

LIFE ESIDIMENI ARBITRATION

HELD AT: EMOYENI CONFERENCE CENTER, 15 JUBILEE ROAD,

PARKTOWN, JOHANNESBURG

DATE: 17th OCTOBER 2017 DAY 7

5 **DAY 7 SESSION 1 – 3.**

BEFORE ARBITRATOR – JUSTICE MOSENEKE

WITNESSES:

10 **MRS MAHLODI DAPHNEY NDHLOVU**

MS. ETHEL NCUBE

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SESSION 1

ARBITRATOR, ARBITRATOR, JUSTICE MOSENEKE: Mrs Ndlovu, good morning.

5 **MAHLODI DAPHNEY NDHLOVU:** Good morning Judge.

ARBITRATOR, ARBITRATOR, JUSTICE MOSENEKE: I am glad that you are back, I was wondering if you'd come back but you are here.

MAHLODI DAPHNEY NDHLOVU: I promised yesterday that I will avail myself.

10 **ARBITRATOR, ARBITRATOR, JUSTICE MOSENEKE:** You did. Thank you for being here. Again, we have to put you under oath. You have to repeat after me that the evidence you are about to give will be the truth, the whole truth and nothing but the truth and if so, please raise your right hand and say so help me God!

15 **MAHLODI DAPHNEY NDHLOVU:** The evidence that I will be giving today, it will be the truth and the only truth, so help me God!

ARBITRATOR, JUSTICE MOSENEKE: Counsel for the state, Advocate Hutamo.

ADV. TEBOGO HUTAMO: Thank you Justice, good morning Mrs Ndlovu.

MAHLODI DAPHNEY NDHLOVU: Good morning, counsel.

ADV. TEBOGO HUTAMO: Yesterday we left off, when we were addressing aspects related to visitation of the patients at the facility. As we have made the request when do you think you will be able to can make available the register which is been kept at the facility, as well as the schedule that we have dealt with relating to the names of those who have not been visited at the facility?

MAHLODI DAPHNEY NDHLOVU: The latest, I think it can be Friday, this Friday.

ADV. TEBOGO HUTAMO: Thank you. You have testified that you have been employed at the Cullinan Care Rehabilitation Centre from 2013, is this correct?

MAHLODI DAPHNEY NDHLOVU: It's correct, counsel.

ADV TEBOGO HUTAMO: This facility, is it a Non-governmental organisation (NGO) or what type of an institution it is?

MAHLODI DAPHNEY NDHLOVU: Cullinan Care and Rehabilitation Centre is a government sector, it is a center for the rehabilitation of intellectual disability patients.

ADV. TEBOGO HUTAMO: So, it is not an NGO?

MAHLODI DAPHNEY NDHLOVU: It is not an NGO, it is a public sector.

ADV. TEBOGO HUTAMO: Who is your actual employer?

MAHLODI DAPHNEY NDHLOVU: Department of Health.

ADV. TEBOGO HUTAMO: We have dealt with the report relating to the
5 transfer of patients from Life Esidimeni to Cullinan Care and Rehabilitation
Centre. We have dealt with the report relating to the transfer of patients from
Life Esidimeni to Cullinan Care and Rehabilitation Center, if I just enquire if
there is such a document, it is exhibit ELAH 9, do you have it before you?

MAHLODI DAPHNEY NDHLOVU: Is it this one?

10 **ADV. TEBOGO HUTAMO:** Yes, yes.

MAHLODI DAPHNEY NDHLOVU: I do have it, Counsel.

ADV. TEBOGO HUTAMO: Thank you. Who is the author of this document?

MAHLODI DAPHNEY NDHLOVU: Multi-disciplinary team in Cullinan.

ADV. TEBOGO HUTAMO: Were you part the of the drafting of this
15 document?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ADV. TEBOGO HUTAMO: And you have knowledge of the contents of this
document, as correct?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel

ADV. TEBOGO HUTAMO: It appears on page 1 of the document that it appears to be emanating from J.J. Ngcobo.

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

5 **ADV. TEBOGO HUTAMO:** And would that the Multi-disciplinary team be mentioned in the document as the authors or co-authors of this report?

MAHLODI DAPHNEY NDHLOVU: Okay, if you would will like us to mention our name we will do so and give you a new print out, Counsel.

ADV. TEBOGO HUTAMO: So, it doesn't appear in the report?

10 **MAHLODI DAPHNEY NDHLOVU:** No, Counsel.

ADV. TEBOGO HUTAMO: Thank you.

MAHLODI DAPHNEY NDHLOVU: If you can check the front this document, this document was going document was going to Dr Ramakgopa. It was a request by Dr Ramakgopa.

15 **ADV. TEBOGO HUTAMO:** To the extent that you accept or confirm its correctness, I am going to refer you to page 6 of the document. Where at the second paragraph it is recorded that the mental healthcare users came with their patient files, which contained some of the information but lacked medical

history. These files were prepared by Life Esidimeni staff and just handed over with the users. Some of the patients came over with their identity documents, too. They were admitted at Cullinan, is this correct?

MAHLODI DAPHNEY NDHLOVU: It is correct, Counsel

5 **ADV. TEBOGO HUTAMO:** So, the patients were indeed transferred to Cullinan with their files?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ADV. TEBOGO HUTAMO: If go back to just, that--the first sentence, from the paragraph, that I just read, there is reference to information, what would this
10 information entail?

MAHLODI DAPHNEY NDHLOVU: Where, Counsel?

ADV. TEBOGO HUTAMO: The first sentence says that “the Mental Health Care Users came with their patient files which contained some of their information but lacked medical history. ” Let us not deal with the medical
15 history, I just want to get clarity, when reference is made to the information, what would the information be?

MAHLODI DAPHNEY NDHLOVU: Inside the files of the users, some of the files has the mental health care forms. Mental Health Care form 4, form 5, form 7, form 13a and the form that they used to them, form 7 sorry form 11.

ADV. TEBOGO HUTAMO: Miss Ndhlovu, for purposes of simplifying the information sought to you. The question was: What type of information is sought—what is requested of you is to give the type of information. The people before you, they did not know what is contained in those forms-

5 **MAHLODI DAPHNEY NDHLOVU:** Okay-

ADV. TEBOGO HUTAMO: -can you just clarify the nature of the information that is contained in the files?

MAHLODI DAPHNEY NDHLOVU: Okay, with a form 4 is the information of the applicant and the information of the mental health care user and the
10 addresses of their families. And with form 5 it should be medical history of the patient and the condition of the patient. And form 7 it's the recommendation of the Health Care establishment of the Institution. Form 11 it's the recommendation of discharge, it's a recommendation of transfer from where the patient is coming from and indicated where the patient is going to.

15 **ADV. TEBOGO HUTAMO:** Thank you. Can you please turn to page 2 of the report? At the first paragraph after the address of the institution, it is recorded that the institution had a bed capacity of 150, which was increased to 300 to provide place for admissions from Life Esidimeni July 2016. Do you see that?

MAHLODI DAPHNEY NDHLOVU: Counsellor, you said which page? You said page two, I can't see that.

ADV. TEBOGO HUTAMO: Page two of the report is the Cullinan Care and Rehabilitation Center Report around transferring of patients from Life Esidimeni-

MAHLODI DAPHNEY NDHLOVU: Okay, Counsellor. Yes, I've seen, I've seen the sentence.

ADV. TEBOGO HUTAMO: Yes, like I—what I need to—what we requested to clarify is—we understand this paragraph or the sentence to saying that provision was made for the incoming mental health care users, emanating from Life Esidimeni.

MAHLODI DAPHNEY NDHLOVU: No, Counsel. In Cullinan, our bed capacity is 150. To increase--for the increment of this capacity, it was after taking over the patients from Anchor and Siyabadinga that is when the capacity was increased.

ADV. TEBOGO HUTAMO: Is it not that this report is in relation to the transfer of patients from Life Esidimeni to Cullinan Care and Rehabilitation Centre?

MAHLODI DAPHNEY NDHLOVU: It is, Counsel.

ADV. TEBOGO HUTAMO: Then where does it mention that the increment of this capacity was meant for patients emanating from Siyabadinga?

MAHLODI DAPHNEY NDHLOVU: Maybe that's where, Counsel, we made a mistake of indicating about the 300 that we are talking about here. But the
5 capacity was indeed increased after taking over the patients from Siyabadinga and Anchor.

ADV. TEBOGO HUTAMO: So, this information is incorrect about the increment?

ARBITRATOR JUSTICE MOSENEKE: No, is it a fair proposition to put to the
10 witness? The witness has just explained to you what the sentence means, the capacity was increased from 150 to 300 after some occurrence and she says to provide space for admission of Life Esidimeni in July 2016, why is that inaccurate?

ADV. TEBOGO HUTAMO: Justice, the witness has testified that the
15 increment was to accommodate patients from Siyabadinga, not from Life Esidimeni as recorded in the report.

ARBITRATOR JUSTICE MOSENEKE: That's just adding the details. They were round routed and adding the detail.

ADV. TEBOGO HUTAMO: If I may proceed, Justice

ARBITRATOR JUSTICE MOSENEKE: Yes, certainly. What I am saying is that you cannot put it to her that it is inaccurate. You could possibly say that—you should have said that, they went roundtrip via--from Life Esidimeni through Siyabadinga and Anchor, but the core of the question is accurate.

5 Anyway, you may proceed.

ADV. TEBOGO HUTAMO: Thank you. Miss Ndhlovu, if you may look for file 9. There's box before you, if you can try and see if you can't locate file 9. And if you may please turn to page 2988. You will note that it—the document that is before you are an affidavit by Anna Thokozile Mthembu and if you turn to

10 page 2989 at paragraph 5.

MAHLODI DAPHNEY NDHLOVU: 2989?

ADV. TEBOGO HUTAMO: Yes. Paragraph 5.

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ADV. TEBOGO HUTAMO: It is recorded that “Busisiwe”—The affidavit reads that, “Busisiwe was my younger sister, from the time that she was born she could not talk and suffered from mental illness—”and I want to specifically refer you to the two paragraphs from which I want to pose my question to you.

Please, turn to page 2990, paragraph 7.

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ADV. TEBOGO HUTAMO: It records that “on 25 July 2016, my cousin, Siphon Shabalala received a phone call from a social worker at Cullinan, Daphney. She told him that Busisiwe has died. She--Siphon gave Daphney my phone number and Daphney then phoned me to say that Busisiwe had died at
5 Cullinan and I must go to collect her corpse from there.”

And then if you can also go to paragraph 10, at the same page. Where the affidavit records that, “Daphney said that I had to take Busisiwe’s body on that day because there was no space in the mortuary. I phoned, my daughter who arranged and paid for an undertaker. I did not see inside the mortuary. I was
10 too stressed, but I could see that, it was a very small space and it was not refrigerated. I told Daphney that I will not be able to identify Busisiwe because I was stressed. She said that it was not her problem if I took the wrong body.”
Do you see that?

MAHLODI DAPHNEY NDHLOVU: Yes, I see it.

15 **ADV. TEBOGO HUTAMO**: This paragraph was read to you yesterday and in your response, you testified that you as a social worker you couldn’t have made mention of the statement recorded in this affidavit. Do you recall that?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ADV. TEBOGO HUTAMO: Do you consider this as a serious charge or accusation against you and if so, what could be the reason that like this allegation was made in this affidavit?

MAHLODI DAPHNEY NDHLOVU: What I can say about this statement, 5
counsel, is that as a social worker we work with the emotions of the families and some of the people, after hearing the bad news they reacted--react differently. So, maybe Mrs Muthembu, thought that I said this word because she was devastated about the death of her sister, but as a social worker on a daily basis, when doing counselling of this sort we come across this kind of 10
situation. We, we, we, we like don't take their reactions seriously so that it can ruin their relationships between us and the family. We accept and continue with the counselling—continue with supporting the family.

ADV. TEBOGO HUTAMO: So, the information contained in this paragraph in relation to what you have conveyed to them, is incorrect?

15 **MAHLODI DAPHNEY NDHLOVU:** It is incorrect, Counsel. Cause yesterday, I did mention that as a social worker I am here the community. I am working with the social and emotional wellbeing of the families. The families need support from the social worker. They families need comfort from the social worker. The families need assistance from the social worker. I cannot say this

kind of word, to a family who is so devastated, hearing about the breaking news of her sister.

ADV. TEBOGO HUTAMO: And you have been so dually committed to assist this affected family members?

5 **MAHLODI DAPHNEY NDHLOVU**: Yes, Counsel.

ADV. TEBOGO HUTAMO: You also testified that in some instances there's no corporation from the families. DO you remember that evidence?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ADV. TEBOGO HUTAMO: Can you please just give an account of the
10 difficulties that you have experienced in relation to the family members, of the patients at the facility?

MAHLODI DAPHNEY NDHLOVU: The cooperation that we are not getting
from the families, is that when we call the family to visit or to come and fetch
the patient for LOA. They will keep on saying, "I will come. I'm busy. I am
15 going to work."

That's where we can't find cooperation from them, and it is a serious challenge for us. Cause as a health care worker professional, I think it is also good for the families to come and spend time with their loved ones in the institution, to come and have fun during the Christmas parties and during the

Valentine's Day parties, 'cause we do have some parties that are happening in the institution. So, that they can come and bond with their beloved ones in the institution. That is our challenge, when we don't get cooperation from them.

5 **ADV. TEBOGO HUTAMO:** So, essentially, the impression that you got was that some of the family members appeared to be committed elsewhere, without giving priority to attend at the facility?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ADV. TEBOGO HUTAMO: Thank you, Mrs Ndlovu, there are no further
10 questions.

MAHLODI DAPHNEY NDHLOVU: Thank you, Counsel

ARBITRATOR, JUSTICE MOSENEKE: Thank you, Advocate Hutamo.
Counsel it is your turn.

ADV. PATRICK NKUTHSANA: Yes, I thought my colleague would start first.

15 **ARBITRATOR, JUSTICE MOSENEKE:** You want her to go ahead of you?

ADV. PATRICK NKUTHSANA: It is fine. There's nothing much that I have, three, two questions, to clarify, I can go ahead.

ARBITRATOR, JUSTICE MOSENEKE: Yes, please do.

ADV. PATRICK NKUTHSANA: Mrs Ndlovu, you testified yesterday that some of these families dump their relatives with you, and so on. Would you agree with me from the profile of the patients, which you have received, they come from different places and most of them came from the South of Johannesburg, is that so?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ADV. PATRICK NKUTHSANA: The South of Johannesburg to Cullinan it's quite a distance, is that so?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

10 **ADV. PATRICK NKUTHSANA:** And you will also accept that there will be different reasons why people would not frequently visit their relatives at the centre?

MAHLODI DAPHNEY NDHLOVU: I agree with you, counsel.

15 **ADV. PATRICK NKUTHSANA:** You will agree that, and you will agree with me, as well that it will be quite incorrect to generalise, there is, about the reasons on why or use one reason for each one of them, as to why they are not visiting their relatives, will you agree with me?

MAHLODI DAPHNEY NDHLOVU: I agree with you counsel, I am not generalising, it's just that I cannot give each and every incidents of the cooperation, that we are not getting from their families.

ADV. PATRICK NKUTHSANA: And it may be—would you also agree with me
5 that maybe that some of them did not have transport fares to travel to Pretoria?

MAHLODI DAPHNEY NDHLOVU: I agree with you Counsel, because in some instances the families will highlight that to us that, “We are pensioners and we don't have money to come to the facility.”

10 **ADV. PATRICK NKUTHSANA:** Yes. And you had testified earlier on there is testimony and throughout as you have been taken through this, that you took or choose a small number of them so that they may adjust at your institution, from Life Esidimeni, that is the number that you specified was 10, do you still remember?

15 **MAHLODI DAPHNEY NDHLOVU:** Yes, Counsel.

ADV. PATRICK NKUTHSANA: That you took more than 10 one go and went against the purpose of you choosing the number of 10, that is in order to allow them to adjust, is that so?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ADV. PATRICK NKUTHSANA: And you had also testified that, because it was hectic. You were asking by Legal Aid, in cross-exam, because it was hectic, you were not able to attend to most of these patients properly, do you still remember that?

5 **MAHLODI DAPHNEY NDHLOVU:** Yes, Counsel.

ADV. PATRICK NKUTHSANA: One of the impact of you being hectic is that you were not able to do periodical reviews, do you still recall that?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ADV. PATRICK NKUTHSANA: Would you agree with me that the purpose of
10 you doing the periodical review is to assess the level of their health at a certain point in time, And their fitness, at a certain point in time. do you agree with me?

MAHLODI DAPHNEY NDHLOVU: I agree with you, Counsel.

ADV. PATRICK NKUTHSANA: And that will assist you in determining the
15 proper treatment and care that they will require, at a certain point in time, whilst they are under your care, do you agree with that?

MAHLODI DAPHNEY NDHLOVU: I agree with you, Counsel.

ADV. PATRICK NKUTHSANA: And this would be some of the patients which were moved to Anchor and Siyabadinga, at a later stage, when you received more patients from Life Esidimeni, will you agree with me?

MAHLODI DAPHNEY NDHLOVU: I don't agree with you Counsel, because
5 with the periodical reviews, we do them after six months. So, the patients that were transferred to--discharged to Siyabadinga, especially those who were transferred to Anchor, we didn't stay with them up, for a period of six months.

ADV. PATRICK NKUTHSANA: Oh, I see. So, all the patients which you transferred had their periodical reviews done?

10 **MAHLODI DAPHNEY NDHLOVU:** Those, who, who--the periodical reviews were done in Life Esidimeni, so it means after six months with their stay with us, we must do their review. Then there after, it's gonna be. Yearly basis.

ADV. PATRICK NKUTHSANA: Thank you.

ARBITRATOR, JUSTICE MOSENEKE: Well, just before you move off from
15 that review, your report tells us that the patients from Life Esidimeni and those, ultimately, who came to you from Siyabadinga and Anchor, did not fit your admission profile, is that correct?

MAHLODI DAPHNEY NDHLOVU: Judge, can I please get the question again?

ARBITRATOR, JUSTICE MOSENEKE: I say your report tells us that, the patients that came from Life Esidimeni, did not fit, your admission profile.

MAHLODI DAPHNEY NDHLOVU: It is true, Counsel, hence I have indicated that we admitted psychosis patients, and the schizophrenia patients, patients,
5 of which they are not suitable for our institution as the institution is admitting patients with severe and profound intellectual disabilities.

ARBITRATOR, JUSTICE MOSENEKE: Yes, so, how would you have done periodic reviews, assuming that the patients had been with you for six months? Were you in a position to do that in any event?

10 **MAHLODI DAPHNEY NDHLOVU:** The periodicals were not done, even today.

ARBITRATOR, JUSTICE MOSENEKE: I understand that. If they were there for six months, would you have been able to do the periodicals?

MAHLODI DAPHNEY NDHLOVU: With the patients that fits the criterial it was
15 going to be simple for us, to continue with the periodicals but for those who doesn't fit the criteria, it would have been difficult, cause--

ARBITRATOR, JUSTICE MOSENEKE: You already told us that those you admitted did not fit the criteria. So, I am saying, so how would you have assessed them because they were outside your normal expertise?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ARBITRATOR, JUSTICE MOSENEKE: Is this true?

MAHLODI DAPHNEY NDHLOVU: It is true, Counsel.

ARBITRATOR, JUSTICE MOSENEKE: Yes, and you didn't you finish six
5 months with these patients because? Why didn't you finish six months with
them?

MAHLODI DAPHNEY NDHLOVU: The patients were to be discharged to the
NGOs because we were getting patients again. Some we went and fetch
them, the ones from the 23rd of June, they were brought in the institution and
10 the ones who were brought in the institution it was not the last our last batch.
The last batch that we received, we received in January 25th January, 2017.

ARBITRATOR, JUSTICE MOSENEKE: The patients, you had received from
Life Esidimeni, why didn't they finish 6 months, at your institution?

MAHLODI DAPHNEY NDHLOVU: The pressure was to create space, that is
15 why they were admitted in Cullinan and discharged to the NGO, in order to
create space.

ARBITRATOR, JUSTICE MOSENEKE: But most of them, next time you saw
them, they were dead. That is why they didn't finish six months there, is that
correct? They were corpses-

MAHLODI DAPHNEY NDHLOVU: Counsel. Judge. I agree with you.

ARBITRATOR, JUSTICE MOSENEKE: Mm. And what remained for you was to go and report to their families, that they had died?

MAHLODI DAPHNEY NDHLOVU: Yes, Judge.

5 **ARBITRATOR, JUSTICE MOSENEKE:** So, there was no six months, to do periodicals in that because within that time, they died.

MAHLODI DAPHNEY NDHLOVU: Yes, Judge.

ARBITRATOR, JUSTICE MOSENEKE: Any further questions?

ADV. PATRICK NKUTHSANA: Thank you, lastly, on this, Mrs. Ndhlovu, we
10 agree that the circumstances under which they were placed that they were not given a chance to survive?

ARBITRATOR, JUSTICE MOSENEKE: And to adjust!

