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 23rd and 24th days of October 2012 and the 30th day of August 2013, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of Doreen Hilda Chaplin.

The said Court finds that Doreen Hilda Chaplin aged 82 years, late of Churchill Retreat Nursing Home, 470 Churchill Road, Kilburn, South Australia died at the Queen Elizabeth Hospital, 28 Woodville Road, Woodville South, South Australia on the 16th day of September 2010 as a result of fat embolism syndrome and bronchopneumonia following nail fixation of bilateral femoral shaft fractures complicating marked osteoporosis. The said Court finds that the circumstances of her death were as follows:

1. Introduction

1.1. Doreen Hilda Chaplin was 82 years of age when she died on 16 September 2010 at the Queen Elizabeth Hospital (QEH). Mrs Chaplin was normally a resident of the Churchill Retreat Nursing Home (the Churchill Retreat), 470 Churchill Road, Kilburn which is a high care aged care facility.

1.2. Mrs Chaplin had been transferred from the Churchill Retreat to the QEH in the early hours of the morning of 11 September 2010. Earlier that night personnel of the South Australian Ambulance Service (SAAS), who originally had been tasked to see another resident of the Churchill Retreat, had been asked to examine Mrs Chaplin and had identified in her a fractured left femur. As a result, Mrs Chaplin was then conveyed to the QEH. X-rays taken at the QEH upon admission revealed a displaced fracture of the left distal femoral shaft. An undisplaced fracture of the distal right femur would

be identified in later X-ray imagery taken at the QEH. On 13 September 2010 Mrs Chaplin underwent surgery in order to rectify both femoral fractures. Mrs Chaplin would die from complications of that surgery. The circumstances in which Mrs Chaplin sustained these injuries in the first instance formed the principal issue examined in this Inquest.

1.3. Mrs Chaplin suffered from severe dementia and its associated behavioural problems which had emerged in about 1999. She also suffered from congestive cardiac failure, cerebrovascular disease with a cerebrovascular accident in 1993, transient ischaemic attacks, asthma, moderate dysphasia, urinary and faecal incontinence and significant osteoporosis which is a disease of the skeleton that weakens the structural strength of bones including the femoral bones. Mrs Chaplin's physical and mental health had deteriorated significantly during her time at the Churchill Retreat. She became confined to bed for the most part and she was entirely reliant on assistance for all of her personal needs including feeding and mobilising.

1.4. Unfortunately Mrs Chaplin suffered from skeletal deformities involving both legs. Her thighs were permanently positioned at an abnormal angle to her torso. The lower part of her legs from the thighs to the feet were also at a permanently abnormal angle relative to her thighs. Mrs Chaplin's shape was such that when lying on her back, her thighs would be fixed at an angle upwards from her buttocks so that the knees would be significantly elevated above the surface of the bed, and the lower part of her legs would be at a similar angle descending to the feet. Naturally all of this meant that Mrs Chaplin was no longer mobile.

1.5. Mrs Chaplin could be seated in a 'princess chair'. Movement from this chair to her bed required the use of a mechanical lifter, which appears to have worked with good effect. Operation of the mechanical lifter would involve the input of two carers. Mrs Chaplin herself could play no practical role in her own lifting.

1.6. Mrs Chaplin was for the most part non-verbal.

1.7. An orthopaedic surgeon at the QEH, Dr Malcolm John William Begg, who although not directly involved with Mrs Chaplin's clinical management except in a supervisory capacity, offers the opinion in his witness statement[1] that Mrs Chaplin's degree of

[1] Exhibit C3a

osteoporosis and her history of not weight bearing would make her very susceptible to fractures. He suggests that with the degree of osteoporosis that Mrs Chaplin had, it would not take much force to cause an injury of the kind suffered with respect to Mrs Chaplin's left femur, namely the displaced fracture. As will be seen, the pathologist who performed the post mortem examination upon Mrs Chaplin would offer the same opinion.

1.8. X-rays taken of Mrs Chaplin's hips and femurs on 13 September 2010 prior to her surgery have been examined by an independent consultant radiologist, Dr Arvinder Sandhu. Dr Sandhu provided a written report to the Inquest[2]. Dr Sandhu states that the X-ray of Mrs Chaplin's pelvis and hips demonstrates an old and un-united fracture of her right hip with superior displacement, shortening and adduction deformity. As I understood the evidence this old injury, which on the X-rays demonstrated some healing, had not been identified or diagnosed at any time during Mrs Chaplin's life. In his report Dr Sandhu expresses the opinion that it is not possible to establish the exact timing of this injury but that it was probably months old rather than weeks old. In any event, as will be seen, it must have occurred at a point earlier in time than when the femoral injuries were sustained.

1.9. As far as the femoral injuries are concerned, Dr Sandhu saw in the two films of Mrs Chaplin's distal right femur an undisplaced acute fracture in the distal third of that bone. In the three films of Mrs Chaplin's left femur Dr Sandhu sees an acute displaced fracture of the distal third of the femur in almost '*the identical mirror position*' to the right femoral fracture. Dr Sandhu notes from the X-rays as a whole that the bones under discussion were osteoporotic and that this fact can make assessment of acute fractures difficult due to a relative lack of healing. Despite this, he opines that the margins at the distal femoral fractures are sharp and have no smoothing usually evident in subacute non-healed or delayed healing fractures. He says:

> 'I have **<u>no doubt</u>** that the distal femoral fractures are recent, i.e. less than a week old.' [3]
> (The emboldening and underlining is part of the original text)

Given the opinion as to the age of the two femoral fractures as expressed by Dr Sandhu, the fractures could have been caused on 10 September 2010 which was the day on which SAAS personnel identified the left displaced femoral fracture.

