was a disciplinary?  
 8 A. I didn't know there was a disciplinary.  
 9 MR BORASTERO PORTER: I have no more questions.  
 10 THE CHAIRMAN: Thank you. Mr Mahtani, I think  
 11 Michelle Garro was mentioned at some point. Do you want  
 12 to ask any questions?  
 13 MR MAHTANI: Yes, Mr Chairman, I do.  
 14 Questions suggested by MR MAHTANI  
 15 MR MAHTANI: Good morning, Ms Hassan.  
 16 A. Good morning.  
 17 Q. As the Chairman has pointed out, I represent  
 18 Michelle Garro and Yvette Borastero, formerly known as  
 19 Yvette Gonzalez. There are just two or three questions  
 20 I want to ask you, as most I needed to ask have already  
 21 been asked.  
 22 Turning to the report you made of 13 June, which is  
 23 at {M24/1/2}, can you see that on your screen?  
 24 A. Yes.  
 25 Q. Moving to the line that says, just below halfway down

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1 that particular bullet point:  
 2 "Further to this, what I found quite disturbing was  
 3 the fact that Yvette said that between herself and  
 4 Sharon Berini they had had to dispose of some cocaine  
 5 down the toilet that Nigel had left on the sitting room  
 6 beside the sofa where he had been sleeping."  
 7 A. Yes.  
 8 Q. Now, you didn't see this, did you?  
 9 A. No, I didn't. This was told --  
 10 Q. This report that you have made is purely based on what  
 11 my client --  
 12 A. What they told me, yes.  
 13 Q. -- told you? My learned friend has now made you aware  
 14 that there was a disciplinary?  
 15 A. Yes.  
 16 Q. And for the purposes of that disciplinary, no less than  
 17 five witness statements or reports were compiled from  
 18 the manager all the way down to the support workers, so  
 19 we have five reports from Mandy Spencer-Ball, from  
 20 Sharon Berini herself, from Jennifer Garrett, from  
 21 Angelica Williams, and from Yvette Borastero --  
 22 Yvette Gonzalez -- and none of them mention at all any  
 23 incident involving any cocaine or any flushing down the  
 24 toilet of any drug or illegal substance. My question to  
 25 you is: could you possibly have been mistaken about what

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1 Yvette Gonzalez told you in respect of the cocaine?  
 2 A. I remember exactly her words, what she said.  
 3 Q. Which were?  
 4 A. That she had to dispose of the cocaine down the toilet.  
 5 Q. So do you not find it odd that five sets of --  
 6 A. I do.  
 7 Q. -- reports --  
 8 A. I do --  
 9 Q. -- based on the same incident by people who saw it  
 10 first-hand, and none of them made mention of the  
 11 cocaine?  
 12 A. I do.  
 13 Q. I see.  
 14 Moving on to the report that you made in, I believe,  
 15 2003, F23, page 3. I beg your pardon, I am looking for  
 16 the report that you made for the Inquiry. It's still  
 17 F23, tab 3. {F/23/3}. It should come up on the screen  
 18 in a minute. (Pause).  
 19 THE CHAIRMAN: We have M24/1/3. Is that right?  
 20 MR MAHTANI: No, Mr Chairman, I am looking for F23, page 3.  
 21 Apologies for the confusion.  
 22 MR ENGLEHART: It's the witness statement.  
 23 THE CHAIRMAN: Yes.  
 24 (Pause)  
 25 MR MAHTANI: There it is again. I am going to focus once

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1 again on that tiny paragraph 20 towards the bottom of  
 2 the page. I am a little confused, and I wonder if you  
 3 can lend a bit of clarity to this: Resident N, which is  
 4 explicitly mentioned in that paragraph, was the subject  
 5 of the accusation or allegation that you claim you  
 6 saw --  
 7 A. Yes.  
 8 Q. -- in Christmas of 2003. Tell me, Resident N, can you  
 9 remember who his neighbours were? I am going to ask  
 10 a question before that: how many residents tended to  
 11 occupy a flat? How many service users would occupy  
 12 a flat?  
 13 A. In a flat?  
 14 Q. On a residential basis?  
 15 A. As in living there?  
 16 Q. Mm.  
 17 A. It was about six or more. About six or seven.  
 18 Q. Can you remember who the six or seven would have been  
 19 occupying at the same time as Resident N?  
 20 A. [Name redacted] --  
 21 Q. Can I refer to maybe a few that might jog your memory,  
 22 do you have the list of residents in front of you?  
 23 THE CHAIRMAN: Yes, look at the bit of paper, Ms Hassan,  
 24 with the letters that we are using.  
 25 A. Yes.

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1 MR MAHTANI: You might recall Resident W as being  
 2 a neighbour of Resident N's at the time. Now, we are  
 3 seeking to avoid using names if possible --  
 4 A. Yes.  
 5 Q. -- to protect the identity of the given service user,  
 6 so I will refer to them by their designation. Would you  
 7 agree that Resident W, or you might remember that  
 8 Resident W was a neighbour in the same flat as  
 9 Resident N?  
 10 A. She was in the same flat but not besides Resident --  
 11 Q. No, it's okay, she was in the same flat?  
 12 A. (Witness nods)  
 13 Q. Would you recall that Resident K was also a neighbour of  
 14 Resident N in the same flat?  
 15 A. Yes.  
 16 Q. Good, that's excellent. Would you recall that  
 17 Resident T was a neighbour of Resident N in the same  
 18 flat?  
 19 A. No.  
 20 Q. So you do remember, that's excellent.  
 21 A. Mm.  
 22 Q. Would you also remember any other residents that would  
 23 neighbours there, perhaps Resident AI?  
 24 A. A, yes.  
 25 Q. At the bottom of the page.

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1 A. No.  
 2 Q. Resident B?  
 3 A. Yes.  
 4 Q. And possibly Resident A as well?  
 5 A. Yes.  
 6 Q. Would it shock you, then, to learn that all of these  
 7 residents were residents of flat 1 and not flat 2?  
 8 A. Yes.  
 9 Q. It would shock you. Would it also shock you that their  
 10 senior was Ms Gabrielle Llambias?  
 11 A. Yes. Sorry, it would shock me?  
 12 Q. Would you agree with it, that they were all residents of  
 13 flat 1?  
 14 A. Yes, yes, I would agree.  
 15 Q. Which means that Resident N was a resident of flat 1?  
 16 A. Yes. Yes.  
 17 Q. And not of flat 2 as you indicated earlier?  
 18 A. Mm.  
 19 Q. Which means --  
 20 THE CHAIRMAN: Just a moment, Ms Hassan.  
 21 A. He was there because it was Christmas and he came over.  
 22 MR MAHTANI: Let me just clarify for the sake of the  
 23 Inquiry: Resident N was a resident of flat 1?  
 24 A. Yes.  
 25 Q. But during the incident of Christmas 2003 he happened to

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1 be in flat 2?  
 2 A. Yes, because he came over, it was Christmas, so --  
 3 Q. Excellent, thank you for that clarification --  
 4 A. -- they actually used to leave the door open and come  
 5 over --  
 6 THE CHAIRMAN: Just a moment. Let her finish, Mr Mahtani.  
 7 Finish what you wanted to say, Ms Hassan.  
 8 A. Yes. They used to, there was a door connecting to both  
 9 flats, so that door would mostly sometimes -- at times  
 10 it would be open and they would come over and visit.  
 11 That's why he was there that night.  
 12 MR MAHTANI: So in your recollection, Resident N was  
 13 visiting flat 2 --  
 14 A. Yes, he was visiting.  
 15 Q. --at the time of this particular incident?  
 16 A. Yes.  
 17 Q. Now, further on down paragraph 20, in fact in sentence 2  
 18 of paragraph 2, you state that the incident with  
 19 Manolita occurred in his room?  
 20 A. Not in his room, in a bedroom, not in his room.  
 21 Q. I must be misreading it then.  
 22 THE CHAIRMAN: Let me clear this up. When you say "his  
 23 room", do you mean the room where he was?  
 24 A. Where he was.  
 25 MR MAHTANI: Which room would that have been, do you recall?

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1 A. I will look at the list. Resident J.  
 2 Q. Right, so again, for the purposes of clarification,  
 3 Resident N was in Resident J's room --  
 4 A. Yes.  
 5 Q. -- at flat 2 --  
 6 A. Yes.  
 7 Q. -- visiting for Christmas?  
 8 A. Yes.  
 9 Q. Would it not have made more sense then that --  
 10 A. He came to the flat to visit and they took him into  
 11 Resident J's room.  
 12 Q. They took him to Resident J's room?  
 13 A. Yes. Yes.  
 14 Q. And at that point you --  
 15 A. That's when it happened.  
 16 Q. Right. I only have two small questions, then, to ask  
 17 that follow on from that. The first one is: would it  
 18 not have made more sense to report the incident to the  
 19 senior that was responsible for Resident N?  
 20 A. Yes.  
 21 Q. Who would have been Gabbie Llambias at the time?  
 22 A. Yes.  
 23 Q. And not the senior who was in charge of flat 2, who had  
 24 very little to do with [name redacted]?  
 25 A. Yes.

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1 Q. Could that have been an oversight on your part?  
 2 A. Yes.  
 3 Q. Thank you for that. Turning to the second question --  
 4 THE CHAIRMAN: You agree that that would have been a better  
 5 way of dealing with it, Ms Hassan?  
 6 A. I would have agreed to actually just telling a senior  
 7 whoever -- which one -- whoever is the senior, they were  
 8 all resident, it doesn't matter, I should have told one  
 9 of the senior, anybody, any senior.  
 10 MR MAHTANI: What I possibly don't understand, perhaps it  
 11 might assist --  
 12 A. Gabbie wasn't there that night working, she wasn't  
 13 working that night, I was working on nights --  
 14 Q. Neither was Michelle --  
 15 A. Neither was Michelle.  
 16 THE CHAIRMAN: Wait a minute, because we have to avoid  
 17 a situation where two people are speaking at once, not  
 18 least because it doesn't help me, and secondly because  
 19 the transcribers can't get it down.  
 20 So Ms Hassan, just finish what you wanted to say.  
 21 A. Yes. Michelle wasn't there that night, and Gabbie  
 22 wasn't there that night, they weren't working. I was  
 23 working that night.  
 24 MR MAHTANI: So when did you actually report this to  
 25 Michelle?

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1 A. I never reported it to Michelle.  
 2 Q. So you never reported it to Michelle?  
 3 A. I never said it --  
 4 Q. And you never reported it to Gabbie?  
 5 A. No, because I had already incidents that happened, even  
 6 small incidents that we would report and they wouldn't  
 7 do anything. So then I gave up and I wouldn't report  
 8 any more.  
 9 Q. Would it be fair to say that Gabbie Llambias enjoyed  
 10 a very healthy long-standing friendship with you?  
 11 A. We were just friends in the Home.  
 12 Q. Did it not go beyond that?  
 13 A. No.  
 14 Q. Were you not very good friends indeed?  
 15 A. We were friends in the Home, yes.  
 16 Q. Did you not have sufficient confidence or closeness with  
 17 Gabbie to relate this incident?  
 18 A. Yes, I did.  
 19 Q. But you chose not to?  
 20 A. But I never told her.  
 21 Q. I only have one final question, then, and I think we can  
 22 probably it a day on that point.  
 23 Manolita Adamberry, what would you say her weight  
 24 is? Have a guess. I am not expecting you are an expert  
 25 on this.

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1 A. I don't know.  
 2 THE CHAIRMAN: That's a rather strange question.  
 3 MR MAHTANI: It is, Mr Chairman.  
 4 THE CHAIRMAN: I mean, age is one thing, weight is another.  
 5 MR MAHTANI: I have consulted Ms Adamberry.  
 6 THE CHAIRMAN: I hope you have.  
 7 MR MAHTANI: I have indeed and I have taken her blessing on  
 8 this one.  
 9 THE CHAIRMAN: Otherwise you could be in serious trouble!  
 10 MR MAHTANI: Would it surprise you to learn that she weighs  
 11 80 kilos? It doesn't surprise you?  
 12 A. No.  
 13 Q. She is not the slimmest of people, but then she is  
 14 not -- I'll cut that question short.  
 15 THE CHAIRMAN: I think you had better stop there,  
 16 Mr Mahtani.  
 17 MR MAHTANI: Would you also be surprised to learn that --  
 18 well, you might remember that Resident N was a rather  
 19 short man and very slight in build?  
 20 A. Yes.  
 21 Q. So your suggestion that --  
 22 A. Manolita at that time didn't weigh 80 kilos, she was  
 23 slimmer.  
 24 Q. She was slimmer?  
 25 A. Slimmer than that.

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1 MR MAHTANI: I will leave the rest to your imagination.  
 2 I think I have made my point, Mr Chairman.  
 3 THE CHAIRMAN: You have asked your questions, certainly.  
 4 Does anybody else want to ask one?  
 5 MR ENRIGHT: Sir, Ms Balestrino has one question and then if  
 6 I could ask a couple of questions once --  
 7 THE CHAIRMAN: Yes.  
 8 MS BALESTRINO: Sir, if I may, I wanted to seek further  
 9 clarification on paragraph 22 of Ms Hassan's statement.  
 10 {F/23/4}  
 11 THE CHAIRMAN: Certainly.  
 12 Questions suggested by MS BALESTRINO  
 13 MS BALESTRINO: If I may, Ms Hassan, I have been instructed  
 14 by The Disability Society. You make direct reference to  
 15 Resident Z in paragraph 22 of your statement.  
 16 THE CHAIRMAN: Do you want to just check who Resident Z is?  
 17 A. Yes, please.  
 18 THE CHAIRMAN: Have a look at the bit of paper.  
 19 MS BALESTRINO: His name appears in the paragraph.  
 20 A. Yes.  
 21 Q. My question is: did you ever see this actually  
 22 happening?  
 23 A. Yes, because I used to count the tablets.  
 24 Q. Sorry, it's paragraph 22.  
 25 A. 22, sorry.

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1 THE CHAIRMAN: Have a look at paragraph 22, Ms Hassan.  
 2 A. Yes, I actually saw it happening.  
 3 MS BALESTRINO: You saw it happening?  
 4 THE CHAIRMAN: And heard it as well?  
 5 A. Yes.  
 6 MS BALESTRINO: It was a threat, you say you heard the  
 7 threats on that occasion, did you actually see Mr Santos  
 8 actually carry out that threat?  
 9 A. Yes.  
 10 Q. And place Resident Z --  
 11 A. Yes.  
 12 Q. -- in the freezer?  
 13 A. Yes.  
 14 Q. Could you tell us when that was?  
 15 A. I can't remember exactly a date but this was in daytime  
 16 working in flat 3.  
 17 Q. Do you recall the year more or less?  
 18 A. Well, I started 2001.  
 19 Q. So it was prior to --  
 20 A. I can't remember exactly, like I said, the date.  
 21 Q. Would you know more or less how old Resident Z was and  
 22 maybe we could --  
 23 A. He must have been three, three, nearly four.  
 24 MS BALESTRINO: Then, sir, I would then say that that was  
 25 prior to the Inquiry date.

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1 THE CHAIRMAN: It is.  
 2 MS BALESTRINO: I shall take the point no further.  
 3 THE CHAIRMAN: I think Ms Balestrino, it is probably best to  
 4 leave that where it is.  
 5 MS BALESTRINO: Yes, I shall take it no further.  
 6 THE CHAIRMAN: Mr Enright.  
 7 MR ENRIGHT: Thank you, sir, very much, just a few  
 8 questions.  
 9 THE CHAIRMAN: Right.  
 10 Questions suggested by MR ENRIGHT  
 11 MR ENRIGHT: Good morning, I am David Enright, I represent  
 12 Ms Hernandez. I assume you are tired, and I just have  
 13 a few questions.  
 14 Could we just look at your statement of June 2005  
 15 again, at {M24/1/2}. It's a very long paragraph. It's  
 16 been established that you were there for the beginning  
 17 of it, some of the end of it, and heard about what  
 18 happened in the middle. Part of what you heard was that  
 19 service user E, who is a Down's Syndrome sufferer, was  
 20 taken out of her bed to let Mr Berini(sic) into the bed  
 21 because he was drunk. Is that what you heard?  
 22 A. Yes.  
 23 Q. Who did you hear that from?  
 24 A. I heard that from Yvette.  
 25 Q. There is also a suggestion in that paragraph, I suggest

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1 a clear reference to drugs. Who did you hear from that  
 2 there were drugs in the flat?  
 3 A. Yvette.  
 4 Q. Could I please have M15/3? My apologies, it should be  
 5 {M15/4/1}. Yes, here it is. This is a fairly long  
 6 document, it's something you haven't been taken to  
 7 earlier. It is the detailed minutes of -- I am sorry.  
 8 A. That's okay.  
 9 Q. It's a detailed minute of the disciplinary hearing about  
 10 this incident. Could you please tab forward a page,  
 11 please, sir. {M15/4/2} You will see Ms Garrett  
 12 describing NB as being "very drunk".  
 13 Could you tab forward a further page? {M15/4/3}  
 14 Then you will see that it refers to two statements from  
 15 Sharon Berini.  
 16 A. Yes.  
 17 Q. The second paragraph where Ms Berini says that she went  
 18 into flat 2 with child Resident L?  
 19 A. Yes.  
 20 Q. And to see Mr Bassadone. In the third paragraph, he was  
 21 not fit to work because of drinking.  
 22 Could you tab forward a further page, please, sir?  
 23 And again? It's quite a long report. Yes, in this  
 24 final section {M15/4/5}, this is the submissions that  
 25 were made on behalf of Mr Bassadone, and in these two

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1 paragraphs and following, if you would just read the ...  
 2 THE CHAIRMAN: This is under paragraph 4 "Purpose From NB",  
 3 right.  
 4 MR ENRIGHT: Yes.  
 5 THE CHAIRMAN: Read those to yourself, Ms Hassan.  
 6 (Pause)  
 7 MR ENRIGHT: Can we have one more page, please, sir?  
 8 THE CHAIRMAN: Carry on over the page. {M15/4/6}  
 9 MR ENRIGHT: It's the top paragraph.  
 10 (Pause)  
 11 The point is that Mr Bassadone himself is saying  
 12 that it was medication drugs mixed with whiskey that  
 13 caused him to be like he was. I know you weren't there,  
 14 and you heard it was cocaine; are you sure you heard  
 15 that cocaine was flushed away?  
 16 A. Yes.  
 17 Q. Thank you. Could we please have {C1/2/3}? This is the  
 18 witness statement of Mandy Spencer-Ball, who I believe  
 19 was the manager at the time and who was involved in the  
 20 case?  
 21 A. Yes.  
 22 Q. If you could have a quick read of paragraph 5.  
 23 (Pause)  
 24 Then if you could go over to the next page, please,  
 25 where the paragraph continues. {C1/2/4}. Do you see

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1 the section:  
 2 "At which point I had to be called as a witness ...  
 3 he got off with a written warning."  
 4 Finally in Ms Ball's statement could we have  
 5 {C1/2/14}?  
 6 THE CHAIRMAN: Is this something that this witness knows  
 7 about? Do you go anything about this, Ms Hassan?  
 8 A. No.  
 9 THE CHAIRMAN: Well, we can try the next one and see.  
 10 MR ENRIGHT: It goes to the point about that she didn't know  
 11 about the disciplinary.  
 12 At C1/2/14 this describes Mr Bassadone as very  
 13 manipulative, hostile. I am very sorry, could we go to  
 14 the following page, the very end of this paragraph 23 in  
 15 the very final sentence of Ms Ball. {C1/2/15}  
 16 THE CHAIRMAN: What's the question, Mr Enright? I am not  
 17 sure what this witness can do.  
 18 MR ENRIGHT: Yes, the questions that you seem to be  
 19 suggesting that there was no point of complaining  
 20 because nothing ever happened is that right?  
 21 A. Yes.  
 22 Q. Does your experience chime with what Ms Ball was saying  
 23 in that final sentence?  
 24 A. Sorry?  
 25 Q. Does your experience -- Ms Ball is saying that there is

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1 simply nothing that could be done, they never got  
 2 anywhere. I think the point is perhaps not well made.  
 3 Finally, sir, at the very beginning, when you were  
 4 giving evidence at the very start, it was suggested to  
 5 you, it was said to you that Ms Tosso had described the  
 6 collection of these statements, including this  
 7 statement, as being a witch hunt?  
 8 A. Yes.  
 9 Q. Could I ask you, please, to turn to {M20/1/1} ?  
 10 (Pause). You wouldn't have been shown this, this was  
 11 a supervision minute between Ms Hernandez and Ms Tosso.  
 12 if you could see the last two paragraphs.  
 13 THE CHAIRMAN: You presumably haven't seen this before,  
 14 Ms Hassan?  
 15 A. No.  
 16 THE CHAIRMAN: No. Let's look at it, anyway, and see if you  
 17 can help. Last two paragraphs.  
 18 (Pause)  
 19 MR ENRIGHT: What you will see there is Ms Tosso was  
 20 authorising an investigation --  
 21 THE CHAIRMAN: What we can see there is exactly what  
 22 Ms Hassan has just read.  
 23 MR ENRIGHT: Yes, sir, my apologies.  
 24 THE CHAIRMAN: Did you know anything about that?  
 25 A. No.