MAHLODI DAPHNEY NDHLOVU: Yes, and to adjust. I agree with you,
Counsel

15 **ADV. PATRICK NKUTHSANA:** Thank you, Justice Moseneke.

ARBITRATOR, JUSTICE MOSENEKE: Thank you. Counsel?

ADV. ADILA HASSIM: Thank you, Justice

ARBITRATOR, JUSTICE MOSENEKE: The advocate has to ask you few more questions. So, she's going to really having second bite of the cherry, but she promised me she won't be long. I just want you to understand that.

Advocate Hassim!

5 **ADV. ADILA HASSIM:** Good morning, Mrs Ndlovu.

MAHLODI DAPHNEY NDHLOVU: Morning, Counsel.

ADV. ADILA HASSIM: Mrs Ndlovu, you testified that there were many more Life Esidimeni patients that were transferred to Cullinan than you expected?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

10 **ADV. ADILA HASSIM:** And that it was more than what the facility and the staff could cope with, is that correct?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ADV. ADILA HASSIM: And you've said that is was hectic. The process?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

15 **ADV. ADILA HASSIM:** And the transfers to Cullinan took place around, May and June 2016, is that correct?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ADV. ADILA HASSIM: And you have also just said to us, that many were moved out of Cullinan to NGOs, in order to create space? There was a pressure of space.

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

5 **ADV. ADILA HASSIM:** So, many of the Life Esidimeni patients didn't actually, stay that long at Cullinan before being moved to the NGOs, correct?

MAHLODI DAPHNEY NDHLOVU: If I can-

ADV. ADILA HASSIM: And by that long I mean six weeks before they were transferred to the NGOs?

10 **MAHLODI DAPHNEY NDHLOVU:** Yes, Counsel. But, Counsel, can I add something on that, remember I said we discharged 73 Or 74 patients. Our initial patients in Cullinan Mental Health Care and Rehabilitation Centre. Most of the patients in the institution is Life Esidimeni patients then those whom we discharged to the Anchor and Siyabadinga, they can be plus or minus, less
15 than 45-

ADV. ADILA HASSIM: Less than 45, what?

MAHLODI DAPHNEY NDHLOVU: Less than 45 patients were discharged from CCRC to the NGOs.

ADV. ADILA HASSIM: And are those Life Esidimeni patients?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ADV. ADILA HASSIM: Thank you. And you said that when of the Life Esidimeni patients were first brought to Cullinan they had incomplete records?

5 **MAHLODI DAPHNEY NDHLOVU:** Yes, Counsel, especially the ones, who were brought, because with the ones, who we went to fetch, we were checking the files and the medications, and we were given 7 days' supply medication. But with the ones who were brought in the institution, they were brought with no records.

10 **ADV. ADILA HASSIM:** Are you saying that those patients, that you went to collect, had complete records?

MAHLODI DAPHNEY NDHLOVU: Not complete, but at least there was something as [inaudible] information.

ADV. ADILA HASSIM: But do you agree they were incomplete records? Is
15 that correct?

MAHLODI DAPHNEY NDHLOVU: Yes, Counsel.

ADV. ADILA HASSIM: Did you know any of the Life Esidimeni patients and their families before they were transferred to Cullinan in May 2016?

MAHLODI DAPHNEY NDHLOVU: Before?

ADV. ADILA HASSIM: Before they were transferred to in May, last year.

MAHLODI DAPHNEY NDHLOVU: No, Counsel.

ADV. ADILA HASSIM: Yet, you refer in your testimony to families dumping
5 patients. Were you referring to the families of the patients who were
transferred as part of the Marathon Project? We were referring to those
families?

MAHLODI DAPHNEY NDHLOVU: Uh, Counsel, I was referring to—I was
giving an example referring to the patients we had in Cullinan-

10 **ADV. ADILA HASSIM:** Were you referring to the patients, who were
transferred from Life Esidimeni and their families?

MAHLODI DAPHNEY NDHLOVU: I was referring to those whom we were
having before we can admit the patients from Life Esidimeni. With the life
Esidimeni patients, I cannot judge the families by saying that they've
15 dumped—'cause we are still trace their families.

ADV. ADILA HASSIM: So, when you talk about the dumping of patients, are
you talking about the dumping of patients by families of the former Life
Esidimeni patients?

MAHLODI DAPHNEY NDHLOVU: No, Counsel.

ADV. ADILA HASSIM: In fact, wouldn't you not agree that if any dumping took place it was at the behest of the Provincial government in the way they moved patients in and out of Cullinan?

5 **MAHLODI DAPHNEY NDHLOVU**: I beg your pardon, Counsel.

ADV. ADILA HASSIM: Would you not agree, dumping, if we were to use the word dumping, at all, it would more accurately describe, not family members dumping their patients but the government dumping patients in different facilities, through the marathon project?

10 **MAHLODI DAPHNEY NDHLOVU**: I that one can't tell. [giggles]

[Group murmurs]

ADV. ADILA HASSIM: Do you not agree?

MAHLODI DAPHNEY NDHLOVU: [Giggles] I agree with you, Counsel.

ADV. ADILA HASSIM: Thank you very much.

15 [Group murmurs]

ADV. ADILA HASSIM: That is all from me, Justice.

ARBITRATOR, JUSTICE MOSENEKE: Thank you. Thank you, Counsel. We have come to the end of the questions that want to put to you. Again, thank

you for being and making yourself available. We're trying to get to the truth and the bottom of this difficult tragedy. Is there anything you want to say at the end of your testimony before we release you?

MAHLODI DAPHNEY NDHLOVU: Firstly, I want to humbly put my apologize

5 for the families who thought that maybe I have kicked their concerns during this process of Life Esidimeni and for those who lost their loved ones. I am still here, families to give you support. I remember I still have a wheelchair of the family of Gumede. I promise ma'am by next week I will bring the wheelchair in the Meadowlands and for the whole of South Africa, the people who are
10 watching this interview, as a social worker. I am appealing because we still have patients, that we don't know their families, for the families-

ARBITRATOR, JUSTICE MOSENEKE: By patients you mean?

MAHLODI DAPHNEY NDHLOVU: The mental health care users.

ARBITRATOR, JUSTICE MOSENEKE: Yes, who are still alive?

15 **MAHLODI DAPHNEY NDHLOVU**: Yes, and we have others, who are dead. I cannot mention their name over the media, but I'm appealing for the families who are still trying to locate the placement of their loved one to contact me in Cullinan Care and Rehabilitation Center. They can physically come to the

institution or contact me on 0127347048 or 0828699448, families I am there to assist you, to help you and give you support. Thank you, so much.

ARBITRATOR, JUSTICE MOSENEKE: How are you going to deal with the six corpses, you told us about yesterday. What are the plans of CRC around those deceased bodies?

MAHLODI DAPHNEY NDHLOVU: There are six with the other one, the family is there in Johannesburg, we have assisted, help with the communication with the social worker from Johannesburg Metro, Johannesburg Municipality so that they can assist the family in burying the deceased. For those whom we're still trying to trace their families, it's going to be a work in process up until we have, maybe advices from above.

ARBITRATOR, JUSTICE MOSENEKE: And those corpses would have been what, more than a year in the mortuary, isn't it?

MAHLODI DAPHNEY NDHLOVU: We have one corp—one corpse that is now one year, 4 months, in the mortuary and then the rest they are less than a year, it's still some months-

ARBITRATOR, JUSTICE MOSENEKE: And they are all part of Esidimeni patients, isn't it?

MAHLODI DAPHNEY NDHLOVU: Part of the Esidimeni. I can-

ARBITRATOR, JUSTICE MOSENEKE: I'll tell you, I don't want you to open up your evidence, dually. In other words, I am testing whether the family committee related,

MAHLODI DAPHNEY NDHLOVU: Judge, I want to-

5 **ARBITRATOR, JUSTICE MOSENEKE**: -in Life Esidimeni, could help in identifying or finding the families of the corpses that have been in the mortuary for over than a year.

MAHLODI DAPHNEY NDHLOVU: With the Life Esidimeni patients, it's 2 or 3 patients that are in mortuary.

10 **ARBITRATOR, JUSTICE MOSENEKE**: But you have you invited everybody to be in touch with you, so that we can try and identify those corpses, so that they can be laid to rest properly.

MAHLODI DAPHNEY NDHLOVU: Yes Judge, I will gladly, I will appreciate their cooperation regarding this.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Very well, is there anything else you want to say?

MAHLODI DAPHNEY NDHLOVU: Nothing, judge.

ARBITRATOR, JUSTICE MOSENEKE890: Once more, thank you for coming and you are excused from this proceeding.

MAHLODI DAPHNEY NDHLOVU: Thank you, so much.

ARBITRATOR, JUSTICE MOSENEKE: Counsel, can you call the next
5 witness.

ADV. TEBOGO HUTAMO: Thank you, Justice Moseneke. The next witness will be ETHEL NCUBE the Precious Angels representative and my colleague, Nontlatla Yina will be lead her.

ARBITRATOR, JUSTICE MOSENEKE: We're about to continue with the
10 proceedings, shall we go quiet please. You can put your full names, on record.

ETHEL NCUBE: My name is Ethel Gini Nompumelelo[?] Ncube.

ARBITRATOR, JUSTICE MOSENEKE: Miss. Ncube, welcome-

ETHEL NCUBE: Thank you, Judge.

15 **ARBITRATOR, JUSTICE MOSENEKE:** And, I'd I will like to thank you for making time to come talk to us. You're going to be asked questions by and Evidence Leader Advocate Nontlatla Yina, after which the other advocates will put questions to you. You know that understand you evidence-

ETHEL NCUBE: Okay-

ARBITRATOR, JUSTICE MOSENEKE: Yes- Please, be relaxed and if you have any concerns, I'm here-

ETHEL NCUBE: Thank you-

5 **ARBITRATOR, JUSTICE MOSENEKE**: -to look after you provided you answer all the questions. Counsel, please proceed—before, I do so, I've got to swear you in. You have an option to have the affirmation or you can do the conventional oath, which ends with so help me God, which one do you choose?

10 **ETHEL NCUBE**: We can take any oath, Justice.

ARBITRATOR, JUSTICE MOSENEKE: You'll do any one, okay? Please swear that the evidence, you are about to give, will be the truth and nothing but the truth, and if so please do raise your hand and say, so help me, God.

ETHEL NCUBE **ETHEL NCUBE**: So, help me God.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Counsel.

ADV. NONTLATLA YINA: Thank you, Justice. Good morning, Miss Ncube-

ETHEL NCUBE **ETHEL NCUBE**: Good morning, Counsel-

ARBITRATOR, JUSTICE MOSENEKE: I beg your pardon, you are being cross examined—I mean led by Advocate Yina and not advocate Hutoma. It's Advocate Yina, thank you. Please proceed, Counsel.

ADV. NONTLATLA YINA: Thank you, Justice. If I may ask, how old are you
5 Ma'am?

ETHEL NCUBE: 34 years.

ADV. NONTLATLA YINA: And what were you doing for a living between
2015 to 2016?

ETHEL NCUBE: I was—I am a parent of a 12-year old who lives with an
10 intellectual disability, on the CP side and I have been running a stimulation
Center for Children with severe profound disabilities and I have been
supported by the Department of Mental Health and I have been an anchor for
a certain institute which deals with health-related issues o

ADV. NONTLATLA YINA: If I may stop you there, so, what was the name of
15 the day care again?

ETHEL NCUBE: Makabongwe Pathway Stimulation Center

ADV. NONTLATLA YINA: Makabongwe? For how long were you running this
Day Care Center?

ETHEL NCUBE: 6 and half years

ADV. NONTLATLA YINA: So, if you say it was a Day Care Center are you suggesting that parents would drop the kids in the morning and pick them late in the afternoon?

5 **ETHEL NCUBE**: Yes.

ADV. NONTLATLA YINA: And it's common cause that you also the founder of Precious Angels?

ETHEL NCUBE: Yes.

ADV. NONTLATLA YINA: When did you register Precious Angels?

10 **ETHEL NCUBE**: In early 2016 and the certificate was received in June— somewhere round June 2016 due to the backlogs and with registration with the department. We got them in April 2016.

ADV. NONTLATLA YINA: The Department? With 'Department are you referring to Mental Health Department?

15 **ETHEL NCUBE**: Yes.

ADV. NONTLATLA YINA: If I may refer you to file number 7 on the files that are next to you, file number 7. On page 2397...are you on page 2397, Ma'am?

ETHEL NCUBE: No.

ADV. NONTLATLA YINA: 2397.

ARBITRATOR, JUSTICE MOSENEKE: The numbering will be on the top right corner of the document.

5 **ETHEL NCUBE**: Yes, I am Counsel

ADV. NONTLATLA YINA: Yes. There is a licence that appears, in terms of the Mental Health Care Act, #17 of 2002. Do you recognise the document?

ETHEL NCUBE: Yes, I do.

10 **ADV. NONTLATLA YINA**: It has the name Precious Angels, for the management of Precious Angels on the second line. DO you recognize that document?

ETHEL NCUBE: Yes.

ADV. NONTLATLA YINA: Is that the same document you received from the Department of Health when you registered?

15 **ETHEL NCUBE**: It is but the address differs from the one that we are allocated and were supposed to be using on.

ADV. NONTLATLA YINA: Justice, I beg leave to hand up document. The certificate obtained from the witness which will be LAH26...ELA 26-

ARBITRATOR, JUSTICE MOSENEKE: Thank you, Counsel, you may hand it out.

ADV. NONTLATLA YINA: Thank you, Justice. I am told that it has been placed next to Justice.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Yes, I do have it, already. Has the witness, the document, in front of her?

ADV. NONTLATLA YINA: Ma'am, I would request you to pull up the certificate, as you are saying that that document, is not the one that was given to you. No, the one that you have, the correct one. The one that you handed
10 up to me, earlier on. No, that one, do not remove one from the file-

ETHEL NCUBE: Okay-

ADV. NONTLATLA YINA: You will have it in your personal file. Thank you. Justice, I've given this to my learned friends.

ARBITRATOR, JUSTICE MOSENEKE: Thank you, you may proceed,
15 Counsel.

ADV. NONTLATLA YINA: Yes, now—do you have the certificate before you, Ma'am?

ETHEL NCUBE: Yes, I have got it here.

ADV. NONTLATLA YINA: Yes, you indicated that the one that appears on the file differs with the one—from the one that was given to you,

ETHEL NCUBE: Yes.

ADV. NONTLATLA YINA: is it the one that was on the file or the one that was
5 now marked ELAH 26?

ETHEL NCUBE: Okay. The one that we have it differs from the address. The address that's stipulated one that we were supposed to use, at a later stage. and because we were using the Kalafong premises, renovating to allocate to users, for the Kalafong this is the regional one that has been given out in
10 terms of being licenced on, we were supposed to be operating on it.

ARBITRATOR, JUSTICE MOSENEKE: I don't understand that, you might to take in smaller snippets?

ADV. NONTLATLA YINA: Yes, if I may Justice, the certificate was issued to Precious Angels and its common cause that it's the NGO that you are also
15 managing is Precious Angels, is that so?

ETHEL NCUBE: Yes.

ADV. NONTLATLA YINA: Yes, and on the certificate, that appears in the document that you just gave us, it says that at the following address, Kalafong hospital premises?

ETHEL NCUBE: Yes.

ADV. NONTLATLA YINA: So, what is Kalafong Hospital premises, can you explain?

ETHEL NCUBE: It is the premises that are based in the hospital and-

5 **ADV. NONTLATLA YINA**: Would that be Kalafong Hospital?

ETHEL NCUBE: Yes, it's in the premises of Kalafong Hospital and then it's old buildings that were used as dorms for students-

ADV. NONTLATLA YINA: Are you suggesting that Precious Angels was operating in Kalafong Hospital?

10 **ETHEL NCUBE**: It was supposed to be operating because we were four NGO's that were supposed to be operating. I think if I can give a briefing on my background, I think it will give an enlightenment with where it started and how it led to Kalafong-

ADV. NONTLATLA YINA: Yes, go ahead.

15 **ETHEL NCUBE**: First and foremost I'd like to start with the family members of all the users that were based in Precious Angels Home. I would really like to acknowledge the courage of the brothers and sisters, especially the mothers, of the users, that had to go through to nurture and cater for their

children cause at first when you are being giving a diagnosis of your child, you do not know how to handle, you do not know how to treat the condition that you've been given, and you do not know how you're gonna make it. To be accepted by the society. Most of the parents that have taken their children or
5 brothers and sisters, to homes, its due to not having the capacity, the training, the knowledge of how to treat and to stimulate the best ability of the disability, your loved one has. We, as parents with children that have conditions, we didn't apply like the doctors, physios, whatever apply for their careers to be professionals in what they would like to do

10 **ADV. NONTLATLA YINA:** Miss. Ncube, my apologies, my apologies—you may request an opportunity to address the families at the end of the evidence, if you don't mind. Let's get the facts first and then we will deal with the closing remarks, at the end. Thank you, Justice.

ARBITRATOR, JUSTICE MOSENEKE: Yes, you may proceed.

15 **ADV. NONTLATLA YINA:** So, you were telling us that you were supposed to operate from Kalafong Hospital and then you indicated that there were four NGOs that are supposed to operate there, what are these NGOs?

ETHEL NCUBE: It was Anca House. I was the one that was catering for severe, profound intellectual disability in terms of children, of which we have

prepared...[inaudible] according to our criteria, and Anca House I think it was basically on adult sides, Sithobo, I don't remember-

ADV. NONTLATLA YINA: Sithobo, is that an NGO?

ETHEL NCUBE: Yes, and the other one, if I am not mistaken, we are four
5 NGOs, that we had to pursue the goal in the users.

ADV. NONTLATLA YINA: Yes. So, you said the fourth one you don't remember the name?

ETHEL NCUBE: Yes.

ADV. NONTLATLA YINA: Okay. Then you said you were supposed to, so
10 when you applied for the certificate, that's the address you were intending to operate from?

ETHEL NCUBE: Yes, we applied. Remember, on my existing stimulation center, I have a 5-year plan where children, when they grow up and being teenagers, and I need to lay out a home for them, being teenager, moving to
15 adult side and adults being elderly. It's a foundation, a background of where I am coming from with the Day Care Center. Now, when the department came, looking at how we have been working with them for six and a half years. With all the reports, that has been given. We were asked to come forth with our

third phase of opening a home. Cause we were struggling to get big facility that will accommodate of our stimulation Center.

ADV. NONTLATLA YINA: If I may ask, where was Makabonga Day Care Centre based?

5 **ETHEL NCUBE**: It is based in 9 Ramakoba Street in Atteridgeville, it is the only stimulation Center in Atteridgeville.

ARBITRATOR, JUSTICE MOSENEKE: Makabonga is based where in Atteridgeville? I didn't hear that.

ETHEL NCUBE: It is on 9, Ramakoba Street, in Atteridgeville.

10 **ARBITRATOR, JUSTICE MOSENEKE**: 9 Ramakoba Street?

ETHEL NCUBE: Yes.

ADV. NONTLATLA YINA: Thank you. And then what happened? Because you suggested that you were supposed to operate at Kalafong Hospital? Did Precious Angel, operate at Kalafong Hospital?

15 **ETHEL NCUBE**: No, it didn't operate at Kalafong because with all the meetings and officials, with relevant engineers, that also use to do inspections, is according to all the documents that we needed to submit, and be checked on according to every department, it wasn't approved because it

had a lot of building-- changes that needed to be done, even though we did minor renovations it still didn't--was not suitable to cater for the users-

ADV. NONTLATLA YINA: Eventually where did you operate? Where did Precious Angels operate?

5 **ETHEL NCUBE**: Eventually, we were asked by the department, since we had to wait for the second phase for the building to be renovated. We had to house the patients in residential houses. Then we had to asked-

ADV. NONTLATLA YINA: Sorry, if I may? So, you were to house the patients in residential houses? When did you realise that you will not be able to
10 operate in Kalafong Hospital?

ETHEL NCUBE: Meetings were held with officials at Kalafong, sometimes at the department-

ADV. NONTLATLA YINA: When was this?

ETHEL NCUBE: Still in 2016, prior before the release of patients, throughout.

15 **ADV. NONTLATLA YINA**: And when were you asked now to house patients and when were you asked to house patients in residential houses.

ETHEL NCUBE: It was, I can't remember the month precisely but the urgency, it was—we quite under pressure, on it. We had to like asking for available residential houses that we can utilize-

ADV. NONTLATLA YINA: Did you eventually, obviously it's common course
5 that you collected certain patients from Life Esidimeni? Is that so?