[2] Exhibit C7
[3] Exhibit C7

1.10. Mrs Chaplin's remains were subjected to a post-mortem examination which was conducted by Dr John Gilbert, a consultant forensic pathologist employed by Forensic Science South Australia. Dr Gilbert provided a written post-mortem report[4]. He also gave oral evidence at the Inquest. Before discussing cause of death, it is as well to deal with Dr Gilbert's observations and opinions concerning the bony injuries to Mrs Chaplin's legs. Dr Gilbert noted that Mrs Chaplin had severe osteoporosis that would render her liable to fractures of her skeleton. This would require far less force than is ordinarily required to fracture bones[5]. He suggested that it is quite possible that Mrs Chaplin's femoral shaft fractures had resulted from minor trauma only or from '*inadvertent injudicious handling of the deceased during normal nursing manoeuvres*'. In his post-mortem report Dr Gilbert referred to histological examination of tissue adjacent to both fractures having been undertaken. He reported that these examinations indicated that the left femoral fracture was approximately 7 to 10 days old at the time of death. On the other hand, the right femoral fracture showed much less advanced healing but that histological sampling in that case might make that finding unreliable. In his report Dr Gilbert also suggested that X-rays of both fractures taken at the QEH be reviewed by a consultant radiologist for a second opinion regarding the ages of the fractures. It was in the light of that suggestion that the report from the radiologist Dr Sandhu, to whom I have referred, was obtained. At the time Dr Gilbert gave his oral evidence at the Inquest, Dr Sandhu's report had become available. In the light of that report Dr Gilbert suggested that his estimate as to age of the fractures and that of Dr Sandhu were not dissimilar. Although Dr Gilbert had originally thought that the two fractures may have occurred at different times, in his oral evidence before the Court he alluded to the strong possibility that they had been inflicted simultaneously. In the event, he did not disagree with Dr Sandhu's estimate as to age in respect of both fractures. Having regard to both Dr Gilbert's opinion and that of Dr Sandhu, I find that the distal femoral fractures were recent and less than a week old as of 13 September 2010, the day on which the X-rays that Dr Sandhu examined were taken. I find that both fractures could have occurred on 10 September 2010. In another section of these findings I will deal with the question as to whether either or both did in fact occur at that time.

[4] Exhibit C11
[5] Transcript, page 24

2. Cause of death

2.1. The post-mortem report of Dr Gilbert expresses the cause of death as *fat embolism syndrome and bronchopneumonia following nail fixation of bilateral femoral shaft fractures complicating marked osteoporosis*. The nail fixation procedure described in that recitation is a reference to the surgery that was performed at the QEH on 13 September 2010. In his oral evidence Dr Gilbert expanded upon this cause of death. He explained that people who suffer trauma to their fatty tissues, or to bones that contain fatty tissues, can be susceptible to tiny droplets of fat from those damaged tissues entering the bloodstream and passing through the bloodstream into the lungs. The fat droplets can also be chemically altered once they are liberated into the blood supply and can produce toxic substances which then can have other adverse consequences with respect to the function of the organs. He explained that in more severe cases it is not unusual to find fat droplets not only in the lungs but also in the brain and kidneys as was the case with Mrs Chaplin. The condition is not necessarily fatal and various minor degrees of fat embolism are commonly seen in persons who suffer significant trauma. However, in Mrs Chaplin's case the degree was greater than usual. Dr Gilbert formed the clear view that it was the orthopaedic surgery, involving the introduction of nails into the femurs, that had been the most likely cause of Mrs Chaplin's fat embolism syndrome. He favoured this as the origin of the syndrome as opposed to the original femoral injuries. He based this view upon the fact that Mrs Chaplin's decline occurred after her operation, whereas prior to the surgery she had appeared to be in reasonable condition[6]. He said:

> 'I think in her case given the appearance of those symptoms after her surgery, the apparent lack of symptoms before the surgery, I think it is more likely that the orthopaedic procedure has caused it.'

2.2. Dr Gilbert further explained that there was little that could be done by way of prevention or treatment of this syndrome and that the development of it does not imply any lack of care on the part of medical practitioners.

2.3. Dr Gilbert also referred to the fact that quite apart from her more acute bony fractures, Mrs Chaplin had medical conditions that included heart and cerebrovascular disease, problems that would tend to compound the effects of fat embolism syndrome and render the outcome less favourable for her.

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[6] Transcript, page 19

2.4. Dr Gilbert stated that the bronchopneumonia was early bronchopneumonia in Mrs Chaplin's case, being only a day or two in age. Mrs Chaplin age, her general debilitation and her development of fat embolism syndrome were contributory factors to the development of bronchopneumonia. He said that although it was the fat embolism that had sparked off the fatal chain of events, both fat embolism syndrome and the adverse effects of pneumonia would have ultimately contributed to her death.