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1 MR ENRIGHT: Those are all my questions, sir.  
 2 THE CHAIRMAN: Thank you very much. Thank you very much,  
 3 Ms Hassan, I'm very grateful to you for coming along.  
 4 THE WITNESS: Thank you.  
 5 (The witness withdrew)  
 6 THE CHAIRMAN: Mr Englehart, shall we start on the next  
 7 witness?  
 8 MR ENGLEHART: We certainly have a tight timetable today, as  
 9 you know.  
 10 THE CHAIRMAN: Yes, indeed. Let's carry on.  
 11 MR ENGLEHART: My learned friend Mr Azopardi will take the  
 12 next witness.  
 13 MR AZOPARDI: If I may, sir, the next witness is  
 14 Nigel Bassadone.  
 15 MR NIGEL BASSADONE (called)  
 16 THE CHAIRMAN: Good afternoon, Mr Bassadone, thank you very  
 17 much for coming. Do sit down, make yourself as  
 18 comfortable as you can. We won't keep you any longer  
 19 than necessary, but we are very grateful to you for your  
 20 statement and for your coming along today to help us.  
 21 Mr Azopardi will ask you a few questions. Can I ask  
 22 you, before he does that, to state your full name and  
 23 address for the record?  
 24 A. Nigel Bassadone, Apartment 49, Queensway Quay,  
 25 Gibraltar.

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1 Questioned by MR AZOPARDI  
 2 MR AZOPARDI: Mr Bassadone, you have heard previously,  
 3 I think you have been here, that we are trying to  
 4 refrain from referring to residents' names. You have  
 5 a list in front of you.  
 6 A. Yes.  
 7 Q. If you need to refer to anybody who is a resident, if  
 8 you could use the initial, I think we would be grateful.  
 9 There are a number of residents that you refer to in  
 10 your witness statement to the Inquiry, which is at  
 11 {E/2/1} . So when you get to the point that you may  
 12 need to feel that you should refer to anybody, if you  
 13 use the initial, that would be fantastic.  
 14 Let me just preface, before we start, your statement  
 15 is quite lengthy, and very helpful. I will be asking  
 16 you some questions in relation to the statement.  
 17 I won't be asking about every single detail. The  
 18 Inquiry will still take into account your witness  
 19 statement. But there are particular areas that we may  
 20 want to ask questions about.  
 21 THE CHAIRMAN: Is that okay, Mr Bassadone?  
 22 A. Yes, that's fine.  
 23 MR AZOPARDI: You worked at the Home as a support worker,  
 24 you say in paragraph 2, you have been using different  
 25 terminology here, you mean a care worker?

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1 A. Care worker, support worker.  
 2 Q. Is that correct?  
 3 A. Yes. That's what we considered a full-time employee.  
 4 Q. Full-time employee?  
 5 A. Supply workers were the part-timers.  
 6 Q. Sure, and you were a care worker for the better part of  
 7 a decade between 1997 and 2008?  
 8 A. Yes, that's right.  
 9 Q. You now work somewhere else; is that correct?  
 10 A. Yes, that's correct.  
 11 Q. So your last involvement at the Dr Giraldi Home was in  
 12 2008; is that correct?  
 13 A. Directly Dr Giraldi's, no, because by then Social  
 14 Services Agency had the Children's and Families, and we  
 15 were transferred -- I apologise, because me with dates,  
 16 but we were transferred with, if I may look at this?  
 17 THE CHAIRMAN: Yes, have a look at the paper.  
 18 MR AZOPARDI: You are looking for the resident name, AE,  
 19 I think?  
 20 A. Resident L. We were transferred, must have been 200 ...  
 21 it was when Ms Hernandez came to work as manager. We  
 22 were transferred to the Children and Families because we  
 23 were told that the child was underaged and he was better  
 24 suited for that service.  
 25 Q. Just to date it for you, Ms Hernandez started working in

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1 November 2004, so approximately at that time?  
 2 A. Maybe a couple of months later.  
 3 Q. I see, okay.  
 4 A. But I had been working previously with that child for  
 5 a good part of my working career there.  
 6 Q. I see. And that decision was taken, I think you refer  
 7 to it in paragraph 2 of your statement, because that  
 8 resident was a child and it was thought that it was  
 9 inappropriate, is that right, for a child to be there?  
 10 A. I mean, we were never given the reason, but more or less  
 11 that was what was said, that obviously he was  
 12 an underaged person and he was better suited for the  
 13 Children and Families section of Social Services.  
 14 Sorry?  
 15 THE CHAIRMAN: Were you content with that decision?  
 16 A. I mean, after working with the child for so long and  
 17 knowing he had his own problems, I felt -- I personally  
 18 felt -- that perhaps it wasn't the best of options,  
 19 considering that the sort of, let's say, senior workers  
 20 were more of a learning disability sort of area, and  
 21 Children and Families was a completely different sort  
 22 of, to the Dr Giraldi.  
 23 THE CHAIRMAN: Right.  
 24 A. It's got more to do with, you know, court cases and, you  
 25 know.

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1 MR AZOPARDI: So you didn't particularly feel that Children  
 2 and Family were a perfect environment for L anyway?  
 3 A. No.  
 4 Q. Tell me one thing, when you arrived in --  
 5 A. Sorry. We had to go along with it. The bosses tell you  
 6 what to do.  
 7 THE CHAIRMAN: We are not criticising you in the least.  
 8 I just asked you what you thought about it.  
 9 MR AZOPARDI: When you became a care worker in 1997, we have  
 10 heard as part of the evidence to the Inquiry there was  
 11 quite a turnover of staff and so on, were you given any  
 12 induction training or anything like that?  
 13 A. When I started? In 97, if I recall correctly, the  
 14 manager at that time was Mrs Risso, and I believe it was  
 15 sort of run by the church, by the late Bishop Caruana.  
 16 There was like a trust, you call it, who paid the wages,  
 17 how it was funded, I mean, obviously very, very soon  
 18 after, it must have been six months later, it's when  
 19 Milbury Care Services were contracted by the then  
 20 Government to run Social Services, basically to  
 21 restructure the whole Social Services.  
 22 Q. Okay. You did have at some point a relationship with  
 23 Ms Berini; is that correct?  
 24 A. Yes. Ms Berini is -- we were not married, we used to  
 25 live together, she is the mother of two -- we have two

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1 children in common.  
 2 Q. Okay. That relationship would have been, just give us  
 3 a feel for when -- when did it sort of end?  
 4 A. The eldest child has just turned 16, and we were not  
 5 together that long before he was conceived, so 16 years  
 6 ago, 17 years ago perhaps, considering the labour part  
 7 of the ...  
 8 Q. So 1996-ish, let's say? That's about 17 years, isn't  
 9 it?  
 10 A. 95/96. I remember actually I started working I think it  
 11 was a month before our eldest son was born.  
 12 Q. All right. The relationship lasted until?  
 13 A. Until ... it must have been our younger son must have  
 14 been six months old, six to eight months old when we  
 15 called it a day.  
 16 THE CHAIRMAN: So when would that have been, roughly?  
 17 A. 2000, the latter part of 2000.  
 18 MR AZOPARDI: I see, okay.  
 19 THE CHAIRMAN: I see.  
 20 A. More or less.  
 21 MR AZOPARDI: Ms Berini was working, was she, at the  
 22 Dr Giraldi Home when you arrived in 1997?  
 23 A. No.  
 24 Q. She joined when?  
 25 A. She joined -- I am terrible with dates -- as

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1 a support -- no -- as a support worker, just before  
 2 Milbury or just after Milbury arrived.  
 3 Q. Okay.  
 4 A. Dates, again.  
 5 Q. We know Milbury arrived in or took over in  
 6 November 1997.  
 7 A. November 1997, exactly. It must have been very early,  
 8 perhaps, 2008.  
 9 Q. 1998, you mean?  
 10 A. Mid-2008.  
 11 Q. Sorry, you mean 1998?  
 12 A. 1998, I am sorry.  
 13 Q. Okay. Was your working relationship affected in any way  
 14 by the relationship ending?  
 15 A. Not at all. Actually, actually the working relationship  
 16 was completely separate to our relationship outside.  
 17 Q. She was at that stage in 1998, was she, also a care  
 18 worker?  
 19 A. She had some background in care work from the UK. When  
 20 I met Ms Berini, she had just arrived in Gib, and after  
 21 Milbury came, obviously we needed the extra funds at  
 22 home with the young child, so she joined as a supply.  
 23 Q. As a supply --  
 24 A. As a part-timer.  
 25 Q. As a part-time supply worker, is that right, initially?

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1 A. Yes, because -- initially, yes, because when Milbury  
 2 came they offered contracts and I was only given  
 3 a 20-hour contract. Obviously we always worked the  
 4 other 20, or the better part of the other 20. So  
 5 basically we had a 40-hour more or less week.  
 6 Q. Then eventually she became a sort of permanent --  
 7 A. Eventually vacancies came out and obviously she applied  
 8 and she was -- yes.  
 9 Q. During the time that you were working there, did she  
 10 work in the same flat as you or a different flat?  
 11 A. I think when Milbury came, the thing is that when they  
 12 came, the Dr Giraldi Home as we know it today wasn't as  
 13 it is, it was a large one single unit, so basically  
 14 everybody used to work together. Milbury came, they  
 15 took the stance that they were going to separate them  
 16 into three different flats. Flat 1, flat 2, the respite  
 17 unit.  
 18 Q. Which is what I think has been called in the papers  
 19 unitisation?  
 20 A. Flat 3. Yes.  
 21 Q. That happened after you arrived?  
 22 A. That happened well after we arrived, yes. I think there  
 23 were sort of calling each flat, taking into account  
 24 their abilities -- the residents' abilities.  
 25 Q. In your statement, your statement is designed as

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1 a response to certain allegations that were put to you,  
 2 and I just want to touch upon certain paragraphs to give  
 3 you an opportunity to perhaps expand on certain things.  
 4 A. Mm.  
 5 MR AZOPARDI: Sir, as I was about to go into that subject,  
 6 I wonder if it's a good time?  
 7 THE CHAIRMAN: Yes. Mr Bassadone, it's not particularly  
 8 convenient, but we are going to stop for lunch now, if  
 9 that's okay with you.  
 10 A. That's fine.  
 11 THE CHAIRMAN: I will come back at 2 o'clock. So until  
 12 2 o'clock.  
 13 (1.00 pm)  
 14 (The short adjournment)  
 15 (2.00 pm)  
 16 THE CHAIRMAN: Yes, Mr Azopardi. Mr Bassadone, are you okay  
 17 to carry on?  
 18 A. Yes, I am fine, thanks.  
 19 MR AZOPARDI: Mr Bassadone, I was about to take you to  
 20 certain parts in certain documents that you refer to  
 21 anyway in your statement, and invite you to comment  
 22 further in relation to the issues that you raise.  
 23 So in paragraph 4 of your witness statement {E/2/2}  
 24 , you are commenting there on a document, and I will  
 25 just give the reference so that it's brought up on the

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1 screen for you, which is a draft audit report for  
 2 November 2004 to March 2005 prepared by  
 3 Joanna Hernandez. That's at {M23/5/1}, which is that  
 4 document. You say in your statement that you were  
 5 mentioned as one of the persons that she felt opposition  
 6 from.  
 7 A. Yes.  
 8 Q. But that you were unaware that she had those feelings  
 9 towards you. Perhaps you can describe your relationship  
 10 with Joanna Hernandez during the time that she was the  
 11 manager of the Home?  
 12 A. I mean, I knew Joanna before she came to the Home,  
 13 I knew her family quite well, I was actually quite close  
 14 to the family. They knew me very well. Actually I even  
 15 went to one of her relative's wedding. When she came to  
 16 the Home, I mean, everything seemed fine. The only time  
 17 that I can recall that she called me over was when  
 18 a certain, what do you call it, gossip was going around.  
 19 THE CHAIRMAN: Gossip?  
 20 A. Sorry, something reference to a change of shifts in the  
 21 rota, which was sort of a last minute, you know. Apart  
 22 from that, the only -- then obviously there was,  
 23 something went on after hours, and I was told by certain  
 24 people who went, who were called in to the office, and  
 25 obviously I decided to -- because -- decided to sort of

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1 keep a distance, but obviously I was there, I mean,  
 2 I was a support worker, I worked for the agency.  
 3 MR AZOPARDI: Perhaps I can stop you, and let's see if we  
 4 can get a bit more detail from you.  
 5 A. Sorry.  
 6 Q. I am not exactly sure what you are talking about, so  
 7 perhaps if you can give us a bit more detail. Really  
 8 what I am interested in is: first of all, were you  
 9 surprised by the comment that you were one of the  
 10 persons that were not supportive of her?  
 11 A. Yes, quite surprised actually.  
 12 Q. And why would you be surprised?  
 13 A. That comment, because I mean, supportive of her, you  
 14 mean?  
 15 Q. Yes, I am just --  
 16 A. She made the --  
 17 Q. What's your reaction, is what I am asking?  
 18 A. I mean, I was surprised because obviously as I said  
 19 before, I knew Joanna and her family for years before.  
 20 To say that, actually I didn't know why she was saying  
 21 that, you know. That's what surprised me. We had  
 22 never -- she was the manager --  
 23 THE CHAIRMAN: Can we have page 4 up on the screen? Page 4  
 24 of the draft report. {M23/5/4}, can you point us to  
 25 the bit, Mr Azopardi?

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1 MR AZOPARDI: Yes, it's towards the middle, just past the  
 2 middle, there is a paragraph there that says:  
 3 "At the end of the above specific month opposition  
 4 started to be felt towards the manager/SSA senior  
 5 management in meetings by the deputy, Sean Matto,  
 6 Craig Farrell, Kirushka Compson and Nigel Bassadone, who  
 7 in their majority have had serious allegations reported  
 8 concerning their ethical practices and professional  
 9 conduct."  
 10 Now, I am going to ask you about allegations against  
 11 you. Did you have a relationship with the manager where  
 12 you voiced opposition to her? If so, how?  
 13 A. The only point which I can sort of remember was, as  
 14 I said before, when the service user or client, as we  
 15 were told by Milbury to call them, was going to be  
 16 transferred to the Children and Families, and we felt as  
 17 a team and as individuals, after having looked after the  
 18 child for so long, that perhaps that wasn't the best  
 19 option for the child.  
 20 Q. We are talking about L?  
 21 A. We are talking about --  
 22 THE CHAIRMAN: Yes, you are.  
 23 A. That's right, L.  
 24 MR AZOPARDI: So when there was a decision taken by  
 25 Ms Hernandez in relation to L, you as a team you say

1 2 1

1 thought that it was not perhaps the right -- who else  
 2 was in the team?  
 3 A. Who else was in the team? The team, myself,  
 4 Kirushka Compson, she was the senior actually of the  
 5 team, Denise Hassan, Mandy Vallender, and -- then Mandy  
 6 came after. L's team was quite fixed. I mean, it  
 7 wasn't like today --  
 8 THE CHAIRMAN: It didn't change much?  
 9 A. No, no, no, not at all, because he required that sort of  
 10 consistency, obviously, yes.  
 11 THE CHAIRMAN: Because he required special treatment, yes.  
 12 A. And then as well, Kirushka, who was the senior, in one  
 13 of the meetings that came up, was going to be left in  
 14 Dr Giraldi, and it was Sean Matto was going to take her  
 15 place. Obviously Kirushka knew the ropes of how to deal  
 16 with [name redacted], Sean also knew it, but Kirushka,  
 17 she had been the senior for the team for quite a while.  
 18 So we felt -- but -- so that was raised with  
 19 Isabella Tosso in one of the case conferences, and  
 20 Isabella didn't approve of the change. It was a change  
 21 between -- organised between Mrs Hernandez and  
 22 Mrs Viagas, who was the other side in the Children and  
 23 Families.  
 24 MR AZOPARDI: Were there any other instances were you voiced  
 25 opposition to a managerial decision?