ETHEL NCUBE: With my criteria, when we were having all the meetings because I deal with severe profound intellectually disabled children which, I was supposed to be catering. We were told at the later stage that the children will be coming—will be sent at a later stage, we must assist the department
10 with adults, at the moment and all the necessary support structures will be made available for us cause we strict in terms of the criteria. As we've been serving for six and a half years, the same criteria and assured that when a call would come in. We drove to Life Esidimeni. I was with Carer and-

ADV. NONTLATLA YINA: Sorry just before you drive to Life Esidimeni, what I
15 want to find out, you told us before that you supposed to operate at Kalafong, you were unable to operate there because the building did not meet the requirements-

ETHEL NCUBE: Yes-

ADV. NONTLATLA YINA: Then you were requested to find houses-

ETHEL NCUBE: Yes-

ADV. NONTLATLA YINA: And then you told us you requested to assist with taking adult patients. So, what we would like to find out is, what kind of arrangement did you make to house those adults before you went and
5 collected them?

ETHEL NCUBE: Okay, prior to that what we did is that, I went to a family member. Now most people, I go out asking for assistance, they do it because of the background and the Day care that I am also utilising, they know how difficult it is for disability to be catered in our township. So, I have asked the
10 family member to assisted, just for a few months-

With a house?

With a house, yes. Then because we cot beds that are supposed to be catering for children the department ensured that we get-

ADV. NONTLATLA YINA: Sorry, ma'am before we get to cot beds, can you
15 tell us more about the house, what type of a house did you find from this relative?

ETHEL NCUBE: It is a probably, eight-bedroom, double storey house.

ADV. NONTLATLA YINA: Eight room or eight bedrooms?

ETHEL NCUBE: Think it's eight bedrooms. Can I just confirm with pictures and the layouts on the bedding settings, cause the department and all the logistic people that came in to evaluate, how many bed, how many beds and patients, can cater. They're the ones that were doing measures and they
5 would say, how many it can cater.

ADV. NONTLATLA YINA: Okay, but obviously, you went to the house before the department came-

ETHEL NCUBE: Yes-

ADV. NONTLATLA YINA: Obviously know that it was a 8-bedroom house-

10 **ETHEL NCUBE**:

ADV. NONTLATLA YINA: Let's deal with that and then you will consult the pictures and you will share the pictures-

ETHEL NCUBE: Okay-

ADV. NONTLATLA YINA: With the arbitration, hopefully. So, you are saying
15 that there are eight bedrooms, in the house?

ETHEL NCUBE: Yes-

ADV. NONTLATLA YINA: And then how many kitchens?

ETHEL NCUBE: One kitchen.

ADV. NONTLATLA YINA: One kitchen and how many bathrooms?

ETHEL NCUBE: Three toilets, one tub and two showers.

ADV. NONTLATLA YINA: Three toilets, one tub and two showers. How many can patients was this house capable of accommodating?

5 **ETHEL NCUBE**: It—When we did the count, there is a huge room, it's kind of like a double garage, they added on, with the number of beds that can take. Basically, it could accommodate 37beds with the count.

ADV. NONTLATLA YINA: Yes, so, are you saying that you converted a house, an eight-bedroom house to accommodate 37 people?

10 **ETHEL NCUBE**: Yes.

ADV. NONTLATLA YINA: How did you achieve that? How many beds did you put per room?

ETHEL NCUBE: It depends on the size of a bedroom-

ARBITRATOR, JUSTICE MOSENEKE: Shall we be quiet, please, and give
15 the witness and opportunity. This is very important evidence.

ETHEL NCUBE: -It depended on the size of a bedroom and as the department went on with the number of beds that will be allocated, you'd find one has three bedrooms while they also count, with lockers, in between and

he bigger rooms used to have probably four or five and the upstairs one, we used it as a medication room and then-

ADV. NONTLATLA YINA: Okay, so the eight bedrooms, that you mentioned, were they all on the lower ground. Or the eight bedrooms that was the whole
5 double storey house?

ETHEL NCUBE: it is a two-side house on one premises. There's a main house and it's like an outdoor-

ADV. NONTLATLA YINA: Outbuilding.

ETHEL NCUBE: -Outbuilding, kinda like and it had, one, two, three, three
10 bedrooms and with a big room, which could be like a double garage.

ADV. NONTLATLA YINA: Okay. Let me just try and clarify this nicely. Okay, the main house, you said there was a main house-

ETHEL NCUBE: Yes-

ADV. NONTLATLA YINA: The main house, is the one that was a double
15 storey, who in total with 8 bedrooms? There were eight bedrooms-

[crosstalk]

ETHEL NCUBE: Yes, with the outbuilding.

ADV. NONTLATLA YINA: Okay. And then you were saying then, the eight rooms--bedrooms were converted to accommodate 37 patients-

ETHEL NCUBE: Yes-

ADV. NONTLATLA YINA: .But, then you said something earlier on about the
5 upper floor, that you were not using—that you were using for medication-

ETHEL NCUBE: Yes-

ADV. NONTLATLA YINA: Okay. So, how many bedrooms were then left for the patients, on the lower ground and on the outbuilding combined?

ETHEL NCUBE: It's 8, it's 7 sorry.

10 **ADV. NONTLATLA YINA:** So, it's 7-

ETHEL NCUBE: Yes-

ADV. NONTLATLA YINA: So, there was only one bedroom upstairs? And you said the bigger room will accommodate 4 or 5 beds

ETHEL NCUBE: Yes-

15 **ADV. NONTLATLA YINA:** Okay. That means you are left with 7 bed rooms and then in each room...But obviously you were operating there. You were the manager, right?

ETHEL NCUBE: Yes-

ADV. NONTLATLA YINA: So, you should—can't you give us an estimation of room number one. There were four beds, room number two there were three beds, that kind of information.

ETHEL NCUBE: Can I send out the evidence as pictures, where you would
5 see, like in the beds-

ADV. NONTLATLA YINA: Where are those pictures, do you have them with you-

ETHEL NCUBE: I have them on my laptops. Then I would just send it out and we'll just print it out?

10 **ADV. NONTLATLA YINA**: Okay. Whilst we wait for that, you can't just give us that information?

ETHEL NCUBE: Okay, the first room, it had three and second one it also had three beds and the other one, one, two, three, four, probably six or seven beds and the six and sevens, it's the big ones and then the other big one as
15 well, one, two, three, four five, probably six or seven beds and then you go to the outside, outside building we had three in one room, three in the other and then probably four on that other side. And we had a dining room, for the other building and a dining room on the main house. And the big double garage probably catered one, two, three, four, probably six or so-

ADV. NONTLATLA YINA: There was also a garage?

ETHEL NCUBE: The one that I'm saying is a huge room that could be a double garage-

ADV. NONTLATLA YINA: In terms of size?

5 **ETHEL NCUBE**: It was the other room that I said is the big room, and a double garage in terms of size.

ARBITRATOR, JUSTICE MOSENEKE: Counsel we may be hearing this evidence, up in the air, um the important thing is how many people, all came to live there, isn't it?

10 **ADV. NONTLATLA YINA**: Yes, yes-

ARBITRATOR, JUSTICE MOSENEKE: We're talking about the capacity, notionally, can we get to how many people came to live there? The important thing is how many people came to live there?

ADV. NONTLATLA YINA: And then even you, then you went and collected
15 patients from Life Esidimeni, is that so?

ETHEL NCUBE: Yes, it was, I think the first group is 21, cause I insisted of going, so that I can know the background of the patient and if it is a criteria, of

what I have been working for, for like for the past six years, in which I was also accommodating.

ADV. NONTLATLA YINA: If I may ask you said it was on the 21, is that the date?

5 **ETHEL NCUBE**: No, 23rd of June,2016, 23rd, 23rd that's when we went.

ADV. NONTLATLA YINA: So, you went and collected the first clients on the, patients on the 23rd June 2016,

ETHEL NCUBE: 2016-

ADV. NONTLATLA YINA: 2016 and how many patients did you fetch?

10 **ETHEL NCUBE**: It was 21, if I'm not mistaken.

ADV. NONTLATLA YINA: Why not 37?

ETHEL NCUBE: I was very...ummm...particular in terms of the criteria. That's why I even asked the doctor, the Life Esidimeni Doctor to give me a background on all of the patients, cause, it's, it's, I wouldn't have managed to say no, I can bring with him. I had to get the background, first and she also explained their conditions and others she said, she wouldn't give, cause they—umm--at the age of dying in few weeks, and with every patient, that I was asking about. She would also stipulate, I would ask, how are the

15

convulsions and if they are on therapy, cause I work with stimulation and I've asked if all of the programmes that we are running, will be suitable as well, for the patients-

ADV. NONTLATLA YINA: Sorry, if I may—so you went and fetched 21
5 patients, were these adult patients?

ETHEL NCUBE: It was adults-

ADV. NONTLATLA YINA: Are they males or females or both?

ETHEL NCUBE: It was males.

ADV. NONTLATLA YINA: It was only males?

10 **ETHEL NCUBE**: Yes.

ADV. NONTLATLA YINA: Was that the last time that you fetch patients from Life Esidimeni?

ETHEL NCUBE: No, the first—even asked in, for an extra EMS, to cater for the chairs[?]. They were refusing, but I said, I cannot be taking patients
15 without their relevant aids. If you take a patient with a disability and there's no suitable aids that they need to cater with. A for them keeping it there it's pointless. And we have also asked if we can get those chairs, it had to be arranged, on point that we are given wheelchairs and baggies. If I were to

take a patient without those aid, it was damaging the condition of the patient, on top a disability.

ADV. NONTLATLA YINA: Okay, on the 23rd of June 2016, you collected 21 patients, what mode of transport did you use?

5 **ETHEL NCUBE**: It was EMS ambulance, together with aid within, there's pictures within as well, most of the things that I do, I take pictures for record purpose and as well for reports.

ADV. NONTLATLA YINA: Yes. When you collected these patients, did you get their information from Life Esidimeni?

10 **ETHEL NCUBE**: They came in with one pair of clothes they were wearing and there was others-

ARBITRATOR, JUSTICE MOSENEKE: I am going to ask you to listen to the question and try and answer only the question that is asked, it will gonna help you and us. You're telling a story of things that happened, so, for clarity, don't
15 try and over explain, just listen to what the advocate is asking. The question currently," Did you get any information or records of the patients, that you took from Esidimeni?" The answer could be, "Yes." Stop. And she'll say, "What records?" And you say, "These were the records." "Did you look at them?"

“Yes or no, I didn’t look at them.” Trust me that way then we’re going to develop a story, properly-

ETHEL NCUBE: Thank you, Judge-

ARBITRATOR, JUSTICE MOSENEKE: Thank you.

5 **ADV. NONTLATLA YINA**: Thank you, Justice. Yes. Did you get any records when you went to fetch them, on the 23rd of June 2016?

ETHEL NCUBE: It was a summary, yes.

ADV. NONTLATLA YINA: A summary of what?

ETHEL NCUBE: A summary of—for those who were on epilepsem, it was
10 the dosage, specifically and the name of the patient and an I.D, some of them didn’t have IDs.

ADV. NONTLATLA YINA: How many did not have I. D’s?

ETHEL NCUBE: I’ll send you in the evidence of what we’ve got [inaudible]

ADV. NONTLATLA YINA: Was it quite a lot? Was it half?

15 **ETHEL NCUBE**: No, it wasn’t a lot.

ADV. NONTLATLA YINA: A quarter?

ETHEL NCUBE: Probably?

ADV. NONTLATLA YINA: More than five?

ETHEL NCUBE: Probably a quarter or so, and this...

ADV. NONTLATLA YINA: What other information did you get from Life Esidimeni, in respect of the patients?

5 **ETHEL NCUBE:** It was just those two?

ADV. NONTLATLA YINA: Did you receive any medications in respect of the patients?

ETHEL NCUBE: Yes, the medications we receive is for, I think it was 28 weeks, if I am not mistaken, but we have received, but not all of them, they

10 were on medication, most on the criteria, we had a lot of-

ARBITRATOR, JUSTICE MOSENEKE: Excuse me, how many weeks?

ETHEL NCUBE: I think it's 28 weeks-

ARBITRATOR, JUSTICE MOSENEKE: 28 weeks?

ETHEL NCUBE: Ja-

15 **ARBITRATOR, JUSTICE MOSENEKE:** Okay, stop there and wait for the next question.

ETHEL NCUBE: All right, then. Thank you.

ADV. NONTLATLA YINA: Did you, did you understand what was going to happen after the 28 weeks, has lapsed in respect of the medication?

ETHEL NCUBE: The department was supposed, umm, give to--do the assessment and just to ensure that the files are also being kept our local
5 clinics for check-ups and follow ups. As they were doing for all the NGOs.

ADV. NONTLATLA YINA: In respect of SASSA grants, did you receive any, any information?

ETHEL NCUBE: No, SASSA card, but we were told in the meetings that the cards will stopped, we have to re-apply and umm, yes.

10 **ADV. NONTLATLA YINA:** Okay. We're you alone from Precious Angels, or did you go with someone else?

ETHEL NCUBE: I went with an auxiliary nurse from our side.

ADV. NONTLATLA YINA: Yes. And then you returned with the 21 patients, where did you house them, did you house them in the house that you told us
15 about-

ETHEL NCUBE: Yes. Yes.

ADV. NONTLATLA YINA: Did they all have beds?

ETHEL NCUBE: Yes, all the beds they were there, every--even supper for that day was ready and umm, yes, most of the bedding was ready.

ADV. NONTLATLA YINA: Do you have any medical professional assistance, in the form of nurses or doctors, on the premises?

5 **ETHEL NCUBE**: They were supposed to be sent out by the department, on the day of collection, but nobody came and so I had to—because I had the assessment of knowing the kind of patients that we cater and how to treat them, in the condition from where they are-

[crosstalk/inaudible]

10 **ADV. NONTLATLA YINA**: -local clinic?

ETHEL NCUBE: Local clinic, it's the people, it's the officials that helps us at the day care centre, yes, they did come in and the evidence-

[crosstalk/inaudible]

ADV. NONTLATLA YINA: -relation to the number of patients?

15 **ETHEL NCUBE**: Pardon?

ADV. NONTLATLA YINA: When was that in relation to the arrival of the patients?

ARBITRATOR, JUSTICE MOSENEKE: When was that from the day of arrival?

ETHEL NCUBE: It was probably a day two after because we were expecting the department to bring their officials on the day of arrival, but they were
5 saying they were under pressure and there were also other NGOs that they were also receiving, that they will come at a later stage but nobody came in. So, that's when I took the initiation, speaking to the ones that we have a relationship with, to come and assist on the certain project.

ARBITRATOR, JUSTICE MOSENEKE: And the beds, how were they
10 sourced? The bedding and the linen, how did you source this?

ETHEL NCUBE: Umm...The bedding and the linen, we personally, I had to took from my house. I spoke to relatives and families, to assist in terms of donating. 'Cause it's something that I do on the day care for outreach, on the day care side. And when that came they knew the capacity of the outreach
15 that I'm running and some of the board members-

ARBITRATOR, JUSTICE MOSENEKE: The answer is good, the answer is good, you don't have to go beyond. I just want to know where did you get the bedding and the linen, you say it was your own and part of it was donated by family and friends. Thank you that's the answer-

ADV. NONTLATLA YINA: And ow did you source food?

ETHEL NCUBE: All right, with food, I have a social club, with Day Care also being getting donations, we shared, and I--umm--had to do loans from my mother's side, my side and my brothers, as well had to come in and..

5 **ADV. NONTLATLA YINA:** Other than yourself and the Auxiliary Nurse that you told us about, who was you to care for the 21 patients?

ETHEL NCUBE: Since the department didn't give the support they were supposed to send out, again, I went to people we work with, to the UIF Department asking for professional's nurses, asking for auxiliary nurses as
10 well, well other professions basically. 'Cause on our side we stimulate a whole lot with the programs that we work with a therapist as well. And then they also came in and through the trainings I was doing, on the other side. I spoke to a professional nurse, knowing—the thing is she knows the drive that I'm in and she came in to do basic assessment in terms of knowing the stability of
15 patients. Even though she is working she dedicated herself, a Mandela Day, umm-

ADV. NONTLATLA YINA: I want to find out, yes, earlier on, you said that you spoke to the local clinic to come and do the assessment and now you said

you are speaking to these nurses and auxiliary nurses, so, I want to know who was taking care of the patients on a full-time basis?

ETHEL NCUBE: It's the caregivers.

ADV. NONTLATLA YINA: How many caregivers did you have?

5 **ETHEL NCUBE**: We—on the day we would have two, four, four and we would have a cooker and a cleaner and because our patients they're not more on, on, on the chronic medications, that's when we have the follow up dates in the hospitals and your check up with one of the nurses that, they would come and check the, the condition of the patients.

10 **ADV. NONTLATLA YINA**: Yes. Did you get financial support from umm the department, in respect of the patients that you had taken?

ETHEL NCUBE: We haven't--were not paid for 3 months, and most of my patients, they were on diapers. I would go—we would like spend, probably seven bags of diapers in a day or two and umm food. It was diapers, it was
15 food, it was changing clothes, which I everyday have to outreach and with follow ups from the department. They were waiting for vendor numbers and so forth but the assistance that I got, it's from family friends and the donors that use to give in for the day care center, that's how I-

ARBITRATOR, JUSTICE MOSENEKE: Did they—okay, let's find--who did you talk to at the Department about your stipend?

ETHEL NCUBE: Umm, stipend. There's a finance department, it's a manager, Hannah Jacobus from the Joburg side, we--it was Dr Manamella, Mr.—what's
5 his name--Tubani

ARBITRATOR, JUSTICE MOSENEKE: Did you tell them, in what dire straits your NGO was? That you had to find diapers, plead and ask for linen, go find beds yourself and feed people for three to four months, without money from them. Didi you tell them this?

10 **ETHEL NCUBE:** Umm, Judge we did tell them. I remember going to the office, even asking for the umm, outreach for the assessment and they said, every response we use to get, they would say they are also busy with other NGO's, they would make follow ups and meetings whenever we have—we have meetings they would give you the same proceeding that, "No, still in the
15 process." But us—we took the initia-remember when somebody is under your care, waiting doesn't help, at all 'cause it's your responsibility, that is why I went out-

ARBITRATOR, JUSTICE MOSENEKE: But, did you tell, for instance, Dr Manamella, who was head of the Mental Care Unit, that you have 21 patients,

in this home that you have set up, with your own efforts and bedding, your linen, and that the people need to be fed, to be clothed, to be bought diapers, did you tell her that?

ETHEL NCUBE: Yes, on the second time that I went there they made an arrangement to—for us to get umm, groceries and for diapers, it was a once off from eh, Steve Biko 'cause. Umm, Ja, that's when I was like out of funds the accounts—all of our accounts were exhausted, from family side and everybody and that's when I eventually said if nothing can be sorted 'cause I'm the one that has to sit and look-

10 **ARBITRATOR, JUSTICE MOSENEKE**: Did they tell why the money cannot flow to you, it's NGO taking care of 21 patients?

ETHEL NCUBE: They mentioned that the vendor number haven't been out yet 'cause we were using a different entity, when you start to registered. There's just a lot of process that need to be done. I remember even when, I went to our local Counsellor to asking for the—there is these packages they handout to homes that are needy and I had to apply for such, for the home, so that they can also assist us in, Ja, that was in our township and with the department-

ARBITRATOR, JUSTICE MOSENEKE: People from the clinic did they ever come, you said you expected them in the first two days and they never came, did they ever come?

ETHEL NCUBE: Yes, they came and filled every assessment form for every
5 patient, which will be handed out as evidence, within, that is after all the extra miles that I have went, 'cause the department was taking longer and I had to utilize the professionals, that were helping at the day Care Center.

ARBITRATOR, JUSTICE MOSENEKE: Did you need and if so, did you get any medication from the district office or the local office?

10 **ETHEL NCUBE**: The medication--I remember, when they were saying they have a back log, that I went to the local clinic, and like your asthavent and eplimune[?] were not being given without being seen—without the patient being seen. And there is a nurse also from our local clinic, where we'd given a script, with a record that has been checked. They'll be able to assess—with
15 the department they came at a later stage, where had to get a d-d-district after we have been running around, with our local clinics individually.

ARBITRATOR, JUSTICE MOSENEKE: And lastly, how did you feed these people-

ETHEL NCUBE: Okay. In terms of food-

ARBITRATOR, JUSTICE MOSENEKE: How did you finance to buy the food that fed the patients?

ETHEL NCUBE: I had to make loans from our social club, it's the money we had share at the end. I also had to use my mother's savings for the, for the
5 food and diapers 'cause on a daily basis

ARBITRATOR, JUSTICE MOSENEKE: Please do take your time.

ETHEL NCUBE: I exhausted savings, as well from my little one and opted not to pay rent, I had to be kicked out, just for me to save and get diapers and get food' cause I know a person that has a condition, how much care they are in
10 need of and they can't even voice out. Then my car was repossessed

ARBITRATOR, JUSTICE MOSENEKE: And did you tell the health department about this misery, Miss Ncube?

ETHEL NCUBE: Umm, the car I had that was repossessed, um, it's a car that my child used 'cause she uses a wheelchair. I suffered of taking care of
15 something that I want to build, so that my daughter doesn't have to go through. That I need to lay a foundation with relevant people being there. Resources being there but I'm not being supported. It was draining. [sniffing]
Family members used to give me sugar from their own homes.