2.5. It will be observed that Dr Gilbert's opinion was that it was the surgery for the fixation of the femoral fractures that led to the fat embolism syndrome. I accept all of Dr Gilbert's evidence as to that. It will be observed that Dr Gilbert's recitation of the cause of death states that the primary cause is fat embolism syndrome and bronchopneumonia following nail fixation of bilateral femoral shaft fractures. Although the bilateral femoral shaft fractures were themselves not immediately responsible for Mrs Chaplin's death, it is obvious, and I so find, that they represented a significant underlying circumstance in the causation of her death. Clearly, the surgery for the fixation of her bilateral femoral shaft fractures would not have been necessary but for those fractures. There is no reason to suppose that Mrs Chaplin's demise would have occurred at the time that it did if it were not for her having sustained those fractures.

2.6. I find that the cause of Mrs Chaplin's death was fat embolism syndrome and bronchopneumonia following nail fixation of bilateral femoral shaft fractures complicating marked osteoporosis. I further find that the sustaining of those bilateral femoral shaft fractures was a significant circumstance in the underlying cause of her death.

3. <u>The circumstances in which Mrs Chaplin sustained her femoral fractures</u>

3.1. I have already alluded to the fact that the fracture to Mrs Chaplin's left femur was suspected, if not actually positively identified on palpation, on the night of 10 September 2010 by SAAS personnel. There is no evidence of any accident or incident in which Mrs Chaplin's injuries had been identified at the precise point in time at which any such accident or incident had occurred. However, earlier on the day in question there was an incident in which Mrs Chaplin had been manually lifted from her princess chair to her bed. This was an unusual and indeed unauthorised occurrence having regard to the fact that her lifting was habitually, if not exclusively,

effected by way of a mechanical lifter and that the policy of the facility was that no manual lifting should occur with respect to residents. In this Inquest I examined the question as to whether or not in the course of the manual lifting that occurred on 10 September 2010 Mrs Chaplin had sustained her femoral fractures. I also examined the issue as to whether or not either or both of Mrs Chaplin's femoral fractures may have been caused by or during the examination made by SAAS personnel that evening. I also examined the question as to whether the source or sources of Mrs Chaplin's fractures could be identified at all.

3.2. In this section I will deal with the following issues in this order:

1) The circumstances in which Mrs Chaplin's injuries were revealed;
2) The SAAS examination and its possible contribution to Mrs Chaplin's injuries;
3) The earlier manual lifting of Mrs Chaplin and its possible contribution to her injuries;
4) Whether there is any explanation for Mrs Chaplin's injuries that can be found from the evidence.

3.3. <u>The circumstances in which Mrs Chaplin's injuries were revealed</u>

At the time with which this Inquest is concerned Ms Tracey Ann Struthers was a student studying for her Certificate III in Aged Care. Her education provider had arranged a temporary placement at the Churchill Retreat in September 2010 for her. Ms Struthers provided a police statement taken on 19 February 2011[7]. Ms Struthers states that while working at the Churchill Retreat, she had been aware of a resident whom she refers to as Doreen and who on the evidence I find was Ms Doreen Chaplin. Ms Struthers recalls that at some point she learnt that Mrs Chaplin had been taken to hospital with a broken leg or legs. Ms Struthers states that on the previous Friday, which I find was Friday 10 September 2010, she had arrived at the Churchill Retreat at about 3pm to begin work. That day she was working with a carer by the name of Tammy who I find was Ms Tammy Lockey. Sometime between 4:30pm and 5pm Ms Struthers fed Mrs Chaplin. Mrs Chaplin was in bed under the covers when Ms Struthers fed her. Ms Struthers had not seen Mrs Chaplin being placed in bed. Ms Struthers recalls that at the time she was feeding her, Mrs Chaplin was sobbing and whimpering. Ms Struthers advised the carer Tammy about this. She had felt

[7] Exhibit C5a

uncomfortable about feeding Mrs Chaplin in those circumstances. Later that shift she became aware that the carer Tammy had asked another carer, Linda, who I find was Ms Linda Incledon, to examine a resident who was said to have a hard and red area on her leg. Ms Struthers describes the carer Linda going with the carer Tammy while Ms Struthers remained in another resident's room. Ms Struthers did not see what was then to transpire. However, there is no doubt that Ms Tammy Lockey had been referring to Mrs Chaplin in this incident. The salient feature of Ms Struthers' evidence is that Mrs Chaplin's demeanour, consisting of sobbing and whimpering, suggests that Mrs Chaplin was experiencing a level of distress and that this was detected at a time after Mrs Chaplin had been manually lifted to her bed. I point out, however, that Ms Struthers states that when she had advised the carer Tammy of Mrs Chaplin's distress, Tammy had said that it was not uncommon for Mrs Chaplin to be like this.

3.4. Ms Tammy Lockey[8] and Ms Linda Incledon[9] gave written statements to investigating police in December 2010. As well, both women gave oral evidence at the Inquest. Earlier on the day in question it was Ms Lockey and Ms Incledon who had both been involved in the manual lifting of Mrs Chaplin. I will come to the circumstances of that in a moment, but at this stage I simply refer to their involvement in the discovery of Mrs Chaplin's left thigh injury. At about 8pm Ms Lockey and Ms Incledon went into Mrs Chaplin's room and removed the bed covers thereby exposing Mrs Chaplin's legs. They both noticed a red patch on her left thigh just above Mrs Chaplin's knee. This was clearly an unusual and concerning circumstance because the registered nurse on duty, Ms Anjana Adhikari, was then asked to come into the room to examine Mrs Chaplin. Ms Adhikari provided a statement to police[10]. Ms Adhikari states that as far as she was concerned, the red mark on Mrs Chaplin's left thigh looked like cellulitis. Ms Adhikari described the lesion as cone shaped, of light red colour and about 3cm or 4cm long. She indicates in her statement that Mrs Chaplin gave no indication or any sign of pain at that time.

