CORONERS ACT, 2003

SOUTH *AUSTRALIA*

FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 16th, 17th, 18th and 19th days of April 2013, the 27th and 28th days of June 2013 and the 29th day of November 2013, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of Lawrence Betts.

The said Court finds that Lawrence Betts aged 9 years, late of 2 Chandler Court, Magill, South Australia died at Flinders Medical Centre, Flinders Drive, Bedford Park, South Australia on the 28th day of April 2011 as a result of sigmoid volvulus. The said Court finds that the circumstances of his death were as follows:

1. Introduction and cause of death

1.1. Lawrence Betts, a 9 year old Aboriginal boy, died on Thursday 28 April 2011. At the time of his death he was the subject of a care and protection order pursuant to section 37 of the Children's Protection Act 1993. He had been placed under the guardianship of the Minister for Families and Communities (now Minister for Education and Child Development) (the Minister) for a period of 12 months. These orders were imposed by the Youth Court of South Australia on 29 June 2010.

1.2. At an early point in his short life Lawrence had been diagnosed with Goldenhar syndrome. Among other things he was noted to have a cleft palate and other malformations including vertebral anomalies. As well, Lawrence had experienced developmental delays with resultant unintelligible speech. However, he exhibited some non-verbal communication and understood some instructions. He was not toilet trained and still wore nappies. He attended the Modbury Special School. One of the

manifestations of Lawrence's difficulties was a disorder known as pica. This involved Lawrence engaging in the oral ingestion of foreign substances such as dirt. I have found that this propensity was well understood by those whose responsibility it was to provide care to Lawrence during the currency of the order to which I have referred.

1.3. At the time of his death Lawrence had been placed by the Minister in the care of the Community Accommodation and Respite Agency (CARA). CARA is a non-Government entity that provides care and accommodation for children, including those placed by government agencies such as Families SA (the Department). Although for the most part Lawrence had been accommodated at a CARA facility situated at 2 Chandler Court, Magill (the Chandler facility), as of the day of his death he was staying at its premises situated at 4 Weroona Avenue, Park Holme (the Weroona facility), a facility at which Lawrence was accommodated on occasional weekends and during school holidays. Lawrence had slept at the Park Holme premises during the night prior to the day of his death.

1.4. When staff went to Lawrence's room on the morning of the day of his death, he was observed to be profoundly unwell and was experiencing severe diarrhoea. An ambulance was called. By the time of the arrival of the South Australia Ambulance Service (SAAS) paramedics, Lawrence had become unresponsive and had stopped breathing. His heart stopped beating. He exhibited a distinctly distended abdomen. His airway contained what looked and smelt like dirt and mud and it required suctioning. Efforts at resuscitation were naturally administered and he was rushed to the Emergency Department of the Flinders Medical Centre where he sadly passed away later that day.

1.5. Lawrence was subjected to a post-mortem examination that consisted of a full autopsy. This was performed by Professor Roger Byard who is a senior specialist forensic pathologist at Forensic Science South Australia. Professor Byard compiled a post-mortem report[1]. He also gave oral evidence during the Inquest. Professor Byard expresses the cause of Lawrence's death as 'sigmoid volvulus'. He also states that the sigmoid volvulus was a complication of the condition of Goldenhar syndrome. In his report and in his evidence Professor Byard explained that large amounts of faecal material in developmentally compromised individuals can result in twisting of the

[1] Exhibit C13

bowel, that is a volvulus, with sometimes quite rapid death. It is well known that certain children, in particular those with developmental disabilities, may not manifest symptoms of intestinal obstruction until terminal collapse occurs. In Lawrence's case the sigmoid colon had twisted around the mesenteric root. The large intestine was filled with dark green fluid faeces which contained seed fragments and aggregate of dark sand. The formed faeces consisted of an amalgam of dirt, faeces and stone. The small intestine distally was packed with oval seeds. The stomach also contained a small amount of dark fluid with oval seeds. The oval seeds would prove to be uncooked rice grains. I will return to the significance of that aspect of the post-mortem examination presently. It is clear that at some point Lawrence had ingested dirt, sand, stone and rice grains. The volvulus in Lawrence's case involved a twisting of the sigmoid colon with a number of clinically adverse consequences that led to his death. One of those consequences was the lessening of the viability of the bowel with the result that fluid poured into the intestinal space. A consequence of this is dehydration with resultant electrolyte difficulties. In addition, because the organ is breaking down, the mucosa ulcerates and bacteria passes into the bloodstream and then passes into the rest of the body. The dead tissue itself can then cause peritonitis and other difficulties such that the eventual cause of death would be sepsis or infection and the electrolyte difficulties with dehydration. There was some clinical evidence of dehydration observed prior to Lawrence's ultimate death. That infection had played a role in Lawrence's death was evidenced by an alteration in the neutrophils.

1.6. As to the possible contribution of the ingestion of foreign material to Lawrence's collapse and death, Professor Byard explained that eating of non-nutritious substances places a person at risk of serious illness. The risk can arise from consequent parasitic infections such as might be caused by ingestion of animal faeces or bird droppings. In addition, perforations of the bowel might also occur. For those very sound reasons the ingestion of foreign material is to be avoided in individuals of normal intellectual development as well as those who lack such development. In Lawrence's case Professor Byard was of the view that the ingestion of foreign substances complicated an already existing tendency for a volvulus to develop through the filling of the sigmoid by faeces. He explained as follows:

> 'I don't think we can say that the soil and the rice caused the volvulus on their own but I think what we can say is you have a little boy here (who) has a lot of faeces in his

> sigmoid, it's a big sigmoid, so he may have been constipated in the past. So he's always at risk for this type of event but if you add heavy material like stone and soil and rice, it's only going to increase the possibility of this happening. So I think it's something that would worsen his chances.
>
> …
>
> I think they were a contributing factor to it, I don't think you could say whether it was this amount of faeces or that amount of stone but I think that logically if you increase the weight of the faeces then the volvulus is more likely.' [2]

1.7. Professor Byard acknowledged that the development of a sigmoid volvulus with a substantial contributing factor being the ingestion of foreign material is a rare occurrence. Indeed, for the Court's part it would seem to be a consequence that in Lawrence's case could not have been reasonably foreseen. That said, the issue of the prevention of the ingestion of foreign material was a matter that was in any event clearly necessary in order to protect him from other more benign complications. I return to that issue in due course.

1.8. Professor Byard was unable to quantify the exact amount of foreign material that had been ingested. He did, however, express the view that in effect there must have been a significant ingestion and more than merely a handful of the material over some days.

1.9. Professor Byard was also unable to quantify the contribution, if any, of the ingestion of rice grains. This is a matter of some significance in that, as will be seen, the evidence demonstrated that Lawrence's ingestion of rice grains occurred in somewhat differing circumstances from those pertaining to the ingestion of soil, sand and stones.

1.10. Professor Byard suggested that the consumption of the foreign material may have occurred in the days preceding Lawrence's collapse and death, although he acknowledged that the timing in this regard was a difficult issue having regard to the fact that individuals differ significantly as far as the transit of material through the digestive system is concerned[3].

1.11. I find that Lawrence died as a result of sigmoid volvulus. I further find that a substantial contributing factor in the development of the sigmoid volvulus was the ingestion of foreign material including soil, sand and stones. I do not find that the ingestion of rice grains played a role in the formation of the sigmoid volvulus. For

[2] Transcript, page 27
[3] Transcript, page 27

example, if Lawrence had merely consumed the quantity of rice grains that was found in his digestive system, it cannot be said that the sigmoid volvulus would still have formed and have accounted for his death.

2. Background

2.1. Until the year 2010, Lawrence had resided with his mother, Ms Cecily Betts, and his siblings in Ceduna. His disabilities were well established to that point. His mother was naturally aware of his diagnosis of Goldenhar syndrome and of his arrested intellectual development. As explained in her affidavit tendered to the Court,[4] Lawrence could not speak except for the word 'Mum'. As well, he was not toilet trained so he was still in nappies at the time of his death. She also explains that he would eat '*all sorts of things that came into his hands*'[5]. Ms Betts would prevent him from eating dirt and she had to be vigilant in order to stop him from eating things which other children of his age would know not to eat. She explains a number of other difficulties that had involved Lawrence wandering off.