ARBITRATOR, JUSTICE MOSENEKE: Thank you, would you want to brief adjournment?

ETHEL NCUBE: No, I will be fine.

ARBITRATOR, JUSTICE MOSENEKE: You'll be fine? You're ready to go
5 on? Counsel?

ADV. NONTLATLA YINA: Thank you, Justice. With the limited resources that you were working with, were the patients getting adequate food?

ETHEL NCUBE: Okay. Sorry. With the adequate food and we have a menu. We have inspectors that are going through. We use the very same menu that
10 we use at the day care center, which at any time a inspector would come in and check if everything, that you have cooked is according to the menu the menu that is stipulated. And the very same people that were taking care of the users, I took from the day care center, 'cause they know the procedure being. They how to be lenient and patient and check for any signs, that they may
15 see, even if it's adults. They know with all the in-service training and the qualifications that they have and the experience that they have, with children. They used it as well at the home.

ADV. NONTLATLA YINA: Was there a time when the situation was so bad that patients were not getting the adequate food.

ETHEL NCUBE: All right, um, in terms of food and diapers, there is a daily records, there is slips of all food being bought. There are peoples accounts showing how they bought the food. There is carers, as witnesses. There is—the other users would even speak. They are also part of witnesses. Family members that use to come and visit. They also use to—we'd give them the opportunity of feeding their loved ones, so that they can also see the progress of their loved ones.

ARBITRATOR, JUSTICE MOSENEKE: The question was, did you get to a point that didn't have resources to feed the patients?

10 **ETHEL NCUBE**: Not at all, Judge, we ensured that in spite of the circumstances, I wasn't sleeping, I was ensuring on daily basis—the thing we also use some funds from the day care.

ARBITRATOR, JUSTICE MOSENEKE: From your existing day care?

15 **ETHEL NCUBE**: Yes, Judge. And with all the donors that were also supporting us, we'd use to be—to cater for all the users that we had, on time.

ARBITRATOR, JUSTICE MOSENEKE: What did you say about the family members of the patients? Did they come to visit?

ETHEL NCUBE: We had frequent visitors from the family members and we hosted birthday parties without those that we knew, we hosted birthday

parties with them. They would—they had the privilege to even—I remember given the authority of checking all the record that, we are doing ever since we have received the patients and they would go through medications. They would go through the reports that we do on daily basis. We'd also give them
5 the opportunity to check the progress, in terms of stimulation that they have for their loved ones and everything we hold for the patients and we have records of the activities

ARBITRATOR, JUSTICE MOSENEKE: Did you tell the Inspectors, that you had not being paid? Do you were using personal resources?

10 **ETHEL NCUBE**: It wasn't only me, judge. Yes, we did time and again, Judge. I would make follow—there is SMS, there's emails as is evidence— 'cause whenever—oh another thing I did I made contact with Life Esidimeni carers, that use to work with the patients, saying that they would—I would open up positions cause they were out of work. I would open up positions for them,
15 cause it's patients that they were working with and on us coming as a stimulation site center, we would club up and become two services, to better the conditions and the abilities for our users and then when they came in, I have to explain that. Please work with us, we'll pay you at a later stage 'cause we haven't been paid for like two or three months. They would stay a night
20 then leave. I would go to UIF as well. The very same thing gets all the

professional people. When you explain they would stay a night, then leave with all their CV's, everything. It's on record, if you need evidence, we'll be definitely sending out, to it as well.

ARBITRATOR, JUSTICE MOSENEKE: Thank you Counsel.

5 **ADV. NONTLATLA YINA**: Justice, I know that it is now 11:35 am, fit to be an appropriate time to for tea?

ARBITRATOR, JUSTICE MOSENEKE: Okay. I think it is an appropriate [clears throat] time to take the tea break. We resume at 12 o'clock. Adjourned

SESSION 2

10 **ARBITRATOR, JUSTICE MOSENEKE**: Thank you, you may be seated. Ms. Ncube, you are still under your [clears throat] oath. You may proceed Counsel.

ADV. NONTLATLA YINA: Thank you, Justice. Ms Ncube, just before we adjourned, you were given evidence to the fact some of the caregivers were
15 leaving you. You will hire people and they would stay overnight and then they would leave.

ETHEL NCUBE: Yes.

ADV. NONTLATLA YINA: Okay. So, you also had challenges with human resources? Is that so?

ETHEL NCUBE: Yes.

ADV. NONTLATLA YINA: Did that not compromise the health care users that you had.

ETHEL NCUBE: Not necessarily because remember on our side as a
5 simulation centre, we had those carers who know how to run with the programme. And with the conditions—with the criteria that we have, it is something that we could take care of while they were at home and-

ADV. NONTLATLA YINA: How far apart was the day-care Center from the Precious Angels NGO?

10 **ETHEL NCUBE**: Its 15 minutes, max drive.

ADV. NONTLATLA YINA: Were they not overstretched

ETHEL NCUBE: Sorry?

ADV. NONTLATLA YINA: Were they not overstretched running the two organisations concurrently?

15 **ETHEL NCUBE**: No, maybe I didn't explain thorough. The carers that used to work at the day-care Center- those who had like four years at the centre. They were moved to work at the home. So, I opened positions for those that have left for the home because they know how the programme runs. And the ones

that I called in from Life Esidimeni are those that would come and when you tell them about money, they would leave. And when we--I went to the UIF, at our location, we'd also get professional people, but when you tell them about not being paid, they work for a day and leave.

5 **ADV. NONTLATLA YINA**: Yes. Okay. There is evidence before this arbitration that SASSA grants will also be used to finance the needs of the patients. Did you have access to SASSA grants in respect of the 21 patients?

ETHEL NCUBE: Not even one from the day we received them, 'cause either their IDs haven't been sent to us. Again, the department had mentioned that it
10 will be processed and will be able to use to feed-

ADV. NONTLATLA YINA: You did not receive them at all?

ETHEL NCUBE: No, not even one till--from the beginning until the end.

ADV. NONTLATLA YINA: So, other than the donations and the help that you are receiving from your family and from society, you didn't have other forms of
15 finance?

ETHEL NCUBE: No, just loan after loan.

ADV. NONTLATLA YINA: Yes. Now, in respect of the families of the mental health care users that you had -the 21, did you have contact with them?

ETHEL NCUBE: The others they eventually—'cause they called in. They called different NGOs and they ended up on my--on us. Then we would have induction with the visitation. Give them a background of who we are and how we ended up with their loved ones. And we also gave them the opportunity to
5 come at any given time, with no appointment and to come and visit their loved ones and they would also have access to their loved one's files. As I was saying earlier on that with any celebration we had, they were there as well. Couples of visits have been made. And um—a lot of functions have -

ADV. NONTLATLA YINA: Were the visits to all of the patients?

10 **ETHEL NCUBE**: Not all of them. Other they, okay, with, with the stress that we had of not having proper information of the patients, I went to our SAPS-- police station to do affidavit for assistance in getting records. And umm so that we can get in touch with the family members as well. And with the other--later on, that's when we received a list of few contacts from Life Esidimeni's social
15 worker. That's when I also had to make alternatives to finding contacts 'cause the department was taking long to assist with us.

ADV. NONTLATLA YINA: When did you receive this in relation to the 23rd of June 2016?

ETHEL NCUBE: I will send—I will check on the emails, print it out and send it to you.

ARBITRATOR, JUSTICE MOSENEKE: Well, um. The--you say you told the families how you came to look after their loved ones, why did you it? Why did
5 you apply for this residential care center? Did you apply for it?

ETHEL NCUBE: Judge, we were called in on annual meeting we've been having from 2015, that there will be a marathon that will be given to the existing NGOs with existing criteria, as we now also in our business plan as a day-care had a plan to run a home but only for children.

10 **ARBITRATOR, JUSTICE MOSENEKE**: Okay, let's take it piece by piece. Fewer words. You went to a meeting where you were told about a Marathon Project.

ETHEL NCUBE: Yes, sir.

ARBITRATOR, JUSTICE MOSENEKE: Who made that presentation to you?

15 **ETHEL NCUBE**: It's the department officials. I think the email would also say it such and give it appropriately.

ARBITRATOR, JUSTICE MOSENEKE: I believe you, you don't have to prove with an emails. You--who at the department made the presentations about the opportunity to participate in the marathon project?

ETHEL NCUBE: On the Gauteng region, the head it's Mrs Hannah Jacobus, and she reports to Dr Manamella and with Mr. Tubani. Most of his-

ARBITRATOR, JUSTICE MOSENEKE: So, the answer is Hannah Jacobus, Dr. Manemella and Mr. Tubani?

5 **ETHEL NCUBE**: Yes, and other officials that-

ARBITRATOR, JUSTICE MOSENEKE: What did they say to you? What opportunity existed?

ETHEL NCUBE: It's—it was--we were like 20, 20 something NGOs, the one that we ex--existing ones and--. They said they are in crisis of, of, of, of the
10 marathon and they would extend with according to our business plans and we would ho-.

ARBITRATOR, JUSTICE MOSENEKE: Did I hear correctly? Did they say how would you help them in the crisis? Did they say how you would help them in the crisis? Let's take it piece by piece, so we can all understand.

15 **ETHEL NCUBE**: We had to house the patients and that they would give in relevant support for the—because of their contract was terminated and it has to be speeded up because we know from previous NGOs, we will run with the new one, even it is in a rush.

ARBITRATOR, JUSTICE MOSENEKE: Did they tell you why the contract with—why it was urgent or why the contract Life Esidimeni was terminated?

ETHEL NCUBE: They mentioned—they didn't go deeper into details about the contract being terminated, but patients need to be allocated to NGOs
5 with—that deals with serious different criteria, serious.

ARBITRATOR, JUSTICE MOSENEKE: And did you tell them—I'm looking ELAH26, your licence. Did you tell them you were fit to deal with severe or profound with intellectual disability?

ETHEL NCUBE: Yes, that is why I would also take the initiation to go ensure
10 that the patients that they gave to us are according to our criteria.

ARBITRATOR, JUSTICE MOSENEKE: You told them about your core skills and what you can do? Is that right?

ETHEL NCUBE: Yes. 'Cause we have the services of rendering.

ARBITRATOR, JUSTICE MOSENEKE: At that time, did you have premises
15 already when the license was issued?

ETHEL NCUBE: The license was issued before the patients were allocated.

ARBITRATOR, JUSTICE MOSENEKE: Yes, and the license says that you were to look after people with severe, profound intellectual disability. And you were allowed up to 150 people. Did you ask for up to 150 patients?

ETHEL NCUBE: No Judge. It, it, it was just a licence, that would be--I think
5 they divided the whole number to of NGOs that were present for the marathon.

ARBITRATOR, JUSTICE MOSENEKE: So, you did not ask for 150 patients to look after?

ETHEL NCUBE: No, sir. I remember there was even a time we were asked to
10 take more. Then we'd refused saying that most of the services they said they would be rendering, they haven't been supporting us on it. And we have to do all the run around without their assistance.

ARBITRATOR, JUSTICE MOSENEKE: Did they tell you how much you will be paid, per patient that you were to look after?

ETHEL NCUBE: I think it was stipulated 'cause they also mentioned with
15 the—it's gonna be—when you run a home you run a home, you get the SASSA full foster care amount. Then umm, with the patients-

ARBITRATOR, JUSTICE MOSENEKE: About the marathon project in particular, You were at the briefing, did they tell you how much you will be paid-

ETHEL NCUBE: Yes-

5 **ARBITRATOR, JUSTICE MOSENEKE**: -per day per patient.

ETHEL NCUBE: Per day, there has been stipulation of the amount. I would be precise cause everything is in the emails. Even on meetings-

ARBITRATOR, JUSTICE MOSENEKE: Can you remember that amount per patient per day?

10 **ETHEL NCUBE**: Not quite. Not quite-

ARBITRATOR, JUSTICE MOSENEKE: But you can find it in your email?

ETHEL NCUBE: Yes. 'Cause when we give out reports, we--there is a budget plan to stipulate everything that you are receiving and how you have utilised it according to the spreadsheet.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Did they tell you at the beginning that you will have to wait for three or four months before you get paid?

ETHEL NCUBE: No, we were not told.

ARBITRATOR, JUSTICE MOSENEKE: Finally, for me at any rate, why did you do it? Why did you assume this task?

ETHEL NCUBE: All right, I'm from—I'm gonna try to be brief. Why we accepted was we are building a legacy from children to teenager, and adult to
5 elderly, a stage where would also phasing, but at that moment there wasn't sufficient support, while te-

ARBITRATOR, JUSTICE MOSENEKE: You wanted to expand your operation as an NGO, is that it?

ETHEL NCUBE: Yes, sir.

10 **ARBITRATOR, JUSTICE MOSENEKE**: Move from children to adult?

ETHEL NCUBE: It is in our business plan, for the day care yes sir.

ARBITRATOR, JUSTICE MOSENEKE: And that was the reason why you assumed this obligation?

ETHEL NCUBE: It was only for children basically. It changed when they
15 mentioned that the contract for the children was going to have another year on it.

ARBITRATOR, JUSTICE MOSENEKE: Counsel.

ADV. NONTLATLA YINA: Thank you, Justice. What kind of experience did you possess to take care severe and profound intellectual disability?

ETHEL NCUBE: We work with OTs basic stimulation programme which we get from private companies we sourced out. We also work with
5 physiotherapist that we give reports to on daily basis. Also, there is audiology people; they come in for group programme and patient's assessment and there are ECD practitioners cause as a disability as well there wasn't at training-

ADV. NONTLATLA YINA: You as a person, what kind of experience did you
10 have?

ETHEL NCUBE: I am an accounting person which had to divert to disability because of experience that I have to learn in terms of how to live and how to-.

ADV. NONTLATLA YINA: Maintain? Do you have any sort of training?

ETHEL NCUBE: Trainings, there is a certificate in-service training. We have
15 monthly therapy session that we also attend for different disabilities and any challenges that we face we raise it with organization we reach out to our local clinic that we are in contact with.

ADV. NONTLATLA YINA: Now to questions on contact with family. The families that you managed to get in contact with, did you bring to their attention the challenges that you are experiencing?

ETHEL NCUBE: Every family member that most got holds of us. They came
5 in angry and frustrated which we understand. We were the ones that had to calm down the family. Then give the background of who you are and then explain the current situation and way forward. No support from the department, as well.

ADV. NONTLATLA YINA: Do you know why they were angry?

10 **ETHEL NCUBE:** Mostly, it was through of no contact with the department of where they are taking their patient, their loved ones. Others it was through a deceased.

ADV. NONTLATLA YINA: I see. Earlier on you said that the families of the patients contacted you. I just want to find out if you took the initiative to
15 contact them or the only only that you had with them was when they had taken the initiative to contact the NGO?

ETHEL NCUBE: Umm. Earlier on, we worked with the department; they had list of patients we had, other files that were still coming to us. We were given coordinators with whom we make follow-ups about the information they have

gathered for us to get in contact families. And what I also did from my side, I went to our local police station to get an affidavit if they can assist us to trace the ID numbers, so we had at that moment.

ADV. NONTLATLA YINA: So, those that you had contact, did you take any
5 initiative to contact the family members?

ETHEL NCUBE: The others-we--it was mixture because other numbers when we called in them, they were not going through. And others find our contact number from previous contacts of different NGOs.

ADV. NONTLATLA YINA: Now, in respect to the 21 patients that you spoke
10 about, was that the only number of patients that you received from Life Esidimeni?

ETHEL NCUBE: No, the second set of patients came in was when the department called in and have us to utilise other space that was still in the house?

15 **ADV. NONTLATLA YINA:** When was this?

ETHEL NCUBE: Umm—joh-I will in the photos cause in the check evidence in the report.

ADV. NONTLATLA YINA: Did you receive more patients?

ETHEL NCUBE: Yes.

ADV. NONTLATLA YINA: When was that?

ETHEL NCUBE: I think it was same month, probably two weeks from the 23rd,
or so?

5 **ADV. NONTLATLA YINA**: How many patients did you receive after the 23rd of
June 2016?

ETHEL NCUBE: I think it was 15, 'cause I remember when we went in we
were supposed to check still with the doctor to check if the criteria that they
had given us. When we went there, the patients were already loaded in a bus.
10 We were rushed to take them without even checking if every patient is
according to our criteria.

ADV. NONTLATLA YINA: In which centre was this?

ETHEL NCUBE: Esidimeni.

ADV. NONTLATLA YINA: Which one?

15 **ETHEL NCUBE**: I think Randfontein. I remember we even a clash with the
manager there. The EMS manager was also crying out in terms of us
communicating first. I was refusing the set of grouping they have allocated
without us going through it and ensuring it is according to our criteria.

ADV. NONTLATLA YINA: So, the 15 patients, did you take them to Precious Angels?

ETHEL NCUBE: Yes, they were-

ADV. NONTLATLA YINA: Were they males or females?

5 **ETHEL NCUBE**: Still Males. Males.

ADV. NONTLATLA YINA: Were they adult or children?

ETHEL NCUBE: Adult males.

ADV. NONTLATLA YINA: Where did you house them?

10 **ETHEL NCUBE**: At Danville, the very same house we were talking about earlier on.

ADV. NONTLATLA YINA: Did you have enough space for patients more patients?

ETHEL NCUBE: It catered for 37. Yes, it also those that made us arrange-

ADV. NONTLATLA YINA: Sorry, what is the address of the place?

15 **ETHEL NCUBE**: It is 194 Danville.

ADV. NONTLATLA YINA: So, in total, how many patients did you have?

ETHEL NCUBE: 37 in June

ADV. NONTLATLA YINA: Earlier on, you indicated that you had challenges with staff, with resources with effect to the 21, now adding 15 more; did that not add more on the financial burden you are already experiencing?

ETHEL NCUBE: That's where the Department started to come in sending
5 groceries to us-

ADV. NONTLATLA YINA: When was the first time that you received grocery form the department?

ETHEL NCUBE: Joh. late probably July or so.

ADV. NONTLATLA YINA: Are you saying it was in July? Which year was
10 this?

ETHEL NCUBE: 2016.

ADV. NONTLATLA YINA: Are you certain it was July?

ETHEL NCUBE: I am not sure about the month. But with emails and recordings will give you a definite date and the month.

ADV. NONTLATLA YINA: Was the grocery given to you in July 2016
15 sufficient to last you for how long?

ETHEL NCUBE: It was--they made a provision that would last for a month because they mentioned that on the next run out they would be able to be paid, to render necessary services.

ADV. NONTLATLA YINA: And the challenges that you had with the carers,
5 how did you resolve that in respect of adding 15 more patients?

ETHEL NCUBE: With every meeting we had with the department, I showed evidence of communication and with all that I had had with all the savings that I had from the trainings that we were doing, and I would allocate a certain amount that will be suitable for them, even though it wasn't enough. And also
10 for transportation would ask

ADV. NONTLATLA YINA: Maybe let me ask you this way? Did you have carers?

ETHEL NCUBE: Yes.

ADV. NONTLATLA YINA: Were they sufficient for take care of the 37
15 patients?

ETHEL NCUBE: Yes, we even asked for more because when you receive more patients your capacity ratio increases, so you need more staff. CV's were dealt with. We sent through interviews, contracts.

ADV. NONTLATLA YINA: The challenges you had with the 21 carers who were not staying long. Who would spend a few, a night and leave. Did you not experience now when you had 37 patients, at Precious Angels?

ETHEL NCUBE: You will find others will stay. Remember for the first one, 5 they knew it was just a month. And it occurred it's month two. On the ones we got from the UIF department, they were new, and they will stay with us until pay out was sent because we showed them-

ADV. NONTLATLA YINA: Were the patients received the nursing care and the medical attention that they required

10 **ETHEL NCUBE:** Yes, they worked and even family members that used to come in, we would even show the progress of their loved ones is, and the type of medication they were getting as well as give answer to their questions in.

ADV. NONTLATLA YINA: Other than the 37 patients, did you receive more 15 patients from Life Esidimeni?

ETHEL NCUBE: On June, July, we got a call from the officials again stating that the Cullinan ENCA house they have females with the same criteria as the ones were servicing, and they asked if we can assess for just a period of time. The they will be able to take them-

ADV. NONTLATLA YINA: Did you accept?

ETHEL NCUBE: We refused, but they kept on insisting. I think the other thing was that they might be taking advantage of how a person is passionate about such criteria that we deal with. That they asked for housing.

5 **ADV. NONTLATLA YINA**: Did you eventually agree?

ETHEL NCUBE: With the housing that is when they had to come in and said, 'Ethel, please we need to get it's only-

ARBITRATOR, JUSTICE MOSENEKE: Did you agree?

ETHEL NCUBE: Yes, sorry.

10 **ARBITRATOR, JUSTICE MOSENEKE**: And then, how more people then came to your facility?

ETHEL NCUBE: It was umm--nine at first.

ARBITRATOR, JUSTICE MOSENEKE: From ENCA?

ETHEL NCUBE: From ENCA house.

15 **ARBITRATOR, JUSTICE MOSENEKE**: From ENCA house?