3.5. <u>The SAAS examination and its possible contribution to Mrs Chaplin's injuries</u>

As already alluded to an ambulance crew happened to be on the premises at the time the red mark on Mrs Chaplin's left thigh was discovered. One of the paramedics was asked to come to Mrs Chaplin's room to examine the mark on her left leg. All three

[8] Exhibit C12
[9] Exhibit C13
[10] Exhibit C4a

women, namely Ms Lockey, Ms Incledon and Ms Adhikari, state that one of the ambulance officers manipulated Mrs Chaplin's left leg. Ms Adhikari's statement suggests that when this took place a cracking noise could be heard. Ms Adhikari's statement also suggests that following this manipulation she could see that there was a bony protrusion on the skin surface of that leg. It looked obvious to her at that point that Mrs Chaplin's left leg was broken. She states:

> 'It now looked different than before the paramedic had manipulated the leg. It had changed its appearance.' [11]

3.6. Mrs Chaplin is said to have been in some distress after this examination. Ms Adhikari's statement suggests that the other paramedic also came into the room and performed an assessment. Ms Adhikari suggests that she asked the ambulance officers to stop their examination because it was already clear that the leg was broken and that further movement could make it worse. Importantly, Ms Adhikari says in her statement that Mrs Chaplin's right leg was not examined and that nobody touched that leg. As seen earlier, a corresponding undisplaced fracture of that leg, consistent with having been caused at the same time as the injury to the left leg, would be identified by X-Ray at the QEH.

3.7. In Ms Lockey's witness statement she describes the ambulance officer manipulating the left leg by attempting to straighten it which caused some resistance on Mrs Chaplin's part. She suggests that the registered nurse, Ms Adhikari, told him not to do that. Ms Lockey's statement suggests that a second male officer also manipulated Mrs Chaplin and did so in respect of both legs. Ms Lockey's statement makes it plain that the following day she learnt that Mrs Chaplin had two broken legs. I am not certain that Ms Lockey came to that knowledge the day after this incident, but I am satisfied that at a time before she gave her police witness statement on 15 December 2010 she knew that both legs had been injured.

3.8. Ms Incledon's witness statement states as follows:

> 'The ambulance officers manipulated her leg. Angie, registered nurse, told them not to do this. After doing this one of the ambulance officers said "it's broken".' [12]

Ms Incledon's witness statement also makes it plain that by the time she gave her statement to police on 2 December 2010, she had learnt that both of Mrs Chaplin's

[11] Exhibit C4a, page 4
[12] Exhibit C13, page 8

legs had been broken. Ms Incledon's statement does not say anything about whether or not Mrs Chaplin's right leg had been the subject of manipulation by ambulance officers. Neither the statement of Ms Lockey nor that of Ms Incledon speak of a cracking sound at the time Mrs Chaplin was examined by ambulance officers.

3.9. In her oral evidence before the Court Ms Lockey stated that the registered nurse had examined the red mark on Mrs Chaplin's left thigh and had presumed that it was cellulitis. She asserted that both ambulance officers had manipulated the leg. She suggested that the manipulation had taken place for approximately a minute to two minutes before the ambulance officers were asked to stop. She said that the second ambulance officer had manipulated both legs. Mrs Chaplin had reacted by groaning. She confirmed that one of the ambulance officers suggested that a leg was broken. She said that following the manipulation the redness was still there but it looked a little bit swollen. She said that she did not see any bony protrusion associated with the leg.

3.10. In her oral evidence Ms Incledon described the red mark as '*just a red patch, nothing else*'[13]. When asked as to whether she had seen things like that on other residents she said that sometimes it '*looks like cellulitis*'[14]. She described the ambulance officer's manipulation of Mrs Chaplin's leg as having taken place for '*a few seconds*'[15] before the registered nurse told him to stop. She did not see any protrusions or lumps after this manipulation. When asked as to whether the second ambulance officer had done anything in respect of Mrs Chaplin she said that she did not see anything in that time and was not looking at what he was doing. She recalls Mrs Chaplin as being very distressed during this and she thinks that the ambulance officers had said that the legs were broken[16]. She said that she did not hear any cracking noises when the ambulance officers handled Mrs Chaplin. Asked as to whether one or both of Mrs Chaplin's legs were manipulated by the ambulance officers she said '*the most I saw was one*'[17], and that this had been the leg that had borne the red mark. This of course was the left leg that had sustained the displaced fracture.