1 2 2

1 A. Not that I recall. Not that I recall.  
 2 THE CHAIRMAN: Were you voicing opposition or were you --  
 3 A. You are talking years back, its ...  
 4 THE CHAIRMAN: -- just expressing concerns about the  
 5 decision?  
 6 A. No, we were expressing concerns about the -- because we  
 7 were there for the child, we were not there for our own  
 8 benefit, you know. So obviously our concerns were in  
 9 reference to the child. That's ...  
 10 MR AZOPARDI: Okay. Then if you just go back slightly, the  
 11 first time I asked you that question, you said "The only  
 12 thing I can think of was to that effect, was that there  
 13 had been an incident after hours".  
 14 A. Yes.  
 15 Q. What were you talking about there?  
 16 A. I mean, the incident is what Mrs Hassan, who was the  
 17 person that came before me, stated, and that on,  
 18 I believe it was on a Saturday, actually --  
 19 Q. Are we talking about the January 2002 incident?  
 20 A. No, no, no.  
 21 Q. Are we talking about the matter that led to  
 22 a disciplinary?  
 23 A. We are talking about the sort of, how do you call it,  
 24 meeting or get-together or whatever, on a Saturday after  
 25 hours, office hours, where Mrs Hernandez, together with

1 2 3

1 Mrs Hassan, together with Mrs Llambias, together with  
 2 Mrs Stacey McKay, got together and started calling  
 3 people in, and asking for anything, anything you can  
 4 think of, negative of these people.  
 5 Q. Of what people, sorry?  
 6 A. Of myself, Sean Matto, Sharon Berini in specific.  
 7 Q. Right.  
 8 A. Because ...  
 9 Q. So you think that that --  
 10 A. No, no, after that, I was surprised because actually  
 11 why? Something's going on. When you get to know that,  
 12 you know that something is not right.  
 13 Q. When did you first get to hear about that?  
 14 A. I heard it at least because I mentioned it last, one of  
 15 the times I went in, and I was meant -- the late --  
 16 I don't know if I can say her name, she passed away  
 17 already. Can I say the name?  
 18 THE CHAIRMAN: We probably know who it is.  
 19 A. No, it's a worker, an ex-employee.  
 20 THE CHAIRMAN: You can mention the name of the --  
 21 A. Can I? Jackie Palmer, the late Jackie Palmer, she is  
 22 the one that said, "Nigel, this is what's been  
 23 happening".  
 24 THE CHAIRMAN: When was this, can you remember?  
 25 A. The dates should be there. Top of my head I can't

1 2 4



1 remember now. But I can remember I think somewhere in  
 2 the --  
 3 THE CHAIRMAN: Early 2005?  
 4 A. Si, it was that famous -- well, not famous, famous  
 5 because this is what --  
 6 MR AZOPARDI: If I can perhaps take you to your statement,  
 7 where you are talking about this, it's paragraph 4,  
 8 {E/2/2}, you are talking about the collection of  
 9 statements I think in June 2005.  
 10 A. Yeah. June. Yes, should be June, yeah.  
 11 Q. This conversation with Ms Palmer happened afterwards?  
 12 A. June, if that happened early June it must have happened  
 13 at least a couple of days after.  
 14 Q. So you first got to hear about this then?  
 15 A. Yeah, in the -- I knew there was something not right  
 16 because actually that same day, coincidentally, I drove  
 17 past the Dr Giraldi's and I saw certain cars parked  
 18 there which were Mrs Hernandez, Mrs Llambias, obviously  
 19 they are not office hours, they are not support workers.  
 20 So I actually called Sharon and asked her if something  
 21 had happened, because -- and she said that she hadn't  
 22 heard of anything. When I mentioned it, it's when  
 23 Mrs Palmer sat me down, it was in the kitchen of flat 2,  
 24 and told me what had been going on --  
 25 Q. And -- sorry.

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1 A. Sorry.  
 2 Q. Carry on.  
 3 A. Also people that were not -- that were called and said  
 4 "It's nothing", those people were also, from my  
 5 knowledge, from what they have said, they were sort of  
 6 told that they could be changed shifts and ...  
 7 Q. You find out a couple of days later. Was there then  
 8 a discussion among the staff that you knew these  
 9 statements were being collected?  
 10 A. Probably there was. I mean ...  
 11 Q. Do you recall any discussion about it?  
 12 A. The thing is that by that time we actually, what's his  
 13 name, his number again, Resident L was based in  
 14 Bishop Healy Home.  
 15 Q. I see.  
 16 A. So I used to go in maybe a couple of 20 minutes before  
 17 I had to collect him from school right opposite, and to  
 18 see the other members of staff, to see the residents,  
 19 have a coffee, before --  
 20 Q. Because you say that, you found out then a couple of  
 21 days later that statements were being collected, not  
 22 only to do with you but also to do with other members of  
 23 staff. You knew who those were, did you discuss that  
 24 with those members of staff or not?  
 25 A. Not really.

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1 Q. Okay.  
 2 A. Not really, no.  
 3 Q. What effect did your knowledge that those statements  
 4 were being collected have on you and the general working  
 5 environment?  
 6 A. I mean, the general working environment for within the  
 7 Home?  
 8 Q. Yes.  
 9 A. Within the Home, as I said, I didn't work directly  
 10 Dr Giraldi's by then, but with me I just got on with my  
 11 job. It's my prime concern is the child. But obviously  
 12 Garro start putting one and one together.  
 13 Q. Do you see your paragraph 4, so you just carry on,  
 14 second main paragraph there, you recount there that  
 15 Ms Hernandez put an allegation to you. You see the  
 16 sentence, it's the fourth line:  
 17 "She accused me of having made the changes" to  
 18 a rota. Were you surprised by that allegation?  
 19 A. Certainly, yes.  
 20 Q. Was the allegation true?  
 21 A. No. I mean, if you want me, I'll expand on that one.  
 22 Q. Please.  
 23 A. Which is the only sort of sticking point.  
 24 Q. Please.  
 25 A. Mrs Hernandez -- I used to work in Bishop Healy,

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1 Mrs Hernandez phoned me on a Saturday morning because it  
 2 was quite regular that staff went off sick at very short  
 3 notice. Obviously she must have been the on-call, and  
 4 she phoned, because there was no -- the seniors used to  
 5 work Monday to Friday as well. So she phoned up  
 6 Bishop Healy, and asked me who was working there, and  
 7 I said to her, "Listen, at the moment it's just me and  
 8 [name redacted], and I think there is a couple of  
 9 service users that are coming in."  
 10 Q. And L, sorry.  
 11 A. Coming in. So if I have a look at the rota, maybe we  
 12 can work something out. So obviously I looked at the  
 13 three rotas, because there we have the rotas for three  
 14 flats, 1, 2, respite, and making a couple of changes we  
 15 could sort of come to solve the problem of the people  
 16 that had gone off sick, to be able to cover the service.  
 17 We had to make a few changes, and one of them went  
 18 because we had also that night, and I recall clearly  
 19 service user -- where is he? -- X staying over with us  
 20 for respite, because respite, let's not forget that  
 21 respite had to be closed down because there was problems  
 22 with the roof, and the respite service was taken up to  
 23 Bishop Healy.  
 24 THE CHAIRMAN: Was this the flooding incident then?  
 25 A. Yes, that's right. Problems with the roof, in the

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1 middle of the night they had to be taken out urgently.  
 2 We had Resident X, who was in for respite service, he  
 3 had a one-to-one, a wake night, we used to call them  
 4 wake nights, and Resident L, who was a permanent  
 5 resident there, had his wake night as well. So one of  
 6 the changes was, as they are both residents who slept  
 7 throughout the night, perhaps by removing one of the  
 8 night staff and taking them over to another flat, and  
 9 I offered to do a sleep-in, just in case anything  
 10 happened I was there.  
 11 I ring Mrs Hernandez back, she tells me to give her  
 12 ten minutes, she was going to look at it. She phoned me  
 13 back, she gave me the go-ahead to do it. To my  
 14 surprise, two weeks later, I go into the office, which  
 15 was in flat 3, Mrs Hernandez and Mrs Llambias was there,  
 16 because Mrs Llambias, I think she was taking over the  
 17 duties of acting deputy from Mrs Berini, who was off for  
 18 leave. The first thing I was told when I went into the  
 19 office was asking where Sharon -- Ms Berini's laptop  
 20 was. That's her personal laptop, you have to ask her.  
 21 Then I was told that there were rumours going around,  
 22 gossip, that I had changed, made all the changes to stay  
 23 with this carer by ourselves up in Bishop Healy.  
 24 Obviously I was quite shocked. "Joanna, you know me,  
 25 I wouldn't be capable of doing something like that".

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1 But you tell me, and I will accept your -- fair enough.  
 2 I walked away.  
 3 Then I said to myself: I am not going to allow this  
 4 to happen, this is gossip, and I am not going to  
 5 allow -- if I've done something wrong, I raise my hand  
 6 and I say "Listen, I've done it, and I accept it", but  
 7 not for me the gossip. So I wrote her a letter back,  
 8 saying that I wanted that incident, this incident, to be  
 9 taken a bit further, and I wanted to know who were the  
 10 people involved in the gossip.  
 11 THE CHAIRMAN: Right.  
 12 A. Mrs Hernandez said that she was happy with my answer,  
 13 she wasn't going to take it any further, and I asked for  
 14 that letter to be placed in my file. So if you go back  
 15 to my file, the letter should be there.  
 16 MR AZOPARDI: Okay. Can we move on now to a separate  
 17 matter? So you answer an allegation that's put to you  
 18 which is contained in a witness statement of  
 19 Jordan Davis, and that reference is {C1/3/2} at  
 20 paragraph 5. You deny that, basically, you say in your  
 21 statement that that incident never happened. Is there  
 22 anything you want to add to that?  
 23 A. Which number is it, 6?  
 24 Q. Paragraph 6, yes.  
 25 A. Okay. I don't recall that happening.

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1 THE CHAIRMAN: So it's paragraph 6 you are looking at.  
 2 A. Yes.  
 3 THE CHAIRMAN: "On one occasion"?  
 4 MR AZOPARDI: Yes.  
 5 A. Yes.  
 6 THE CHAIRMAN: You have no recollection of that,  
 7 Mr Bassadone?  
 8 A. No.  
 9 MR AZOPARDI: And equally you deny an allegation that is  
 10 made in a statement of Mandy Spencer-Ball which is at  
 11 {C1/2/2}, which is an allegation of, in essence,  
 12 disposing of a passport.  
 13 More seriously, the one I want to take you to, which  
 14 is also on the same page, is the allegation in  
 15 paragraph 3 that she had heard that three members of  
 16 staff had been involved in some kind of sexual incident  
 17 in a bunk bed on the train to Lourdes, if you see that.  
 18 It's towards the end.  
 19 A. Yes.  
 20 Q. You give an explanation of that in paragraph 7 of your  
 21 witness statement. It's clear, at least in any event,  
 22 that Ms Spencer-Ball did not presence the alleged  
 23 incident, but I want to ask you a couple of things about  
 24 that, because you do give an explanation in paragraph 7,  
 25 as I say. So if we go back to paragraph 7 of your

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1 statement, which is at {E/2/5}, you give an explanation  
 2 there about sharing a cabin with care workers and  
 3 service users/residents?  
 4 A. Yes.  
 5 Q. It's Resident A, so at the bottom of that page, there is  
 6 a name you see, that's Resident A, had to share a cabin  
 7 with, I believe it's ...  
 8 THE CHAIRMAN: Resident V, I think.  
 9 MR AZOPARDI: Resident V, yes, please.  
 10 A. Yes. That's correct.  
 11 Q. Supported by a care worker, Jenny Garrett. There were  
 12 two sets of bunk beds.  
 13 A. Yes.  
 14 Q. As I understand it, are you saying that in this cabin,  
 15 there were four beds, in effect?  
 16 A. The cabin, if you want me to explain how the cabin is?  
 17 Q. Yes.  
 18 A. You go in, you have two bunk beds on one side, two bunk  
 19 beds on the other. The decision was made that obviously  
 20 the carers would sleep up top, and they would sort of --  
 21 if I slept this one (indicated) I could have --  
 22 THE CHAIRMAN: You could see across to the lower bunk?  
 23 A. I could see across to the male service user, and Jenny  
 24 could see across to the female who was below me. Yes.  
 25 MR AZOPARDI: I see.

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1 A. From where she got to the conclusion that that happened,  
 2 you will have to ask her.  
 3 Q. You were not in a cabin with Mr Turnock?  
 4 A. No.  
 5 Q. No, okay.  
 6 A. If you want me to clarify why I was with Mr Turnock?  
 7 Q. Yes, because if we can just put on screen {K/1/28},  
 8 paragraph 115 of that statement. You see this is  
 9 Mr Turnock's statement to the Inquiry. He says:  
 10 "I would also like to comment on the allegations  
 11 that I understand have been made against a carer ... in  
 12 respect of inappropriate behaviour ..."  
 13 He says at paragraph 116:  
 14 "On this trip Mr Bassadone slept in the carriage  
 15 with me at all times."  
 16 Is that incorrect?  
 17 A. No, the thing is, I'll tell you, Mrs Turnock, which  
 18 is --  
 19 Q. Mr Turnock?  
 20 A. No. Can we call him Mr Turnock or by a letter?  
 21 Mr Turnock; yes? He hasn't got a letter assigned.  
 22 THE CHAIRMAN: You can call him Mr Turnock, he is no longer  
 23 a resident there.  
 24 A. He wasn't a resident, okay.  
 25 MR AZOPARDI: No, he was not a resident.

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1 A. This was organised by the Faith and Light, that is  
 2 a church organisation, they arranged for service users  
 3 to go. Mrs Turnock, which is Mathew's mum, Odilia, she  
 4 went along as well. Each resident or person that needed  
 5 assistance was assigned a carer. Mrs Turnock wasn't  
 6 very happy with the carer assigned to her son. So after  
 7 we got to Lourdes, when we got to Lourdes, it was once  
 8 when we got there that I was assigned the care of  
 9 Mathew, and I don't know his name who was Mathew's  
 10 carer.  
 11 THE CHAIRMAN: Resident A.  
 12 A. Exactly. We shared, me and Mathew did share a room in  
 13 the hotel in Lourdes, not a carriage.  
 14 MR AZOPARDI: And on the way back?  
 15 A. On the way back? I can't remember on the way back. To  
 16 be honest with you, I can't remember on the way back.  
 17 Maybe I did, maybe I didn't. I can't recall.  
 18 Q. In any event, your position is, as is stated in that  
 19 paragraph, paragraph 7 of your witness statement, that  
 20 you deny that there was any such incident?  
 21 A. Yes. I mean, I can show you, I mean, you will have to  
 22 ask Mrs Mandy Spencer-Ball about how she came to with  
 23 that conclusion.  
 24 Q. Yes.  
 25 A. It was through a third party or I don't know.

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1 Q. Well, I don't think she says she was there, she just  
 2 makes the point.  
 3 A. Exactly.  
 4 Q. I just wanted to get a reaction from you.  
 5 A. May I also add, since it's been made reference about the  
 6 passport, I don't know if you are going to ask me about  
 7 that. I also deny that, and in fact I can tell you who  
 8 actually put the passport up there, and I knew after it  
 9 happened, and the passport was put up there by  
 10 Mrs Gabrielle Llambias, who didn't want Mandy to go out  
 11 on, I think it was Christmas party or something like  
 12 that, I'm not too sure.  
 13 Q. How do you know that? Do you know because you saw her  
 14 do that?  
 15 A. No, no, I didn't see her.  
 16 Q. Because you heard it from somebody else?  
 17 A. It was never, in fact --  
 18 Q. So you are not sure whether in fact that was --  
 19 A. Obviously I am not sure. I mean, it definitely wasn't  
 20 me who put it up there, burnt it.  
 21 Q. I think that's the more important point that we want to  
 22 hear about --  
 23 A. The burning of the passport.  
 24 Q. -- things that you are aware of and that happened or --  
 25 A. This was for me, it was the first time I have heard

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1 about this as well.  
 2 Q. All right. Now, your statement goes on to describe  
 3 the --  
 4 THE CHAIRMAN: Just one point on that, Mr Azopardi. You say  
 5 in your statement, going back to the trip to Lourdes --  
 6 A. Yes.  
 7 THE CHAIRMAN: You say:  
 8 "The very first time that I have heard of these  
 9 allegations was when I was handed the documents for the  
 10 Inquiry ..."  
 11 "And you say that Mrs Spencer-Ball never mentioned  
 12 it to you. Is that correct?  
 13 A. That's correct.  
 14 THE CHAIRMAN: Did anybody else ever question you about it?  
 15 A. No, no, not at all.  
 16 THE CHAIRMAN: Did you ever hear of any criticism of you  
 17 relating to that?  
 18 A. I mean, if people criticise us for the work we did in  
 19 Lourdes it's --  
 20 THE CHAIRMAN: No, no, no, criticism relating to the visit  
 21 to Lourdes.  
 22 A. In what way? I don't understand.  
 23 THE CHAIRMAN: You say the allegations weren't put to you,  
 24 I am just wondering whether you had heard any gossip  
 25 about it?

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1 A. I mean, if the allegations were put to me obviously  
 2 there would have been an investigation. Until today  
 3 there wasn't, as far as I know, I haven't been called up  
 4 to answer those allegations. This is the first time  
 5 I am given the chance to do it.  
 6 THE CHAIRMAN: Right.  
 7 MR AZOPARDI: This trip to Lourdes, do you remember when it  
 8 would have been? In terms of dating it, would it have  
 9 been before or after the disciplinary in 2002?  
 10 A. Maybe after.  
 11 Q. You are not sure?  
 12 A. I am not too sure.  
 13 Q. Okay. Well, if you are not sure --  
 14 A. I mean, I'm not too sure. I mean, with dates ...  
 15 Q. Let me take you to this incident of 27 January 2002.  
 16 And we are clear now -- I think also I am going to ask  
 17 you about the Denise Hassan letter that Ms Hassan was  
 18 referring to that incident in part of her letter this  
 19 morning.  
 20 A. Mm.  
 21 Q. That the only disciplinary you have had, when you were  
 22 working for the Social Services Agency?  
 23 A. Yes, that's correct.  
 24 Q. You say the facts, in your paragraph 8 of your  
 25 statement, {E/2/7} because this statement is made in

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1 reply to the provision by the Inquiry to you of the  
 2 witness statement of Ms Spencer-Ball and you say the  
 3 facts contained in the witness statement of  
 4 Ms Spencer-Ball is different to that that she supplied  
 5 to the disciplinary, and you then produce that. In  
 6 fact, the statements that were collected for the  
 7 disciplinary hearing are from {E/2/20} on to {E/2/27}.  
 8 THE CHAIRMAN: Which bit do you want, Mr Azopardi?  
 9 MR AZOPARDI: Well, I think the one that I want is --  
 10 I believe Ms Spencer-Ball's statement is the one that  
 11 starts at {E/2/20}, and I am not going to take you to  
 12 that detail of it, but I think she does say towards the  
 13 end, at {E2/2/22}, do you see that line:  
 14 "Although he smelt of alcohol I don't think he was  
 15 actually still drunk -- although I can't be certain."  
 16 This is at the end of the incident?  
 17 A. Yes.  
 18 Q. And towards the beginning at {E/2/20}, towards the  
 19 middle, it's about 13 lines down, there is a part that  
 20 starts:  
 21 "... though he was verbally hostile throughout.  
 22 I then asked him to explain his actions, and the  
 23 incident. At this point I noticed that N Bassadone  
 24 smelt faintly of alcohol, and I made him aware of this."  
 25 So that's why you're saying that her statements are

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1 different to the ones she made, is that what you are  
 2 saying?  
 3 A. I mean, she says part is that, and another part is that  
 4 I sort of pushed her and she almost fell over and  
 5 it's ...  
 6 THE CHAIRMAN: Do you say it's an exaggeration?  
 7 A. Just a bit, yeah.  
 8 MR AZOPARDI: If it helps you, if we go back to {C1/2/3},  
 9 page 3, and then page 4. {C1/2/4} Maybe the next page.  
 10 No, that's not the one. It's the earlier page.  
 11 THE CHAIRMAN: I think we are looking at too many things at  
 12 once, Mr Azopardi. I am getting confused.  
 13 MR AZOPARDI: Yes, I apologise.  
 14 THE CHAIRMAN: Let's concentrate on one particular thing.  
 15 MR AZOPARDI: Well, you say in your statement at paragraph 8  
 16 that --  
 17 THE CHAIRMAN: Right, we have that. {E/2/7}  
 18 MR AZOPARDI: In describing the incident, and perhaps we  
 19 should start there, it would help us if you described  
 20 the incident in your own words.  
 21 A. I mean, I have never denied actually the incident  
 22 actually happened, I took full responsibility of what  
 23 I did, I know I did wrong, perhaps I should have gone  
 24 home and phoned in sick. That's probably a mistake that  
 25 I made. But actually obviously I was there and

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1 I wanted -- I felt that I was capable of working,  
 2 obviously I wasn't, but I've never hidden the fact, and  
 3 I went to the disciplinary knowing I could be dismissed  
 4 or fired.  
 5 Q. Now, can you explain to us what exactly happened?  
 6 A. When? That day?  
 7 Q. Yes, the reason why there was a disciplinary.  
 8 A. The reason why is because at the time I was under  
 9 treatment for depression, and I had just started the  
 10 treatment, I believe, just started, or the medication  
 11 wasn't compatible with alcohol, so I had met a few  
 12 friends, gone out for a few drinks, and obviously, you  
 13 know, it didn't work out. So I went, actually I did go  
 14 in, took my clothes off, I don't know, taking a jacket  
 15 and lying on a sofa. Apart from that, you know,  
 16 I insisted, and it was all because I insisted I wanted  
 17 to stay and work, and the other persons there were  
 18 advising me to just go home.  
 19 Q. During the incident, were you violent to somebody?  
 20 A. Not at all.  
 21 Q. Had you --  
 22 A. I could have raised my tone of voice, that I am not  
 23 going to deny it --  
 24 Q. Apart from --  
 25 A. But violent? No.