ETHEL NCUBE: Yes, ENCA house in Cullinan.

ARBITRATOR, JUSTICE MOSENEKE: Let's cut to the chase a little. When was your NGO shut down?

ETHEL NCUBE: Joh.

ARBITRATOR, JUSTICE MOSENEKE: The questions when?

ETHEL NCUBE: 2016.

ETHEL NCUBE: When?

5 **ETHEL NCUBE**: Around--we didn't even receive a letter. We were told only
now in January 2017.

ARBITRATOR, JUSTICE MOSENEKE: When did it you stop its operations?

ETHEL NCUBE: January 2017.

ARBITRATOR, JUSTICE MOSENEKE: How did that happen? By what
10 reason did it happen?

ARBITRATOR, JUSTICE MOSENEKE: January 17, 2017?

ETHEL NCUBE: Yes.

ARBITRATOR, JUSTICE MOSENEKE: How were your operation shutdown?

ETHEL NCUBE: Being moved from houses to the hospitals because even the
15 staffing from the hospital couldn't cater-

ARBITRATOR, JUSTICE MOSENEKE: What happened? Who came and
said you must stop your operations or you must move your patients to the
hospital?

ETHEL NCUBE: It was from the office of the Premier where they came in. They did investigation and from then the department has mentioned that they were taking the severe ones to the hospitals.

ARBITRATOR, JUSTICE MOSENEKE: By then how many of your patients
5 have died?

ETHEL NCUBE: It think it was probably—err--10.

ARBITRATOR, JUSTICE MOSENEKE: How many were remaining when the facility was shut down?

ETHEL NCUBE: In total, we had 58/59 patients

10 **ARBITRATOR, JUSTICE MOSENEKE**: After the 10 passing on, how many remained?

ETHEL NCUBE: Basically, the total, Judge-

ARBITRATOR, JUSTICE MOSENEKE: 48?

ETHEL NCUBE: Yes.

15 **ARBITRATOR, JUSTICE MOSENEKE**: 48, remained?

ETHEL NCUBE: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Of what did they die?

ETHEL NCUBE: Mostly, it was natural causes with the EMS declaration.

ARBITRATOR, JUSTICE MOSENEKE: Sorry, what declaration.

ETHEL NCUBE: Natural death.

ARBITRATOR, JUSTICE MOSENEKE: But you said something declaration.

You said they died-

5 **ETHEL NCUBE**: EMS. They EMS are the ones that would come in to do investigation and declare how was a patient-

ARBITRATOR, JUSTICE MOSENEKE: Each time somebody passed on, you call the EMS and they are the ones who certify that somebody to have to died of natural causes.

10 **ETHEL NCUBE**: They would do their own investigation. We would show the file in of the death cause and they would go through the file and check the patient, throughout, then they are able to give in-

ARBITRATOR, JUSTICE MOSENEKE: And that 54, the remaining 48 where did you have to take them to?

15 **ETHEL NCUBE**: We were still—they were distributed to hospitals with our carers, cause the professional they wouldn't—they were not willing to-

ARBITRATOR, JUSTICE MOSENEKE: you don't have to explain, so much

You are too guarded, too careful all I want is the facts. I am not judging you.

The 48 who remained what happened to them?

ETHEL NCUBE: We had to house them in hospitals.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Why were they taken to hospital?

ETHEL NCUBE: It was due to-we didn't, the premises--our big premises which we applied for, it wasn't yet-

ARBITRATOR, JUSTICE MOSENEKE: Were they unwell? Did they need proper care? Why were they taken to hospitals?

10 **ETHEL NCUBE**: It was when we made a cried-out of the pressure and the lack of support that we experiencing and the number of deaths that we have couldn't bear. Ever since we running, we never had death in our center. So, when that kept on occurring, we kept on asking them to come and do a thorough assessment and give proper support or else taking back within their
15 patients .

ARBITRATOR, JUSTICE MOSENEKE: Counsel.

ADV. NONTLATLA YINA: Thank you Justice. Ma'am, if I may you refer to file number 1, page 7. That would be the report by the Ombuds. Page seven, item number 1.1-

ARBITRATOR, JUSTICE MOSENEKE: Give them here this one thanks you-

ADV. NONTLATLA YINA: The bullet points that start with 75. Do you see that
Ma'am?

ETHEL NCUBE: Yes.

5 **ADV. NONTLATLA YINA:** According to this report, 20 patients died in
Precious Angel not 10?

ETHEL NCUBE: Yes, when I answered 10, it is when the Judge asked by
then how many has died. The question was not posed as in total, how many
from the NGO.

10 **ADV. NONTLATLA YINA:** How many people died from the-

ETHEL NCUBE: 20—20—it's 20—its 23, because the others died in the
hospitals when we also got the update after being closed. I think the last it
was 23 if I can go mix[?] with it-

ADV. NONTLATLA YINA: Just on the last set of questions. You took 21
15 patients, you were experiencing a lot problem? Am I correct?

ETHEL NCUBE: Yes.

ADV. NONTLATLA YINA: From the department you were not getting support
from, you were struggling financially. Is that so?

ETHEL NCUBE: Yes.

ADV. NONTLATLA YINA: You were struggling to retain human resources. Is that so?

ETHEL NCUBE: Yes.

5 **ADV. NONTLATLA YINA**: Why do you keep on adding more?

ETHEL NCUBE: We were assured that they will be moved to a facility where they will be catering for and we were to render the services that we have been rendering for years in the meantime while they are still arranging from their own side.

10 **ARBITRATOR, JUSTICE MOSENEKE**: Sorry Counsel. We, they. Who? I want to know the face of the person. Who came to you and said, we ask you to take more people?

ETHEL NCUBE: The team-

ARBITRATOR, JUSTICE MOSENEKE: Have[?] you the known faces in the
15 department?

ETHEL NCUBE: Our coordinators, Mr Tubani, Dr Manamella and Ms Hannah--the team at large.

ARBITRATOR, JUSTICE MOSENEKE: You have to mention, Hannah, by first an last name please.

ETHEL NCUBE: Umm—Miss. Hannah Jacobus.

ARBITRATOR, JUSTICE MOSENEKE: Miss Hannah Jacobus, yes, right.

5 **ETHEL NCUBE**: Most of urgent call-

ARBITRATOR, JUSTICE MOSENEKE: So, these are the people who asked you to take on more people despite your dire circumstances?

ETHEL NCUBE: Yes. On the second call out of patients, that was when the pay-out was there. And then they called back, for the 10-

10 **ARBITRATOR, JUSTICE MOSENEKE**: When was this pay out? More or less when? Three-four months after June?

ETHEL NCUBE: It was after like three, four months without being paid.

ARBITRATOR, JUSTICE MOSENEKE: So, money did start flowing like three months later?

15 **ETHEL NCUBE**: Yes. I see.

ARBITRATOR, JUSTICE MOSENEKE: How much money was paid per month?

ETHEL NCUBE: With 58 patients, it was around R100,000.00 per month

ARBITRATOR, JUSTICE MOSENEKE: 100,000?

ETHEL NCUBE: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Per month?

ETHEL NCUBE: Yes.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Counsel.

ADV. NONTLATLA YINA: Thank you Justice. If I may just clarify something one thing. In respect of the 58/59 patients that you has, you indicated that the ones that came from Cullinan and ENCA were females. Is that so?

ETHEL NCUBE: Yes.

10 **ADV. NONTLATLA YINA**: Did you house them in the same house you were housing the male you got from Life Esidimeni?

ETHEL NCUBE: No, for couple of days, the department had pressure from the MEC stating that they cannot mix females and males with the same criteria.

15 **ADV. NONTLATLA YINA**: So, where did you house males?

ETHEL NCUBE: In Atteridgeville.

ADV. NONTLATLA YINA: Can you give us the address?

ADV. NONTLATLA YINA: How far was this house from the male ones?

ETHEL NCUBE: It's 10, Mosalo

ADV. NONTLATLA YINA: How many females did you have?

ETHEL NCUBE: The first—it was-

ADV. NONTLATLA YINA: In total?

5 **ETHEL NCUBE**: It's—what—21, I think?

ADV. NONTLATLA YINA: How far is this house from the centre where you had males?

ETHEL NCUBE: It is like 10/15 minutes

ADV. NONTLATLA YINA: So, you were running basically almost 3 centres?

10 **ETHEL NCUBE**: Yes. In abbreviation, The Children Stimulation Centre is excluded from Life Esidimeni because there are no State patients there.

ADV. NONTLATLA YINA: But you are expected to be there some point per day?

ETHEL NCUBE: Yes. There is a supervisor that's at the day-care.

15 **ADV. NONTLATLA YINA**: Do you have staffs at the centre where you are housing females?

ETHEL NCUBE: Yes, they were staffs.

ADV. NONTLATLA YINA: Can you tell us the staff that you had there?

Nurses, social workers, doctors, that kind of information?

ETHEL NCUBE: When it was, rushly to be prepare—[inaudible] We took the initiation to get stimulation, stimulated carers and home-based carers., cause

5 most of our patients, they are on diapers.

ADV. NONTLATLA YINA: These are the carers from the care-centre?

ETHEL NCUBE: No. From the other organisation that I have a relationship with, they train, care givers, it's home-based carers?

ADV. NONTLATLA YINA: How many and what types of carers did you have?

10 **ETHEL NCUBE:** They have home-based care experience.

ADV. NONTLATLA YINA: How many? How many?

ETHEL NCUBE: in total, of the house, we had umm like 2 or 3 in a day and night, they rotate, with the day cares.

ADV. NONTLATLA YINA: And you--were you attending meetings with the
15 department during all this period?

ETHEL NCUBE: We have been attending meeting crying out every day.

ADV. NONTLATLA YINA: How often?

ETHEL NCUBE: It wasn't too often 'cause we would call timely-

ADV. NONTLATLA YINA: Weekly or monthly?

ETHEL NCUBE: In a month, probably twice. But I would make calls just to cry out on the needs that we are facing and make alternative arrangement from my side as they were on our care-

5 **ADV. NONTLATLA YINA:** Between running 3 centres and attending meetings, were you are able to oversee what was happening with the patients; if they were receiving sufficient care, if they were bed linen was changed, if they were sick and they needed medical attention, that kind of stuff?

10 **ETHEL NCUBE:** all right, in every house, we have supervisor that ensures that everything is in place before we go to any other meeting. I myself will drive to ensure that everything is in place as well. And it wasn't regular meetings.

ADV. NONTLATLA YINA: Those supervisors were not among those people
15 who would resign after serving for two days?

ETHEL NCUBE: No. It was those that we maintained.

ARBITRATOR, JUSTICE MOSENEKE: Well again, let's try and cut to the chase. The Ombuds, you know who that is right?

ETHEL NCUBE: Yes, Judge.

ARBITRATOR, JUSTICE MOSENEKE: Right?

ETHEL NCUBE: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Professor Makoba in 4.1.7, the end of it, said patients that died at Precious Angels contributory factors to their
5 death could be hunger and cold. He says the rooms were very cold and there were no food to feed them due to the delay by that the Department took 3 months to pay them. SO, they were struggling to buy food and Dr. Manemella was informed about this. Those were the conclusions that Ombuds makes. He said your patients died of hunger and cold. What do you say to that?

10 **ETHEL NCUBE**: I totally object with evidence of monthly reports of expenditures that we spent and as well with family members who will be able to come and testify, that at any time they come in, we give them the opportunity to see feed loved ones and secondly, it's evidence that-

ARBITRATOR, JUSTICE MOSENEKE: You know the first line of your
15 answers could be; my patients did not die of hunger and cold. Then I might ask you for explanation after that. So, that we can save time and get to the through it okay. The professor holds that in his view they die of hunger and cold. What do you say to that?

ETHEL NCUBE: I totally object. That is not true.

ARBITRATOR, JUSTICE MOSENEKE: You are you saying they died of what?

ETHEL NCUBE: I am not a medical side but with that's is why we agreed on post-mortem to be done to find out what was the cause I also need closure.

5 **ARBITRATOR, JUSTICE MOSENEKE**: 23 people under your care died over how many months?

ETHEL NCUBE: Within a year because it was different months.

ARBITRATOR, JUSTICE MOSENEKE: No, from June to around September October. Isn't it?

10 **ETHEL NCUBE**: No, they would, they, I would--eventually, we closed in January; that was when we all patients were taken away from us.

ARBITRATOR, JUSTICE MOSENEKE: Let's say January. In 6 months, 23 people under your care died.

ETHEL NCUBE: Yes, Judge.

15 **ARBITRATOR, JUSTICE MOSENEKE**: And you are saying they died of natural causes?

ETHEL NCUBE: IN support of the doctors from Life Esidimeni also came with the MEC wanting to find out what exactly is happening. She mentioned that

they know they know their patients' conditions and how they were. She did explained, from prior we had done our best with all the records we have in. It's the same doctor that I was with

ARBITRATOR, JUSTICE MOSENEKE: Np, no, no--from your lay person's
5 knowledge who is a care-giver, who is a care giver. Or who had become a care giver. What do you say killed 23 people in 6 months?

ETHEL NCUBE: I wouldn't know. I would like to get closure on it, so I can also have peace.

ARBITRATOR, JUSTICE MOSENEKE: What do you think killed them?

10 **ETHEL NCUBE**: It's previous, we didn't have records from previous--records from Life Esidimeni on how the dosage of epiphloeum will be; if there was any changes and with all the reports that we also did on our side. Medically, we were not given unto but we were—but we-

ARBITRATOR, JUSTICE MOSENEKE: I do understand what you are saying
15 but the question is, what do you think killed the 23 people under your care? Dr. Makoba has told us what he thinks. What do you think?

ETHEL NCUBE: I still object to what he said. I think it happened through the frustration resulting from being moved one pillar to post. Everything that was happening to the individual, no matter how hard we have tried, and strived to

still obtain the ability to—and the wellbeing of the patient, it was probably way too much for a person that has to cater their disability, in total.

ARBITRATOR, JUSTICE MOSENEKE: Counsel.

ADV. NONTLATLA YINA: Thank you Justice. In respect of the patient who
5 died at Precious Angels, did you personally contact the family members to inform them?

ETHEL NCUBE: With contacts, we struggled a lot with our coordinators. Eventually, they would give in and—umm--yes. Okay let me wait for your next answer, question.

10 **ADV. NONTLATLA YINA**: Did you have the necessary professional skills to offer counselling and support to the family members when they came to your call after they have been informed about the death of their family members?

ETHEL NCUBE: Any time, the death occurred I was informed by the department and arranged for the family to be called in-

15 **ADV. NONTLATLA YINA**: Do you rely on the department?

ETHEL NCUBE: No, we were still waiting. Remember, I had to get affidavit for my willing use to be to trace patients' family members. And whenever the department was not bold enough to inform the parents, I had to stand in the gap as well explaining how their loved ones ended up with me.

ADV. NONTLATLA YINA: In respect of those who lost their loved ones, was there any counselling help service offered to them at Precious Angels? Yes or no.

ETHEL NCUBE: No. We were engaging with the users, cause they became
5 family to as we were taking care of them.

ADV. NONTLATLA YINA: Do you know where the bodies of the patients who died at Precious Angels were taken to?

ETHEL NCUBE: All of them.

ADV. NONTLATLA YINA: Where? Which mortuary?

10 **ETHEL NCUBE:** Some families came to bury them. Then the others were in hospitals.

ADV. NONTLATLA YINA: So, for those who came where would you keep the deceased whilst waiting for the family?

ETHEL NCUBE: Okay, it is a question when the first patient passed on, we
15 asked the department

ADV. NONTLATLA YINA: I am asking you now

ETHEL NCUBE: It is the question that I am also asking the department because they have not given enough information and resources. But there in

our township running an organization like, there was is a funeral parlour which I had to approach, tell the experience of what happened with the department they would be able to assist in-

ADV. NONTLATLA YINA: So, did you approach the parlour?

5 **ETHEL NCUBE:** Yes.

ADV. NONTLATLA YINA: Whilst you are waiting for them to fetch bodies, where would the bodies be in relation to other patients?

ETHEL NCUBE: In the parlour.

ADV. NONTLATLA YINA: At NGO, Precious Angels. Earlier on you said,
10 there were many beds in each room.

ETHEL NCUBE: We move the patients that are mobile, from the scene make a room and we keep the others out in order not to traumatise the patients.

ADV. NONTLATLA YINA: Those who are not mobile?

ETHEL NCUBE: We use wheelchair. Most of our patients were using mobiles.

15 **ADV. NONTLATLA YINA:** Now, you keep referring to the department that you are not receiving support; you are not prepared to take care of this people, you are not prepared for what happened, you are not prepared to finance the

NGO, you are not prepared when the patient began to die. You are not prepared for all of that. Is that so?

ETHEL NCUBE: Yes.

ADV. NONTLATLA YINA: When you think about these in retrospect now, do
5 you think you should have taken these patients?

ETHEL NCUBE: No, my capacity was children. And with all the support that have I've been running for all these years, it was the first and the last experience I personally had to go through because it was a lot of intake and, yet you are out there for your community and as well was being affected.

10 **ADV. NONTLATLA YINA**: I would imagine you are also not aware of the requirement of the NGO in terms of the Acts and regulations.

ETHEL NCUBE: We are familiar with the documents of NGOs. Going back to your question, for a home it was 3-4 year plan for us and the services was for a period of time. In terms of compliance, it is done monthly.

15 **ADV. NONTLATLA YINA**: You believed you complied with the Acts and regulations?

ETHEL NCUBE: I did my level best of compliancy with all the resources and knowledge we obtained from our experience. From the department side, it had really failed us which puts us at another end.

ADV. NONTLATLA YINA: The Ombuds said that for most of the NGOs including Precious Angels, the reason why the patients died is because the staff were not properly equipped and trained; they lacked experience. What is your comment?

- 5 **ETHEL NCUBE:** Our criteria play a major role in the services that we render. And the relationships we have with other professionals make them to join in and help with disabilities. Remember, some patients had multiple disabilities.

ADV. NONTLATLA YINA: Do you think that the 58/59 patients that you have are well taken care of?

- 10 **ETHEL NCUBE:** We did our level best. Yes, I believe so because the families can be called to testify to the way we take care of their loved ones.

ADV. NONTLATLA YINA: So, your answer is yes?

ETHEL NCUBE: Yes, with evidence and proof of records.

ADV. NONTLATLA YINA: Thank you Justice that would be the evidence.

- 15 **ARBITRATOR, JUSTICE MOSENEKE:** Thank you. We are going to be asking Advocate Hassim to pose questions to you. Before she does, your certificate was initially signed by Dr. Manamella. The first certificate; the one with seemingly wrong address on it and the one that you operated on; also

signed on the same day presumably on the 1st of April 2016 by Dr. T.E

Silebanu. Why is it so?

ETHEL NCUBE: With the signatures, there are people that they will be.

ARBITRATOR, JUSTICE MOSENEKE: You don't know why?

5 **ETHEL NCUBE**: We know that Dr Manamella was the Director with Dr. Silebanu. She was to be the one to sign initially because of the rush of everything. On our side, we will check the criteria and everything that was communicated properly.

ARBITRATOR, JUSTICE MOSENEKE: You haven't said a word about Dr. Silebanu in your evidence. Did you ever meet him? Did he ever give you instruction? Did you ever complain to him? What do you know about him?

ETHEL NCUBE: We never had any communication with him, we only knew him when the officials from the Premier's office came to do investigation on our files. That is when I knew him.

15 **ARBITRATOR, JUSTICE MOSENEKE**: So, you never had any direct instruction from him or communication with him besides signing your license?

ETHEL NCUBE: The communication was through the deputy chief...

ARBITRATOR, JUSTICE MOSENEKE: Well, you don't have to remember that now. Counsel.

ADV. ADILA HASSIM: Thank you Justice Moseneke. Good afternoon, Ms Ncube.

5 **ETHEL NCUBE:** Afternoon Counsel.

ADV. ADILA HASSIM: If I may begin with the licensing. Can you pull out file 7? Can you please turn to page 2397? That license is for Precious Angels and it says at the following address; Lynwood road, (looks typo) Tiger Valle, Pretoria. Do I understand that you have two Precious Angels facilities; one in 10 Danville and one at Atteridgeville? Is that correct?

ETHEL NCUBE: Yes, Counsel.

ADV. ADILA HASSIM: Can you explain this Lynwood Road address?

ETHEL NCUBE: The Lynwood road is the one we are supposed to use for children, of which it was something that we had been to get and 15 accommodate.

ADV. ADILA HASSIM: Do you have facility in Lynwood Road?

ETHEL NCUBE: No, we don't.

ADV. ADILA HASSIM: Is this the Lynwood road in Pretoria east?

ETHEL NCUBE: It is in Pretoria east; its where we were supposed to get a bigger premises to render our services. The department also did inspection according to the criteria.

ADV. ADILA HASSIM: But you did not have any facility on Lynwood road?

5 **ETHEL NCUBE**: We were intending

ADV. ADILA HASSIM: Did you have a facility at Lynwood road?