2.2. Ms Betts describes Lawrence's relationship with Dr Nigel Stewart, a paediatrician in Port Augusta, who had instilled within Ms Betts confidence in dealing with Lawrence. In the event, however, Ms Betts signed a voluntary custody agreement in respect of Lawrence which, as she explains in her affidavit, she came to regret at a time even before Lawrence's death. In any event an order dated 29 June 2010 was made by the Youth Court of South Australia pursuant to the Children's Protection Act 1993. The order stipulated that Lawrence should be placed under the guardianship of the Minister for 12 months.

2.3. At the time of Lawrence's death on 28 April 2011 it was expected that the order would be extended for a further period of 12 months.

2.4. Lawrence was placed in the care of CARA and he resided for the most part at CARA's Chandler facility. He attended a special school at Modbury. From time to time the Chandler facility would become full and it was decided that Lawrence was the most suitable person to be transferred, as required, to the Weroona facility.

[4] Exhibit C20
[5] Exhibit C20, paragraph 11

2.5. Lawrence's final transfer from the Chandler facility to the Weroona facility occurred on Wednesday 20 April 2011. He would remain accommodated within the latter facility until Thursday 28 April 2011, the day of his terminal collapse and death. The week in question included the Easter long weekend plus an additional public holiday for Anzac Day.

2.6. A great deal of the Court's time during this Inquest was spent on a detailed examination that was fixated on the level of knowledge that CARA management and staff possessed in respect of Lawrence's previous medical history. It was suggested by some within those members of CARA management and staff who were called to give oral evidence that the Department had not been particularly forthcoming with such information. In the event, Lawrence was examined by a paediatrician, Dr Nicholas Ricci, of the Novita organisation in a bid to add to the body of knowledge surrounding Lawrence's medical history and his disability, but this did not occur until 7 April 2011. In a report compiled after his examination, Dr Ricci makes reference to Lawrence's condition known as pica to which I have already referred. It is clear from Dr Ricci's evidence before the Court that this was information that was imparted to him during the course of his consultation in April 2011 by persons who were present at the consultation including a representative of the Department as well as Lawrence's key worker at CARA. In essence, it was not new information. That Lawrence had a habit of ingesting or attempting to ingest foreign material was already well understood. Blood testing ordered by Dr Ricci did not reveal any abnormality. Upon examination, Dr Ricci identified probable constipation in Lawrence and for that reason had recommended an abdominal X-ray that, as it transpired, would never take place. However, if Lawrence had been constipated at that point in time, and an urgent abdominal X-ray had revealed that state of affairs, this cannot be shown to have had any bearing on the outcome some three weeks later. It is evident from CARA records that in the intervening period Lawrence experienced a pattern of regularity which would tend to refute constipation. In the event it cannot be shown that constipation, experienced either acutely or chronically on Lawrence's part, had a role to play in his death.

2.7. In the event the question of Lawrence's previous medical history, including possible constipation, and the debate as to the level of information that had been imparted by the Department to the CARA staff responsible for his care, proved to be something of

a distraction during the Inquest. This is due to the fact that it became abundantly clear to the Court that CARA, in both its management and its staff, had a sufficiently clear picture of Lawrence and his propensity to eat dirt, or to attempt to eat it, such that the consequent need for him to be closely watched when he was in the vicinity of dirt and other garden substances either at the Chandler facility or the Weroona facility was manifest. I find that there was no information about Lawrence's propensities not already made privy to CARA which would have made any difference to the outcome.

2.8. I mention here that at the time of Lawrence's death it was contemplated that he would imminently be transferred to a third CARA facility that was being established at premises at Barry Road, Oaklands Park but which had not yet opened (the Barry facility). On a number of occasions during the course of Lawrence's week at the Weroona facility over Easter, a CARA employee had taken him to the Barry facility with a view to orienting Lawrence in respect of it, attending to such things as allowing Lawrence to select his own decoration for his room.

2.9. It is against that general background that the circumstances of Lawrence's fatal collapse and death come to be considered. The central issue in the Inquest was whether Lawrence's death could have been prevented by greater vigilance on the part of those looking after him, especially in terms of the level of supervision that might have stopped him from ingesting what proved to be a debilitating and ultimately lethal quantity of foreign material into his digestive tract. As the evidence in the Inquest unfolded, it became clearer and clearer that Lawrence, at least at one point in the 48 hours or so prior to his death, had been left unattended in the rear yard of the Weroona facility and that this had provided him with the opportunity to ingest the foreign material that ultimately proved to be a significant factor in the formation of Lawrence's fatal anatomical defect.

3. <u>The circumstances of the death of Lawrence Betts</u>

3.1. A number of staff of the CARA organisation provided statements to the police and were called to give oral evidence at the Inquest. Two of those witnesses, Ms Elizabeth Fairweather[6] and Ms Sharyn Wilton[7], were employees of CARA at the Chandler facility. Ms Margaret Baxter[8], Ms Debra Leddicoat[9], Ms Lorraine Osman[10],

[6] Exhibit C15
[7] Exhibit C17
[8] Exhibits C91, C19a and C19b

Ms Cheryl Deller[11], Ms Tracey Filsell[12] and Ms Peta Wheatcroft[13] at the material time were employees of CARA attached to the Weroona facility. Ms Amber Viscione[14] was a CARA employee who had a responsibility in respect of the setting up of the new Barry facility.

3.2. I shall deal with the evidence of each of the witnesses identified in the preceding paragraph.

3.3. The evidence of Ms Elizabeth Fairweather

Ms Fairweather provided a statement to police dated 16 May 2012. Ms Fairweather also gave oral evidence. In addition, Ms Fairweather produced a number of documentary exhibits that related for the most part to internal CARA operating procedures.

3.4. As Respite Manager for CARA, Ms Fairweather had supervisory responsibility for a number of CARA respite locations including the Chandler facility. She holds a Certificate III in Disability and a Certificate IV in Disability. Ms Fairweather commenced working at the Chandler facility in October 2010 which was at a time after Lawrence had commenced his accommodation there. She had contact with Lawrence and observed that he did not communicate verbally. Her witness statement contains the following passage:

> 'Lawrence enjoyed playing outside, which included him digging in dirt, however he did like to eat dirt and was required to be supervised. This level of supervision was that support staff were required to have continuous observations of Lawrence. This did not mean that staff were required to stand in immediate physical proximity to him. The standard supervisory level for children in the care of CARA is one (1) staff member to two (2) children.
>
> Lawrence would often sit in a garden and pick up dirt. Lawrence would throw dirt around. To discourage Lawrence from playing in garden beds, I arranged a clam shaped sand-pit for him to play in. I filled the claim with *children's safety sand* that was purchased from Bunnings Warehouse. I purchased the sand-pit and sand just prior to Christmas 2010. This sand is particularly fine and is produced for the safety of children.

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[9] Exhibit C22
[10] Exhibit C2a
[11] Exhibit C26
[12] Exhibit C27
[13] Exhibit C28
[14] Exhibit C21

> On the day when I gave the sand-pit to Lawrence, I saw him playing in the sand, he was throwing sand up in the air with his hands and started placing it into his mouth.' [15]

3.5. In her oral evidence before the Court Ms Fairweather at first attempted to eschew the suggestion that Lawrence had a habit of eating dirt. She said that she did not think it was a matter of him eating dirt, but more a matter of him playing in it, throwing it into the air and, because he also put his hands to his mouth, there was a perception that he liked to eat dirt[16]. As to the sand-pit, Ms Fairweather suggested that sand was a lot cleaner than dirt and that was the underlying reason why it was set up. The sand had been obtained from Bunnings. It was said to have been safe as far as ingestion was concerned.