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1 Q. Apart from medication, had you taken drugs?  
 2 A. No. Definitely not.  
 3 Q. Cocaine?  
 4 A. Definitely not.  
 5 Q. Any cocaine?  
 6 A. No, definitely not.  
 7 Q. Now, there was, as you say, a disciplinary, and in fact  
 8 the minutes of the disciplinary are in M15, so if we go  
 9 to that, {M15/3/1} is the letter following the  
 10 disciplinary which is the final written warning that was  
 11 the sanction given to you. But the document I want to  
 12 take you to is the minutes themselves at {M15/4/1} . So  
 13 you see there at the top of the page Mr Duncan Jones  
 14 presented the management case?  
 15 A. Mm.  
 16 Q. And the management were alleging gross misconduct or  
 17 serious misconduct?  
 18 A. That's correct.  
 19 Q. That's correct? He put the case to the Chairman of  
 20 gross misconduct/serious misconduct.  
 21 A. Mm.  
 22 Q. There is then a summary of the evidence of various  
 23 witnesses, which I won't take you to the detail on, but  
 24 perhaps ask you to comment on the evidence of  
 25 Ms Spencer-Ball which is at {M15/4/4} . Do you see her

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1 name there?  
 2 A. At the bottom, yeah? Yes.  
 3 Q. Can you read that to yourself, and then over the page,  
 4 the rest of it. {M15/4/5}  
 5 (Pause)  
 6 A. Mm.  
 7 Q. And then over the page. {M15/4/6}  
 8 (Pause)  
 9 A. Mm.  
 10 (Pause)  
 11 THE CHAIRMAN: Let's have the question, Mr Azopardi.  
 12 MR AZOPARDI: Sorry, I was waiting for him to finish. This  
 13 is a record of Ms Spencer-Ball's evidence in the  
 14 disciplinary.  
 15 A. Mm.  
 16 Q. Is this an accurate reflection of what happened on the  
 17 day?  
 18 A. As I say, this happened a long time ago, and to remember  
 19 everything, after being the way I was, you know, it's  
 20 vaguely I can remember it.  
 21 Q. Is there any comment that you would make to that?  
 22 A. Basically, what is it? (Pause)  
 23 THE CHAIRMAN: Well, I think it's probably a matter for the  
 24 Inquiry, isn't it, Mr Azopardi? I have seen the  
 25 relevant documents, I've seen the witness statements.

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1 MR AZOPARDI: Sir, I just wanted to see if he had any  
 2 reaction to the evidence given by Ms Spencer-Ball -- and  
 3 whether it was accurate or not.  
 4 A. Mandy, we used to call her, she was the manager and she  
 5 knew what the workers were like. I am very surprised,  
 6 very, very surprised now reading this, and recalling her  
 7 statement for this Inquiry, she states here -- where is  
 8 it? -- NB is very passionate about his job, she had  
 9 worked with NB now for 15 months and works hard, is  
 10 efficient and extremely reliable.  
 11 Q. It's fair to say, Mr Bassadone, that in presenting the  
 12 case for management, Mr Duncan Jones did make good  
 13 comments about you, which is at {M15/4/6} .  
 14 A. No.  
 15 Q. This is, I think, a reflection of what Mr Jones said on  
 16 the day itself of the disciplinary. The finding of the  
 17 disciplinary hearing was that you should have a written  
 18 warning; that's correct?  
 19 A. That's correct, yes. I think that's what I got, and it  
 20 was in my file for a year.  
 21 Q. If I can put to you, just finally on the disciplinary  
 22 hearing, the letter prepared by Ms Denise Hassan, which  
 23 is at {F/23/7} . Really it's over the page {F/23/8}.  
 24 So that incident, as you see there, she makes a number  
 25 of allegations in relation to that incident, albeit that

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1 she did explain this morning she wasn't there for most  
 2 of it, of physical abuse and about the consumption of  
 3 drugs, and those are allegations that you are rejecting;  
 4 is that right?  
 5 A. It seems to me that she has -- for a person who, as soon  
 6 as I came in, left the flat and managed to get such  
 7 a detailed report when she wasn't present, I don't know.  
 8 You should ask her again.  
 9 Q. Okay.  
 10 Now can I put to you just another document briefly?  
 11 It's at {C1/2/14} . This is an allegation, towards the  
 12 end of paragraph 22, by Mandy Spencer-Ball that, and  
 13 it's the last line:  
 14 "Things like the petty cash and the drugs, and  
 15 things like Nigel taking tablets and other things going  
 16 missing, would be uncovered."  
 17 Did you take tablets? I assume she means drugs.  
 18 A. Again, I think you need to ask Mandy that. She is the  
 19 one making the allegations. I can say no, but if she  
 20 obviously must have some proof when she has put it down  
 21 in writing. In fact --  
 22 Q. I am asking you whether it's true?  
 23 A. No, no, it's not true. In fact, if you may let me --  
 24 Q. Yes.  
 25 A. Yes? At the very beginning when Milbury came, there

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1 were certain tablets, we used to call them tablets, and  
 2 tablets did go missing. I was the one that raised the  
 3 alarm. I was the one that went over to St Martin's  
 4 School and spoke to the nurse there, if there was  
 5 a procedure or anything to store medication because  
 6 obviously the cabinet was on the floor, it wasn't on the  
 7 wall, there was no key to it, there was no records,  
 8 there was nothing. And she produced what I think she  
 9 mentioned as a DDA book. CID were called in, I was part  
 10 of the people being questioned. But that's the only  
 11 recollection I've got of tablets going missing.  
 12 Certainly not --  
 13 THE CHAIRMAN: So that's 1997, something like that?  
 14 A. 1997, 1998.  
 15 MR AZOPARDI: What kind of drugs, tablets were they?  
 16 A. Ritalin tablets. They were tablets taken by service  
 17 user, what is his name again?, L. L., yes.  
 18 Q. She makes an allegation in the next paragraph that you  
 19 had undergone drug rehabilitation; is that correct?  
 20 A. No. Sorry, I am laughing. No. You need to ask her  
 21 again.  
 22 Q. I know. We will get to that.  
 23 A. Where and when --  
 24 THE CHAIRMAN: She will be asked that, we just need to know  
 25 from you what the position is?

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1 A. Okay. No, no, definitely not. Definitely not.  
 2 MR AZOPARDI: You never have undergone drug rehabilitation?  
 3 A. No, no, no.  
 4 Q. Okay. Why do you think she would say this?  
 5 A. Again, you need to ask her.  
 6 Q. Let me ask a more precise question: did you have  
 7 a particularly bad relationship with Mandy Spencer?  
 8 A. Not at all. Actually we used to go out, socialise, some  
 9 members of staff, obviously if we were not working the  
 10 following day or whatever, but definitely not. Why she  
 11 has made this against me now? She states somewhere that  
 12 I was manipulative and used to threaten stuff and used  
 13 to go against the management, and then she's the one  
 14 that says that I used to be one of the -- an example  
 15 employee. So it's a bit contradictive on her side.  
 16 Again you need to ask her.  
 17 Q. Okay. Can I show you another document, which is at  
 18 {M15/2/1} ? You said earlier that you had only had one  
 19 disciplinary. You see this is an unsigned letter, but  
 20 perhaps read it to yourself, but I think you do refer to  
 21 it.  
 22 (Pause)  
 23 This is a letter that ends, it was intended to be  
 24 signed by Ms Hernandez:  
 25 "I am now giving you this first written warning."

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1 A. When this was presented to me, it was the first time  
 2 I actually knew about this letter.  
 3 Q. But if I can ask you --  
 4 A. If that occurred?  
 5 Q. Yes.  
 6 A. That occurred to a certain degree. Definitely I did not  
 7 ask to stay there that night. Because, if you want me  
 8 to expand, I'll expand.  
 9 Q. I think my question really is: this letter --  
 10 A. Yes.  
 11 Q. -- refers to you turning up at the Bishop Healy House  
 12 smelling of alcohol at about 3 o'clock in the morning,  
 13 and then it goes on, so it's about -- it goes on to  
 14 describe misplaced keys and so on. So my question is:  
 15 is that true or not?  
 16 A. No.  
 17 Q. So what --  
 18 A. I left keys there --  
 19 Q. -- did happen?  
 20 A. I left keys there. Definitely I wasn't drunk, that's  
 21 for sure. That I can guarantee you. Because that  
 22 night --  
 23 THE CHAIRMAN: I think the best thing, Mr Bassadone, is if  
 24 you tell me in your own words.  
 25 A. Sorry, sorry. It's a bit awkward.

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1 THE CHAIRMAN: I quite understand. If you tell me in your  
 2 own words what happened.  
 3 A. What happened basically is my mum, she lives in  
 4 Queensway Quay, and I used to live in La Linea, and  
 5 whenever I had to go out on a Friday night or Saturday  
 6 night or any night, and I knew I was probably going to  
 7 come back a bit late, I would stay over at my mum's to  
 8 make it easier because Bishop Healy, Queensway Quay, you  
 9 know, you have the Rock Hotel to go up, it is not the  
 10 same as coming all the way from La Linea.  
 11 So my mum had given me a key, which was by itself,  
 12 you know, I didn't have it in my bunch. That day I had  
 13 worked, that day I had worked, when I finished my shift,  
 14 got a bunch of keys, left, and then I realised when  
 15 I got to my mum's house that I had misplaced the key.  
 16 Obviously I knew where the key was, and I had left it in  
 17 the side pocket of the car we used to have up there.  
 18 I think it was a Volvo. I went up for the keys. That's  
 19 about it.  
 20 MR AZOPARDI: Before you got -- well, you say that it was  
 21 a surprise that this letter was drafted. Did  
 22 Ms Hernandez speak to you about that incident?  
 23 A. No. No.  
 24 Q. Never spoke to you at all during the time she was  
 25 a manager about that issue?

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1 A. No. Not that I recall.  
 2 THE CHAIRMAN: So did this come as a complete surprise then?  
 3 A. (Witness nods)  
 4 THE CHAIRMAN: Don't nod, just --  
 5 A. Yeah, yeah. Yes.  
 6 MR AZOPARDI: The first time you saw this draft letter  
 7 was --  
 8 A. When it was presented to me for the Inquiry.  
 9 Q. I see.  
 10 A. There is a note, but it's definitely not my writing up  
 11 there.  
 12 THE CHAIRMAN: You have never seen this document until the  
 13 Inquiry?  
 14 MR AZOPARDI: You see the handwriting on the screen at the  
 15 left corner, it says:  
 16 "Nigel's file."  
 17 And it looks as if it is going to say "please". Is  
 18 that handwriting that you recognise? No?  
 19 A. No. No. No.  
 20 Q. Okay. But it would surprise you if I asked you to  
 21 comment on the fact that that draft letter was in your  
 22 personnel file? It would surprise you?  
 23 A. Yeah. Why isn't it signed?  
 24 Q. Okay. Now, you signed your statement before  
 25 Ms Hernandez filed her final witness statement, so

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1 obviously you didn't have a chance to comment on and  
 2 reply to certain issues that were raised in it. So  
 3 I want to give you the chance to comment on a number of  
 4 matters that are raised in that document. So if we go  
 5 to {E/67/1}, I am just going to take you briefly to  
 6 a few paragraphs. First of all, there is an incident  
 7 that starts at paragraph 236, which is {E/67/66}.  
 8 Paragraph 236 and 237. I just invite your comment on  
 9 those paragraphs. (Pause) I think Ms Hernandez is  
 10 implying there that you were not properly caring after  
 11 L. Do you recall that incident?  
 12 A. Yes.  
 13 Q. Can you perhaps describe it to us?  
 14 A. As being one of the main carers for Resident L, working  
 15 with him for quite a number of years, we knew that he  
 16 was quite conflictive during handover transitions from  
 17 school to us, mass, parents and vice versa. Even at  
 18 times with staff. He came out from school, obviously he  
 19 came -- something must have happened in school. But  
 20 there was a way we did the handovers, and it wasn't  
 21 followed that day. So obviously Resident L, he -- how  
 22 can I say it? He thrived on having an audience. He  
 23 knew each person's boundaries, and he knew when he could  
 24 play up. So he came out. The thing is, there was care  
 25 plans which clearly instructed that during the week he

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1 was to be walked home. At that time Mrs Hernandez was  
 2 working there definitely, we were still in Bishop Healy,  
 3 so obviously if he get to know this person, it was  
 4 always had problems with weight. And part of his  
 5 condition, if he was -- he needed the walk, he needed  
 6 the exercise to help him. We used to walk through town,  
 7 up through Alameda Gardens and home.  
 8 That day, bueno, before that, certain people started  
 9 going for him in a car.  
 10 Q. What do you mean certain people?  
 11 A. Carers from his team. It was easier to deal with him in  
 12 a car, just take him and let's go for a drive, than  
 13 actually having to walk.  
 14 Q. You mean --  
 15 A. Just in case he played up in town.  
 16 Q. They used to pick him up?  
 17 A. Yes, in a car. Obviously when I got there he started  
 18 demanding the car and I said, "No, there is no car, you  
 19 know there is no car". He started playing up, he  
 20 started biting himself, ripping his clothes, the usual  
 21 that he used to do when ...  
 22 THE CHAIRMAN: This was behaviour that you had seen  
 23 before --  
 24 A. He used to target me. Look at, for example, if I used  
 25 to be the main carer and you were his teacher, he used

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1 to look at you and go for me, to see what the reaction  
 2 is.  
 3 THE CHAIRMAN: So this was behaviour that you had witnessed  
 4 before?  
 5 A. Oh definitely. Definitely. That's why we identified  
 6 the transitions of handover were the most difficult  
 7 ones. Once he was outside the vicinity of school and he  
 8 knew there was no audience, audience as in teachers,  
 9 sometimes even parents, he was fine.  
 10 MR AZOPARDI: Was there like a set procedure to deal with  
 11 this sort of challenging behaviour?  
 12 A. A set procedure, there was.  
 13 Q. Which was?  
 14 A. Obviously if that -- there was a procedure on our side,  
 15 we cannot control what school does, we cannot control  
 16 the teachers want to stay there, we cannot tell them  
 17 what to do. It was quite obvious that they were not  
 18 doing very well when they all remained there looking,  
 19 giving him the audience he wanted. Obviously it got  
 20 worse and worse and worse. Mrs Hernandez came down,  
 21 I believe school phoned her. By this time, I was trying  
 22 to keep away from him, because he was targeting me.  
 23 Obviously I am not going to go to work to get bashed  
 24 neither.  
 25 Q. How old was L at the time?

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1 A. Oh ... (Pause). How old would he be now? I can't  
 2 remember.  
 3 Q. But he was a child then, wasn't he?  
 4 A. (Pause). Early teens. Early teens.  
 5 Q. Okay.  
 6 A. Perhaps. I am not too sure about that one.  
 7 Q. Is it true that when Ms Hernandez arrived you were, she  
 8 says in paragraph 237, nowhere to be seen?  
 9 A. For her. I was definitely there.  
 10 Q. Okay, where were you?  
 11 A. I was keeping away from him because he was targeting me,  
 12 and I don't know if you have managed to get to know this  
 13 person, this child, but he's quite --  
 14 THE CHAIRMAN: Quite a strong boy?  
 15 A. Very strong. Very strong. If he wouldn't target  
 16 people, he would target vehicles, anything, and until he  
 17 didn't cause the damage, he wouldn't stop.  
 18 MR AZOPARDI: Normally when a child like that, in particular  
 19 L, was having that challenging behaviour, would it be  
 20 controlled by, was it one carer or two carers?  
 21 A. No, the thing is when he came with us full-time, he used  
 22 to have a two to one ratio of care.  
 23 Q. So two carers to one?  
 24 A. Two carers to one. But we quickly realised that he used  
 25 to play up one against the other. He used to know who

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1 the weakest of the two carers was, and who was the  
 2 strongest of the two carers, weakest not in strength but  
 3 in setting boundaries. So he would always go for the  
 4 protection of the, "Oh, come here, and I ..." you know.  
 5 He used to play us around. So we sort of decided to  
 6 give it a go with one carer, just focus on one person,  
 7 that's it.  
 8 THE CHAIRMAN: Who was the other carer on this occasion?  
 9 A. There was no-one, by this time he was on a one-to-one.  
 10 MR AZOPARDI: Did that one-to-one work?  
 11 A. Used to work perfectly. The thing is he knew they were  
 12 going to call someone, if he carried on like this. He  
 13 is quite an intelligent boy. He is quite an intelligent  
 14 boy. People underestimated him all the time. Pero,  
 15 I had him since he was three.  
 16 Q. Okay. And --  
 17 A. Eventually Mrs Hernandez drove him up to Bishop Healy,  
 18 which resulted in him sort of getting the -- when he  
 19 used to play up in school or whatever, and we left the  
 20 vicinity, we wouldn't go through town, because obviously  
 21 town was, you know, associated with going for a drink,  
 22 meeting people, obviously we would walk through  
 23 Queensway, and then up home. Definitely used to walk  
 24 home all the time.  
 25 Q. He would play up for what purpose?