ETHEL NCUBE: No.

ADV. ADILA HASSIM: In the process of licensing your facility, did you point out that this is incorrect because there was no facility in Lynwood Road?

10 **ETHEL NCUBE**: It was approved after inspection was done. The houses were only for three months where we would be able to move into Lynwood.

ADV. ADILA HASSIM: Are you saying that the Danville and the Atteridgeville houses were temporarily?

15 **ETHEL NCUBE**: Yes. It was the rush accommodation that we were pressurised to open up to accommodate the adults while the Lynwood one was meant to be used as our long time premises.

ADV. ADILA HASSIM: Was the Lynwood one meant to be used for Life Esidimeni patients?

ETHEL NCUBE: The department said we should change and use it for it for the two houses when the patients would have been moved to Lynwood-

ADV. ADILA HASSIM: The department said you change what?

ETHEL NCUBE: The premise was supposed to be used for the day-care
5 project.

ADV. ADILA HASSIM: Lynwood road?

ETHEL NCUBE: No

ADV. ADILA HASSIM: Which premise then?

ETHEL NCUBE: The Lynwood road. It was supposed to be used for our day-
10 care project. After the department finding about the premise, they said no. We should use to it to remove the patients form the two temporarily houses to the Lynwood. That is why we went for inspection and after approving it-

ADV. ADILA HASSIM: What did they inspect? The Lynwood road premises?

ETHEL NCUBE: Yes. I am also surprised why licenses were different
15 because my license has Kalafong address which was the address we were registered on.

ADV. ADILA HASSIM: When you say your license, are you referring what is in front of you marked, ELA 26?

ETHEL NCUBE: Yes, Counsel.

ADV. ADILA HASSIM: Which is signed by Dr. Salebanu?

ETHEL NCUBE: Yes, Counsel.

ADV. ADILA HASSIM: Which the premise is inside Kalafong hospital?

5 **ETHEL NCUBE**: Yes, Counsel.

ADV. ADILA HASSIM: So, you have that and there is another license which you seem to be aware of the; Lynwood road premises.

ETHEL NCUBE: It is my first time of seeing it today.

ADV. ADILA HASSIM: You have seen it before?

10 **ETHEL NCUBE**: Yes.

ADV. ADILA HASSIM: It is signed by Dr. Manemella?

ETHEL NCUBE: Yes.

ADV. ADILA HASSIM: But you've not seen this before?

ETHEL NCUBE: Remember, the only difference is the address.

15 **ARBITRATOR, JUSTICE MOSENEKE**: But the question is; you have not seen it before?

ETHEL NCUBE: No, I have but it differs with the address.

ADV. ADILA HASSIM: Have you seen the license signed by Dr Manemella before?

ETHEL NCUBE: Yes.

ADV. ADILA HASSIM: Can you please explain why you have two versions of
5 the license?

ETHEL NCUBE: They changed the address to the one we were not yet using.

ADV. ADILA HASSIM: You had no facility at Lynwood road?

ETHEL NCUBE: No.

ADV. ADILA HASSIM: You have never had any facility there?

10 **ETHEL NCUBE:** No.

ADV. ADILA HASSIM: Have you ever had facility in the Kalafong hospital premises?

ETHEL NCUBE: Yes, in a way.

ADV. ADILA HASSIM: Were you operating an office in Kalafong hospital?

15 **ETHEL NCUBE:** No. We supposed to operate.

ADV. ADILA HASSIM: It was aspirational.

ETHEL NCUBE: yes.

ADV. ADILA HASSIM: But you did not operate there?

ETHEL NCUBE: No.

ADV. ADILA HASSIM: So, neither of these licenses was actually a license for the house in Danville and the one in Atteridgeville?

5 **ETHEL NCUBE:** Because it was temporal we couldn't make changes due to the one were officially use in Lynwood.

ADV. ADILA HASSIM: Can I please draw your attention to another part of the records? That is on page 2494. It is titled audit checklist for community care that accommodates users with profound and severe intellectual disabilities
10 and psychiatric disorder. Your license to the extent that it is a license for Precious Angles refers to care for persons with profound and severe intellectual disabilities. Does it include psychiatric disorder?

ETHEL NCUBE: It is the first time seeing that includes psychiatric disorder because in all of our documents, it is profound and severe intellectual
15 disabilities.

ADV. ADILA HASSIM: Do you understand there is difference between profound and severe intellectual disabilities and psychiatric disorder?

ETHEL NCUBE: Yes, there is a huge difference.

ADV. ADILA HASSIM: And do you agree that you had patients from Life Esidimeni with psychiatric disorder?

ETHEL NCUBE: Yes, I agree.

ADV. ADILA HASSIM: Would you say all of them were patients with
5 psychiatric disorder?

ETHEL NCUBE: No, only a few. It was the ones that were loaded in a bus and were refused to be checked if they were patients with our criteria. And when I took up with the department they said they will make other provisions

ADV. ADILA HASSIM: Would you agree that you had patient in your care
10 from Life Esidimeni with conditions such as dementia, Alzheimer, epilepsy and cerebral palsy.

ETHEL NCUBE: Some of them, we were aware of them especially the ones from Cullinan whose medical records we did not have at all.

ADV. ADILA HASSIM: So, there were some patients you did not know their
15 conditions because you did not have their medical records?

ADV. ADILA HASSIM: Are there some mental health care users who have some health Conditions you did not know?

ETHEL NCUBE: All of them had no medical records, it was summary, just 2
Or 3 pages in a file.

ADV. ADILA HASSIM: Are there some mental health care users who have
some health Conditions you did not know?

5 **ETHEL NCUBE**: Yes.

ADV. ADILA HASSIM: Can you just remind us of your qualifications?

ETHEL NCUBE: I am an accounting person.

ADV. ADILA HASSIM: Do you have a degree in accounting?

10 **ETHEL NCUBE**: I didn't finish it. I have Early Childhood Development
certificate.

ADV. ADILA HASSIM: Have you ever cared for adult?

ETHEL NCUBE: Adult in house, yes.

ADV. ADILA HASSIM: You have had adults in your care?

ETHEL NCUBE: No.

15 **ADV. ADILA HASSIM**: Were any of your staff trained to take care of mental
health care patients (with psychiatric disorder?

ETHEL NCUBE: No.

ADV. ADILA HASSIM: How many staffs did you employ in total?

ETHEL NCUBE: It was fluctuating probably 20.

ADV. ADILA HASSIM: You referred earlier to problems with payment? Did you employ this staff or were they employed by the department?

5 **ETHEL NCUBE:** I did.

ADV. ADILA HASSIM: Were they paid?

ETHEL NCUBE: For three months, they weren't.

ADV. ADILA HASSIM: What range of payment do they receive per month?

10 **ETHEL NCUBE:** The range for the car-giver is R1700 and for the home-base care-givers R3500

ADV. ADILA HASSIM: Page 2494, this is the audit of Precious Angels that was conducted on 28th July 2016. Turnover to page 2495, the first section is number 1 which is the Physical resources. In second bullet point, it says the number rooms available are not enough for the patients as a result some
15 beds are too close to each other. In house 1, the beds in the western wings were placed close to each other in such a way that the door cannot be close, and the area is windy. The passage does not have a ceiling fitted yet. Because of limited space, some patients are confined to bed whereas they

could benefit from interacting with other patients in the garden or communal areas. Can you respond to that please?

ETHEL NCUBE: I object to that. We have the family members and pictures.

But everything as written here is not true

5 **ADV. ADILA HASSIM**: So, you are saying this is not correct?

ETHEL NCUBE: Yes.

ADV. ADILA HASSIM: What is correct from here?

ETHEL NCUBE: The only thing is ceiling, it wasn't leaking but it needed to be closed up. That is the only thing, for the rest, evidence will be provided.

10 **ADV. ADILA HASSIM**: In the next bullet point, it says that all the staffs are all utilised for all the functions in the centre which include security, laundry, cooking, cleaning and patient's care. Is that true? The professional nurse is said to come in certain days and for emergency if available. Can you respond to that please?

15 **ETHEL NCUBE**: We have a cooker that does the cooking throughout. We had a cleaner that deals with cleaning. We also had security deals with security. We had caregivers who take cares of patients. The nurse would come in just to do the vitals for patients and check if all the recordings are intact.

ADV. ADILA HASSIM: Recording of their vitals?

ETHEL NCUBE: No, recording of medication being given, eating, bathing and etc.

ADV. ADILA HASSIM: How often does the professional nurse visit?

5 **ETHEL NCUBE:** Twice or thrice in a month. Remember, it is not being paid. I made the initiative to ask for a professional nurse to come and help us.

ADV. ADILA HASSIM: What is the name of this nurse?

ETHEL NCUBE: Rebecca

ADV. ADILA HASSIM: Her surname?

10 **ETHEL NCUBE:** I will give you all the evidences.

ADV. ADILA HASSIM: So, you are saying this is incorrect?

ETHEL NCUBE: Yes. Evidences will follow.

ADV. ADILA HASSIM: You are saying you have caregiver, security, somebody to do laundry?

15 **ETHEL NCUBE:** Yes, separately.

ARBITRATOR, JUSTICE MOSENEKE: Did you meet the officials from MDH and Wicopies hospital who came to inspect your premises?

ETHEL NCUBE: Yes, only on the day after the cry-out.

ARBITRATOR, JUSTICE MOSENEKE: Were there people who came to do an audit in your premises?

ETHEL NCUBE: No.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Nobody came from the MDH and Westkoppies hospital who came to inspect your premises? Did that happen or not?

ETHEL NCUBE: It happened at a later stage after we made our initiative of getting officials (cuts).

10 **ADV. ADILA HASSIM**: On 28th July 2016, did you receive a visit from provincial department officials to inspect your facility? There is a checklist and a report...so it has been inspected

ETHEL NCUBE: I wouldn't know the date by heart, but I would refer to the visitors' book and confirm. The facility had been inspected before receiving
15 patients.

ADV. ADILA HASSIM: You said you had a cook, cleaners and security Guard, were these staff complements available at both houses?

ETHEL NCUBE: Yes, but at Atteridgeville there is no security.

ADV. ADILA HASSIM: Did you have a cook?

ETHEL NCUBE: Yes.

ADV. ADILA HASSIM: Did you have a client in Atteridgeville?

ETHEL NCUBE: and in Danville?

5 **ADV. ADILA HASSIM:** Do you disagree with any statement that was put to you?

ETHEL NCUBE: We have a cleaner but when we were short of staff at a time, we had to the cooking sometimes.

ADV. ADILA HASSIM: The next bullet point says that there is no universal
10 access at the centre which mean it will be difficult for physically challenged 13
to move around as there are no ramps. House, one is double storey. Has a
number of stars? Do you agree with that?

ETHEL NCUBE Yes.

ADV. ADILA HASSIM: Do you agree with all that I have read to you?

15 **ETHEL NCUBE:** No, but provision was made.

ADV. ADILA HASSIM: Was made for?

ETHEL NCUBE: For those who use wheelchairs they will on lower ground,
where they don't have to use stairs at all and there'll be a dining area where

they'll be able to eat in and there'll be a shower for bathing, for those who need bath. They would also be accommodated on it. It was a separate entity on it-

ADV. ADILA HASSIM: So, you did disagree with the statement?

5 **ETHEL NCUBE:** Partially, yes.

ADV. ADILA HASSIM: That physically disable person will not be able to move around? Let me read the statement to you again, "It will not easily let a physically disabled person to move around as there are no ramps." Do you agree with that?

10 **ETHEL NCUBE:** Yes, Counsel.

ADV. ADILA HASSIM: The next bullet point says there are no table and chairs facility to cater for all the patients. Do you agree?

ETHEL NCUBE: I don't agree because form the first group of patients I got from Life Esidimeni, I have asked for all their aids starting from a chair to a
15 buggies and we know the conditions in which were supposed to keep positions of different kinds of disabilities.

ADV. ADILA HASSIM: Who did you ask for that?

ETHEL NCUBE: The manager at Life Esidimeni, they did give in. There's pictures, there's every evidence

ADV. ADILA HASSIM: They provided you with chairs and tables?

ETHEL NCUBE: Not tables, it is chairs, baggies and wheelchairs. 'Cause I did
5 say I'm not taking without they need.

ADV. ADILA HASSIM: It's says in the next one says the center had electricity but only cold running water. Is that correct?

ETHEL NCUBE: It is incorrect, very well.

ADV. ADILA HASSIM: Both houses?

10 **ETHEL NCUBE**: Both houses had hot and cold water.

ADV. ADILA HASSIM: -the next one says, there is obsolete furniture and other equipment's lying around, it creates untidy appearances and could be a good breeding place for pests. Is that correct?

ETHEL NCUBE: It is correct because we had to do adjustment and during
15 that time. They were going to be taken out as soon as we got paid to be in house. Even family members they would state how it was. Of those who had visitation they would. Those who had houses in Kalafong, they would, come to Atteridgeville. Evidences will be given from our side and you will also get

family members who visited Atteridgeville and the Danville home, they can give their own evidence cause they would also feed their loved ones. They would also where we have our programmes, still in the very house. Every room can would testify and know in which bed their loved ones would sleep in.

5 There isn't any door that they do not know, family members.

ADV. ADILA HASSIM: I' asking you this cause a different version is being put to you now and will led by the families that will be testifying. So, I just want you to be aware that-

ETHEL NCUBE: I'm very much aware, thank you, Counsel.

10 **ADV. ADILA HASSIM:** Thanks, I'm not going to in detail-I just want to--can we move on to the next page, page 2497 number 6, medication. It says patients have not been receiving any medication after the TTO. Do you know what TTO means?

ETHEL NCUBE: No.

15 **ADV. ADILA HASSIM:** Neither do I.

ARBITRATOR, JUSTICE MOSENEKE: TTO, it's something to take along. It's a take out.

ADV. ADILA HASSIM: Is that what it means? Oh, it's a take away-

ARBITRATOR, JUSTICE MOSENEKE: From a medical facility, Ja.

ADV. ADILA HASSIM: Clearly what they means the patients have not received medication, after the medication that was provided, when the patient's left. That ran out, they had not been provided with adequate
5 medication.

ARBITRATOR, JUSTICE MOSENEKE: But that's colloquial language from Atteridgeville, so

[All laughing]

ARBITRATOR, JUSTICE MOSENEKE: So, you have to make sure and
10 check, Counsel.

ETHEL NCUBE: With that we made provision from the department with all the script, only those that had medication based on the files we had. And we would send it out to—what's his name, Mr. Mohale, with urgent request, cause there was a time when

15 **ADV. ADILA HASSIM**: Were you able to provide medications to the patients once it ran out? Did you have access to more medication?

ETHEL NCUBE: Yes, I will go to our clinics.

ADV. ADILA HASSIM: Was there any treatment interruption, for an of the patients?

ETHEL NCUBE: Treatment was it was only done for that assessment, that I had to call out on. On my own, while I was waiting for the department, wo
5 bring their professionals and to come and do their side

I'm asking you a different question, which is, was there any interruptions-

Meaning gap of the medication. If the records would be read and remember when you give out medication you would sign in how the patient took the medication and if it did go in and after even with the you lunch and break. The
10 reports all the reports will stipulate a gap in-between.

ADV. ADILA HASSIM: You don't know?

ETHEL NCUBE: I do know. Cause we would rush to the department. Prior and they would escalate it to the district to—for us to receive it. But I remember there was a time where and asthavent had finished and I had to go
15 to a private clinic, to get it on credit.

ADV. ADILA HASSIM: You are saying that because of the efforts you made there was there no treatment interruption?

ETHEL NCUBE: We tried out level best to fulfil-

ADV. ADILA HASSIM: It's either yes or no.

ETHEL NCUBE: Yes.

ADV. ADILA HASSIM: There was no interruption in the medication, err, okay.

ARBITRATOR, JUSTICE MOSENEKE: Counsel, after that question, I would
5 like to adjourn for lunch.

ADV. ADILA HASSIM: That's perfectly fine, Justice Moseneke.

Well, there is some good things said about your staff in the report. Look at
page 2497. Page, 9 under positive caring attitude.

ETHEL NCUBE: Yes, Judge.

10 **ARBITRATOR, JUSTICE MOSENEKE:** The staff displayed a warm attitude
and interacted with the support team. Can you see that? If that can put some
little smile on your face,

ETHEL NCUBE: Thank you.

ARBITRATOR, JUSTICE MOSENEKE: The report says so. We are going to
15 take lunch adjournment and we will start at 2.30. We are going to take the
lunch adjournment, now. We are adjourned.

SESSION 3

ARBITRATOR, JUSTICE MOSENEKE: You may be seated. We'll all of you are witnesses, right? Camera people take hundreds of pictures, I don't know what they do with them. [laughs]. Hundreds and hundreds of pictures. Shall we--you are still under your previous oath, to tell the truth. Counsel.

5 **ADV. ADILA HASSIM:** Thank you Ms Ncube. Let me wrap up where we were, we were discussing the audit that had been conducted on your facility on the 28 July 2016. There are just two more issues that are rising from that that I'd like to put to you. The first is, you spoke about the food—well let me—
the first is you spoke about the food and the adequacy of the food, and in that
10 in your view the residence at Precious Angels were receiving sufficient and daily regular meals, is that correct?

ETHEL NCUBE: Yes, Counsel

ADV. ADILA HASSIM: So, at page 2499, of the record, just two pages from where we were, the audit report says under point four, dealing with food
15 preparation and dining facilities, that there should be a clear demarcated for dining, as currently people are dining in their bedrooms, at both the centers. It goes on at the bottom to say the center manager has to purchase enough eating utensils, as the first house in Danville, did not have enough spoons to cater for all the patients, these patients had to take turn when eating in, regard
20 to the use of spoons. Can you respond to that, please?

Witness: The whole sentence or paragraph it's incorrect, because I was doing catering on other side, all of the utensils and basically all the resources for catering with and out to both centers and we also had to buy like soft cups, spoons, for those whom cannot chew properly with a spoon, that were steel.

5 **ADV. ADILA HASSIM:** So, you are saying that around that date 28 July, at that point and time it's not true?

ETHEL NCUBE: Yes, it's not true-

ADV. ADILA HASSIM: What is stated here?

ETHEL NCUBE: It's not true, 'Cause all the utensils and resources basically,
10 the basic needs, resources are there, and those that we also bought, can be produced as evidence, on slips in terms of monthly record, expenditure.

ADV. ADILA HASSIM: When was your umm, organisation registered?

ETHEL NCUBE: 2016, meaning the Social Development or?

ADV. ADILA HASSIM: Yes, when was it ready--registered at the Department
15 of Social development as an NPO?

ETHEL NCUBE: Early 2016 and the certificate to obtained it, on the 9th of June 2016, before we could obtain patients.

ADV. ADILA HASSIM: 9th June 2016?

ETHEL NCUBE: Yes.

ADV. ADILA HASSIM: So, you didn't start receiving patients

ETHEL NCUBE: No-

ADV. ADILA HASSIM: -until after that?

5 **ETHEL NCUBE:** Yes.

ADV. ADILA HASSIM: So, by 28 July 2016, you had no problem with food,
no problem with spoons, no problem with the staff-

ETHEL NCUBE: Yes-

ADV. ADILA HASSIM: -and all of that I've read to you in the proceedings in
10 question, was incorrect?

ETHEL NCUBE: Yes, Counsel.

ADV. ADILA HASSIM: Thank you. Ma'am there are going to be some family
members testifying in the course of this hearing-

ETHEL NCUBE: Okay-

15 **ADV. ADILA HASSIM:** -and they have—they will be testifying to the
conditions at Precious Angels and their own experience-

ETHEL NCUBE: Okay-

ADV. ADILA HASSIM: -on the deaths of their loved ones. So, if I may, I'm going to go through some of this with you. I'm going to begin with Nathaniel Masego, otherwise known as Solly, do you know this name?

ETHEL NCUBE: Yes.

5 **ADV. ADILA HASSIM:** Who was Solly?

ETHEL NCUBE: One of the patients that we had at Precious Angels.

ADV. ADILA HASSIM: He died on 6 August 2016

ETHEL NCUBE: I don't have the record, but I believe you have those that we have sent out from-

10 **ADV. ADILA HASSIM:** Did Solly Masego die while he was at Precious? Angels

ETHEL NCUBE: Yes.

ADV. ADILA HASSIM: And, did you know--have contact details of his family?

ETHEL NCUBE: There were no—with contact details, no, the coordinators
15 were busy looking for their family members, eventually when we got hold of them the department has given through to me, I was the one that to break the news.

ADV. ADILA HASSIM: So, where did you get the details from?

ETHEL NCUBE: From the department coordinator, Dr Sophie because she was the one that was helping us to trace the family.

ADV. ADILA HASSIM: She had the contact details for the family?

ETHEL NCUBE: Yes, and that's when they gave them to us.

5 **ADV. ADILA HASSIM**: Miss Phumzile Motshegwa, is the sister of Solly Maseg-

ETHEL NCUBE: Okay-

ADV. ADILA HASSIM: -she will be coming to testify later in these hearings, and she will say that you called her, well, in fact one of the neighbours called
10 her, on 9 September, to say that there were people at her house. Did you meet the neighbour, well, did you go to her house?