3.6. In cross-examination by Mr Charles, counsel for Lawrence's mother Ms Betts, Ms Fairweather stated that staff at the Chandler Court, Magill facility presumed that Lawrence would eat dirt because it was in his mouth. She said that Lawrence was always encouraged to stop doing that and that staff would direct him to other activities including the sand-pit. Ms Fairweather was aware of suggestions that Lawrence had experienced gritty bowel motions, although she added that this was only brought to her attention on the one occasion, and that this was one reason why the paediatric review on 7 April 2011 had been arranged.

3.7. Ms Fairweather did acknowledge in her evidence that a direction had been given to all staff that Lawrence was not to go into the garden and that staff were to direct him to leave the garden if he ventured into it. This was the reason that the sand-pit had been set up. The principal concern underlying this strategy was the potential for Lawrence to eat dirt.

3.8. Ms Fairweather acknowledged the obvious undesirability of a child consuming foreign substances such as dirt.

3.9. Ms Fairweather was one of a number of witnesses who purported to lament the lack of information about Lawrence's disability and medical history that had been provided to CARA by the Department. Ms Fairweather asserted that it was largely as a result of this concern that the medical consultation with the paediatrician on 7 April

[15] Exhibit C15, pages 2-3
[16] Transcript, page 100

2011 was instigated by her. The Department's representative who had been involved in Lawrence's care, Ms Penelope Goldsworthy who also gave evidence in the Inquest, on the other hand suggested that she herself had instigated the setting up of this appointment. Nothing turns on this dispute.

3.10. Despite earlier equivocation, Ms Fairweather agreed with counsel assisting, Ms Kereru, that she had understood that Lawrence had a propensity to eat dirt and that as a result of that propensity he needed to be closely supervised[17]. Nevertheless, she asserted that she had the understanding that Lawrence did not:

> '… digest a lot of dirt. It was just all in mouth. No one had ever said that he was actually like swallowing it.' [18]

To my mind, even this understated the position.

3.11. Ms Fairweather explained the reasons for Lawrence being sent to the Weroona facility from time to time. For this purpose a file had been created that contained a number of documents relating to Lawrence's profile as well as daily sheets that were to be completed by Weroona staff during Lawrence's placements there. Ms Fairweather told the Court that Lawrence's key worker, Ms Sharyn Wilton, had for the most part been responsible for the creation of the profile information. The file which was tendered to the Court[19] contained two documents that were relevant to Lawrence's behaviours in respect of dirt. This included an entry as follows:

> 'Activities/Play
>
> Lawrence loves to play in soil, sand and chip bark. But he does eat the soil/sand so keep an eye on him when you let him play in the garden.' [20]

The author of this entry was not identified during the Inquest. The entry seems at odds with the asserted practice at Chandler whereby Lawrence was not allowed to play in the garden. The other relevant entry, couched in terms as if Lawrence himself was the author (and he obviously was not) was as follows:

> '* careful, i love eating dirt (ussually (sic) in stool)' [21]

[17] Transcript, page 128
[18] Transcript, page 135
[19] Exhibit C12
[20] Exhibit C12, page 3
[21] Exhibit C12, page

The author of this document was also not identified at Inquest. This entry contradicts the suggestion that Lawrence's eating dirt was more perceived than real, as suggested by Ms Fairweather. This file went backwards and forwards with Lawrence to the Weroona facility and was present during his final stay over Easter 2011.

3.12. The evidence of Ms Sharyn Wilton

Ms Sharyn Wilton provided a statement to the Inquest dated 16 May 2012. She also gave oral evidence.

3.13. Ms Wilton was Lawrence's key worker. She commenced work at CARA at the Chandler facility in September 2010 at a time after Lawrence had already taken up his accommodation there. Ms Wilton's principal responsibilities involved accompanying Lawrence to appointments and undertaking administrative matters relating to him. For example, Ms Wilton had accompanied Lawrence to the paediatric appointment on 7 April 2011. She was also one of a number of support workers who had responsibility for Lawrence's care.

3.14. Ms Wilton's witness statement contains the following passage:

> 'Lawrence enjoyed playing outside, I am aware that he enjoys digging in dirt, however he did like to eat dirt and was required to be supervised. This level of supervision was that support staff were required to have continuous observations of Lawrence. This did not meant that staff were required to stand in immediate physical proximity to him. While I was responsible for the care of Lawrence, if he was playing outside I would either be outside with him, or I would at least keep continual eye contact of him and speak to him regularly to ensure that he was alright.
>
> While I cared for Lawrence, I saw him multiple times when outside sit in a garden and pick up dirt. Lawrence would throw dirt and bark around. Every time that Lawrence was outside he would try to sit in the garden or walk to the garden bed in front of the house to play with the dirt.' [22]

The similarity between first paragraph of this passage to the corresponding passage in Ms Fairweather's statement reproduced above cannot go unnoticed. The origin of this precision was not established during the Inquest, but by comparison with their oral evidence at Inquest there is a strong air of unequivocality in both statements about the assertions that Lawrence did like to eat dirt and that as a result he required continuous observation; and both witnesses signed their respective statements.

[22] Exhibit C17, page 3

3.15. At the time with which this Inquest was concerned, Ms Wilton had compiled a document entitled:

> 'OBSERVATIONS OF LAWRENCE BETTS
> BY: SHARYN (LAWRENCE'S KEY WORKER)' [23]

Ms Wilton explained that she was asked to type these notes by Ms Penelope Goldsworthy, the Department caseworker. Specifically, the document was created with Lawrence's ultimate transfer to the new Barry facility in mind. Under the heading 'Activities Lawrence enjoys', Ms Wilton wrote:

> 'Playing outside is his most favourite activity – he likes to dig in the dirt however he also likes to eat it if he is not supervised!' [24]

3.16. Ms Wilton was also shown the documentation that had accompanied Lawrence to Weroona including the references to Lawrence's eating soil and sand, the need to keep an eye on him when he is allowed to play in the garden and the reference to his love for eating dirt that was usually present in his stool.

3.17. Like Ms Fairweather, Ms Wilton avoided the issue of Lawrence's propensity to eat dirt by suggesting in her oral evidence that on some occasions Lawrence '*used to divert into the garden area*'[25] and that on occasions he would put his hands to his mouth in the course of picking up bark and dirt. She said that he was always supervised within sight and he would be removed from that situation and encouraged to play in the sand-pit that had been set up[26].

3.18. Ms Wilton acknowledged the undesirability of a child eating dirt, but said that it was not as if Lawrence had been '*just shovelling great volumes of dirt into his mouth*'[27]. She said that he would proceed to put his hands into his mouth so that there was a possibility that small particles of dirt would go into his mouth. She reiterated that he would be removed from that environment were that to have occurred[28].

3.19. Ms Wilton in effect testified that the reference contained within Lawrence's personal profile which had stated *'i love eating dirt'* had overstated the position. She had

[23] Exhibit C14a
[24] Exhibit C14a, page 3
[25] Transcript, page 208
[26] Transcript, page 208
[27] Transcript, page 223
[28] Transcript, page 223

changed many nappies for Lawrence and dirt in his stool '*wasn't commonplace*'[29]. She said that perhaps once or twice his stool had contained '*little gritty bits*'[30], but in general his bowel actions had been normal. Ms Wilton's evidence rather suggested that any ingestion by Lawrence of dirt was accidental as distinct from his having deliberately consumed it[31]. Ms Wilton also suggested that references in the documentation that accompanied Lawrence to the Weroona facility to the effect that he does eat soil and sand was '*open to interpretation*'[32].

3.20. Ms Wilton did acknowledge that Lawrence was discouraged from digging holes in the garden because they knew of his tendencies to play with the soil and that the next possible consequence could have been for him to put it in his mouth[33]. She also acknowledged that as Lawrence's key worker it had become immediately obvious that Lawrence had liked to put dirt into his mouth[34].

3.21. Ms Wilton testified that she had been confident that the staff at the Weroona facility had been aware of the potential risk of Lawrence placing foreign objects in his mouth. She said that he had been to the Weroona facility on a number of occasions and there was the extensive notation to which I have already referred. As well there had been multiple opportunities for staff there to have known of Lawrence's behaviours[35]. In respect of the passage in her witness statement that suggested in terms that Lawrence liked to eat dirt, Ms Wilton repeated that she did not mean that he was permitted to shovel it into his mouth, but she acknowledged that his habits in respect of dirt meant that he required continuous observation[36].