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1 A. To get his own way.  
 2 Q. What he wanted on that occasion was what?  
 3 A. The car. Because he was telling me all the time "you go  
 4 for the car, you go for the car". There was no car.  
 5 With me there is certainly no car.  
 6 Q. So he got what he wanted; is that right?  
 7 A. At the end?  
 8 Q. Yes.  
 9 A. If he was driven up to Bishop Healy, he did.  
 10 Q. Can I ask you about --  
 11 A. The incident continued in Bishop Healy, he was all the  
 12 time going after me, and I don't know if you have seen  
 13 Bishop Healy, there is a massive patio there and he used  
 14 to come after me, and it was like, you know, a dog and  
 15 a cat running after each other.  
 16 THE CHAIRMAN: So he had it in for you that day?  
 17 A. Si, si, definitely. Definitely. I was part of the team  
 18 that took him over for his assessment in the UK.  
 19 THE CHAIRMAN: Do you want to ask him about paragraph 237,  
 20 the first sentence?  
 21 MR AZOPARDI: Yes. That was going to be my final question  
 22 on that. You see that at 237, at the top?  
 23 A. Yes.  
 24 Q. Ms Hernandez when she arrived at the school found  
 25 Resident L naked and sitting on a bench. Is that

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1 correct?  
 2 A. That was one of the, as I said before and I explained  
 3 before, one of the things he would do was either rip his  
 4 clothes or bite his arms or scratch or break the car,  
 5 break the mirrors of the car. He destroyed quite  
 6 a few -- number of cars in his time.  
 7 Q. You accept that that is correct, is it?  
 8 A. Yeah.  
 9 Q. Okay.  
 10 A. But nowhere to be seen? I was --  
 11 Q. He had wounds to his arms?  
 12 A. I was -- we sort of next to one of the teachers, I can't  
 13 remember if it was the St Martin's School, she was the  
 14 headteacher or Michael, I can't remember his surname  
 15 now, he was his teacher.  
 16 Q. How far from L were you, would you say?  
 17 A. How far away? He wouldn't go, he wouldn't leave the  
 18 area by himself, he would remain in the area until he  
 19 got the car. As a distance, safe distance, maybe a car,  
 20 behind the car.  
 21 Q. So you were a car away, that's what you say?  
 22 A. Yeah. It wasn't like I was 500 metres away from him.  
 23 Q. Can I take you to paragraph 311 of the same statement?  
 24 {E/67/85} The description starts at 310. You see  
 25 there Mrs Hernandez saying that after a period of time

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1 her view there were a number of poor staff who were  
2 undermining the management of the Homes and care of the  
3 residents.

4 Then she goes on to describe it at paragraphs 311 to  
5 313, and names you as one of the people that were  
6 undermining her. Do you see that? If you read those  
7 paragraphs to yourself.

8 (Pause)

9 A. Sorry, undermining in what sense?

10 Q. Undermining her management of the Home. Were you,  
11 together with other people, undermining her?

12 A. No.

13 THE CHAIRMAN: Making it difficult for her to manage the  
14 Home?

15 A. No.

16 MR AZOPARDI: You see there is a reference in 313 that you  
17 were, the persons mentioned, bullying their teams. Do  
18 you see that? Was there bullying at the Home?

19 A. No.

20 Q. "Their teams" meaning what? In relation to your case,  
21 what was your team?

22 A. My team was Resident L. L.

23 Q. Yes?

24 A. Which consisted of two shifts of one carer for the day,  
25 one carer for the night, and the other, so there was

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1 basically four of us. Always taking, every time  
2 somebody left, there was a problem because had to be  
3 somebody who knew [name redacted] quite well -- sorry, L  
4 quite well. So as not to sort of change his routines  
5 too much.

6 THE CHAIRMAN: So the concern would have been to provide  
7 some sort of continuity so that he didn't have to adjust  
8 to new things; is that right? That's what the aim was?

9 A. Yeah.

10 MR AZOPARDI: Was there ever to your knowledge an allegation  
11 of bullying at the Home?

12 A. No.

13 Q. Or at Bishop Healy?

14 A. Towards who?

15 Q. In relation to --

16 A. To other members of staff?

17 Q. Members of staff, yes.

18 A. Definitely not.

19 Q. Was there ever, in your experience, any bullying of  
20 residents?

21 A. No. Not that I know of.

22 Q. Any issue of abuse or misconduct that you are aware of?

23 A. No, definitely not. Not to my knowledge. Not to my  
24 knowledge, and if I would have known, believe me,  
25 I wouldn't have gone to my senior nor my manager,

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1 I would have taken it further.

2 Q. Your senior would have been who?

3 A. My senior would have been Kirushka Compson.

4 Q. All right.

5 A. Because we had the instructions to go through our line  
6 managers, but obviously if I have a serious concern, and  
7 if I am not paid attention, I definitely take it a bit  
8 further.

9 Q. But your relationship with Ms Hernandez must have been  
10 pretty bad for her to say these things about you?

11 A. You should ask her.

12 THE CHAIRMAN: How did you perceive it at the time, your  
13 relationship with Ms Hernandez? Were you getting on  
14 okay with her or were things difficult with you? How  
15 did you see it?

16 A. I saw it to my knowledge, is that she was all right.

17 I think maybe she was being led.

18 THE CHAIRMAN: By?

19 A. Honestly? Mrs Gabrielle Llambias.

20 MR AZOPARDI: Your view of her as a manager at the time was  
21 what?

22 A. Was fine.

23 Q. Was that she was a good manager?

24 A. Yes, she was a good manager. We never had -- it also  
25 has to be said that we didn't have that much contact

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1 with her, plus very soon after she came we went over to  
2 Children and Families, so until that time the  
3 relationship was ...

4 Q. Did your view change --

5 A. Professional.

6 Q. -- after 2005 when you were aware that statements were  
7 being collected?

8 A. What I couldn't believe was that somebody who had been  
9 so, you know, part of -- not your life, but you know,  
10 socially, could turn so badly against you.

11 Q. And --

12 A. Why wasn't I called on a Saturday? Why weren't certain  
13 people called on a Saturday? It was very selective who  
14 they called in.

15 Q. Did the staff, when you worked there for almost  
16 ten years, feel supported or not supported by Social  
17 Services Agency management?

18 A. It depends who you call by "the management".

19 Q. Who do you call "the management"?

20 A. We always knew, we always knew, it was difficult from  
21 sort of the manager upwards. We always knew that the  
22 Home was the carers, the residents, management down. We  
23 were, we felt at times, yes, that we were by ourselves.

24 I mean, we couldn't decide what happened, or if they  
25 wanted to change, buy a car, we obviously had to work

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1 with the resources that we were given.  
 2 Q. When you say there "we felt that we were by ourselves"  
 3 do you mean --  
 4 A. We, the whole general.  
 5 Q. -- "we" the carers or "we" the Dr Giraldi Home?  
 6 A. In general, the carers, you know.  
 7 Q. So you mean "we" the carers?  
 8 A. Carers, managers, seniors.  
 9 Q. So you are including in that that you did not feel that  
 10 the Dr Giraldi Home management were not supported  
 11 either?  
 12 A. The management? At times, no. At times definitely not.  
 13 I mean, decisions sometimes are made about something by  
 14 people who have never set foot in the place.  
 15 Q. You are talking about resources, or anything more  
 16 specific?  
 17 A. Resources, resources, there was always money issues,  
 18 always.  
 19 Q. What about --  
 20 A. There were things that as Gibraltar and as our  
 21 culture, we couldn't understand when Milbury came over.  
 22 You meet somebody in town, you give them a kiss on the  
 23 cheek: hello, how you doing? No? We couldn't. We have  
 24 to shake their hands of the service users, that was you  
 25 know, a bit cold. Plus every time we went out they had

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1 their own money and we were given the petty cash. We  
 2 went out for a coffee or whatever with them. I didn't  
 3 see that as, you know ... it's the money.  
 4 Q. So certain practices changed when Milbury arrived?  
 5 A. Si, si.  
 6 Q. After Milbury left in the period 2002 to 2008, was that  
 7 a better period or a worse period?  
 8 A. We thought it was going to get better, but there was at  
 9 times we felt that we were worse.  
 10 Q. So --  
 11 A. Decisions were being made at Ministerial level, you  
 12 know, which ...  
 13 Q. In overall terms, would you give us an impression of,  
 14 you know, you worked at the Home between 2002 and 2008,  
 15 would you say the Home was better or worse in 2008 when  
 16 you left it?  
 17 A. I mean, I wasn't in the Home in 2008.  
 18 Q. But you were --  
 19 A. I was from 2005 to 2008 with Children and Families.  
 20 Q. I appreciate that, but you were still --  
 21 A. Actually I was removed from [name redacted]'s team,  
 22 a year and a half before I left.  
 23 Q. I understand that, but you were still an employee of the  
 24 agency?  
 25 A. I wasn't -- I knew what my role was, what my job was.

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1 Q. So you had no real experience of the Home after 2005 is  
 2 what you are saying?  
 3 A. After we went.  
 4 MR AZOPARDI: I have no further questions, sir.  
 5 THE CHAIRMAN: Thank you. Mr Pitto, do you want to ask some  
 6 questions?  
 7 MR PITTO: Yes, I have a few questions.  
 8 Questions suggested by MR PITTO  
 9 MR PITTO: Good afternoon, Mr Bassadone, I represent  
 10 Mrs Mandy Spencer, she used to be formerly Spencer-Ball.  
 11 A. Yes.  
 12 Q. There have been several things that have been put to you  
 13 by counsel to the Inquiry. I don't propose to ask you  
 14 many questions, it's just to clarify certain positions  
 15 that have been stated this afternoon.  
 16 It's not in dispute that there was a disciplinary  
 17 against you on Friday, 8 February 2002.  
 18 A. Mm.  
 19 Q. And that there were certain minutes that were produced,  
 20 which are, for the reference of the Inquiry, {M15/4/6} .  
 21 So if I could refer you to that minute. (Pause). At  
 22 paragraph 6, which is a summary from you to the  
 23 disciplinary hearing or Tribunal, at the second  
 24 paragraph, if you could read that to yourself.  
 25 (Pause)

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1 You have said today that you were undergoing many  
 2 issues at the time, I believe you had family issues, and  
 3 that you were undergoing --  
 4 A. Not at all. I said I had one issue, which was  
 5 depression.  
 6 Q. Depression?  
 7 A. That was about it. I have never mentioned anything  
 8 about family.  
 9 Q. And that you, as a result of undergoing the treatment  
 10 for depression, were prescribed certain --  
 11 A. Medication.  
 12 Q. -- medication?  
 13 A. Yes, that's correct.  
 14 Q. Which had a bad effect on you on that evening?  
 15 A. Yeah.  
 16 Q. Quite right that you have said today to the Inquiry that  
 17 you put your hand up and you admitted what occurred?  
 18 A. Yeah. That's right.  
 19 Q. You are a passionate individual and you were passionate  
 20 about your work at the Dr Giraldi Home?  
 21 A. I mean, passionate about anything, I work --  
 22 Q. You are just a generally passionate individual?  
 23 A. Yes.  
 24 Q. It's right to say that there were a lot of things that  
 25 were going wrong at the time in the Home, and you have

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1 said as well that you had issues with Milbury coming in,  
 2 I think you have made reference to the fact that there  
 3 were cultural issues?  
 4 A. Yeah. But that wasn't anything sort of major, you know.  
 5 Anything that was, if they would have implemented  
 6 anything, that would have affected the service users  
 7 in -- actually, they actually did, but we had to all  
 8 pull together, which was when they divided the actual  
 9 Home into three: the residents still lived there the  
 10 kitchen was in one flat, residents slept in another, the  
 11 showers were in another. It was a construction site.  
 12 And that we felt that they could have at least been  
 13 placed, you know, and not having to take them through  
 14 the outside of the building in winter or whatever, you  
 15 know, after a shower. I mean those --  
 16 Q. So these are things that for you, you would have raised  
 17 issues and you would have --  
 18 A. Raised --  
 19 Q. With?  
 20 A. Obviously not even our manager could have, you know,  
 21 whoever our manager was, she wouldn't have had or he  
 22 wouldn't have had any say in how things were done. That  
 23 is, as I'm saying, managerial level people.  
 24 Q. Like you said, you would group together with other  
 25 people within the Home to try and get things that you

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1 thought were needed or at least attempt to; is that  
 2 correct?  
 3 A. We used to, whenever we needed anything, actually  
 4 I remember once that furniture, simple furniture like  
 5 chairs, were scarce. I remember when the owners of  
 6 Milbury came to give us a speech, not actually -- si.  
 7 They came in, to give us -- talk to us, because they  
 8 were about to leave, and they were looking round for  
 9 chairs, and I said "You can sit on the floor". That's  
 10 where --  
 11 Q. Is it right to say that you expected that once  
 12 Milbury Care Services would hand over the service to the  
 13 Government, that you expected things to get better?  
 14 A. If you create an agency, I suspect -- I would have  
 15 expected that the person who runs the agency, the CEO or  
 16 whatever, would have had some background in care work.  
 17 I don't know what Mr Rodriguez's background was, but it  
 18 left a lot to be desired.  
 19 Q. Going back to 2002, and going back to the disciplinary,  
 20 you were given a first and final warning, written  
 21 warning.  
 22 A. That's reference to the --  
 23 Q. The issue where you had where there was an incident at  
 24 a flat --  
 25 A. Okay, yeah.

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1 Q. I am not proposing to go into it --  
 2 A. Okay, fine, no worries.  
 3 Q. -- because I think enough of it has been said and  
 4 I don't think it will assist the Inquiry to regurgitate  
 5 what's been said.  
 6 A. Okay.  
 7 Q. You have said that there were issues there, I mean, it's  
 8 clear that there were issues, and you would be  
 9 passionate about these things and you would come across  
 10 sometimes as quite --  
 11 A. I wouldn't have kept quiet. I told you, when they came  
 12 I told them to sit on the floor. I don't keep quiet.  
 13 Q. Exactly. So in essence, a person who wouldn't  
 14 understand the way that you are would become quite  
 15 shocked, I would say, isn't that the case?  
 16 A. Er --  
 17 Q. Perhaps that's --  
 18 A. I am not going to say that you know me that well, pero  
 19 people that know me, it doesn't take years to know me,  
 20 what I am like, you know.  
 21 Q. There are other incidents that my client has put in her  
 22 witness statement, and you clearly deny. There is the  
 23 Lourdes incident, and you have said that you deny that?  
 24 A. Definitely.  
 25 Q. That's fine. There is an incident about a passport

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1 going missing which you have said, in giving your  
 2 evidence to the Inquiry, prior to my questioning, that  
 3 you knew that the passport was actually taken from --  
 4 A. Years later I found out, yes.  
 5 Q. Do you have any information other than the information  
 6 that you gave?  
 7 A. That it was me? No.  
 8 Q. No.  
 9 A. Before that? No. Before this? I didn't know --  
 10 Q. But it's correct that someone had taken it from within  
 11 the Home and had --  
 12 A. I think that -- I think there is people missing in this  
 13 Inquiry. That's people who could assist us, or assist  
 14 everyone.  
 15 Q. But you did mention a name?  
 16 A. Yes.  
 17 Q. And you do accept that's --  
 18 A. I will mention it again, Gabrielle Llambias.  
 19 Q. That something of that nature did happen and it wasn't  
 20 a question of the passport getting lost or my client  
 21 losing her passport?  
 22 A. No, no, no. It was definitely not me. And even less  
 23 burn it.  
 24 Q. And you are sure about that?  
 25 A. Positive.

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1 MR PITTO: Thank you. I have no further questions.  
 2 A. Thank you.  
 3 THE CHAIRMAN: Thank you, Mr Pitto. Mr Enright?  
 4 MR ENRIGHT: Just a very few.  
 5 THE CHAIRMAN: I would be grateful if you could confine it  
 6 to matters where your client was ...  
 7 Questions suggested by MR ENRIGHT  
 8 MR ENRIGHT: Yes. My name is David Enright, I represent  
 9 Joanna Hernandez, and I will be brief.  
 10 You said in your statement and in your evidence  
 11 today that you had a good working relationship, there  
 12 were only two issues, concerns that you had.  
 13 The first was this suggestion that you had changed  
 14 rotas to have a sexual relationship with a carer. Can  
 15 we bring up {M15/1/1} ? You had suggested it was Joanna  
 16 had put this to you. The note clearly indicates that it  
 17 was --  
 18 A. I've never seen this before.  
 19 Q. Okay.  
 20 THE CHAIRMAN: Sorry, what is this document, Mr Enright?  
 21 MR ENRIGHT: It seems to be a personnel file note of some  
 22 description. I have seen other types like this.  
 23 THE CHAIRMAN: Have you seen this before, Mr Bassadone?  
 24 A. No, it's the first time I'm seeing it.  
 25 MR ENRIGHT: The only point is that it does appear in this

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1 note that Ms Berini, your ex-partner, the mother of your  
 2 children, and Ms Hernandez put this point to you, you  
 3 denied it.  
 4 A. 2005, that's November.  
 5 Q. If you don't remember, it's fine.  
 6 A. If I can read it, I can maybe --  
 7 Q. Ms Hernandez has told me today she is not aware of any  
 8 evidence of you having a sexual relationship with  
 9 a carer, just to give you that comfort straightaway.  
 10 A. She has no recollection of having called me into the  
 11 office?  
 12 Q. No, this notice here is put to you, you denied it, she  
 13 accepted that and she has said to me today that she is  
 14 not aware of evidence of you having a sexual  
 15 relationship with a carer. So I wanted to give you that  
 16 comfort.  
 17 THE CHAIRMAN: I think where we have got to, Mr Bassadone,  
 18 I think is that Ms Hernandez has accepted and has  
 19 instructed Mr Enright that she has no knowledge of any  
 20 sexual relationship with another carer, is it?  
 21 MR ENRIGHT: She just wanted to say that.  
 22 A. That's fine.  
 23 Q. Could we have {C2/2/28}, please?  
 24 A. If I may add?  
 25 Q. Sorry, yes, of course.

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1 A. Mrs Hernandez offered me the acting role, which maybe  
 2 she says she doesn't remember, and I told her: bring it  
 3 out, like we do in Gibraltar, you bring out something  
 4 for tender, you know who is going to get it. She said  
 5 "No, no, we want you", and I can't remember, it was for  
 6 [name redacted]'s team, not too sure, or respite, not  
 7 too sure there.  
 8 THE CHAIRMAN: She offered you a different role?  
 9 A. Yes.  
 10 THE CHAIRMAN: When?  
 11 A. Must have been at the very beginning, when I came back,  
 12 used to go to the office in the mornings at times to  
 13 make photocopies or ... she said that she had to tell me  
 14 that the acting position, Mrs Tosso, had told her that  
 15 there was no funding available to pay me.  
 16 THE CHAIRMAN: I see. Well, he will ask you --  
 17 A. Where was my surprise when two weeks later Ms Hassan was  
 18 given the role.  
 19 THE CHAIRMAN: Just a minute, Mr Bassadone. Mr Enright can  
 20 ask you more about that if he wants to. I am not quite  
 21 sure whether he wants to.  
 22 A. I am sorry about that.  
 23 MR ENRIGHT: Take a little bit of time to have a little look  
 24 at this report of the 14th.  
 25 THE CHAIRMAN: This document, Mr Enright, is what?