[13] Transcript, page 126
[14] Transcript, page 126
[15] Transcript, page 129
[16] Transcript, page 130
[17] Transcript, page 138

3.11. Mr Nicholas Paul Barron is an intensive care paramedic employed by SAAS. Mr Barron was one of the two ambulance officers who had been in attendance at the Churchill Retreat and who were asked to examine Mrs Chaplin. Mr Barron was not asked to provide a statement to police until October 2012. That statement was tendered to the Inquest[18]. Mr Barron gave oral evidence as well. Mr Barron recalled the incident. It is well to record Mr Barron's experience as an ambulance officer. At the time he gave evidence to the Court he had been an intensive care paramedic for 8 months. He had been a paramedic in all for about 8 years. As part of his training and experience, he had identified fractures. He explained that identifying a fracture involved testing the integrity of the limb to determine whether there was deformity, extra mobility, crepitus (rubbing of bones against each other), or other parameters such as loss of circulation or loss of sensation. As part of his training he received instruction in relation to the minimisation of damage to an already broken limb. He explained that he was taught to be as careful as possible and to make movements that were only very subtle[19]. His examination of Mrs Chaplin was not the first occasion on which he had carried out an examination of an older person in respect of a possible fracture. He told the Court that he had seen many fractured femurs in the past, more commonly the neck of femur. He also told the Court that he had undertaken training and study into the mechanisms by which a fractured femur might be sustained in an elderly person. He had undertaken study and training in respect of disease processes including osteoporosis and cancer causing fractures in the bones. As to the type of force that might be required to sustain a fractured femur in the elderly, Mr Barron told the Court that he was certainly aware that it did not require much effort to fracture an osteoporotic bone. He said that he was aware of this at the time of his examination of Mrs Chaplin. When he conducted his examination of Mrs Chaplin he had that matter in his mind.

3.12. Mr Barron told the Court that upon his arrival at Mrs Chaplin's bedside he noticed that she had a sore, swollen left leg that was slightly deformed. His examination consisted of laying hands on her in order to test the integrity and mobility of the limb in the vicinity of the injury. He noted that the limb was not overly stable and he recommended to nursing staff that they call an ambulance. He said that he only gave the leg either side of the injury a slight movement with either hand in the opposite

[18] Exhibit C15
[19] Transcript, page 149

direction in order to see whether there was any loss of integrity of the limb. He quickly noted that it was quite unstable. He did not hear any cracking sound upon his examination of the leg nor did he observe any protrusions from that leg. He did not recall Mrs Chaplin as having been in any discomfort during his examination. Significantly, the impression that the limb was fractured was formed by Mr Barron very quickly. When he first saw Mrs Chaplin he did not believe that she was covered with a sheet and so when he walked into her room he believed that the injury was obvious[20]. No force was required to establish the unnatural mobility of the limb. Mr Barron was asked the following questions and gave the following answers:

> 'Q. Is it possible, in your opinion, that in the course of your examination, you either broke the limb or worsened an already existing fracture.
>
> A. I don't believe in any way would I have caused the fracture. There is always a potential to inflict pain when trying to assess whether there is a fracture, and I guess there is also a potential that I may have slightly displaced that fracture further trying to examine her.
>
> Q. What makes you think that you did not cause or make that fracture in any way worse.
>
> A. I believe I was quite gentle and I don't believe I put Mrs Chaplin in any real distress during the examination.' [21]

3.13. It will be remembered that Mr Barron was requested to examine Mrs Chaplin in the light of what was an obvious abnormality in relation to the left leg only, namely the redness. There is no evidence that there was anything visible to be observed in relation to the right thigh and it will also be recalled that the injury to the right thigh was an undisplaced fracture. As a matter of commonsense there would only be a limited need for the right leg to be examined in those circumstances. Mr Barron did not recall performing any structural examination of the right leg, although he acknowledged that he might have at least compared the two limbs to detect if there was any difference between them. Mr Barron could not recall whether or not his SAAS partner had joined him in the room at any stage.

3.14. As to the issue of cellulitis, when asked as to whether there had been any suggestion by any member of nursing home staff that the lesion involved a possible case of cellulitis, Mr Barron said '*not that I can recall*'[22]. It did not appear to him in any event to have been a case of cellulitis. Mr Barron described what he believed to be

[20] Transcript, page 157
[21] Transcript, page 157
[22] Transcript, page 150

the features of cellulitis, involving a raised rash type appearance. He suggested that Mrs Chaplin's injury was distinguishable from that. Mr Barron did say that he had in fact been called out to examine of cases of cellulitis, but only in respect of severe cases, for example those that might involve septicaemia or infections. He told the Court that if for argument's sake the mark his attention was drawn to by the nursing home staff was a case of cellulitis, it could not have been regarded as a serious case and indeed would be regarded as quite a minor case[23] that could be treated with oral antibiotics. He told the Court that he would be no more or less qualified to assess a case of cellulitis, and what was required for its treatment, than a registered nurse working in a nursing home on a fulltime basis. If anything, he suggested that a registered nurse in those circumstances would have a lot more experience in this field than he. On that basis one might be forgiven for wondering why a registered nurse in a nursing home would trouble an ambulance officer to examine an elderly patient suspected of having a minor case of cellulitis.

3.15. Mr Barron denied that any staff member from the nursing home had asked him to stop his examination. He said:

> 'No, certainly not. No, they were after my input on what to do.' [24]

No concern was expressed to him about what he was doing to Mrs Chaplin. As already alluded to, he said that it took very little on his part to establish that the left limb was broken.