3.22. Ms Wilton shared Ms Fairweather's concern that CARA had been provided with limited information about Lawrence's history[37].

3.23. Before dealing with the Weroona witnesses, I indicate that I have no hesitation in concluding that in spite of the prevarication of some witnesses about the issue, it had been well understood at the Chandler facility that Lawrence demonstrated a desire to eat dirt and that he did eat dirt. That said, I do accept the evidence that staff at the

[29] Transcript, page 225
[30] Transcript, page 225
[31] Transcript, page 225
[32] Transcript, page 227
[33] Transcript, page 237
[34] Transcript, page 240
[35] Transcript, page 245
[36] Transcript, page 252
[37] Transcript, page 241

Chandler facility did their best to stop him from doing this and that their policy of not allowing him near dirt was a reflection of this. There is no evidence that any of Lawrence's activities at the Chandler facility contributed to his death.

3.24. The evidence of Ms Margaret Baxter

Ms Baxter was the CARA Service Manager for the Weroona facility. Ms Baxter gave two statements to police, the first having been given on the day of Lawrence's death. The second was given to police on 8 May 2012 over the telephone. Ms Baxter also gave oral evidence.

3.25. As I understood the evidence, Ms Baxter had limited responsibility for the care of individual residents of the Weroona facility. She also had limited input into the management of carers at that facility. Nevertheless, in her oral evidence Ms Baxter told the Court that she and carers at the facility were aware of the fact that Lawrence could eat dirt. Although she had not personally seen the file relating to Lawrence which came with him from the Chandler facility, she asserted that she would have expected the staff at the facility to have read that material. In any event she asserted that it was plain that Lawrence did love to play in the garden and dig but had been supervised in doing so. The Weroona facility had a large rear yard that had bare soil and dolomite at some locations. Ms Baxter said in evidence:

> 'Everybody was aware that in the past he's ate dirt and it would be to make sure he doesn't do it. All we can do is what we see and how we act on it.' [38]

Ms Baxter suggested that while supervision of Lawrence was not conducted on a one-on-one basis, there would be a staff member out in the garden at all times.

3.26. Ms Baxter appeared not to have been aware that staff at the Chandler facility had not allowed Lawrence to play in the dirt[39]. It appears that there was no restriction on Lawrence's activities in the rear yard at the Weroona facility and its dirt areas except to the extent that he would not be allowed to consume dirt.

3.27. As will be seen from the evidence of other witnesses, at one point during Lawrence's occupation of the Weroona facility over Easter 2011, another clam shell pool was set up for Lawrence and a small amount of uncooked rice grains was poured into it. It will be remembered that uncooked rice grains were found in Lawrence's digestive

[38] Transcript, page 288
[39] Transcript, page 293

tract at autopsy. Ms Baxter told the Court that she had not been aware of that initiative at the time. I will say more about the clam shell when I deal with the evidence of involved witnesses.

3.28. Ms Baxter's evidence can be summarised insofar as she was aware of Lawrence's accommodation within the Weroona facility and of a propensity on his part to eat dirt, but she had believed that when allowed to play in the garden he was always watched and any attempts on his part to ingest foreign material was prevented by staff. As will be seen, this overstated the level of scrutiny that was in reality brought to bear on the problem of Lawrence ingesting dirt.

3.29. <u>The evidence of Ms Debra Leddicoat</u>

Ms Debra Leddicoat and Ms Lorraine Osman were the two CARA workers at the Weroona facility who were on duty at the time that Lawrence experienced his fatal collapse on the morning of Thursday 28 April 2011. Ms Osman had Certificates III and IV in Disability, a Diploma of Management and a Senior First Aid Certificate. Ms Leddicoat had undergone all of the compulsory training that CARA requires for its workers including training in relation to medication and safety.

3.30. Ms Osman was the CARA worker who had been sleeping over at the facility during the night prior to Lawrence's collapse. Ms Leddicoat only came on that morning. I will deal with the circumstances of Lawrence's collapse in a different section. In this section I simply refer to the evidence of both Ms Leddicoat and Ms Osman and other witnesses in respect of their knowledge of Lawrence's propensity to ingest foreign material and to the steps that were or were not taken to prevent that from taking place.

3.31. Ms Leddicoat worked a number of shifts during the week in which Lawrence was accommodated at the Weroona facility. The precise number is not important. Ms Leddicoat told the Court that staff had found Lawrence eating things that he should not have been eating. She herself had seen Lawrence on occasions in the backyard picking up grass and putting it into his mouth. She could not recall seeing him with dirt or dolomite in his mouth but said that she would not be surprised if this had been the case. There were occasions when Lawrence had to be brought inside because he was flicking dolomite everywhere and getting it all over himself. Lawrence's many needs, having regard to his disability, had included a need to help him with toileting as he had been still wearing nappies, and as well '*just to watch Lawrence because he*

will get into things and obviously put things in his mouth'[40]. Lawrence's supervision while outside involved staff keeping an eye on him and constant checking. If staff needed to be inside to look after the children there, there was a kitchen window that staff could constantly look out of to ensure that Lawrence, if in the yard, was not eating things. Alternatively, they could go outside and regularly check on him for the same purpose[41]. Ms Leddicoat summed it up in this manner:

> 'You'd watch him as much as possible but unfortunately you couldn't watch him every second because of the other children in the house and different things that would happen.' [42]

3.32. Ms Leddicoat also stated to the Court that there were occasions when Lawrence would have dust and dirt on his face and around his mouth[43]. Ms Leddicoat agreed that there would have been opportunities for Lawrence, whilst outside, to have eaten dirt or other foreign material without a carer observing this[44]. Ms Leddicoat was not personally aware that at the Chandler facility Lawrence, due to his propensity to eat dirt and other material, was discouraged from playing in the garden altogether[45].

3.33. As to whether she was aware of Lawrence having eaten dirt the day before his collapse, she did not recall any carer, in particular Ms Osman, telling her that Lawrence had been seen eating dirt the day before, although she probably would not remember if that had been said '*because it would happen quite regularly with Lawrence*'[46].

3.34. <u>The evidence of Ms Lorraine Osman</u>

Ms Osman stated to the Court that Lawrence had a tendency to put things into his mouth and that she was aware of this from her own observations. She said that Lawrence used to love sitting in the garden and if not watched he would eat dirt[47].

3.35. Over the 12 months or so that Lawrence had been periodically coming to the Weroona facility, Ms Osman had changed Lawrence's nappy from time to time. She stated that there were occasions when there appeared to be dirt in his faeces. When asked

[40] Transcript, page 408
[41] Transcript, page 410
[42] Transcript, page 410
[43] Transcript, page 410
[44] Transcript, page 412
[45] Transcript, page 415
[46] Transcript, page 419
[47] Transcript, page 437

specifically by counsel, Mr Charles, whether that was taken as a sign that Lawrence had been eating dirt, Ms Osman said:

> 'Yes, yes, there was always bits of – yes, there was bits of – yes.' [48]

She agreed that at times there were pieces of dirt in his faeces[49]. As a result there had been discussion to the effect that staff needed to keep check on children who were generally prone to eat foreign material[50]. Ms Osman's evidence can be summed up in the following passage:

> 'He just has bits of sand and you know, he'd just tend to mouth bits of sand or you know, would just sit and wherever and just mouth bits of dirt and things like that. But it wasn't - I mean, we have lots and lots of children that do that and yes, you are aware not to leave them in that situation but -' [51]

In Lawrence's case Ms Osman told the Court that he would be monitored. He was never left. Staff would check to see where he was. Ms Osman suggested that his propensity to eat dirt was well known in the facility[52].

3.36. Of note was Ms Osman's evidence in cross-examination by counsel assisting, Ms Kereru, that when in the garden Lawrence would typically dig in the dirt and that if he was able to, he would eat the dirt; she said '*if he had the opportunity*'[53]. As a result he was not left out in the yard on his own. There would be staff situated there[54]. This also overstated the position.