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1 MR ENRIGHT: Sir, this is a report that Mr Bassadone arrived  
 2 at the Home smelling of alcohol in May 2005.  
 3 THE CHAIRMAN: Right.  
 4 So this is Maria Gonzalez reporting to?  
 5 A. I imagine to Ms Hernandez, which triggered --  
 6 MR ENRIGHT: Mr Azopardi took you earlier on to a written  
 7 warning about this incident.  
 8 A. That's right.  
 9 Q. And you could remember the incident but you didn't  
 10 accept that you had been drinking?  
 11 A. I remember, I wouldn't call it an incident.  
 12 THE CHAIRMAN: Let's have a look and see what this says, and  
 13 then Mr Enright will ask you a question about it.  
 14 A. Okay. Yes, that's fine.  
 15 MR ENRIGHT: Did you come to the Home at 3.15?  
 16 A. Yes. I didn't deny it before.  
 17 Q. Had you had a few drinks that night?  
 18 A. Not that I recall. Not that I recall. Especially  
 19 because I think, I'm not too sure ... it was  
 20 something -- I can't remember what it was. But I know  
 21 definitely not.  
 22 Q. It was very late at night.  
 23 A. Definitely not because ... definitely not. No.  
 24 THE CHAIRMAN: It's suggested, let's be clear, that you were  
 25 the worse for drink when you arrived?

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1 A. Worse for everything, looking at all this. But let me  
 2 point out that Maria Gonzalez is a very, very, very good  
 3 friend of Joanna Hernandez as well, outside and inside  
 4 work.  
 5 MR ENRIGHT: I don't know that.  
 6 A. As your client, you should know.  
 7 Q. I just wanted to put it to you because you were shown  
 8 the written warning, that would be the second occasion  
 9 that you turned up drunk at the Home in the middle of  
 10 the night.  
 11 A. The day of the -- when -- Mrs Hernandez, Mrs Gonzalez  
 12 was around there as well with her kids.  
 13 Q. The point is: did you turn up drunk trying to stay the  
 14 night?  
 15 A. No, definitely not.  
 16 Q. You didn't, okay. Could we please have {E/67/101} ?  
 17 Take a little bit of time, and then we will continue on  
 18 to the next page. {E/67/102} Has it come up on your  
 19 screen?  
 20 A. What?  
 21 Q. It's an abstract from Ms Hernandez's statement.  
 22 THE CHAIRMAN: This is Ms Hernandez's latest statement to  
 23 the Inquiry. Which paragraph, Mr Enright?  
 24 MR ENRIGHT: The very first paragraph.  
 25 THE CHAIRMAN: Top of the page.

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1 (Pause)  
 2 THE CHAIRMAN: You have seen what's said there,  
 3 Mr Bassadone, that Mrs Hernandez is saying:  
 4 "... I was certain that the report was deliberately  
 5 taken by the deputy manager, Sharon Berini, in order to  
 6 attempt to protect the father of her children [yourself]  
 7 from disciplinary action ..."  
 8 Can you comment on that at all?  
 9 A. You should ask her, she is the one that's making it.  
 10 MR ENRIGHT: Have you any memory of the disciplinary file  
 11 being stolen?  
 12 A. No.  
 13 Q. You don't?  
 14 A. No.  
 15 Q. Could we please have {C2/1/25} ? Just in the middle of  
 16 that, you will see where it says "Staff Matters", this  
 17 is 3 June 2005:  
 18 "Disciplinary file from office was stolen."  
 19 No knowledge of that.  
 20 A. (Shakes head)  
 21 THE CHAIRMAN: You can't comment on that, Mr Bassadone?  
 22 A. No, I can't, because -- no.  
 23 MR ENRIGHT: That's fine.  
 24 A. Are you trying to say that I stole it or somebody stole  
 25 it?

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1 THE CHAIRMAN: Nobody is accusing you of anything. It is  
 2 simply at the moment just asking you whether you know  
 3 anything about that?  
 4 A. No, I don't.  
 5 MR ENRIGHT: At the beginning of your evidence you described  
 6 your relationship with Ms Berini -- I am sorry, sir.  
 7 A. Just a second, yeah? Disciplinary means what? The  
 8 disciplinary I was involved in, or another disciplinary?  
 9 Because I have only been to one. So I am not sure what  
 10 disciplinary this is supposed to be.  
 11 Q. Without reading the evidence in I think it refers to the  
 12 report of Ms Gonzalez that says you turned up drunk?  
 13 A. And I was taken to disciplinary?  
 14 THE CHAIRMAN: No, no, no, I think you are at  
 15 cross-purposes. Mr Enright put to you, perfectly  
 16 properly, that according to Ms Hernandez's belief you  
 17 turned up drunk at that time. You have told me no, and  
 18 that's as far as I think we have got with that.  
 19 MR ENRIGHT: I was going to move on.  
 20 A. The thing is we are talking about the disciplinary file  
 21 going missing.  
 22 THE CHAIRMAN: Don't worry, Mr Bassadone.  
 23 A. But I want to know. Now I want to know what  
 24 disciplinary are we talking about here?  
 25 MR ENRIGHT: I've asked you if you were aware that the

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1 disciplinary file had been stolen from the manager's  
 2 office.  
 3 THE CHAIRMAN: We are talking about a disciplinary file  
 4 being stolen, and the question was whether you knew  
 5 anything about that, and you have told me no.  
 6 MR ENRIGHT: That's fine, I am going to move straight on.  
 7 A. Okay, no worries.  
 8 Q. At the beginning of your evidence you described your  
 9 relationship with Ms Berini and the children you have  
 10 together, and you have said that your personal life and  
 11 working life were separate?  
 12 A. Yes.  
 13 Q. They didn't impact upon each other. If we could have  
 14 {M15/4/3} , please. The final paragraph, could you  
 15 please read that. It's the disciplinary hearing of  
 16 2002.  
 17 A. From where?  
 18 Q. Just the final paragraph, that's all.  
 19 A. From the third witness, Sharon Berini, down?  
 20 Q. Just the final paragraph?  
 21 THE CHAIRMAN: Mr Borastero explained, that one?  
 22 MR ENRIGHT: Yes, sir. {M15/4/4}  
 23 THE CHAIRMAN: You want to go over the page, right?  
 24 (Pause)  
 25 MR ENRIGHT: Have you read those three lines, sir?

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1 A. Yes.  
2 Q. The first paragraph of this page.  
3 THE CHAIRMAN: So you want page 5 of the document?  
4 MR ENRIGHT: Yes, sir, this page is M15/4/4. {M15/4/5}  
5 Just:  
6 "... acknowledged that she had not seen NB with this  
7 temper before ..."  
8 (Pause)  
9 The point I'm making is that here, and certainly in  
10 2002, your personal relationship was boiling over into  
11 the working relationship?  
12 A. Was it?  
13 Q. That's what Ms Berini seems to be saying. You may  
14 disagree, but that's what it seems?  
15 A. I do disagree with it. Anyway, it's a personal  
16 observation.  
17 Q. You have nothing to say, okay. Could we have {E/67/94}  
18 and paragraphs 341 to 342? This is again an abstract  
19 from Ms Hernandez's statement. It describes a very  
20 volatile relationship that you and Sharon had in the  
21 Home. Did you scratch the word "puta" into the bonnet  
22 of her car?  
23 A. No.  
24 Q. In the next paragraph, would you fight loudly and swear  
25 at each other in the Home?

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1 A. No.  
2 Q. Never? Thank you.  
3 A. Apart from that, obviously, that there was the tone was  
4 raised and I admitted it here before, was when the  
5 incident which I was disciplined, but it was only -- it  
6 wasn't only Ms Berini, pero like verbally abusing each,  
7 definitely, no.  
8 THE CHAIRMAN: You described earlier that you probably  
9 raised your voice during that unfortunate incident in  
10 2002?  
11 A. Yes, that's right.  
12 MR ENRIGHT: Then the second last issue I want to raise with  
13 you, could we have {E/67/85}? Paragraph 311, and this  
14 is a passage I would like you to read to the bottom of  
15 the page, and continue on the next page to 317.  
16 {E/67/86}  
17 (Pause)  
18 Take your time.  
19 A. Where am I supposed to read?  
20 Q. If you begin at 311, you were taken to it earlier  
21 before, it was suggested to you Ms Berini and a couple  
22 of others worked together to undermine the management.  
23 Please continue to the bottom of the page.  
24 (Pause)  
25 When you are ready, let me know.

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1 A. To the bottom of the page, yes?  
2 Q. Yes.  
3 A. Okay.  
4 Q. Can we go to the next page, please, sir? {E/67/86}  
5 (Pause)  
6 A. Well ...  
7 Q. Just in regard of the first paragraph, is that right  
8 that you were on a 8 to 8 shift with Resident L?  
9 A. Yes.  
10 Q. But that he would be at school from 9 am to 3.30?  
11 A. Definitely, yeah.  
12 Q. So as a result you would only really be working about  
13 four hours in a day?  
14 A. I wasn't the only one.  
15 Q. That's fine, but that was right.  
16 A. That was everyone, we were all rota'd to work 9 to 9,  
17 I didn't decide my hours.  
18 Q. I am certainly not criticising you for that at all.  
19 A. All the residents used to go either to school or  
20 St Bernadette's.  
21 Q. The second point on that is that you will see in the  
22 next paragraph that Ms Hernandez wanted to utilise those  
23 hours better so that the eight hours you were not  
24 working during the day could be used to do other things?  
25 THE CHAIRMAN: Do you remember that, Mr Bassadone?

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1 A. From 316 onwards, yes?  
2 MR ENRIGHT: If you just read 316 really, and we will deal  
3 with that first.  
4 A. Okay. (Pause)  
5 Q. When you are finished, I'll ask you a question.  
6 (Pause)  
7 A. Okay.  
8 Q. The first issue is: do you remember a meeting that she  
9 had, she put up papers on the wall to make --  
10 A. Probably. I cannot -- I am not going to swear by it,  
11 but probably. Maybe.  
12 THE CHAIRMAN: There may have been a meeting.  
13 A. There may have been, yes. It's very difficult after so  
14 long to ...  
15 MR ENRIGHT: I understand that. One of the reasons you  
16 might remember it is the way Ms Hernandez described it,  
17 some of the seniors including yourself, Mr --  
18 A. I wasn't a senior.  
19 Q. My apologies.  
20 A. Sorry.  
21 Q. Were extremely upset that their rotas would be changed  
22 in that way. Do you remember anything like that?  
23 A. I don't know. I don't think you know me, but people who  
24 know me, as I said before, it doesn't take long to know  
25 me, I'm very passionate about my work, and I can tell

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1 you and I can guarantee you that those hours from  
 2 9 o'clock to 3.30 were always used effectively either  
 3 cleaning the house or doing up his house, you know,  
 4 putting all the washing, medications, whatever. And  
 5 Mrs Spencer-Ball should know this as well.  
 6 Q. Let me be clear, and Ms Hernandez is not criticising you  
 7 either for not working for eight hours of the day.  
 8 A. I don't know.  
 9 Q. What she is saying and as has been put here, she then  
 10 tried to rationalise it to use those spare hours which  
 11 you and you said other people had to more effectively  
 12 use the time?  
 13 A. I am not workshy.  
 14 Q. Nobody is saying that.  
 15 THE CHAIRMAN: No, no, he is not suggesting that,  
 16 Mr Bassadone.  
 17 A. Maybe she did.  
 18 MR ENRIGHT: She is not saying -- I am telling you now, she  
 19 is not saying you're workshy.  
 20 There was a quite extraordinary suggestion, not  
 21 suggestion, it's said quite clearly, that Ms Berini was  
 22 so angry and so upset by the shifts were changed that  
 23 she actually went and vomited in the toilet. So you  
 24 might remember, that's something you would remember?  
 25 A. Definitely not, excuse me for laughing but definitely

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1 not. It's not like she's just found out that something  
 2 really, really serious has happened.  
 3 THE CHAIRMAN: Don't worry, you have answered the question.  
 4 Here is one more coming, and that's the last one  
 5 I think.  
 6 MR ENRIGHT: Just in paragraph 317, do you remember Mr Matto  
 7 storming up and saying that you were untouchables?  
 8 A. No.  
 9 MR ENRIGHT: Then my very final question is: you have seen  
 10 earlier on in the passage I --  
 11 A. May I point another thing? Sharon did not live in my  
 12 grandmother's house for free. I will say that as well.  
 13 I have to point it out.  
 14 Q. Could we please have {C1/2/5}, that's  
 15 Ms Mandy Spencer-Ball, paragraph 9. You may recall just  
 16 a few moments ago I took you to a passage and  
 17 Mr Azopardi did also in Ms Hernandez's statement where  
 18 she suggested you and Mrs Berini had undermined the  
 19 manager do you remember that?  
 20 A. Say it again, sorry?  
 21 Q. I am sorry. I am speaking too fast, my apologies.  
 22 A. It's probably the accent.  
 23 Q. Just before you read that, Mr Azopardi and I also took  
 24 you to a paragraph in Ms Hernandez's statement where she  
 25 said that you and Ms Berini and Mr Matto and Mr Farrell

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1 undermined her as a manager. Do you remember that?  
 2 A. Yeah.  
 3 Q. If you would please read Ms Mandy Ball's statement, who  
 4 was also a manager at the Home previously. The point  
 5 I'm making is Ms Mandy Ball, who was also the manager at  
 6 the Home previously, said exactly the same?  
 7 A. The same, she also mentioned that I was a really hard  
 8 worker, and she has changed, that question ask  
 9 Mrs Mandy Spencer-Ball why she did that, I think it was  
 10 something to do with the husband also being threatened,  
 11 yes, one of the four people --  
 12 THE CHAIRMAN: I think his evidence has been pretty clear  
 13 about that.  
 14 MR ENRIGHT: Thank you very much.  
 15 A. Okay, you are welcome.  
 16 THE CHAIRMAN: Thank you, Mr Enright.  
 17 Mr Vasquez? I hope this can be brief because the  
 18 transcribers are going to need a rest in a moment.  
 19 Questions suggested by MR VASQUEZ  
 20 MR VASQUEZ: Just very briefly I want to clarify this issue  
 21 of the stolen file. There is an allegation -- if we  
 22 bring up, I think it's at {E/67/101}, in 375 it says:  
 23 "I was certain that the report was deliberately  
 24 taken by the manager Sharon Berini in order to attempt  
 25 to protect the father of her children, Nigel Bassadone,

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1 from disciplinary action arising from allegations  
 2 contained in that report."  
 3 Then it refers to the point of Ms Gonzalez that we  
 4 saw earlier. Do you recall that point about you  
 5 arriving drunk?  
 6 A. I remember.  
 7 Q. Were you aware that any disciplinary proceedings were  
 8 being taken against you in relation to that?  
 9 A. Definitely not. If I was -- I had been shown a letter  
 10 that was supposed to be put in my file, I think it was  
 11 reference that, that's the first time I saw it. I mean,  
 12 there's a verbal warning, written warning and then  
 13 eventually -- I mean, I don't know the ropes of it, but  
 14 that's --  
 15 MR VASQUEZ: I have nothing further.  
 16 A. That's why I have been asking before if the reference  
 17 was disciplinary, because all I know is there was only  
 18 one disciplinary for me, which was the one I was with  
 19 Mr Rod Campbell and Duncan Jones.  
 20 THE CHAIRMAN: Mr Borastero Porter.  
 21 MR BORASTERO PORTER: Mr Chairman, I just want to ask one  
 22 question in order to clarify the situation.  
 23 THE CHAIRMAN: Right.  
 24 Questions suggested by MR BORASTERO PORTER  
 25 MR BORASTERO PORTER: In Mrs Hernandez's third statement,

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1 paragraph 315, 376, she makes reference of Mr Bassadone  
 2 as being the senior in charge of Resident L, I believe.  
 3 She again in 315 says --  
 4 THE CHAIRMAN: This is E67, I think, 94 or something like  
 5 that. Just a second, Mr Borastero Porter, we are just  
 6 going to try and get it up on the screen.  
 7 MR BORASTERO PORTER: {E/67/101} is one of the references.  
 8 THE CHAIRMAN: Yes, paragraph 376?  
 9 MR BORASTERO PORTER: Paragraph 376, where he was the senior  
 10 in charge of Resident L. If we can go back to {E/67/85}  
 11 , paragraph 315, again the last sentence,  
 12 "Mr Nigel Bassadone was the senior", and if we turn the  
 13 page, {E/67/85} "and his carer", and I would like to  
 14 ask Mr Bassadone: was he ever a senior at the Home?  
 15 A. No. I mean, I think I mentioned the name before, it was  
 16 Kirushka Compson, the senior.  
 17 MR BORASTERO PORTER: That was just a clarification of the  
 18 statement. No further questions.  
 19 THE CHAIRMAN: Thank you, Mr Borastero Porter.  
 20 Mr Bassadone, that you will be relieved to hear  
 21 completes your evidence. Thank you very much.  
 22 THE WITNESS: Okay, you are welcome. Thank you, sir.  
 23 (The witness withdrew)  
 24 THE CHAIRMAN: We will take a break now and I will come back  
 25 at five to 4. We will probably continue until about

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1 a quarter to 5.  
 2 (3.45 pm)  
 3 (A short break)  
 4 (3.55 pm)  
 5 THE CHAIRMAN: Yes, Mr Englehart.  
 6 MR ENGLEHART: Sir, in the hope that we might be able to  
 7 finish the witness tonight, I am relatively confident  
 8 that that would not be the case with Ms Berini, we have  
 9 changed the batting order.  
 10 THE CHAIRMAN: Right.  
 11 MR ENGLEHART: I hope that's not too inconvenient for you,  
 12 sir.  
 13 THE CHAIRMAN: Of course, that's fine.  
 14 MR ENGLEHART: I propose to call Mr Matto now.  
 15 MR SEAN MATTO (called)  
 16 THE CHAIRMAN: Mr Matto, good afternoon, thank you very much  
 17 for coming. We have met briefly, I think.  
 18 A. Yes.  
 19 THE CHAIRMAN: Do sit down. If you have been in the room  
 20 you will probably know how the procedure works.  
 21 Mr Englehart is going to ask you some questions and then  
 22 other counsel may want to ask some questions at the end  
 23 of your evidence. We are trying to avoid using the  
 24 names of the residents, and you should have a bit of  
 25 paper there which gives you the designations of the

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1 various residents. So if you need to refer to  
 2 individuals, that's the way to do it.  
 3 A. Okay.  
 4 THE CHAIRMAN: Could I ask you for the record to state your  
 5 full name and your address?  
 6 A. My name is Sean Matto, I live at 11 Rosia House.  
 7 THE CHAIRMAN: Thank you very much, Mr Matto. Mr Englehart  
 8 will ask you some questions.  
 9 Questioned by MR ENGLEHART  
 10 MR ENGLEHART: Mr Matto, can we please put up on the screen  
 11 bundle {E/59/2} . Do you see that document?  
 12 A. Yes.  
 13 Q. That's a witness statement you made recently. Is it  
 14 correct or is there any addition or subtraction or  
 15 alteration that you want to make?  
 16 A. (Shakes head). Well, obviously, there is a lot of  
 17 things I need to add to my statement because new  
 18 allegations have been made, but I'll do it in due  
 19 course.  
 20 THE CHAIRMAN: As far as it goes, the statement is correct?  
 21 A. Yes.  
 22 MR ENGLEHART: You are, as we have heard, the current  
 23 manager, are you --  
 24 A. Yes.  
 25 Q. -- of the Dr Giraldi Home?