3.16. <u>The earlier manual lifting of Mrs Chaplin and its possible contribution to her injuries</u>

During the afternoon of Friday 10 September 2010 Ms Lockey and Ms Incledon manually lifted Mrs Chaplin. Both women were carers at the facility. Both women understood that Mrs Chaplin was meant to be lifted by way of a mechanical lifter. The occasion of 10 September 2010 was the first time in which they had lifted Mrs Chaplin manually. Manual lifting was contrary to the policy of this particular facility. It was also contrary to the Australian Nursing Federation policy regarding lifting that was operative at the time. The policy was tendered to the Inquest[25]. It stipulates that '*the manual lifting of people must be eliminated in all but exceptional circumstances eg life threatening situations*'. The policy also stipulated that '*Health, aged care and*

[23] Transcript, page 158
[24] Transcript, page 154
[25] Exhibit C10

community services should include a No Lifting policy in their manual handling policy'. I am mindful of the fact that this policy may exist more out of a need to protect the occupational health and welfare of carers in these institutions than for the protection of residents who require lifting. Regardless of the underlying reason for the policy, a specific physiotherapy assessment in respect of Mrs Chaplin made it plain that she was to be transferred by way of a sling lifting machine with two people assisting[26]. The physiotherapist, Mr Ben Ho, stated in evidence that manual lifting for Mrs Chaplin was a matter that was prohibited for her by virtue of the clearly understood policy in place in respect of all aged care facilities. He told the Court that Mrs Chaplin could be manually lifted in '*no way, shape or form*'[27].

3.17. Ms Lockey and Ms Incledon acknowledged that the reason Mrs Chaplin was lifted manually on this occasion was due to the demands of other residents at the time. Lifting by way of mechanical lifting would have required the mechanical lifter to be obtained and would have involved Mrs Chaplin having to be placed within it, a time consuming process.

3.18. The manual lifting on this occasion involved Mrs Chaplin being lifted by both women from her princess chair to her bed. The statements of both Ms Lockey and Ms Incledon describe how Mrs Chaplin was lifted. Their descriptions are at variance. Ms Lockey said in her statement that the lifting involved the two carers each placing an arm beneath the armpits of Mrs Chaplin and then grabbing hold of the elastic waist band of Mrs Chaplin's trousers with the other hand. On the count of three Mrs Chaplin was lifted onto the bed and was placed in an upright sitting position. Ms Lockey then supported Mrs Chaplin's upper body whilst Ms Incledon guided her feet around onto the bed so that Mrs Chaplin was in a lying position. The account given by Ms Incledon in her witness statement was different. Whilst Ms Incledon agreed that the back of Mrs Chaplin's trousers were grasped by each carer, the palms of their other hands were placed on the underside of Mrs Chaplin's buttocks. Ms Incledon agrees that she was placed onto the bed in a sitting position.

3.19. Both carers gave oral evidence in respect of the method of lifting. With the assistance of a sheriff's officer, Ms Lockey performed a demonstration that by and large reflected the description that was contained in her police statement. In her oral

[26] Transcript, page 173
[27] Transcript, page 177

evidence Ms Lockey said that once on the bed Ms Incledon grabbed Mrs Chaplin's feet and moved her feet and legs onto the bed while Ms Lockey supported Mrs Chaplin's shoulders. A 'slippery Sam' was then used to move her once she was on the bed. Ms Lockey said that this manoeuvre had involved Mrs Chaplin's feet being lifted from a position below the level of the bed and then being brought up and around onto the bed[28]. On Ms Lockey's account no direct force was applied to Mrs Chaplin's thighs, either front or back[29]. Ms Lockey said that Mrs Chaplin had given no indication of discomfort during this process. Ms Lockey agreed that Ms Incledon's act of bringing Mrs Chaplin's feet up onto the bed from a dangling position below the edge of the bed was a movement that was quite unusual for Mrs Chaplin to undergo[30]. She agreed that the act of lifting the legs onto the bed by the feet from a dangling position whilst seated had meant that there had been no support for any other part of her leg[31]. Lifting by way of the lifting machine would not have involved such a step. Ms Lockey disagreed with the version described in Ms Incledon's statement insofar as she said that their hands were at no stage placed on the underside of Mrs Chaplin's buttocks.

3.20. Ms Lockey completed her evidence in the Inquest shortly before the luncheon adjournment. Ms Incledon was called to give oral evidence immediately after the luncheon adjournment. Very early in her evidence Ms Incledon was at pains to point out that she wanted to correct the description in her statement of the method by which she and Ms Lockey had manually lifted Mrs Chaplin. She said that the method had been '*misquoted*'[32] in her statement. She then proceeded to provide a description that conformed with that given by Ms Lockey and which involved a denial that any force had been placed under Mrs Chaplin's buttocks. She acknowledged that she had spent the luncheon adjournment with Ms Lockey but denied that she had spoken to Ms Lockey about this aspect of their evidence. Ms Incledon was most unconvincing about this. It will be noted that although Ms Incledon's witness statement was taken by police on 2 December 2010, it was signed on 6 January 2011 by Ms Incledon. Ms

[28] Transcript, page 63
[29] Transcript, page 65
[30] Transcript, page 87
[31] Transcript, page 90
[32] Transcript, page 93

Incledon did not make any alteration to the statement. She said that she must have just glanced over it[33].