3.37. <u>The evidence of Ms Peta Wheatcroft</u>

Ms Wheatcroft was another worker at the CARA facility at Weroona Avenue. She has a Certificate III in Disability. Ms Wheatcroft worked at the facility on a number of occasions while Lawrence was accommodated there. Ms Wheatcroft last worked prior to Lawrence's death on Wednesday, 27 April 2011 during the afternoon.

3.38. Ms Wheatcroft made a statement to police and gave oral evidence. Ms Wheatcroft I find was a witness who was comparatively candid and had no demonstrable axe to grind. Because of this, I preferred her evidence wherever it differed from that of other CARA witnesses, particularly evidence that shone either herself or the facility in a

[48] Transcript, page 444
[49] Transcript, page 445
[50] Transcript, page 445
[51] Transcript, page 445
[52] Transcript, page 446
[53] Transcript, page 463
[54] Transcript, page 463

poorer light as had been shone by others. She did not dilute the fact that Lawrence had a well understood tendency to eat dirt, that sand would be found regularly in his faeces and that at the Weroona facility there were times where for several minutes Lawrence might be outside without any carer being with him and in a position where he might not be seen from inside[55]. Ms Wheatcroft was asked by counsel assisting:

> 'Q. I mean, if Lawrence was to get outside, what would he normally do.
>
> A. He'd go straight for the dirt. He'd go straight up to a patch of dirt near the cubbyhouse that was his favourite area.' [56]

Having regard to the fact that there would have been periods of time when Lawrence was outside by himself, Ms Wheatcroft was now of the view that Lawrence should not have been permitted to have been engaged in sensory play unsupervised[57].

3.39. Ms Wheatcroft told the Court that the setting up of the clam shell pool with rice in it was her initiative. Ms Wheatcroft's witness statement[58] states that during his Easter stay in order to discourage Lawrence from playing in the dirt she brought the clam shaped pool to the Weroona facility. She purchased two small packets of dry rice. She poured one packet into the pool. It barely covered the bottom of the pool. Her statement asserts:

> 'I had set up the pool just for Lawrence, it was sensory activity for him to play in because I thought that it would be safer and cleaner than him playing in the dirt outside. I also thought that if he ate some of the rice it would not harm him.'

3.40. Ms Wheatcroft indicated that she set this pool up after Lawrence had been at the Weroona Avenue facility for a couple of days during which, she said, he had been continuously playing in the dirt[59].

3.41. Ms Wheatcroft believed that the clam shaped pool arrangement had been discontinued by 27 April 2011, which was the day prior to Lawrence's collapse and death. She told the Court that another child at the facility had caused certain difficulties with it.

3.42. As in her witness statement, Ms Wheatcroft said in evidence that she knew that Lawrence would probably ingest some of the rice '*going by his faeces and having*

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[55] Transcript, page 583
[56] Transcript, page 604
[57] Transcript, page 607
[58] Exhibit C28
[59] Exhibit C28, paragraph 9

sand and stuff in his faeces anyway'[60]. In fact there was an occasion when she actually witnessed Lawrence ingesting the rice. She attempted to prevent him from doing so. She did not see rice in Lawrence's faeces.

3.43. Ms Wheatcroft's evidence in my view made it plain that Lawrence had a propensity to ingest dirt from the rear yard of the Weroona Avenue facility premises and that the vigilance over him whilst in the rear yard was not always constant.

3.44. I would add here that in my view no criticism can be directed at Ms Wheatcroft for having initiated the clam shaped pool. Ms Wheatcroft set up the pool with the best of intentions. Furthermore, as alluded to earlier it has not been demonstrated that Lawrence' ingestion of rice of itself had any deleterious effect, either alone or in combination with other foreign material.

3.45. <u>The evidence of Ms Cheryl Deller</u>

Ms Cheryl Deller was another carer employed by CARA at the Weroona Avenue facility. She has a Certificate III in Disability. Ms Deller told the Court that although she knew that Lawrence liked to play in and eat the dirt[61] and that it was generally known that he liked to eat dirt, she never actually saw Lawrence eat dirt[62]. She said that once outside Lawrence would go towards the dirt, to '*anywhere there was dirt in the garden area*'[63]. Ms Deller acknowledged the undesirability of such a habit[64]. She did not see dirt in his faeces[65].

3.46. In her oral evidence Ms Deller acknowledged that during the week that Lawrence was accommodated at the Weroona facility, he spent a good deal of time playing in the garden[66]. Ms Deller stated that when the children were outside there would be some person with them[67], but, as will be seen, Ms Deller acknowledged that there was an occasion on 26 April 2011 when Lawrence was outside on his own. I return to that incident in due course. Ms Deller agreed that in order to discourage Lawrence from eating dirt one would need to watch him closely when he was outside[68]. She did say

[60] Transcript, page 594
[61] Transcript, page 491
[62] Transcript, page 487
[63] Transcript, page 490
[64] Transcript, page 492
[65] Transcript, page 493
[66] Transcript, page 495
[67] Transcript, page 496
[68] Transcript, page 502

that there might be occasions when, say, due to the phone needing to be answered, that a child might be left for a minute or two outside on their own[69].

3.47. The evidence of Ms Tracey Filsell

Ms Filsell worked on a casual basis for CARA during school holidays. She has Certificates III and IV in Disability and Certificates III and IV in Leisure and Health.

3.48. Ms Filsell told the Court that she was aware of Lawrence's propensity to eat dirt. She initially became aware of this when Lawrence arrived at the facility; and there was a note to that effect in the folder that came with him. We have seen that this in fact was the case.

3.49. Ms Filsell also told the Court that she had occasion to change Lawrence's nappies and had found that his faeces appeared to be '*grittier than other children*'[70]. She admitted that both she and her colleagues at the facility had associated the grittiness with his known tendency to eat dirt[71].

3.50. Ms Filsell asserted that carers would make sure that Lawrence was not alone outside, but that there was the occasion on 26 April 2011 in which she had been aware that he had been outside on his own, a matter that I will come to in a moment.

3.51. The CARA records

That Lawrence was playing with dirt in the garden of the Weroona facility in the week that he was accommodated there is borne out by the daily records of his activities. These records were included in the file that went with him to and from that facility. The daily sheet for 21 April 2011 records that during the morning Lawrence was in the backyard for some time. It is recorded that on the morning of 22 April 2011 he played in the garden '*all morning dig, dig, digging! Very happy*'. It is also recorded that he had had a midday bath due to his digging. It is recorded that on the afternoon of 23 April 2011 he had played outside digging holes in the yard. The record for 24 April 2011 states that in the morning he had played outside in the yard digging. It is recorded that in the afternoon of that day he had been doing '*more gardening*'. The record for Tuesday 26 April 2011 reveals that Lawrence had a '*great afternoon playing in the garden*'. As well, there is reference to him playing in the

[69] Transcript, page 507
[70] Transcript, page 517
[71] Transcript, page 518

sprinkler and that he had a '*big scrub in the bath and was very tired*'. The only notation in respect of 27 April 2011, the day before his death, was to the effect that in the morning Lawrence had left the facility with a carer. There is no notation in relation to his activities during the afternoon.

3.52. These records bear out the notion that during the course of the week in question Lawrence had been permitted, if not actively encouraged, to be outside and to play with dirt in the garden. Unfortunately there is no reference to the level of supervision that was in place at the time of these activities. All that said, there is no reference within the records to him consuming anything in the garden, but I accept the evidence that foreign material in his stool was a common finding during that week.

4. The events of 26 and 27 April 2011

4.1. Ms Amber Viscione was the CARA employee whose responsibility it was to set up the new Barry Road facility. Ms Viscione has a Certificate III in Community Services and a Certificate IV in Disability.

4.2. Ms Viscione attended at the Weroona facility on a number of occasions during Lawrence's occupation in April 2011. She took Lawrence out on a number of excursions including to the Barry facility where it was expected that Lawrence would imminently be residing. The idea was that an attempt would be made to gradually acclimatise Lawrence to this new residence.