ETHEL NCUBE: No, it's the coordinator they were helping us to trace the families and umm, they were trying to get hold of the families and as well-

ADV. ADILA HASSIM: So, you did not go to her home?

15 **ETHEL NCUBE**: No, because the coordinators were trying to get hold of the families, I only spoke to the sister, when they got umm, the message about the deceased.

ETHEL NCUBE: Yes-

ADV. ADILA HASSIM: Okay. Ms. Motshegwa is going to say you were at her home when she arrived?

ETHEL NCUBE: Oh sorry Counsel, are you on the second person now? Are you on the second?

5 **ADV. ADILA HASSIM:** Second Patient?

ETHEL NCUBE: Ja-

ADV. ADILA HASSIM: I've only put one person to you and that is Mr Nathaniel Masego otherwise known as Solly, we are dealing with that.

10 **ETHEL NCUBE:** For Atteridgeville, can you be specific, 'Cause records and me-

ADV. ADILA HASSIM: I asked you if you knew Mr Nathaniel Masego, yes, you said yes, you do, you confirmed that he died while he was at Precious Angels.

ETHEL NCUBE: Yes, yes, Solly-

15 **ADV. ADILA HASSIM:** I've asked you is if went to the family home, you said no.

ETHEL NCUBE: Rephrase that, I thought you were talking about the other patient. With Mr Solly Masego, we went with Dr Sophie, because she is the

one that got the details, that's when I cried out, "Tat I'm tired of breaking the news to the family members." Yes, I have a certificate of doing counselling, but it also drains me as a person, that's when she offered to come with me, because they were also in Atteridgeville.

5 **ADV. ADILA HASSIM:** So, did you--you went to the home-

ETHEL NCUBE: Yes-

ADV. ADILA HASSIM:-you were accompanied-

ETHEL NCUBE: By Dr. Sophie-

ADV. ADILA HASSIM:-it was the 9th September 2016, does that sound,
10 right?

ETHEL NCUBE: I'm not sure about the dates, but we did go visit.

ADV. ADILA HASSIM: No recollection which month you went to visit last year to inform the family, of the death?

ETHEL NCUBE: We'll in the relevant document to ensure that we did go.

15 Pardon, can you repeat that? You sent something?

ETHEL NCUBE: I will send

ADV. ADILA HASSIM: You will send?

ETHEL NCUBE: Yes! 'Cause it was-

ADV. ADILA HASSIM: You don't remember when-

ETHEL NCUBE: The date, no.

ADV. ADILA HASSIM: Well Ms. Motshegwa, is gonna say, that you there on
the 9 September and you informed her that her brother Solly had passed
5 away on 6 August.

ETHEL NCUBE: Yes, Counsel. I was with Dr Sophy from the department.

ADV. ADILA HASSIM: You remember that?

ETHEL NCUBE: The date. I do not remember but yes, we were there.

ADV. ADILA HASSIM: Do you remember Ms. Motshegwa being unhappy
10 because it had been such a long delay in the passing of her brother. being
communicated to her?

ETHEL NCUBE: Yes, the whole family was in tears, the uncle when he came
in, they recognised me because of the day care and my family and how I--we
render the service at the day care. They were surprised that how come we
15 didn't get communication while they knew me from-

ARBITRATOR, JUSTICE MOSENEKE: The question was, was the family
unhappy that there was so much delay in between the death and your
informing them.

ETHEL NCUBE: Very much unhappy, all of them.

ADV. ADILA HASSIM: Did you then take them to Precious Angels to see them where Solly had been?

ETHEL NCUBE: They didn't ask to come in, we went to the umm, funeral
5 parlour which they also knew.

ADV. ADILA HASSIM: Ms Motshegwa is going to say that she did go to Precious Angels because she wanted to see where Solly had been-

ETHEL NCUBE: Okay-

ADV. ADILA HASSIM: -and she is going to say that it was very dirty, it was
10 very smelly, and unhygienic. What would you say to that, she said that you were there, and she says that she asked you if you were qualified to take care of the residents, and you said you didn't have the qualification, but you had experience.

ETHEL NCUBE: She mentioned that she went with us, to Precious Angels?

15 **ADV. ADILA HASSIM**: Well, I don't know whether she went with you, I'm saying that she visited to Precious Angels and this is what she had to say about Precious Angels-

ETHEL NCUBE: Okay-

ADV. ADILA HASSIM: -about the conditions. The second thing she says apart from the conditions is that she asked you if you are qualified to take care of the residents and that you said you did not have a qualification but you have experience.

5 **ETHEL NCUBE:** Okay. I think most of the talking's, we were at her house with Dr Sophie, and the other proceeding that we did. It's when we went to the funeral parlour to do the identification of the deceased. The one that she says sh-

ADV. ADILA HASSIM: I'm going to get there. Are you aware of whether the
10 family visited Precious Angels or not?

ETHEL NCUBE: Maybe they visited after, because the only one family-

ADV. ADILA HASSIM: You were not there?

ETHEL NCUBE: Sorry?

ADV. ADILA HASSIM: You were not present when they visited, is what you
15 are saying?

ETHEL NCUBE: Probably. The only reason why I wouldn't be there is probably maybe when the patient was taken away from Precious Angels and there was nobody there, probably that's when she may have been there, but being with her at the premises, no.

ADV. ADILA HASSIM: Do you recall whether Ms. Motshegwa asked you about your qualifications?

ETHEL NCUBE: If she can also confirm with whom around, was is just me and her or patients, as well?

5 **ADV. ADILA HASSIM:** But did she ask you? Do you not recall about her asking you about your qualifications or you were saying you were never asked?

ETHEL NCUBE: With my background and qualifications, I always stated whenever I met a family members, but on the day that she's saying we went
10 to the house-

Yes?

It's--I didn't go with her to the house, we were at her house with Dr Sophie and other family members.

ADV. ADILA HASSIM: Okay, let's move on. Is it correct that you had her
15 taken Solly's body to a funeral parlour called Put you to rest?

ETHEL NCUBE: That's correct, counsel.

ADV. ADILA HASSIM: Where is that funeral parlour?

ETHEL NCUBE: In Atteridgeville.

ADV. ADILA HASSIM: Where exactly in Atteridgeville?

ETHEL NCUBE: Umm, just after our library, [inaudible]

ADV. ADILA HASSIM: Do you know the street name?

ETHEL NCUBE: Yes. No, not the street name, it's just at the curve, but it's in
5 the area where all the parlours are situated in Atteridgeville.

ADV. ADILA HASSIM: Did you accompany the family to the funeral parlour?

ETHEL NCUBE: Yes, we went. All of the deceased patients, only one I
couldn't make it to accompany the family members, but all of them I
accompanied the family members.

10 **ADV. ADILA HASSIM:** So, you accompanied the family members to the
funeral parlour?

ETHEL NCUBE: Yes, Counsel.

ADV. ADILA HASSIM: Did you--All of the residents of Precious Angels who
died in your care, were all of them transferred to this Put you to rest funeral
15 parlour?

ETHEL NCUBE: Yes, Counsel.

ADV. ADILA HASSIM: All of them?

ETHEL NCUBE: All of them.

ADV. ADILA HASSIM: Is there a particular reason why you used this funeral parlour?

ETHEL NCUBE: When one patient started dying at our center, I approached, going back to the statement I made earlier, I approached a family funeral—not
5 a family—it's a family friend, knowing how we operated at day care.

ARBITRATOR, JUSTICE MOSENEKE: The question is why did you use, Put you to rest?

ADV. ADILA HASSIM: Put you to rest?

ETHEL NCUBE: Oh. It's because we explained the situation that we were
10 facing with the department and they were helping.

ADV. ADILA HASSIM: You explained to the funeral parlour?

ETHEL NCUBE: Yes.

ADV. ADILA HASSIM: What situation were you facing with the department?

ETHEL NCUBE: With the deceased, where we need to—they--the patients
15 needed to be at the parlour, 'Cause every parlour they charge you for it, but we asked and explained that because it happened in a home, can they keep the deceased until the family members are found and they would do all the necessary documents until the family members are found, In terms of

ADV. ADILA HASSIM: I--I—I--you said to me all of the residents at Precious Angels patients who died were sent to Put you to rest, and I asked you why.

ETHEL NCUBE: Not all of them, others died at the hospitals. In hospitals.

ADV. ADILA HASSIM: Okay. Earlier when I asked you, were all of the
5 patients sent to Put you to rest you said, yes, and my question was why did
you use Put you rest as a funeral parlour.

ETHEL NCUBE: There's patients who--the ones that passed on at the home,
they are being taken by a private undertaker, those who have passed on at
the hospitals, they were in hospitals.

10 **ARBITRATOR, JUSTICE MOSENEKE:** We going over every time. We need
to save time, and just listen to questions, so that you can deal with them.
[inaudible] The question is, and is often helpful if you listened to the question
and answer it only, umm. I don't wanna anticipate future questions or perhaps
be defensive or over-explanatory, the question is quite tight and narrow, why
15 did you use Put you to rest as the undertaker for people who died in your
facility?

ETHEL NCUBE: Because, umm-

ARBITRATOR, JUSTICE MOSENEKE: They agree to give you credit, they--
you like them, you liked their name, they were nice, I mean there might be a
reason, Counsel wants you to extract that reason, what is it?

ETHEL NCUBE: Okay—it's—the department— with umm--Put you to rest,
5 they agreed that they would assist us on credit because there was a backlog
that we haven't been paid, and we do not have family, to contact, and they are
family friends of ours that's why they would assisted in and umm-

ADV. ADILA HASSIM: That's fine. Thank you._You said earlier that you
explained to them the problem you were having with the department, is that--
10 are you speaking in relation to the not being paid, with issue of not being
paid?

ETHEL NCUBE: Inclusive with the contacts of the family members, and that's
why I also had to do an affidavit stating that every delay that has been on our
side, is due to certain reasons.

15 **ADV. ADILA HASSIM**: Does Put you to rest have a storage facility for
corpses?

ETHEL NCUBE: I'm not clued up with that, but they have storages in different
regions, but the one that we use is the one in Atteridgeville.

ADV. ADILA HASSIM: You said that those residents who died in your facility were taken to Put you to rest-

ETHEL NCUBE: Yes-

ADV. ADILA HASSIM: -funeral parlour, were there is a storage facilities for
5 corpses in Atteridgeville.

ETHEL NCUBE: Yes-

ADV. ADILA HASSIM: -at the Out you to rest funeral parlour.

Yes. Some--I only discovered after the delay, they had to transfer other patients to--I think it's Garankuwa or Hammanskraal, because we were
10 delaying in terms of finding patients, and their services also needed to be rendered but they had to make provision while waiting.

ADV. ADILA HASSIM: So, Ms. Motshegwa is going to tell us that there was— that they did not find Solly at Put you to rest, they were taken by you and a Mr Mthimunye, to another mortuary in, Saulsville.

15 **ETHEL NCUBE:** Mr Mthimunye it's the owner of Put you to rest.

ADV. ADILA HASSIM: So, can you confirm to me whether it is correct, did you and Mr. Mthu-

ETHEL NCUBE: It is correct. It is correct.

ADV. ADILA HASSIM: It is correct?_So, you went to a different mortuary?

ETHEL NCUBE: It's not a different mortuary it's their facility.

ADV. ADILA HASSIM: So, you didn't have to leave the funeral parlour to go to the mortuary?

5 **ETHEL NCUBE:** The funeral parlour, it's an office, that has--they have an office where we were receiving the family members, their storage is still in Atteridgeville. Where they keep the corpse. We drove with them to show them where was the corpse.

ADV. ADILA HASSIM: Where was that?

10 **ETHEL NCUBE:** Yes-

ADV. ADILA HASSIM: Where was that?

ETHEL NCUBE: In Atteridgeville, still.

ADV. ADILA HASSIM: DO you recall what happened after that—so, you arrived at the mortuary, Ms. Motshegwa is going to say that she then had to go in and identify her brother, is that correct?

15

ETHEL NCUBE: Yes, Counsel.

ADV. ADILA HASSIM: Have you ever been inside the mortuary?

ETHEL NCUBE: Only on that day.

ADV. ADILA HASSIM: Did you accompany Ms. Motshegwa into the mortuary when she had to find her brother?

ETHEL NCUBE: Yes, Counsel.

ADV. ADILA HASSIM: Ms. Motshegwa is going to say that she had to look
5 through piles of bodies, that they--there were bodies that were stucked and she had to then identify her brother, and he was in between two other people. What do you say to that?

ETHEL NCUBE: I object, it's not true.

It's not true?

10 It's not true—in terms of--I went with her inside and the sister and the owner, to also verify that the very same person, it's the same that was at our center.

ARBITRATOR, JUSTICE MOSENEKE: Step by step, were there any other bodies?

ETHEL NCUBE: No, there wasn't many bodies. The storage--remember when
15 you go and ask for a certain body, they remove them from deep freezer, where they've been held--stored, and for you to identify, that's when they bring him with a stretcher for you to identify. Like you know in hospitals when you have those layers of—of—umm-

ARBITRATOR, JUSTICE MOSENEKE: But where are we going with this, the first question that probably have to be answered is, were there many bodies in this mortuary. what is the answer? Then we are going to go to how was this particular body identified.

5 **ETHEL NCUBE**: No, there wasn't, they had to bring him from the fridge to be identified, obviously—I think--he was a the fridge with the other deceased.

ARBITRATOR, JUSTICE MOSENEKE: Where you and the family member led into a room with many bodies?

ETHEL NCUBE: Yes--No, no Counsel.

10 **ARBITRATOR, JUSTICE MOSENEKE**: So they brought one after the other until you got to the correct body?

ETHEL NCUBE: They only sent out—the first one wasn't him. And then they look on the-the—the rest, then we all identified that one that was incorrect.

ARBITRATOR, JUSTICE MOSENEKE: They only brought just one body to
15 be identified?

ETHEL NCUBE: Yes.

ARBITRATOR, JUSTICE MOSENEKE: We were drowning in details, Counsel, where are we going? Why do we need all this details?

ADV. ADILA HASSIM: The detail is very important because it speaks to the evidence that's going to come later by the family.

ARBITRATOR, JUSTICE MOSENEKE: Can we put the evidence to her so that she can respond to it.

5 **ADV. ADILA HASSIM:** Yes. That's--Ms Ncube you are saying there was only one body that was brought out?

ETHEL NCUBE: Yes.

ADV. ADILA HASSIM: That body was the body of Solly Masego?

ETHEL NCUBE: Yes, Counsel.

10 **ADV. ADILA HASSIM:** The very first one that was identified? Ja? Just yes or no.

ETHEL NCUBE: No, then they had to--we did confirm that it's him when they brought in Mr Solly that's when we showed and identified.

ADV. ADILA HASSIM: So that was the second body that was brought out?

15 **ETHEL NCUBE:** Yes.

ADV. ADILA HASSIM: And who identified the first body?

ETHEL NCUBE: It was all of us, we were there, myself—

ADV. ADILA HASSIM: Including the family member?

ETHEL NCUBE: Yes.

ADV. ADILA HASSIM: Thank you. The second witness that will be testifying later is Ms. Christine Nxumalo. Do you know Virginia Makgaphela?

ETHEL NCUBE: Yes, I do Counsel.

5 **ADV. ADILA HASSIM:** She died on 15 August 2016, is that right?

ETHEL NCUBE: I don't have the file, but I presume all the details are accurate, Counsel.

ADV. ADILA HASSIM: Do you remember--What do you remember about Virginia? Do you remember if she had her ID book?

10 **ETHEL NCUBE:** With sister Virginia we had just a summary of her background and umm, I remember she was also assessed by our therapist, and so forth. We were also struggling to get--she is one of the patients that come from Anchor house, she was transferred from Anchor House, to us. I remember the department we also assisting us to get the contact details of
15 the family members, then eventually when Dr. Sophie has called me and said here's the details, that was after she has passed on and after I have made an affidavit of request of contact details for the family members. Then, we—I had too. Should I continue Counsel?

ADV. ADILA HASSIM: No, let me try to keep this focused. Ms. Makgaphela, died on the 15th August 2016, did you--was it you who called the family to inform of her death.

ETHEL NCUBE: Yes, Counsel. I got the details from-

5 **ADV. ADILA HASSIM:** And on what date did you call the family?

ETHEL NCUBE: I can't remember but the evidence is there in terms of the callings.

ADV. ADILA HASSIM: Do you remember that there was a delay between the passing of Ms. Makgaphela and informing the family?

10 **ETHEL NCUBE:** A very big gap, and I was making a follow up as well in terms of finding the contact details.

ADV. ADILA HASSIM: What was the reaction of the family when you informed them?

ETHEL NCUBE: At first it was shocking, sad, which is understandable, and as
15 we spoke along with mom Christine we spoke about it shouldn't have happened and it could have been prevented in a way, because she had the ability, we talking now in terms of stimulations, in terms of the therapy, in terms of her response to our programmers of letting her needs known through our gestures that we use. I had to explain to mom Christine over the phone

and how she responded, as well, to the Lego's that we use to ensure that her mind is kept stimulated with all the services that we render. She also mentioned.

ADV. ADILA HASSIM: How did Ms. Makgaphela die?

5 **ETHEL NCUBE:** Can I just finish on that side? She also mentioned that she would also take initiations to take her to therapy, OT, for stimulations when she had her at her house for holidays. It was like, we connected of what I was talking and in what I was doing as an extra mile while she was still at Esidimeni.

10 **ADV. ADILA HASSIM:** Esi—what?

ETHEL NCUBE: At Life Esidimeni. She also mentioned that there wasn't any physios, OTs, stimulation programmes that were given to her sister, and she had to pay out from her own personal money to ensure that she gets such. That's the relationship that we got when we were talking and-

15 **ADV. ADILA HASSIM:** I asked you how the family reacted to the news of her death, I didn't ask you about Lego's and the stimulation therapy, but I did also ask you how did Ms. Makgaphela die.

ETHEL NCUBE: Okay, on the report with the caregivers they also mentioned that it was just after breakfasting, the morning session that we had, if I'm not

mistaken, but the records of all process was given, the EMS was called in to do an inspection first then-

ADV. ADILA HASSIM: How did she die again? How did she die?

ETHEL NCUBE: She died out of natural causes as per EMS report and
5 investigation and the report that we have from the morning too, that's why we also said in terms of any post mortems they are more than welcome to allocate to do...because even her daughter.

ADV. ADILA HASSIM: Was the post mortem conducted?

ETHEL NCUBE: Yes, it was conducted, the results are still not back in, and
10 all the evidence and the affidavit have been given in we still waiting on.

ADV. ADILA HASSIM: Given to who?

ETHEL NCUBE: Given to err--they are still with the police.

ADV. ADILA HASSIM: Thank you. Do you know the name Daniel Charles
Josiah?

15 **ETHEL NCUBE:** Yes. Counsel can I just add on? On the findings as well, we also found out that the daughter of Ms. Virginia once visited our center, and she once also fed her during our visitation in the interim.

ADV. ADILA HASSIM: She fed her?

ETHEL NCUBE: Yes. You remember when we also mentioned that whenever the family member came in, because of everything that was happening, they always had the privilege to come and see how everything is and how we conduct, the carers are the ones who will testify in terms of the visitation and
5 even herself probably, she can be on the stand and be asked if she was once present at Precious Angels home to see her mother and was given the opportunity to see if she is able to eat.

ADV. ADILA HASSIM: Are you talking about her daughter?

ETHEL NCUBE: Yes.

10 **ADV. ADILA HASSIM**: Are you aware that the daughter has since passed away?

ETHEL NCUBE: It's the--since when?

ADV. ADILA HASSIM: In the last week.

ETHEL NCUBE: I wasn't aware, but present on the time she came in. That's
15 why I'm saying-- I'm sorry on that note, but I didn't know. With the visitation, hopefully on the visitor's book it's there.

ADV. ADILA HASSIM: So, the family visit? Is there a point where the family visited Virginia?

ETHEL NCUBE: According to the care givers and the records that we have is that she once came in.

ADV. ADILA HASSIM: She once came in? Only once, is that what you are saying?

5 **ETHEL NCUBE**: Yes, Counsel.

ADV. ADILA HASSIM: She was only visited once?

ETHEL NCUBE: Yes, Counsel. The evidence will be calling out those care givers and we'll also look at the necessary documents of the visitor's book.

ADV. ADILA HASSIM: The family will testify in contradiction of that to say
10 that they did visit more regularly.

ETHEL NCUBE: Alright, Counsel.

ADV. ADILA HASSIM: Shall we move on?

ETHEL NCUBE: Yes, Counsel.

ADV. ADILA HASSIM: To Daniel Charles Josiah.

15 **ETHEL NCUBE**: Yes, Counsel.

ADV. ADILA HASSIM: Was he one of your residents?

ETHEL NCUBE: Yes, Counsel.