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1 A. That's right.  
 2 Q. You started work there in July 2000?  
 3 A. Exactly.  
 4 Q. During that period, there has obviously been a lot of  
 5 changes of management?  
 6 A. A lot.  
 7 Q. When did you become the manager?  
 8 A. October 2012.  
 9 Q. Right.  
 10 A. I am acting manager, in fact.  
 11 Q. Are you still acting manager?  
 12 A. Yes.  
 13 Q. Is there no manager?  
 14 A. I am the acting manager.  
 15 Q. Is there no actual permanent manager?  
 16 A. No.  
 17 Q. Why is that?  
 18 A. Well, that's something which Government can answer.  
 19 Q. I see, Government?  
 20 A. Yes.  
 21 Q. They haven't appointed a --  
 22 A. Basically I was offered a six month contract and it's  
 23 been renewed thereafter.  
 24 Q. I see. You tell us about your education. You took a BA  
 25 in Education at the University of Wales in Cardiff.

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1 Then it looks from the chronology as if you started back  
 2 at the Dr Giraldi Home immediately after doing your BA?  
 3 A. Well, I had a job prior to that but it's not --  
 4 Q. For how long?  
 5 A. A couple of months.  
 6 Q. Apart from a short period of two months you have worked  
 7 at the Dr Giraldi Home all your working life?  
 8 A. Yes.  
 9 Q. I am not going to pick up by any manner or means all of  
 10 your witness statement. If we could go to page 6?  
 11 {E/59/6}  
 12 A. Excuse me, it is extremely hot, is there any chance we  
 13 could put the air on?  
 14 Q. We have all been asking the same question. For once  
 15 everyone is speaking with one voice on that! I don't  
 16 think there is much we can do about it.  
 17 You see the paragraph in the middle of the page?  
 18 A. Yes.  
 19 Q. It says:  
 20 "I am apprehensive ..."  
 21 A. Yes.  
 22 Q. Would you care to read that to yourself, not out loud,  
 23 that paragraph?  
 24 (Pause)  
 25 Just that paragraph.

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1 A. Yes.  
 2 Q. Does that still reflect your feeling today? Well,  
 3 today --  
 4 A. Yes.  
 5 Q. -- I mean during this Inquiry?  
 6 A. Yes.  
 7 Q. You have something to say which I am not too sure  
 8 I follow, which is, if you turn to page 7, the --  
 9 A. Sorry, I have page 6.  
 10 Q. -- third paragraph down you deal with Ms Hernandez  
 11 claiming, and you express a view about her, and -- we  
 12 are not? It should be page 7. I said page 7.  
 13 EPE OFFICER: 7 of Magnum or 7 of the document, sir?  
 14 MR ENGLEHART: 7 of Magnum.  
 15 THE CHAIRMAN: It is page 6 of the document.  
 16 MR ENGLEHART: 7 of Magnum is 6 of the witness statement.  
 17 {E/59/7} The paragraph beginning:  
 18 "Ms Hernandez claims ..."  
 19 Your second line, sentence, is:  
 20 "My professional opinion is that she lacked the  
 21 essential managerial and technical skills to succeed in  
 22 such a challenging job."  
 23 Is that how you feel still?  
 24 A. Yes.  
 25 Q. You go on in the same paragraph, a passage that I don't

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1 follow, and I would like you to explain. The  
 2 penultimate sentence is:  
 3 "Evidence of this would be the one-to-one meetings  
 4 that took place between the abovementioned ..."  
 5 Who is that? I am just asking who you are referring  
 6 to.  
 7 A. I'll explain. The abovementioned is Joanna Hernandez.  
 8 Q. I see, it's Joanna Hernandez.  
 9 A. Sorry, no, no.  
 10 Q. I am not sure it is.  
 11 A. No.  
 12 Q. No.  
 13 A. Yes, because I think we are missing something else,  
 14 because I think that was with reference to -- this is my  
 15 statement, isn't it?  
 16 Q. It's your statement. I am trying to understand what you  
 17 were saying.  
 18 A. Okay. Basically when I wrote my statement I wrote it  
 19 only in response to the allegation, so the allegation is  
 20 at the end of the specific month --  
 21 Q. At the end of the previous page --  
 22 A. -- the position started, so it's deputy, SM, CF, KC, NB.  
 23 Q. At the end of the previous page, can we just identify  
 24 them? {E/59/6}  
 25 A. Yes. In fact, NB wouldn't have been involved.

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1 Q. So you are SM. CF, KC, NB. That's who you are  
 2 referring to?  
 3 A. Yes, and there were others in fact, there were other  
 4 senior support workers, because Nigel Bassadone wasn't  
 5 a senior support worker, so basically it would have been  
 6 at the time I think Liz Gallagher and -- anyway,  
 7 basically there make a reference anyway to Desmond Bell,  
 8 which is some documentary evidence that is not present.  
 9 Because he came over to the Home.  
 10 Q. I want to ask you about this. You refer to the  
 11 abovementioned and you have clarified who that means.  
 12 A. Yes.  
 13 Q. Acting team leader, Desmond Bell.  
 14 A. Yes.  
 15 Q. Who is that? When was he there?  
 16 A. He still works for the agency.  
 17 Q. Still now?  
 18 A. He is a -- I am not 100 per cent sure. He works, he is  
 19 a social worker but he works within the courts, so maybe  
 20 a probation officer.  
 21 Q. Probation officer?  
 22 A. Yes, and he was acting at the time when --  
 23 Q. What's the time?  
 24 A. Sorry?  
 25 Q. What time are you talking about?

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1 A. That must have been anything between June and September.  
 2 Q. When, during Ms Hernandez's managership?  
 3 A. Yes, yes.  
 4 Q. I see. Marie Gomez was the team leader?  
 5 A. Remember that whenever someone went off annual leave for  
 6 over a week, someone stood in to act, particularly  
 7 within higher positions. So in essence this is probably  
 8 why maybe it doesn't figure amongst any organogram with  
 9 regards to the agency --  
 10 Q. So he was standing in --  
 11 A. -- but he was in effect --  
 12 Q. -- for Marie Gomez, was he?  
 13 A. -- acting team leader. Yes, he was.  
 14 Q. Thank you.  
 15 A. Yes. It could be the case even that Marie Gomez was  
 16 standing in for Isabella Tosso, that was the Chief  
 17 Executive, and Desmond went into her position.  
 18 Q. Going down the page, do you see there is another  
 19 citation from Ms Hernandez's statement, in which you  
 20 were described I think as being one of a number of "ego  
 21 followers, weak-minded people". Is that a description  
 22 you care to comment on?  
 23 A. I think I made it quite clear, on the one hand I am  
 24 an ego follower and weak-minded and on the other hand  
 25 I am actually portrayed as a genius and what have you.

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1 So again there is inconsistency --  
 2 Q. You are neither of those things?  
 3 A. I believe I am not a genius, and I am not a weak-minded  
 4 person either.  
 5 MR ENRIGHT: I think that was said by Ms Ball, not  
 6 Ms Hernandez.  
 7 MR ENGLEHART: It may well be so, but you don't agree with  
 8 either description?  
 9 A. Neither.  
 10 Q. I follow that. You are also described as being very  
 11 manipulative, whatever that means, I don't know?  
 12 A. This in itself contradicts being a weak-minded person.  
 13 If you are weak-minded how can you be manipulative  
 14 unless of course, I don't know, I've got a dual  
 15 personality, in which case it's for a psychologist to  
 16 establish.  
 17 Q. To get this clear, you are dealing with Mrs Ball's  
 18 statement, you were in fact a care worker during her  
 19 time, weren't you?  
 20 A. Yes.  
 21 Q. A mere care worker, if I may call it that?  
 22 A. Yes. That's my specific words, "mere care worker".  
 23 Q. Right. You say at the bottom of Magnum page 10,  
 24 {E/59/10} witness statement page 9, that you felt:  
 25 "... unfairly treated, not guided/effectively

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1 supervised and completely unsupported by Ms Hernandez.  
 2 Ms Hernandez did not provide me with the professional  
 3 development relating to identified weaknesses."  
 4 Can I ask you that, because one of the matters that  
 5 has to be addressed is support. When you were there  
 6 in -- let's start pre Ms Hernandez, under Ms Ball, did  
 7 you -- how did you -- what was your view of the support  
 8 provided?  
 9 A. It was a different system. We have heard throughout,  
 10 and I have read throughout the evidence, that during  
 11 Ms Hernandez's time there was no policies and procedures  
 12 and that she had to implement them, when in effect the  
 13 same procedures that were in 2005 when this team of  
 14 social workers were sent in and the documentation is  
 15 there --  
 16 Q. In October, yes?  
 17 A. -- whereby all that Ms Tosso did was get the Milbury  
 18 policy and change the letterhead and continue to use  
 19 what we still use today as well as a complementary  
 20 policy to our current one, which is the 2002 directives,  
 21 which I am sure that you will have seen this document.  
 22 Well, basically, the Milbury policy was much more  
 23 thorough than the directives. This is why in effect the  
 24 Milbury policy was brought back into the picture by  
 25 Isabella Tosso, and so the structure itself was much

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1 better in the Milbury days, because it was much more  
 2 thorough policy, so managers and even staff could refer  
 3 to it and they had quite a good understanding.  
 4 As such, what that implies is that under Milbury you  
 5 had support and supervisions and there was meetings were  
 6 a more important thing, et cetera. What's happened in  
 7 Joanna's time was that for some unknown reason to me,  
 8 these policies, both the directives and the other one,  
 9 disappeared. Even though less than a year later  
 10 Isabella Tosso manages to bring them back, she retrieves  
 11 them mysteriously from somewhere.  
 12 So really there was a time where we didn't feel  
 13 particularly supported. One of the problems is the  
 14 change that was implemented in the days of Joanna was  
 15 transmitted differently. Because the problem we have  
 16 always had at Dr Giraldi's is in my time I think we have  
 17 some like ten managers. Every time a new manager comes  
 18 in, more change comes in, and someone wants to reinvent  
 19 the wheel again.  
 20 THE CHAIRMAN: Mr Matto, sorry to interrupt, just go  
 21 a little more slowly. It's very helpful. Carry on  
 22 talking.  
 23 A. So essentially the question regarding  
 24 Mandy Spencer-Ball.  
 25 MR ENGLEHART: I was just trying to say whether the support

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1 changed over the period?  
 2 A. There was support at the time but resources similarly  
 3 were very scarce. I have not actually stopped to  
 4 compare one period to another, because it's different.  
 5 It's completely different. So -- and it would be  
 6 unfair. I was more experienced in Joanna Hernandez's  
 7 time so my expectations were much higher than they were  
 8 when I was initially employed between 2000/2002 when  
 9 Milbury were there.  
 10 Q. Taking it slowly, who would supervise you during  
 11 Ms Hernandez's time?  
 12 A. Well, I would have the deputy and the manager, both.  
 13 Q. They would supervise you?  
 14 A. Yes.  
 15 Q. Did you have regular monthly meetings, supervision  
 16 meetings?  
 17 A. No. In all fairness to Joanna Hernandez they were  
 18 planned, but as is it's been very much a trend  
 19 throughout my employment within Social Services Care  
 20 Agency, et cetera, things at the planning stage are very  
 21 difference to what really materialises. Obviously they  
 22 are contingent on resources and emergencies, because  
 23 emergencies do arise.  
 24 Q. Now, page 11 of the Magnum, {E/59/11} 10 of the witness  
 25 statement. Do you see under "Letter Mark Isola to  
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1 Yvette del Agua" there is a reference, and you say in  
 2 your second paragraph:  
 3 "... it is only fair to be provided with the  
 4 relevant documentation ..."  
 5 Do you see that?  
 6 A. Sorry.  
 7 Q. I am going to show you a couple of documents.  
 8 A. Okay, yes.  
 9 Q. Can we turn to D28/3/7, please? It's April 2004.  
 10 A. Yes.  
 11 Q. So it is ... (Pause). Is this 28/3/7? It is? Oh.  
 12 It's entirely the wrong document. Can we turn then to  
 13 M23, tab --  
 14 A. What about this, sorry?  
 15 Q. I am sorry, I think I have the wrong document. I don't  
 16 know why I have that. M23/46/1. Again, I don't know  
 17 what this is. (Pause). I am sorry, something terrible  
 18 has happened. I seem to have -- I am so sorry, please  
 19 forgive me. As the Americans say, strike that from the  
 20 record, because I really don't know what I was talking  
 21 about.  
 22 A. No problem.  
 23 Q. Can I show you a few documents, bundle {M23/22/1} to 2.  
 24 Does this mean anything to you? It may not. Do you see  
 25 it's to management? That's why I am asking you about  
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1 it. Sharon B, Sean M. (Pause).  
 2 THE CHAIRMAN: It's signed at the end, isn't it,  
 3 Mr Englehart?  
 4 MR ENGLEHART: I don't think it is.  
 5 THE CHAIRMAN: I don't know if Mr Matto would be assisted by  
 6 looking at the signature at the end.  
 7 MR ENGLEHART: Oh, I only have one page here. Mr Dalrymple,  
 8 I think.  
 9 A. I am sure this was looked into.  
 10 Q. Yes, does it ring a bell?  
 11 A. Yes. Well, in all fairness there is only one sentence  
 12 which is quite significant there, that has rung a bell,  
 13 which is "mimosin", and obviously that's reminded me to  
 14 an extent of that.  
 15 Q. "Mimosin dice que no". That's what the suggestion was  
 16 that there was a bit of winding-up the service user in  
 17 question?  
 18 A. I am sure there was an investigation carried out with  
 19 regards --  
 20 Q. There was?  
 21 A. (Witness nods)  
 22 Q. I see it's addressed to you. It's dated, I think I am  
 23 right in saying, 23 September 2004. Yes, it is.  
 24 A. But the date I am not sure --  
 25 Q. 23 September 2004, were you management then? Or were  
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1 you acting manager?  
 2 A. I was acting deputy after Denise -- not Denise,  
 3 Denielle Gomez had an operation, whenever that was, and  
 4 I am sure there is records of it. It was probably in --  
 5 in fact --  
 6 Q. It's a long time ago, but do you remember dealing with  
 7 this incident?  
 8 A. I remember it was looked into. I don't remember right  
 9 now the outcome, but I am sure that there should be some  
 10 supporting documentary evidence.  
 11 Q. I am not sure there is, actually, but there we are.  
 12 A. Have the file -- I am not going to question the  
 13 investigation.  
 14 Q. Could we look at {D36/20/1}, which is an incident  
 15 report that you put in, and you might like to read that,  
 16 it's about money missing. It's written by you.  
 17 (Pause)  
 18 A. What about the reports?  
 19 Q. Who was the line manager who was informed? It would  
 20 have been?  
 21 A. I am not sure, but I am sure you have got whoever was  
 22 acting or whoever was managing at the time.  
 23 Q. "And consequently the police", do you remember a police  
 24 investigation about this?  
 25 A. Probably it's important to raise and highlight for  
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1 everyone to be aware of that there has been numerous  
 2 problems throughout my time anyway, I remember, and  
 3 probably goes before, with regards monies, because  
 4 basically the system that's always been in place has  
 5 been full of flaws. So this is a 24-hour service, there  
 6 is a best, and particularly in the past there used to be  
 7 eight hour management. So basically you are talking  
 8 about two-thirds of the time that the service is running  
 9 that there is no management. So when service users go  
 10 out with staff, staff are always allocated money, then  
 11 they don't have anyone to hand it over, so they will  
 12 leave it for whenever the manager comes back to actually  
 13 process it. The system has now changed and that's why  
 14 we don't have the same problem.  
 15 Q. Slow down.  
 16 A. Sorry. So I am sure that amongst this report there will  
 17 be many others.  
 18 Q. Are you saying you really have no recollection of this  
 19 specific event, writing this report?  
 20 A. No. But I definitely wrote it. It's my handwriting and  
 21 it's my signature, and I will recognise my handwriting.  
 22 Q. Yes. I would just like to ask you about what  
 23 Ms Hernandez says about this, can we look at {E/19/19} ?  
 24 At 8.22, it's fair to say she is in the saying she  
 25 knows it herself, but she says she was informed by some

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1 unknown person about you and some unpleasant things you  
 2 were supposed to have been doing. What was your view on  
 3 that?  
 4 A. Obviously I refute it, and I don't think she has been  
 5 shy in mentioning names, so how come the names are not  
 6 mentioned?  
 7 Q. You are mentioned, what do you say about that?  
 8 A. No, who informed her.  
 9 Q. Anyway, you are saying she is wrong, are you?  
 10 A. Of course. You have just shown me evidence whenever  
 11 money is missing I have always been honest and I have  
 12 actually raised that it's missing, I write the necessary  
 13 reports because at the end of the day there is a system  
 14 in place whereby if things go wrong you just report  
 15 them. Errors are made, staff made errors, same as  
 16 I made errors, and I am sure pretty much everyone makes  
 17 errors.  
 18 THE CHAIRMAN: Did Ms Hernandez ever raise this with you?  
 19 She says she was informed by somebody --  
 20 A. I don't remember.  
 21 THE CHAIRMAN: -- did she ever confront you with that?  
 22 A. No, and I do deal with it in my report at the end of the  
 23 day. There is a common line where she is alleging that  
 24 I -- my record-keeping wasn't good, et cetera,  
 25 et cetera. But she did a few supervisions, we can just

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1 bring them to the forefront and see whatever she  
 2 addressed there. Supervision is a forum where you do,  
 3 amongst other things, raise practice issues. Because  
 4 it's a developmental as well forum, you actually then  
 5 provide training or necessary support, et cetera, so  
 6 surely the evidence should be there if it was addressed.  
 7 MR ENGLEHART: I thought you said that although they were  
 8 planned, these supervisions, they didn't take place?  
 9 A. But some did take place, I didn't say they didn't take  
 10 place at all?  
 11 Q. Some did?  
 12 A. Yes.  
 13 Q. Between you and Ms Hernandez?  
 14 A. Yes.  
 15 Q. Yes.  
 16 THE CHAIRMAN: Did she, in the course of those meetings,  
 17 ever confront you with an allegation that you were  
 18 making false reports about petty cash?  
 19 A. No, never, because I would have a report. You would  
 20 have, even if I didn't remember, which I would have, you  
 21 would have obviously provided this, unless it's gone  
 22 missing from my file.  
 23 MR ENGLEHART: Can we move on to file {M23/1/1} ? This is  
 24 written by you, I think.  
 25 A. Yes, I recognise it.