4.3. On 4 May 2011, only a few days after Lawrence's death, Ms Viscione provided a statement to the police[72]. She also gave oral evidence at the Inquest. Both in her statement and in her oral evidence before the Court, Ms Viscione stated that she had been aware of Lawrence's propensity to place dirt and bark in his mouth and that he should not be left unsupervised. She had obtained this information from Ms Penelope Goldsworthy, Lawrence's Departmental worker. It had also been mentioned in their discussions that Lawrence was very sensory oriented and liked to play with dirt and things of different textures like bark and rocks and would sometimes put these substances into his mouth. As a result of that information Ms Viscione correctly assessed that care was required in respect of the material that would be lying around the house, the activity Lawrence might there engage in and whether he needed

[72] Exhibit C21

constant supervision. For Ms Viscione the salient feature of Lawrence's care was to prevent Lawrence from putting things in his mouth. She told the Court that this was something that she needed to be conscious of while he was in her care[73]. Ms Viscione understood at the time that the level of supervision required for Lawrence when he was playing outside was that he needed to be '*in eye view*'[74].

4.4. Ms Viscione spent time with Lawrence on Saturday 23 April 2011, Monday 25 April 2011, Tuesday 26 April 2011 and Wednesday 27 April 2011. The events of 26 and 27 April 2011 bear closer scrutiny, particularly the events of 26 April 2011. During the morning of that day Ms Viscione attended at the Weroona facility. She collected Lawrence and then drove him to the Barry facility. Ms Viscione described an incident that took place when she picked him up from Weroona. As will be seen, her account of what took place has strong features of commonality to the evidence of the other involved witnesses, Ms Deller and Ms Filsell. There are, however, some significant differences.

4.5. Ms Viscione told the Court that when she attended at the facility to collect Lawrence that morning, Lawrence was at that time outside on his own. That this was in fact the case was confirmed by the evidence of Ms Deller and Ms Filsell who were both on duty that morning. Ms Deller and Ms Filsell both said in evidence that they had been distracted from Lawrence on this occasion because it had been necessary to attend to the immediate needs of another child. I accept that evidence. I also accept that neither Ms Deller nor Ms Filsell, who were the only carers on duty, were aware that at that point Lawrence had let himself out of and was not inside the building. A search for Lawrence had to be conducted that included a search of the inside of the premises where he had last been seen. There were some differences in estimates as to the length of time that Lawrence may have been unexpectedly outside on this occasion, but the discrepancies are not material because there is no doubt that he would have had an opportunity to have entered the rear yard of the premises and to have eaten dirt. Evidence to which I have already referred suggested that Lawrence would have had no hesitation in going to the dirt areas and ingesting dirt while no one was looking.

[73] Transcript, page 348
[74] Transcript, page 350

4.6. Ms Viscione told the Court that when Lawrence was ultimately located in the yard and was brought inside she noticed that he was covered in grey dust. In the witness statement that was taken from her within a few days of the incident on 4 May 2011, she stated that his skin had been covered in a grey or white powder and small grey stones. Unfortunately, the statement did not provide any further detail about what part or parts of Lawrence's skin had been so covered. However, in her oral evidence before the Court Ms Viscione stated that Lawrence was effectively covered in this material. She said it was on his clothing, his neck and that there was a smaller portion on either side of his mouth. There was also dust on his hands.

4.7. Ms Viscione took Lawrence to the Barry Road facility that day. I was satisfied from Ms Viscione's evidence that she was sufficiently vigilant of Lawrence and that while under her care that day he did not consume any foreign material. In her police witness statement Ms Viscione had indicated that while Lawrence had been sitting on the lawn in the rear yard of the Barry Road premises, he had been pulling up lawn and throwing it into the air. Ms Viscione had observed this from the kitchen of the premises. She went on to say that she did not lose sight of Lawrence as she knew that he should not be left unsupervised due to his known tendency to place dirt and bark in his mouth. I would have thought that if Ms Viscione was endeavouring to hide anything in terms of what Lawrence might have consumed while in her care, she would have been reluctant to have disclosed to investigating police anything other than that she observed him at all times and first hand from within the yard itself. She may even have been reluctant to have placed Lawrence in the yard at the Barry facility at all. Ms Viscione had virtual carte blanche to say anything she wanted about Lawrence's activities at Barry Road. No other person had been at the Barry premises that day and thus anything that she said to police about Lawrence's activities could not have been contradicted. I saw nothing in Ms Viscione's demeanour that suggested that she was hiding anything. Ms Viscione's original assertions, as contained in her original statement given in May 2011, that Lawrence had been alone in the rear yard of the Weroona facility when she first arrived that day, would ultimately be substantiated by statements made and evidence given by Ms Deller and Ms Filsell in 2013.

4.8. I turn now to the evidence of Ms Deller and Ms Filsell in respect of this issue. These ladies were in charge of the facility on the morning of 26 April 2011. Ms Deller's

statement to police[75] was given on 3 June 2013. In that statement she spoke of the incident in which Lawrence was collected by a carer and was unexpectedly found outside playing in the dirt. Ms Deller found Lawrence outside. He was throwing dirt up in the air with his hands and scooping dirt over his legs and he was digging in it. In her oral evidence Ms Deller stated that Lawrence had dirt on his legs and hands, but did not have any on his face. She says that she was quite certain of that[76]. Her witness statement was silent as to the question of whether or not Lawrence had dirt on his face. It will be recalled that Ms Viscione said that he did have dirt on his face. However, when cross-examined by Ms Kereru, counsel assisting, Ms Deller did not discount the possibility that Lawrence had dust around his mouth but that she had not noticed it. She added that she had not needed to wash his face[77].

4.9. Ms Filsell, the other worker who was on duty that morning, also gave a statement to police for the first time on 3 June 2013. It is apparent from the statements of both Ms Deller and Ms Filsell that both of their statements were given to the same police officer on that day. Ms Filsell's statement does not deal with the events of Tuesday 26 April 2011 as described by Ms Viscione and Ms Deller. However, Ms Filsell gave oral evidence about this matter. She told the Court that she had been aware that Lawrence had wandered outside unnoticed. She said that she was present when Ms Deller brought him back inside. She said:

> 'He had some dirt on his hands but otherwise he was quite clean.' [78]

When asked as to whether there was dirt on his face as well she said:

> 'I didn't notice the dirt on the face. I just really noticed his hands, because Cheryl *(ie Deller)* was holding him by the hands.' [79] (italicised portion added)

When it was specifically suggested to her that there was dirt on his face Ms Filsell said:

> 'I didn't see that.'[80]

4.10. It became apparent during Ms Filsell's oral evidence that the first time Ms Filsell had been asked about whether Lawrence had been dirty after this incident was quite

[75] Exhibit C26
[76] Transcript, page 498
[77] Transcript, page 504
[78] Transcript, page 517
[79] Transcript, page 517
[80] Transcript, page 517

recently, at a time after she had given her statement. She stated that after they had given their statements in June 2013, she and Ms Deller between themselves had discussed the matter of the incident of 26 April 2011. The key topic of discussion was whether Lawrence had been unsupervised on any occasion. They had concluded that this was the only occasion that they could recall where there had been a period of lack of supervision in respect of Lawrence. According to Ms Filsell there was some discussion between them about how dirty Lawrence had been when he was brought inside. She agreed that the principal head of relevance in respect of their discussion was whether Lawrence had had any opportunity to eat dirt. Surprisingly, Ms Filsell said that no part of their discourse on the event of 26 April had included discussion specifically about whether or not Lawrence had had dirt on his face, notwithstanding that this would have possibly been the most important facet of any analysis as to whether or not Lawrence had eaten dirt on this occasion.