3.21. Ms Incledon's description of how Mrs Chaplin was manoeuvred onto the bed once seated on its side was consistent with Ms Lockey's description. Specifically, she said:

> 'It's like a swing, sort of like the person at the tops guiding the top of the body; the person at the bottoms guiding the legs and so basically you, so what you go - the communication between the two parties - and you go One, two, three, around.' [34]

She agreed that description involved her holding Mrs Chaplin's feet and then swinging them around onto the bed from a position where the feet had been dangling over the side of the bed. She grabbed one foot in each hand and then on the count of three had '*very gently*' lifted the feet onto the bed. She agreed that no support had been provided to the other parts of Mrs Chaplin's legs during this process[35].

3.22. On any version of events as described by Ms Lockey or Ms Incledon it is plain that during the manual lift from the chair to the edge of the bed Mrs Chaplin's deformed, osteoporotic and vulnerable leg bones were unsupported and therefore at the mercy of the effects of gravity. On any version proffered by them there must have been an appreciable application of force to the legs when they were lifted by the feet, and were otherwise unsupported, from a dangling position below the edge of the bed onto the bed.

3.23. Both Ms Incledon and Ms Lockey said that they did not detect any discomfort on the part of Mrs Chaplin during the lifting process. I accept their evidence that they were not aware of any injury having been caused at that time.

3.24. As indicated earlier the evidence of the radiologist Dr Sandhu and that of the pathologist Dr Gilbert is that both of Mrs Chaplin's legs could conceivably have been broken on 10 September 2010.

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[33] Transcript, page 96
[34] Transcript, page 121
[35] Transcript, page 122

3.25. Whether there is any explanation for Mrs Chaplin's injuries that can be found from the evidence

It will be remembered that Mrs Chaplin's bones were significantly osteoporotic and vulnerable to fractures even without severe applications of force. It appears that except for this one occasion, Mrs Chaplin's regular lifting had been conducted exclusively by way of a mechanical lifter which would have supported her thighs during the process of lifting. This approved method of lifting seems to have been conducted regularly, satisfactorily, with good effect and without the infliction of injury.

3.26. I do not believe that either or both of the two femoral fractures were caused by the ambulance officer or officers. Mr Barron was a particularly impressive witness who convinced me that he had manipulated Mrs Chaplin's legs carefully. I accepted his evidence. To my mind he did no more than what had been necessary to confirm that Mrs Chaplin's left thigh was already broken by way of a displaced fracture. This had been established quickly and had required a minimal amount of manipulation. Mr Barron had been trained in the identification of fractures and was mindful of the need for care. There is also the fact that the reason Mr Barron was asked to examine Mrs Chaplin was that there was already in existence an identifiable lesion in respect of Mrs Chaplin's left thigh. It is common ground that this already visible injury was situated in the position where the displaced fracture would be identified. I have given careful consideration to the possibility that the red mark was reflective of some other kind of pathology and that Mr Barron when examining it accidentally broke Mrs Chaplin's thigh. To my mind, however, it would beggar belief to think that the red mark was wholly unconnected with trauma but had been a lesion of a kind unrelated to an underlying bony injury. It is not a coincidence; the red lesion in my view was clearly evidence of trauma having been suffered to that part of Mrs Chaplin's left leg. The only other explanation on the evidence is cellulitis. I do not for a moment believe that this red mark was, or was seriously thought to have been, cellulitis. I say this because if it had been a case of cellulitis, it was a very minor one and one that did not require consideration beyond that which had already been given to it by the registered nurse. While medical input may have been required at some point, input from the ambulance service would have been largely superfluous.

3.27. Then there is the matter of the injury to the other thigh. There is no evidence that there was a red mark to the right thigh or that this thigh had required specific examination. Although Mr Barron did not wholly discount the possibility that the right thigh had been the subject of examination, to my mind he did so primarily on the basis that he had no clear recollection of the matter one way or the other. The only person who claimed that the right thigh was manipulated by the ambulance officers was Ms Lockey. In this she was not supported by the evidence of Ms Incledon. Indeed Ms Lockey's evidence that the right thigh was manipulated by the ambulance officers is contradicted by the statement of the registered nurse Ms Adhikari who specifically said in her witness statement that Mrs Chaplin's right leg had not been examined and that no person had touched that leg. Ms Adhikari was the person who assumed overall responsibility for the facility. It was she who made the decision to request the SAAS personnel to examine Mrs Chaplin. It is more likely than not that she is correct on this issue. I find that on the balance of probabilities Mrs Chaplin's right thigh was not manipulated.

3.28. Ms Adhikari was the person who allegedly asked the ambulance officers to stop manipulating Mrs Chaplin's leg due to apparent discomfort. The apparent discomfort and cracking noise alleged by Ms Adhikari seems to me to be quite consistent with the minimal amount of force that was applied by Mr Barron in order to identify the presence of an a pre-existing displaced fracture. The fact that the injury may have looked different after that minimal amount of manipulation is also unsurprising.

3.29. In short, to my mind it is highly unlikely that Mr Barron caused the injury to Mrs Chaplin's left leg. It is even more unlikely that an ambulance officer caused the injury to the right leg as well. I reject that as an explanation for either the injury to the left leg or the right leg. I find that neither injury was caused by any SAAS officer.