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1 Q. If we go to page 4. Can we identify it, go to page 4.  
 2 {M23/1/4} Do you see it's written by you?  
 3 A. Yes. No, I recognised it from the beginning.  
 4 Q. Going back to page 1, you talk about flat 1 being  
 5 understaffed and personnel stressed and overworked. Was  
 6 that the position then in those days?  
 7 A. Exactly.  
 8 THE CHAIRMAN: What's the date of this, Mr Matto?  
 9 A. Wouldn't be very difficult because on the basis of the  
 10 fact that the names of the care workers are there so we  
 11 can actually look at the period whilst they were  
 12 working.  
 13 MR ENGLEHART: Can you identify them? I thought it would  
 14 have been this period, wouldn't it? Jonathan Dalrymple,  
 15 whose name we have just seen, Jackie Palmer we have  
 16 heard about.  
 17 A. That must have been any time between or after, anyway,  
 18 the April 2005.  
 19 Q. So during Joanna Hernandez's time?  
 20 A. Some of those workers were definitely there.  
 21 Q. Were you the senior?  
 22 A. I am going to read the reports and I'll be able --  
 23 Q. Flash through it, would you?  
 24 (Pause)  
 25 Names of the residents, it might help you if you

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1 turn over the page.  
 2 A. Can you turn over? (Pause). This report was when --  
 3 this report I seem to remember was definitely within  
 4 a year, either when Joanna Hernandez was there or just  
 5 thereafter, so to speak, in 2005 and 2006.  
 6 Q. That's what I assume, given the personnel and the  
 7 service users you mention?  
 8 A. Yes.  
 9 Q. Yes. Was it your appreciation that there would be --  
 10 there were large staffing problems at that time in 2005?  
 11 A. Serious. It's clearly pointed out there.  
 12 Q. Now may we look, please, at --  
 13 A. It says 243 hours, 243.5 hours short. That is serious.  
 14 Extremely serious. But for nowadays it's horrific.  
 15 Then again at the end of the day, this is what we have  
 16 mentioned before, expectations were very different.  
 17 Q. Yes, approximately half the amount of staff you needed?  
 18 A. Yes.  
 19 Q. Could I now ask you to turn to {C1/1/61} ? This is not  
 20 by you, but it does refer to you, I think I am right in  
 21 saying.  
 22 THE CHAIRMAN: It's a letter from Joanna Hernandez.  
 23 MR ENGLEHART: That's right, yes. It refers to you, do you  
 24 see --  
 25 A. Yes.

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1 Q. "It is imperative", it is second from the end:  
 2 "It is imperative that [this is from  
 3 Joanna Hernandez to Isabella Tosso and Marie Gomez] ...  
 4 major troubles formerly encountered within the service,  
 5 along with Richard Muscat and Sean Matto (I reserve my  
 6 recommendation on him pending the outcome ...) being  
 7 banned from all the service premises and contact with  
 8 those ... only recently a bottle of water with  
 9 squash appeared to be laced with some form of petrol  
 10 chemical ..."  
 11 A. That was then actually investigated and they found what,  
 12 there was a reason, it was a problem with the water.  
 13 Something to do with the water company.  
 14 Q. Do you have --  
 15 A. That should be filed as well.  
 16 Q. It seems to be saying that Ms Berini, Nigel Bassadone,  
 17 Richard Muscat and you have been at the heart of all the  
 18 major troubles formerly encountered within the service,  
 19 and she seemed to want you to be banned from all of the  
 20 service's premises?  
 21 A. I have read it.  
 22 Q. Does that ring a bell, that?  
 23 A. At the end of the day, from the moment that she was  
 24 employed there was already some tension between Joanna  
 25 and myself, in particular on her part. Because she knew

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1 about me, I didn't know about her.  
 2 THE CHAIRMAN: There must have been some considerable  
 3 tension, because she is suggesting here that you be  
 4 banned from all the service's premises and contact with  
 5 some members of the staff "for possible risk of  
 6 intimidation and threats". Can you throw any light on  
 7 that at all?  
 8 A. Basically, in 13 years I've worked there, there are no  
 9 allegations against me other than all these. So pretty  
 10 much I think that would say it all. If you ask me my  
 11 personal opinion as well, if you -- if someone is so  
 12 bad, how do you reserve a recommendation pending on  
 13 whether -- put it this way, if I was her and if I was so  
 14 sure about having employees in the same light that she  
 15 portrays them, irrespective of whether or not they apply  
 16 for another job I wouldn't want them on the premises,  
 17 and I would ensure as well that I was able to prove,  
 18 okay, that if there was necessary grounds to actually  
 19 have them, investigations should take place, because at  
 20 the end of the day they would be under, they would be  
 21 putting themselves in a vulnerable position and you  
 22 would be putting vulnerable service users and other  
 23 staff. So really I think it's a bit contradictory. But  
 24 then again I think --  
 25 THE CHAIRMAN: Were you aware at the time that --

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1 A. No, it wasn't even raised.  
 2 THE CHAIRMAN: Were you aware at the time that it was  
 3 Ms Hernandez's recommendation that you be banned from  
 4 all the service's premises?  
 5 A. No, not at all. Because obviously there would then be  
 6 my side of the situation. I am sure the union would  
 7 have been brought in as well.  
 8 THE CHAIRMAN: And the reference to intimidation and  
 9 threats, had she at any stage -- or had anybody at any  
 10 stage -- complained to you that you had intimidated or  
 11 threatened anybody?  
 12 A. No, not at all. It's important, obviously some people  
 13 have already started touching upon it whilst I have been  
 14 in court today and yesterday. But one of the things  
 15 that very soon happened when Joanna Hernandez came into  
 16 the position was that she very much divided the actual  
 17 teams, and it's very much obvious throughout, even  
 18 individuals with no experience, no qualifications, were  
 19 actually allocated positions, okay, and there were  
 20 opportunities for promotion, et cetera, well, acting  
 21 positions, obviously certain people were favoured over  
 22 others, there was no fair system, no-one applied, people  
 23 were just allocated positions.  
 24 MR ENGLEHART: Mr Matto, I am going to put something to you,  
 25 and see if you agree or not. We have heard evidence

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1 that falls into two groups really, some speak very  
 2 highly of Ms Hernandez, to be fair to her, and some  
 3 speak very badly of her. Would it be fair to say that  
 4 opinion was highly divided about her?  
 5 A. Yes, it definitely was. Obviously she generated it.  
 6 People didn't just create it. Mrs Hernandez did work  
 7 hard, I'm not going to say the contrary, but obviously  
 8 it's like I've read -- I would see that she was -- you  
 9 would go into the office and you would see she was  
 10 working, but obviously I didn't know what she was  
 11 working on, because the dynamics, the team dynamics  
 12 wasn't as good as it's portrayed initially. One of the  
 13 things that she constantly mentions in her statements is  
 14 she was working on policies. Like I pointed out, the  
 15 policies have been there since 2012 and they are still  
 16 there. And they never disappeared, they couldn't have  
 17 disappeared because when they disappeared at Dr Giraldi,  
 18 Social Services wasn't only Dr Giraldi, it was  
 19 Children's Services, you had the social workers and the  
 20 policies were there and they are still there. So  
 21 similarly with Milbury's, they were there, social  
 22 workers had them. Yes, they could have disappeared.  
 23 Even though I still have my copy, my manager has seen  
 24 it, it is still at work, it has never moved from there.  
 25 So I don't really understand how much -- so much effort

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1 was put towards working on policies, and working until,  
 2 I don't know I read ridiculous hours.  
 3 Q. Can I now ask you, as today's manager --  
 4 A. Yes.  
 5 Q. -- how are things in broad terms today?  
 6 A. Things are probably ten times better than they were in  
 7 the past. Resources are much better, there is much  
 8 better structure, it's much more professional, now you  
 9 cannot compare, there are things -- in the past everyone  
 10 pretty much that I remember as manager, both acting or  
 11 permanent, tried their best. They all tried their best.  
 12 They weren't very good at it, some of them, but they  
 13 tried their best and you could see they tried their  
 14 best. I am not here to actually saying anything  
 15 contrary, because I would be lying. However, obviously  
 16 there are ways and there are ways. And this is one of  
 17 the things that I think is hopefully evident.  
 18 Q. Well, finally, can I ask you -- we heard some evidence  
 19 today -- to look at, very briefly, what Denise Hassan  
 20 says at file {M24/3/1} to 3. The reason I am asking you  
 21 is because this is what she said about you, amongst  
 22 others. I am not going to ask about the first bullet  
 23 point, this is 1999, and --  
 24 A. Can I just point out, I was employed in 2000, July 2000.  
 25 Q. Well, in that case certainly. There we are,

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1 the Chairman is not going to go into 1999. The fourth  
 2 bullet point, you are also identified there.  
 3 THE CHAIRMAN: Over the page?  
 4 MR ENGLEHART: Yes. {M24/3/2}  
 5 You are mentioned in the fourth bullet point. I am  
 6 not quite sure what she is saying there. Do you  
 7 remember this incident? As far as you are concerned.  
 8 THE CHAIRMAN: The fourth one begins "Another incident"?  
 9 MR ENGLEHART: Indeed, yes, sir, the third line from the  
 10 bottom mentions Mr Matto.  
 11 THE CHAIRMAN: Yes.  
 12 A. Fairness for me is a very relative concept. At the end  
 13 of the day, you will only see what it is in your  
 14 interests to see, there are very few people that will  
 15 actually try particularly in those circumstances, to see  
 16 the more holistic picture. So it may have appeared that  
 17 she was favouring Angela, but I am sure that -- I don't  
 18 remember this in all fairness, but I am sure that when  
 19 Mrs Berini was taking this decision it was not based on  
 20 her sister, it was purely based on the client,  
 21 client ...  
 22 MR ENGLEHART: She argued that --  
 23 A. Client L, exactly.  
 24 Q. "Angie developed a motherly bond with L and Sean Matto,  
 25 now acting senior support worker also used this

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1 argument."  
 2 Do you remember that?  
 3 A. The thing is, like irrespective of what the argument is,  
 4 if I am not on her side, she is going to go say, Well,  
 5 I am actually accompanying because I support her, blah  
 6 blah blah and really to me that's not her trying to  
 7 actually look at what was best for the service user.  
 8 Because then she would have actually acknowledged,  
 9 because it's not a lie, she did have a very good bond.  
 10 MR ENGLEHART: That, as far as I am concerned, is the end of  
 11 my questions. I am sure there will be some other  
 12 questions.  
 13 Questions suggested by MS JACKSON  
 14 MS JACKSON: Just a very short question. Mr Matto, I act  
 15 for Craig Farrell and Kirushka Compson. Just by way of  
 16 clarification, because now you are the manager at the  
 17 Home, earlier last week we heard Mr Banderas talk about  
 18 how now service users can't go to carers' homes because  
 19 that's currently forbidden.  
 20 A. Yes.  
 21 Q. I wondered if you could help the Inquiry by explaining  
 22 basically why this was now forbidden and if this is in  
 23 relation to, for example, health and safety, medical,  
 24 social reasons or anything else? If you could provide  
 25 some information.

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1 A. Okay. Essentially, it's to do with boundaries, okay and  
 2 we have currently got a policy in place. I don't recall  
 3 if at the time we had a policy in place, but we  
 4 definitely have one now. The reasons are obviously very  
 5 much to do with health and safety. I'll give you  
 6 an example. If you take a service user home, okay, and  
 7 it happens to be a challenging service user, and they do  
 8 something, they present some behaviour which puts them  
 9 into a very difficult position, and imagine your son is  
 10 there, and he as well is in a difficult position, you  
 11 are going to have to choose between the two. So you  
 12 shouldn't be put in a position where you actually have  
 13 to choose between your son and a service user.

14 So at the end of the day, you are not allowed not to  
 15 take service users home but actually interact with your  
 16 families and service users. Because it will, you will  
 17 be put in a position where you have a conflict of  
 18 interest. So it's -- that wouldn't actually happen.

19 Q. When did that policy change?

20 A. Definitely, definitely this was something that, in  
 21 Iain McNeill's time, okay, the work was definitely  
 22 starting there. Initially when Milbury came, as someone  
 23 pointed out, they tried to actually apply a lot of the  
 24 policies that were used in UK for other reasons in  
 25 Gibraltar, but because of cultural reasons it didn't

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1 really help out with regards integrating. Because you  
 2 are talking about two different areas whereby policies,  
 3 the same as now, where people with learning disabilities  
 4 are very much more integrated into society, now you can  
 5 as a manager, for instance, advocate more on that side.

6 Whereas in the past, if you had a person with -- if  
 7 you had a young person with a learning disability, you  
 8 need to understand that maybe if you took them to the  
 9 park, parents would actually fear for their children and  
 10 you would actually isolate the person with disabilities  
 11 because sometimes it took individuals that worked within  
 12 the Home to actually integrate the service user with  
 13 their own family members.

14 Now that people with disabilities are very much more  
 15 integrated into society, that is definitely not  
 16 an issue, and I am sure that that's why it hasn't  
 17 actually influenced whether people or relatives feel  
 18 that their children are isolated.

19 MS JACKSON: Thank you.

20 THE CHAIRMAN: Thank you.

21 MR VASQUEZ: Sir, I do have some questions.

22 THE CHAIRMAN: Yes.

23 MR VASQUEZ: I represent this gentleman so I would like to  
 24 go last.

25 THE CHAIRMAN: Yes, I think Mr Enright probably has some

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1 questions. Ms Balestrino, yes?

2 Questions suggested by MS BALESTRINO

3 MS BALESTRINO: Just one question, sir.

4 Mr Matto, I am instructed by The Disability Society.

5 Mr Chairman, what I would like to ask is: considering  
 6 that Mr Matto has worked in the Home for 13 years,  
 7 whether he has any knowledge of the use of the time-out  
 8 room that has been referred to before or the seclusion  
 9 room? Mr Matto, could you assist with that?

10 A. Yes. Use or purpose?

11 Q. First of all, would you say that one was in existence?

12 Was there a time-out room in the Home?

13 A. Well, okay.

14 Q. We will start from there and then --

15 A. The conflicted time-out room --

16 THE CHAIRMAN: Just a second. We have had a lot of evidence  
 17 about punishment room, time-out room, so I think it  
 18 would help us, certainly help me, if you could clarify  
 19 the position in relation to the distinction between the  
 20 two, if there is one, and what actually happened and  
 21 why.

22 A. I presume that a punishment room, which I have never  
 23 been aware of, is something from institutional days when  
 24 major hospitals existed, et cetera. That I cannot  
 25 comment on, other than I disagree with it. With regards

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1 time-out room in Gibraltar, at Dr Giraldi, as far as  
 2 I am aware, when I was employed, the term was coined for  
 3 one particular service user that was very challenging,  
 4 and when I was employed he was the only service user  
 5 which had a two-to-one ratio carer. He had two carers  
 6 for himself. He presented very challenging behaviour.  
 7 A behavioural specialist, I wasn't there, but I once  
 8 read the reports, called Luke Perry provided advice over  
 9 how to manage service users who presented those type of  
 10 behaviours.

11 THE CHAIRMAN: Yes.

12 A. That is when this time-out room, okay, was first sort of  
 13 used. Not the one that I've read in the documentation  
 14 which is a small room with a small window, in fact the  
 15 time-out room that this individual used was in effect  
 16 his bedroom, which wasn't really appropriate but that  
 17 was for operational reasons and I am sure environmental  
 18 reasons like there was no other rooms, he used his  
 19 bedroom as a time-out room, and that's why his bedroom  
 20 was particularly bare.

21 The purpose of the time-out really I think pretty  
 22 much is self-explanatory. If you want I can elaborate  
 23 slightly. But it's to give the individual time to  
 24 actually calm down. He's got minimum stimulation, okay,  
 25 he shouldn't be able to hurt himself, this is why his

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1 bedroom was so bare.  
 2 THE CHAIRMAN: Is there an element of deterrent in the  
 3 concept? Is it there to deter the resident from  
 4 behaving in the same way again, or is it just a calming  
 5 down --  
 6 A. It's more about a safe environment, safe both for  
 7 individual and anyone else within the vicinity. Okay?  
 8 In those days, or anyway when I went, when I started  
 9 working there, the door wasn't locked. The thing is  
 10 this service user in particular did want his door locked  
 11 at night-time to go to sleep. So I don't know obviously  
 12 from --  
 13 THE CHAIRMAN: Which resident are you talking about?  
 14 I think we probably know, but just look at sheet.  
 15 A. AE. The thing is, after this service user, then we had  
 16 two new service users coming in, which was Resident L  
 17 and Z, which were quite challenging, and I have had all  
 18 sorts. In all fairness I wasn't involved in the works,  
 19 because that time-out room which is mentioned within  
 20 documentation about the small window, no ventilation,  
 21 et cetera, I don't know who actually requested for that  
 22 to be built. But on the basis of how a lot of things  
 23 have happened through the years that I have noticed at  
 24 Dr Giraldi's, the constructor was given some information  
 25 and the constructor took it upon himself to devise

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1 whatever under their own sort of observations or what  
 2 they thought they were being requested. Because as far  
 3 as I am aware that room was never used. In fact, when  
 4 they were going to move back to respite, I remember  
 5 a gentleman that's in the crowd would used to work in  
 6 the Environmental Agency and he came round in his  
 7 capacity because he is related to the service in some  
 8 way or other, but he came in his capacity as  
 9 Environmental Officer and he did give his professional  
 10 opinion on it.  
 11 THE CHAIRMAN: Right. Thank you very much.  
 12 MS BALESTRINO: Can you just clarify one point, you said  
 13 that the bedroom was used as a time-out room, and that  
 14 the bedroom was quite bare for that purpose?  
 15 A. Yes. It wasn't bare for that purpose, it was bare  
 16 because of safety reasons. I am not going to go into  
 17 it, I don't think it's relevant, but you are talking  
 18 about a service user. Just to elaborate slightly, this  
 19 service user would self-inflict.  
 20 THE CHAIRMAN: Because of the characteristics of the  
 21 particular service user?  
 22 A. Yes, exactly.  
 23 MS BALESTRINO: So you are saying there was not a specific  
 24 time-out room?  
 25 A. No. So one was built but it was never used because it

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1 was deemed inappropriate.  
 2 Q. And in relation to the bedroom, that was for just one  
 3 service user. What about the other challenging  
 4 behaviours that you mention, the other users were  
 5 challenging --  
 6 A. Unfortunately it wasn't available.  
 7 Q. So they didn't use a time-out room?  
 8 A. No. We had to use other strategies, but at the time  
 9 a room wasn't available for them.  
 10 MS BALESTRINO: Thank you.  
 11 THE CHAIRMAN: I know Mr Enright has --  
 12 A. To elaborate, before anyone sort of starts putting  
 13 information to an absence of information, basically  
 14 sometimes rooms would have to be made secure for these  
 15 individuals. If someone started displaying certain  
 16 behaviours and started throwing furniture around, you  
 17 had to remove the furniture. Okay?  
 18 THE CHAIRMAN: Mr Matto, I am going to ask you a question,  
 19 it is a rather unfortunate one that I hoped I wouldn't  
 20 have to ask you. Will you be available tomorrow morning  
 21 to continue your evidence?  
 22 A. Yes.  
 23 THE CHAIRMAN: Are you sure?  
 24 A. Yes.  
 25 THE CHAIRMAN: It would be of enormous assistance if you

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1 would. I know that Mr Enright has some questions and  
 2 Mr Vasquez has some as well, so we are obviously going  
 3 to go on for a little while, although I hope not too  
 4 long with your evidence, because you are obviously  
 5 needed where you should be in the Home.  
 6 A. Exactly.  
 7 THE CHAIRMAN: Which I entirely appreciate. It's been  
 8 a long day for the transcribers and everyone else  
 9 concerned, so I think we will stop there. I would be  
 10 very grateful if you could come along tomorrow to finish  
 11 your evidence. We will start at 10 o'clock.  
 12 Ladies and gentlemen, 10 o'clock tomorrow morning.  
 13 (4.45 pm)  
 14 (The hearing adjourned until 10.00 am  
 15 on Thursday, 10 October 2013)

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October 9, 2013

Dr Giraldi Home Inquiry

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