4.11. In the event I preferred the evidence of Ms Viscione on this issue and I find that Lawrence had been left alone outside for some minutes on the morning of 26 April 2011 and that he had dirt on his face when he was located. I infer further and find that Lawrence had eaten foreign garden material on that occasion. Although his eating of foreign material was not witnessed, given that his propensity to eat dirt and other foreign garden material was well entrenched, it would have been in his nature to have done so on this occasion. This is supported by Ms Viscione's observations of dirt around his mouth. In fact, to my mind it is highly unlikely that he did not eat dirt on this occasion.

4.12. Ms Viscione told the Court that when she returned Lawrence to the Weroona Avenue facility on the afternoon of Tuesday 26 April 2011 he walked straight to the rear fence in the backyard of the premises and sat down where he proceeded to play with material on the ground. She saw a cloud of dirt around him on this occasion.

4.13. Ms Viscione also spoke of the events of Wednesday 27 April 2011. On this occasion she again took Lawrence to the Barry facility. She did not lose sight of Lawrence. Ms Viscione told the Court that at Barry facility Lawrence was simply playing with grass and did not consume any. I accept her evidence in that regard. I do not believe that Lawrence ingested the material that contributed to his death on this occasion. Ms Viscione believed that it was on this occasion that she witnessed Lawrence playing in the clam shaped pool when she returned him to the Weroona Avenue facility. There

is some doubt about whether this had occurred on 27 April 2011. Ms Wheatcroft believed that she had dismantled the feature by then. In any event, as already alluded to, my view is that Lawrence's consumption of uncooked rice was of no special consequence and was facilitated for the best of intentions. One feature of Ms Viscione's evidence about that day, however, was that in her opinion Lawrence had been tired and lethargic and that this had caused her some concern. On the other hand, it appears that during the course of that afternoon Lawrence was happily playing with other children with a water slide outside. Aside from Ms Viscione, there were no observations by any other person that Lawrence was in any way distressed or exhibiting illness at any stage on Wednesday 27 April 2011, the day before his collapse and death.

4.14. There is no evidence that Lawrence consumed, or had the opportunity to consume, foreign material at the Weroona Avenue or Barry Road facilities at anytime on 27 April 2011.

5. The events of the morning of Lawrence's collapse

5.1. I have already referred to the evidence of Ms Leddicoat and Ms Osman. These two carers were on duty on the morning of Thursday 28 April 2011. Ms Osman was the carer who had slept over during the previous night. In her evidence before the Court Ms Osman said that she had started her nightshift between 7pm and 7:30pm on the evening of the Wednesday. At that time Lawrence was already in bed and asleep. She said that she checked on Lawrence in his room and he was asleep[81]. A handover between staff took place on that occasion. As far as Ms Osman recalled, nothing imparted to her about the children and their activities that day had any particular significance to her[82]. In short, there was nothing about Lawrence that to Ms Osman would have given rise to alarm about his wellbeing. She was not told that he had appeared lethargic the day before as had been described by the witness, Ms Viscione.

5.2. I was not satisfied that Ms Osman was correct when she said that she did not see Lawrence awake after her arrival at the premises on the Wednesday evening. This is due to the fact that it is recorded on Lawrence's medication administration record that at 7pm on 27 April 2011 Ms Osman had administered Lawrence's oral medication. This entry was in her own handwriting. Ms Osman could provide no explanation for

[81] Transcript, page 443
[82] Transcript, page 429

this entry consistent with her not having seen Lawrence awake on the evening of 27 April 2011. This is not to say that Ms Osman was hiding anything from the Court about Lawrence's condition or wellbeing on the night of the Wednesday. There is no other evidence, aside from Ms Viscione who saw Lawrence earlier in the afternoon, to suggest that Lawrence was unwell at anytime on the Wednesday. Ms Wheatcroft did not identify any sign of illness or lethargy in Lawrence during the afternoon or early evening of the Wednesday. She believed that had any such signs been detected, he would not have been allowed to engage in the water play that took place in the backyard of the premises that afternoon. Certainly, there is nothing to suggest that he was demonstrating illness during the ensuing night. In this regard the evidence of Professor Byard to the effect that in children with developmental disabilities symptoms of intestinal obstruction may not be seen until the terminal collapse occurs, is highly relevant.

5.3. I find that there was nothing about Lawrence's demeanour or appearance that would have alerted CARA staff to any illness on his part on the Wednesday evening or during the night. There was nothing obvious about Lawrence that required medical attention or other extraordinary care. To that extent the events of the following morning in respect of Lawrence could not have been predicted on the Wednesday night. Moreover, those events could not have been prevented by any measure that could have been adopted on the Wednesday night.

5.4. Ms Leddicoat commenced her shift on the Thursday morning. The three other children were already up when she arrived. Lawrence was still in his room and was quiet, although there was nothing unusual about that. At about 9am Ms Leddicoat went into Lawrence's room to check on him. The first thing that she noticed was an overwhelming smell of faeces. Lawrence had experienced very bad diarrhoea which was all over his bed. There was some vomitus present as well.

5.5. Lawrence was taken to the bathroom where his diarrhoea appeared to be uncontrollable. The Site Manager, Ms Baxter, was telephoned and she attended. An ambulance was also called by way of 000.

5.6. The evidence relating to Lawrence's collapse into unresponsiveness was the subject of detailed evidence tendered to the Inquest. It is not necessary to recite all of that. I have already mentioned the paramedics' observations of the substance that was

required to be suctioned from Lawrence's airway. The additional significant feature of the evidence of the paramedics is that according to the paramedic, Mr Ashley Sanders, one of the CARA persons present stated that Lawrence had been eating dirt the day before and that he had a history of the same. Mr Sanders, who gave oral evidence in the Inquest, could not identify the person who said that. In addition the inquiry conducted by me when all of the evidence is considered, did not identify that person. However, I am satisfied that this was said by one of the CARA staff present and that it was a female person. The only doubt that I entertain in relation to Mr Sanders' evidence is whether it had been said that Lawrence had been eating dirt specifically during the previous day. There is no evidence about that, although there is evidence from which it can be inferred that he had eaten dirt the day prior to that, namely Tuesday 26 April 2011.

5.7. Mr Sanders also told the Court that Lawrence exhibited signs of dehydration including sunken and dry eyes and a dry tongue.

5.8. I was satisfied that the CARA staff did everything they could for Lawrence and did it in a timely fashion. The same applies to the efforts of the paramedics to those of the staff of the Emergency Department of the Flinders Medical Centre.

6. Conclusions

6.1. The Court reached the following conclusions.

6.2. The cause of death of Lawrence Betts was a sigmoid volvulus. A substantial contributing factor in the formation of the sigmoid volvulus was the presence of a quantity of dirt and stone.

6.3. I find that the dirt and stone was ingested by Lawrence orally.

6.4. Also found in Lawrence's digestive tract was a quantity of uncooked rice. It has not been demonstrated that the ingestion of uncooked rice contributed to the cause of Lawrence's death.

6.5. At the time of Lawrence's death, Lawrence was under the guardianship of the Minister for Families and Communities (now Minister for Education and Child Development). Specifically, he had been placed in the care of the Community Accommodation and Respite Agency (CARA). At the material time Lawrence was

accommodated by CARA at the facility situated at 4 Weroona Avenue, Park Holme, South Australia.

6.6. By the time of the events with which this Inquest is concerned Lawrence had demonstrated a propensity to orally ingest foreign material such as dirt, stones and sand.

6.7. Lawrence's propensity to ingest dirt, stones and sand was well known to staff of the CARA organisation at both of their facilities situated respectively at Chandler Court, Magill and Weroona Avenue, Park Holme. Efforts were made by staff at the Chandler facility to keep Lawrence out of garden areas in order to prevent or limit his access to garden material that he might ingest.

6.8. Lawrence's propensity to ingest foreign material, particularly from a garden, was well entrenched to the extent that if left alone with access to foreign material such as dirt, stones and sand, it was very likely that he would ingest the same or attempt to ingest the same.

6.9. I find that a very close regime of vigilance was required on the part of those whose task it was to care for Lawrence.