3.30. To my mind there is a much more sensible explanation available for the two fractures to Mrs Chaplin's legs. The manual lifting earlier in the day as performed by Ms Lockey and Ms Incledon was an unusual application of force for Mrs Chaplin's legs to have experienced. It involved her being lifted with her thighs already in an unusual position relative to her torso. They were not supported and there would naturally have been gravitational forces applied to her thighs during the lifting from the chair to the bed. As well, on the versions of both Ms Lockey and Ms Incledon, Ms Incledon grabbed the feet of Mrs Chaplin and whilst holding each foot in each of her hands she

lifted Mrs Chaplin's legs from a dangling position over the edge of the bed to a position on the bed. This application of force was administered in circumstances in which neither of Mrs Chaplin's lower legs nor thighs were supported. It is not difficult to imagine the forces that were applied to both of Mrs Chaplin's thighs during this process. Mrs Chaplin's thighs were vulnerable by reason of osteoporosis and it would not have taken much force to have broken both of them. I am mindful of the fact that there was no indication of any fractures occurring at that time and that Mrs Chaplin did not display any discomfort at the time. However, it will be remembered that the woman performing work experience, Ms Struthers, said in her statement that at a time after this movement and before Mrs Chaplin's examination by the ambulance officers, Mrs Chaplin had been displaying some distress.

3.31. The evidence of the radiologist Dr Sandhu is that both femoral injuries were less than a week old as of the day the X-rays were taken, namely on 13 September 2010. I accept that evidence. On that basis, it is unlikely that they were caused earlier than say 6 September 2010. In any case, in the nature of things, it seems unlikely that Mrs Chaplin would have been suffering from the displaced fracture of the left femur in particular for any appreciable period of time prior to the day of its discovery on 10 September 2010. It seems unlikely that such an injury, even if it had not been actually displaced in the first instance, would have remained undetected for a significant period of time in a nursing home where Mrs Chaplin was habitually lifted with the assistance of two carers. It will be remembered that Mrs Chaplin was transferred manually from the princess chair to her bed and that it was following this that the displaced fracture to the left femur was detected. It is reasonable to infer that earlier in the day she had been transferred from her bed to the chair by way of a mechanical lifter, involving as it did the placement of a strap under both her thighs. It seems unlikely that Mrs Chaplin's injury would not have been detected at that time if it had then been in existence.

3.32. In considering whether or not Mrs Chaplin's thighs were broken during the act of manual lifting performed by Ms Lockey and Ms Incledon, I have carefully taken into consideration the evidence of the physiotherapist, Mr Ben Ho. Mr Ho gave evidence that he believed that the act of lifting as described to him was more likely to have caused injury to the shoulders than the legs. He did not believe that any actual injury would have occurred to the thighs during the phase of the lifting process that had

involved the swinging of Mrs Chaplin's legs onto the bed[36]. He said that most of her weight would actually have been supported by the bed. I failed to understand the logic of this given that until Mrs Chaplin's body and legs were fully on the bed, her legs were unsupported save for the forces being applied to her feet by Ms Incledon's hands. As well, Mr Ho's analysis appears not to take into account adequately the fact that to begin with Mrs Chaplin's legs were not supported during the lifting at all and were subject to gravitational forces. It also does not adequately take into account the forces involved in Mrs Chaplin's osteoporotic, unsupported, misshapen and permanently rigid legs being lifted by her feet from a dangling position below the level of the bed onto the bed itself. Notwithstanding Mr Ho's expertise as a physiotherapist, I was not persuaded that his opinion about these matters should be accorded any greater weight than the lay view of the man in the street. In any event I preferred the evidence of Doctor Gilbert that the forces required to break Mrs Chaplin's bones would not necessarily have been severe.

3.33. Having regard to Mrs Chaplin's osteoporosis and consequent vulnerability to bony injury from relatively small forces, to the type and magnitude of forces that were applied to Mrs Chaplin's legs during the manual lifting procedure, to the fact that these were unusual forces for her legs to have experienced, to the fact that this was said to be the first occasion that Mrs Chaplin was manually lifted in this fashion, to the fact that on the evidence the two femoral injuries could have been caused at the same time and could have occurred on 10 September 2010, to the existence of the red lesion on the left thigh that was noticed after the lifting procedure and to the absence of any other sensible explanation I find on the balance of probabilities that during the course of the manual lifting procedure performed by Ms Lockey and Ms Incledon both of Mrs Chaplin's thighs were broken either by the application of gravitational forces applied to her legs while unsupported during the course of the lifting itself, or by the forces involved when both of her legs were lifted by the feet from a lower position to a higher position when no part of her legs other than her feet were being supported.

[36] Transcript, page 182

4. Recommendations

4.1. 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.

4.2. The two carers involved were subject of disciplinary measures in respect of their failure to use the mechanical lifter contrary to the relevant requirements. Following this incident the prohibition against manual lifting was reinforced at the nursing home by the promulgation of a written directive dated 20 September 2010 by way of Memo 143 signed by the Director of Nursing and Site Care Coordinator of the facility stating that under no circumstances are residents to be manually lifted, that is without a lifter or slide sheet. The memo also referred to the need for physiotherapeutic assessment of all residents.

4.3. I make the following recommendation directed to the relevant Commonwealth and State aged care authorities for dissemination to all aged care facilities, namely that the Chief Executive Officer and/or the Director of Nursing at all aged care facilities be advised of these findings and be reminded that elderly residents who have been identified as suffering from osteoporosis should be handled only with extreme care.

Key Words: Nursing Home; Nursing Care

In witness whereof the said Coroner has hereunto set and subscribed his hand and Seal the 30th day of August, 2013.

Deputy State Coroner