6.10. Lawrence was accommodated at the Weroona facility between 20 and 28 April 2011. Staff at the Weroona facility adopted a somewhat differing approach to Lawrence's supervision from that imposed upon him at the Chandler facility. At the Weroona Avenue facility Lawrence was permitted, if not actively encouraged, to play outside in the rear yard of the premises and in particular in the vicinity of the garden where there was dirt and other garden materials. I find that for the most part Lawrence was properly invigilated when he was in the garden at the Weroona facility. However, I find that there were occasions when he was not invigilated and that, therefore, there were occasions when he was unattended and unseen in the garden. These occasions represented opportunities for Lawrence ingest dirt and foreign material without restriction.

6.11. Only one specific instance of Lawrence being alone in the rear garden of the premises at the Weroona facility was identified during the Inquest. This occasion occurred on the morning of Tuesday 26 April 2011. I find that on this occasion Lawrence, unnoticed, let himself out of the rear door of the building and entered the rear yard. I

find that Lawrence was alone in the rear yard on this occasion for some minutes. This represented an opportunity for Lawrence to have ingested garden material. I find that Lawrence's letting himself out of the house was not anticipated by the carers on duty whose attention was at the time distracted out of a genuine need to attend to another child. I find that when Lawrence was located parts of his clothing and skin were covered in garden material. I find that there was such material around Lawrence's mouth. Given Lawrence's propensity to ingest garden material I find that on this occasion he did ingest garden material.

6.12. The possibility that there may have been other unidentified occasions in the days prior to Lawrence's death on which he may have ingested garden material has not been eliminated.

6.13. I find that the foreign material found in Lawrence's digestive tract at post-mortem had been ingested orally by him and that its origin was the rear garden at the Weroona facility.

6.14. I do not find that Lawrence was permitted, with the knowledge of CARA staff, to ingest any of the foreign material that was found in his digestive tract at post-mortem. There is no evidence that any member of the CARA staff permitted him to do so. I think it is more probable than not that the foreign material that was ingested by Lawrence and which was found in his digestive tract post-mortem had been ingested out of the sight of and without the knowledge of CARA staff.

6.15. I find that there was information in the possession of CARA staff at both of its facilities concerning Lawrence's propensity to orally ingest foreign substances and that the level of information was sufficient to have enabled them to take preventative action in relation to the same. Lawrence's propensity to ingest foreign substances was well known and well documented.

6.16. I find that Lawrence's ingestion of foreign material was the result of a lack of due vigilance of Lawrence on the part of CARA staff at the Weroona facility. To the extent that most if not all of the foreign material was ingested by Lawrence at the Weroona facility on the morning of Tuesday 26 April 2011, the lack of vigilance is mitigated by the fact that carers were distracted by the immediate needs of another child.

6.17. Proper communication between the staff at the Chandler facility and the Weroona Avenue facility should have included verbal communications to the effect that in order to prevent Lawrence from eating garden material, he should either be kept away from the rear garden of the premises or be watched at all times without exception. It is to be recognised that either strategy might more easily be stated than implemented in an environment where there are more children than carers and that the activities of all children both inside and outside a premises have to be carefully observed. This naturally raises a question mark over whether, and this is no criticism, CARA was adequately equipped to manage the care of an individual such as Lawrence, especially on an ongoing basis not merely for temporary respite.

6.18. Lawrence's fatal collapse was the subject of appropriate resuscitation efforts by CARA staff, paramedics of the South Australian Ambulance Service and clinical staff at the Emergency Department of the Flinders Medical Centre.

7. Recommendations

7.1. Pursuant to Section 25(2) of the Coroners Act 2003 I am empowered to make recommendations that in the opinion of the Court might prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the Inquest.

7.2. The question of the framing of appropriate recommendations in this case is not free from difficulty. Both Ms Kereru, counsel assisting, and Mr Charles, on behalf of Lawrence's mother, Ms Cecily Betts, formulated a number of possible recommendations for the Court's consideration. These in large part relate to the need for early medical evaluation of children placed under the guardianship of the Minister, and in particular when placed within foster and respite facilities. As well, a number of the suggested recommendations relate to the provision and transmission to carers of information about a child so as to enable carers to deliver appropriate care to children and to mitigate risks that might be posed to children by various medical conditions and disabilities.

7.3. All of the recommendations that I have been urged to consider by counsel are no doubt based on commonsense and are matters that one would have thought were fundamental to the proper care of a child under the care of the Minister, particularly where there is an identified disability at the time the child is brought under the care of

the Minister, such was the case with Lawrence Betts. The difficulty in this case is that in my opinion any shortcoming or delay in medical assessment and the provision of proper information about the child in this case had little bearing on the outcome. This is because I have found that CARA and its individual carers were in possession of sufficient information that would have enabled them to bestow the appropriate level of care and vigilance of Lawrence, particularly in respect of his tendencies to eat foreign substances. In addition, commonsense would have dictated, regardless of the level of information made available about Lawrence, that he should be deterred and prevented from eating foreign material. The need for such deterrence and prevention was obvious, and indeed was acknowledged by persons who gave evidence in this Inquest. Such would be the case regardless of whether the child's tendency to eat dirt was as a result of a disability or simply because the child was of an age where it did not know better. Clearly a child in either circumstance would require special vigilance.

7.4. In considering appropriate recommendations in this matter I have carefully considered the affidavit of Ms Anne Wharldall[83] who is the Chief Executive Officer of CARA and who explains that if a significant alteration were advocated regarding an increase in carer to child ratios, this would adversely translate to a direct and proportionate effect on the number of people to whom CARA's services could be offered. If a ratio of one staff member to one client was advocated this would halve the number of people for whom care could be provided. While recognising that this is most probably the case, it would not relieve the organisation of the duty to conduct the appropriate level of vigilance in respect of individual vulnerable clients.

7.5. The annual report of the Guardian for Children and Young Persons for the 2012- 2013 financial year was released on 27 November 2013. It occurs to the Court that the functions and responsibilities of the Guardian are ideally suited to the care of individuals such as Lawrence, particularly in respect of the Guardian's statutory function to monitor the circumstances of children under the guardianship, or in the custody, of the Minister and in respect of her specific objective, as identified within the annual report, to '*obtain more robust information about residential care environments and target visits to the most vulnerable children'*[84].

[83] Exhibit C30
[84] Annual Report of GCYP 2012-2013, page 20

7.6. I do make the following recommendations directed to the attention of the Minister for Education and Child Development, the Chief Executive officer of the Department for Education and Child Development, the Guardian for Children and Young People and the Chief Executive of CARA:

1) That the Department for Education and Child Development, Families SA, the Guardian for Children and Young People foster parents, respite agencies and other entities caring for children placed under the guardianship of the Minister work together to ensure that a child who has been placed under the guardianship of the Minister and who has an identified disability be medically examined by a consultant paediatrician as soon as possible after the child has been placed under the guardianship of the Minister;

2) That all available information regarding all relevant medical history of the child and disabilities suffered by the child be made available to carers;

3) That entities such as CARA who are charged with the responsibility of caring for children under the guardianship of the Minister appoint a key worker to each individual child under care; the key worker should be responsible for the oversight of the care provided to the child regardless of the facility or facilities in which the child might from time to time be accommodated;

4) That measures and initiatives be created to ensure that carers adopt a consistent approach to the care of an individual child who is under the guardianship of the Minister and who has an identified disability. The approach to care should involve the compilation of a care plan that is properly documented in plain language and which sets out a consistent approach to be taken to the management of a child's disability, to the management of risks posed to the child by virtue of that disability and to the means by which any identified risk can be prevented or mitigated. The care plan should be regularly reviewed in the light of the child's current circumstances and the care plan should have input from a properly qualified medical practitioner. The care plan should be made available to the Guardian for Children and Young People for the purposes of the Guardian's necessary input.

5) That the Minister ensure that entities under whose care children under her guardianship are placed, and especially where an individual child has a disability, are adequately resourced and equipped to deliver appropriate care to those children having regard to the particular disability.

Key Words: Guardianship of the Minister; Foster Care

In witness whereof the said Coroner has hereunto set and subscribed his hand and Seal the 29th day of November, 2013.

Deputy State Coroner

Inquest Number 11/2013 (0670/2011)