ADV. ADILA HASSIM: And he passed away on the 8th September 2016.

ETHEL NCUBE: Dates will be verified I believe so, Counsel.

ADV. ADILA HASSIM: The sister of Charles, I'll be referring to her as Ms. Charles. Will be coming to testify about her experience. What is relevant for
5 purposes of your testimony is that although he passed away on the 8th
September 2016, the family was only informed on 20th September 2016. Do
you recall the delay in this gap again date of death and date of which the
family is informed? Do you recall this delay when you informed the family?

ETHEL NCUBE: Counsel, with the dates there was a delay, that's why we
10 were resourcing out the contact details of the family members and made
personal provisions of getting them, and with what you have on your papers
with ours I believe they will be the same, so the answer is-

ADV. ADILA HASSIM: There was a delay?

ETHEL NCUBE: So, yes, there was a delay.

15 **ADV. ADILA HASSIM:** And your reason and explanation for the delay? So, 8
September Charles passed away, his family does not get informed until 20
September, why is that?

ETHEL NCUBE: Still with evidence of not getting family contact numbers, with
the police being involved to locate the family members, together with Dr.

Sophie being our coordinator in ensuring the we receive those communications are. there as evidence.:

ADV. ADILA HASSIM: Did you contact the facility Life Esidimeni to find out what the details were of the family members of the resident that deceased?

5 **ETHEL NCUBE:** There was a time where I--initially, we were still waiting on our side, there was a point I contacted with the social worker that we used to sign the IDs when we went in, and they've sent out an email of contact details. Some of them had it, so we didn't, there are numbers that were not working, and evidence will be produced, as well on that, in terms of emails, calls and
10 the efforts that we took.

ADV. ADILA HASSIM: I'm gonna_move along. Do you know Christopher Makhoba?

ETHEL NCUBE: Yes, Counsel.

ADV. ADILA HASSIM: Was Christopher Makhoba a resident at Precious
15 Angels?

ETHEL NCUBE: Yes, Counsel.

ARBITRATOR, JUSTICE MOSENEKE:

ADV. ADILA HASSIM: Did Christopher die on 3rd July 2016? Do you remember?

ETHEL NCUBE: The date I'm not quite sure, but evidence we have and yours should collaborate.

5 **ADV. ADILA HASSIM:** Ms. Elizabeth Phangela is the sister of Christopher, she will be coming to testify on these hearings. She will say that she received a call from you on the 15 July to inform her of the death of Christopher, is that correct?

ETHEL NCUBE: Yes it is, the date still collaborate but I did call in.

10 **ADV. ADILA HASSIM:** You did call? He died on 3rd July 2016, the witness will say you called her on 15 July 2016. Can you explain the delay?

ETHEL NCUBE: Delay still refers to contact details [sighs] of the family members, evidence will be sent out as well.

ADV. ADILA HASSIM: So, you say you had no contact details for
15 Christopher's family?

ETHEL NCUBE: Yes, Counsel.

ADV. ADILA HASSIM: The witness will say that you advised that Christopher would be buried and that you would be sending her the invoice, do you recall that?

ETHEL NCUBE: She—when she called in, we---when I called her I explained
5 what happened, and coming here and coming from here--from the conversation—it was a --we wanted to clarify if she will be able to bury or should we ask for assistance for her to bury as we got contact of her, and if she doesn't have the policies or funeral policies we would ask for assistance for her to bury her loved one. Which is called indigent burial.

10 **ADV. ADILA HASSIM:** It's called an indigent burial-

ETHEL NCUBE: Yes--That's what I've learnt from this process about our local municipality where I knocked in with the same cry out, of saying there's families whom are not found even those that we may find because we had contact details with them for.

15 **ARBITRATOR, JUSTICE MOSENEKE:** All of us if we could just answer the question that's put to you. Please.

ETHEL NCUBE: Sorry Counsel. Sorry, Judge.

ARBITRATOR, JUSTICE MOSENEKE: Please.

ADV. ADILA HASSIM: Did you advice Ms. Phangela that you would make the burial arrangements and send her a receipt after?

ETHEL NCUBE: Not, a receipt, but I did confirm to her if she would need assistance of burial, which they will be able to provide coffin, umm, food and
5 she would state where would she want the funeral to be held, even cars would also be offered on that-

ARBITRATOR, JUSTICE MOSENEKE: On whose costs will all that be?

ETHEL NCUBE: The Municipality. It's a programme that they have in Atteridgeville for families that can't afford to bury their loved ones. A social
10 worker comes in-

ARBITRATOR, JUSTICE MOSENEKE: Anyway, answer the question, did you tell her that you'll send her an invoice after all that or not.

ETHEL NCUBE: Not an invoice, but if she needed assistance of burying, should we arrange that for her.

15 **ADV. ADILA HASSIM:** Okay. Did they accept your offer?

ETHEL NCUBE: She said she'll come back to me.

ADV. ADILA HASSIM: Did you make the burial arrangements for Christopher?

ETHEL NCUBE: No, I didn't because she-

ADV. ADILA HASSIM: This was the family who-

ETHEL NCUBE: -who said no.

[crosstalk]

5 **ETHEL NCUBE**: She said she'll find out from her other sisters and they'll
come back to me.

[crosstalk]

ADV. ADILA HASSIM: Okay. Finally, Ms. Phangela is going to say to this
hearing that she went back to Precious Angels to try to retrieve Christopher's
10 belongings, but she found it closed. Are you aware of this?

ETHEL NCUBE: She didn't mention when she would go but on various
occasions she would call in always asking me how it happened. I would say,
the very statement, and then she would even-

ADV. ADILA HASSIM: Did she ask you for Christopher's belongings? Did she
15 say she would like to say she would like to retrieve his belongings?

ETHEL NCUBE: Yes, she even wanted to do a ritual and I said she's more
than welcome to do so, as a Christian, we don't do those but-

ADV. ADILA HASSIM: Did you—umm--have you returned Christopher's belongings to the family?

ETHEL NCUBE: No, it went with all the—umm—with all the—umm--when it was closed every resources that we had it went with—it was discarded, and
5 then the only—remember that they also came in one pair of clothes-

ADV. ADILA HASSIM: Did you say his belongings were discarded?

ETHEL NCUBE: The belongings of all the patients were in a drum of where—
umm

A drum?

10 Yes. With all the--when they were packing to move patients, on the very same interim, that's when it happened-

ADV. ADILA HASSIM: But what happened? Did Christopher's belongings return to the family?

ETHEL NCUBE: No.

15 **ADV. ADILA HASSIM:** Ms. Ncube are you familiar with the laws that govern your center as the center that's licensed to provide these services?

ETHEL NCUBE: Yes, Counsel.

ADV. ADILA HASSIM: In your view, having had sight now of the license, the one that is called ELAH26, the one that was signed by Dr. Selebano and has address as Kalafong hospital and having have the side of the other license signed by Dr. Manamella with Lynwood road as the address, do you consider
5 those to be proper licenses?

ETHEL NCUBE: In a way, yes.

ADV. ADILA HASSIM: You testified earlier—it's my last question--that you believe that patients at Precious Angels were well taken care of, am I right?

ETHEL NCUBE: On a highest, our level best that we did in, yes.

10 **ADV. ADILA HASSIM:** Would you be satisfied if one of your families received that level of care?

ETHEL NCUBE: On my side I would say besides the medical condition, without being notified, without being inducted to the facility where our loved ones where being taken cared of and together with the family members that
15 also kept on coming to our centers, even if they heard there were lot of deceased in our center, but still kept their loved ones. That trust, that motive that made them still say we are leaving still, our loved ones in your hands even if you have a record.

ADV. ADILA HASSIM: Did any of the family members complain to you about what they were witnessing, what they observed, regarding the care of their relatives?

ETHEL NCUBE: It was compliments.

5 **ADV. ADILA HASSIM:** Only compliments?

ETHEL NCUBE: With complaints it will only be of when are we moving, are they still going to changing to another NGO and so forth. And they would even if we did the movement, they would come with us, even if they do visitations to their loved ones.

10 **ADV. ADILA HASSIM:** I'm trying to wrap up your testimony, it's quite hard. You said in some detail in your testimony, how difficult it was for you because the department when they were doing their commitments to you to provide the support and the resources that you required in order to care for the mental health care users. Which made it difficult for you to an extent where you had
15 to source food, bed linen, nappies and so on your own steam, am I right?

ETHEL NCUBE: Yes, Counsel.

ADV. ADILA HASSIM: And do you say that did not impact those difficulties that were put in way the department did not impact on the level of care that you were able to provide?

ETHEL NCUBE: They also came at a later stage, helping us with those necessary resources.

ADV. ADILA HASSIM: At the time when they were not assisting you-

ETHEL NCUBE: Yes, yes, yes, yes, yes-

5 **ADV. ADILA HASSIM:** -You testified already and don't want you to go back to how hard because they were not providing you with any assistance financial or otherwise. During that time, did it not have an impact of the level of service that you provide to the patients?

ETHEL NCUBE: We did our level best, Counsel.

10 **ADV. ADILA HASSIM:** Did it impact on the level of care you were able to provide?

ETHEL NCUBE: Slightly, but it wasn't to a satisfaction where we would wanted to be without other supports.

ADV. ADILA HASSIM: So, it was only slightly?

15 **ETHEL NCUBE:** Yes.

ADV. ADILA HASSIM: Thank you, Ms. Ncube. That's all from me Justice Moseneke.

ARBITRATOR, JUSTICE MOSENEKE: Okay. Thank you, Counsel. [clears throat] Excuse me. Are you sad, at all, that so many people died under your care?

ETHEL NCUBE: Pardon, Justice.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Are you sad that so many people died under your care?

ETHEL NCUBE: Sad, it's an understatement, I never got counseling, and I-

ARBITRATOR, JUSTICE MOSENEKE: Sorry, can we give the witness a chance please?

10 **ETHEL NCUBE**: It was a first someone died under my care over the past six and half years. Knowing trainings of counseling, I had to apply it on people who are older than me, mothers, angry family members which I understand, with no support, somebody holding my hand explaining their part, I had to play my part from the responsibilities I took from day one. Family members would
15 come angry and after explaining throughout, they would encourage and motivate with the courage and the services that we render. If only we could have other support as it needed with it, all the communications, the basics of communications, the basics of reporting, the basics of visits, and It's not an easy journey even now.

ARBITRATOR, JUSTICE MOSENEKE: Has the department ever come to you and explained why they placed you in such a difficult position?

ETHEL NCUBE: Man, oh, the ME-

ARBITRATOR, JUSTICE MOSENEKE: Please answer the question, I want to
5 move to another advocate. Has the department ever come and said to you
Ms. Ncube we are so sorry we placed people in your hands under difficult
positions, and 23 of them died. Did they do that?

ETHEL NCUBE: No, Judge.

ARBITRATOR, JUSTICE MOSENEKE: Did you ever go to them and say why
10 did you place me in these difficult circumstances?

ETHEL NCUBE: The only meeting when they got to talk to me it's when we
had a meeting whenever I cry out on spot, that's when.

ARBITRATOR, JUSTICE MOSENEKE: No, but did you tell them how
saddened you are as you were crying now, about the deaths that occurred in
15 your hands?

ETHEL NCUBE: On the second patient that passed on, I literally went and
asked for an urgent assessment, because I couldn't bare one body under my
care.

ARBITRATOR, JUSTICE MOSENEKE: Had you insured any of the people who died under your care?

ETHEL NCUBE: There is no insurance that I have, I only have debts with Put you to rest of staling them and all the other expenses-

5 **ARBITRATOR, JUSTICE MOSENEKE**: No, no, no, did you insure any of the people under your care?

ETHEL NCUBE: No.

ARBITRATOR, JUSTICE MOSENEKE: Insuring against the risk of their death, or cost of their burial?

10 **ETHEL NCUBE**: No there is no policy. No there is none.

ARBITRATOR, JUSTICE MOSENEKE: You did not?

ETHEL NCUBE: No.

ARBITRATOR, JUSTICE MOSENEKE: Counsel.

ETHEL NCUBE: I don't even have their SASSA grants.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Okay, okay--you've answered the question, thank you. Advocate Crouse.

ADV. LILLA CROUSE: Thank you, Justice. Ms. Ncube, just one thing, can I just ask you the nine females that came to you, that's your third intake, when was that?

ETHEL NCUBE: Around June, July.

5 **ADV. LILLA CROUSE:** 2016?

ETHEL NCUBE: 2016, Yes, Counsel.

ADV. LILLA CROUSE: You kept on referring to evidence that you are going to provide the arbitration, what are you speaking about?

ETHEL NCUBE: I was speaking about, the condition--everything that been
10 said that is not true on the findings from report on the ombudsman and from-

ADV. LILLA CROUSE: Can I just stop you there, how are you going to provide this?

ETHEL NCUBE: It's emails.

ADV. LILLA CROUSE: No, how are you going to provide his? To who are
15 you going to provide this?

ETHEL NCUBE: The office here, we have already said and that and said we will email it through and make it available to the public, whoever that needs to see it.

ADV. LILLA CROUSE: Okay. If I could just start off my questions to you, you said you were registered as an NGO on about the 9th of June 2016, is that correct?

ETHEL NCUBE: Yes, Counsel.

5 **ADV. LILLA CROUSE:** Are you sure about that date?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: And you were registered with the department in terms of the mental health care act, you say in April 2016, is that what you said?

ETHEL NCUBE: That's the license for mental health, Yes, Counsel.

10 **ADV. LILLA CROUSE:** And you referring to the document ELAH26 for that date, is that true?

ETHEL NCUBE: The licensing? Yes, Counsel.

ADV. LILLA CROUSE: Yes. But we have the Ombuds report, and that specific license was only signed after his investigation, he makes mention of
15 that in his report and that's after December 2016. Do you agree with that?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: So, this certificate, which that you are trying to tell the arbitration came in April 2016, came after December 2016. Do you agree with me? Just yes or no.

ETHEL NCUBE: Yes, Counsel.

5 **ADV. LILLA CROUSE:** So, you weren't quite honest when you said it came in April 2016?

ETHEL NCUBE: The evidence is already circulating to all the counsel, everything I have said I have produced.

ADV. LILLA CROUSE: Ma'am, what I'm putting to you is that certificate
10 signed by Dr. Selebano, which you handed up and said this was given to you in April 2016, you only received it after December 2016.

ETHEL NCUBE: We have the one that's been signed by Dr. Manamella that we have been using throughout, the one that was signed by Dr. Manamella is the one that we have been using.

15 **ADV. LILLA CROUSE:** When did you receive that Ma'am? When did you receive Dr. Manamela's?

ETHEL NCUBE: It's the same date on.

ADV. LILLA CROUSE: Yes, we know when this document when signed
ma'am, I'm asking you when did you receive it, it's not a difficult question.

ETHEL NCUBE: Around 2016 at the office at the department of mental health
that's when they explained it was supposed to be signed by chief, not Dr.

5 Manamella

ADV. LILLA CROUSE: Was it after August or before?

ETHEL NCUBE: Umm--I think it was after.

ADV. LILLA CROUSE: After August? Thank you. And your server provider
contract that was only signed in August 2017, is that correct?

10 **ETHEL NCUBE:** Umm—the dates-

ADV. LILLA CROUSE: I've put it to you, the document says that, do you
agree with me?

ETHEL NCUBE: Of the contract?

ADV. LILLA CROUSE: Yes.

15 **ETHEL NCUBE:** I'll just--the date which was submitted to us it was after-

ARBITRATOR, JUSTICE MOSENEKE:

ADV. LILLA CROUSE: I'm saying it was signed in August 2016, do you agree
with that?

ETHEL NCUBE: Can I just check the dates with me on our contract.

ADV. LILLA CROUSE: Can I leave you to check it at the later stage. I'm going to move off the registrations now and I'm going to move-

ARBITRATOR, JUSTICE MOSENEKE: Just before you do, Counsel, let me
5 just clarify one thing for my own sake, where you ever issued with a silence that's related to the premises that you actually operated?

ETHEL NCUBE: No, Judge.

ARBITRATOR, JUSTICE MOSENEKE: Both in Atteridgeville and Danville?

ETHEL NCUBE: Both NGO's, Judge. No Judge.

10 **ARBITRATOR, JUSTICE MOSENEKE**: You had no license for either of them?

ETHEL NCUBE: Yes, Judge.

ARBITRATOR, JUSTICE MOSENEKE: Thank you. You may proceed, Counsel.

15 **ADV. LILLA CROUSE**: Thank you, Justice. Let's just clarify this, can we go to file 6 there with you. Have you got that file?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: Could you please go to page 2138?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: Is that your signature on the page of the service level agreement?

ETHEL NCUBE: Yes, Counsel.

5 **ADV. LILLA CROUSE**: And what is the date?

ETHEL NCUBE: Umm--18 August 2016.

ADV. LILLA CROUSE: It's actually 16 August.

ETHEL NCUBE: Oh sorry, 16 August 2016.

ADV. LILLA CROUSE: So, do you accept that your service agreement was
10 only signed on 16 August 2016?

ETHEL NCUBE: Why I wasn't certain is the dates, we can keep records of the
dates, that why I had to refer in.

ADV. LILLA CROUSE: No, you're more than--I'm just asking, are you now
accepting?

15 **ETHEL NCUBE**: Yes, Counsel.

ADV. LILLA CROUSE: Okay. Can I then just move off the registration. You
were told that Life Esidimeni is being closed. You said somewhere in 2015, is
that right?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: At that stage, you had nothing in place to accept any patients, do you agree? In 2015?

ETHEL NCUBE: We were busy with prepara—1520. 2015. Yes, Counsel.

5 **ADV. LILLA CROUSE**: And then you decided that this is something you going to take up, do you agree with me?

ETHEL NCUBE: Partially, Counsel. Oh, Yes, Counsel.

ADV. LILLA CROUSE: Thank you. Then in the 23rd of June 2016, you thought that you were going to get children, but you didn't get children, you
10 got males, and you got 21 males, do you agree with me?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: At that stage you didn't have a registration for a license, do you agree with me?

ETHEL NCUBE: The license was there, Counsel.

15 **ADV. LILLA CROUSE**: No, the license is dated April, but you didn't have the license, you agreed with me earlier.

ETHEL NCUBE: We had the one that was signed by Dr. Manamela when we got the patients.

ADV. LILLA CROUSE: Ma'am you agreed with me earlier that you only received that after August.

ETHEL NCUBE: All right, Counsel. Yes, Counsel.

ADV. LILLA CROUSE: So, at that stage you were not registered, do you
5 agree with me?

ETHEL NCUBE: Is it fine if we like clarify the licensing?

ARBITRATOR, JUSTICE MOSENEKE: [clears throat] I know this is a difficult
case and emotional, but let's try please not to hackle the witness, every
witness must be entitled to a free passage to give their evidence, whether we
10 like it or not. Please let's just continue to show that respect. Counsel.

ADV. LILLA CROUSE: Yes, Justice. Ma'am the question is at that stage
when you received the 21 patients, you did not have the license yet, that's
according to your own evidence.

ETHEL NCUBE: This is the evidence, that why I say evidence it will be given
15 to you, tell us the date that we need to confirm in. On the 1st of April 2016 we
got the license signed by Dr. Manamela, we were using this license
throughout, at the later stage through the investigation, it was declared that
Dr. Manamela was not supposed to sign the license but the chief was

suppose to sign. This license were handed over to all the NGOs, this is what I'm talking about when I say evidence.

ADV. LILLA CROUSE: Okay. So, your earlier evidence that you only received that document in August, that was wrong then, is that what you
5 saying?

ETHEL NCUBE: Yes, because I received it in April before operating.

ADV. LILLA CROUSE: Okay. And when you received these 21 patients you didn't have a service level agreement with the department, are we in agreement with that?

10 **ETHEL NCUBE:** The license, okay, before obtaining-

ARBITRATOR, JUSTICE MOSENEKE: No, listen to the question and answer it please to save time. When you receive the patients you did not have a service level agreement?

ETHEL NCUBE: We had, Counsel.

15 **ARBITRATOR, JUSTICE MOSENEKE:**

ADV. LILLA CROUSE: Can I ask you why you say this?

ETHEL NCUBE: Before being given a license you need to send out your contract, your business plan, everything that needs to be sent to the department.

ARBITRATOR, JUSTICE MOSENEKE: But listen to the question, Ms. Ncube,
5 service level agreement were being there already, you signed it in the 16 August 2016, look at page 2138. Counsel then says from this it is obvious that when you received the 21 males into your facility, you had not concluded or signed a service level agreement. what is your answer to that?

ETHEL NCUBE: I would say yes, Judge.

10 **ARBITRATOR, JUSTICE MOSENEKE**: It's obvious, just by looking in the papers. Proceed Counsel.

ADV. LILLA CROUSE: Thank you, Justice Moseneke. So that meant that when you receive these patients without the service level agreement you fairly well knew that you won't be paid immediately, do you agree with me?

15 **ETHEL NCUBE**: Yes, Counsel.

ADV. LILLA CROUSE: And then the first death that the Ombuds discovered was that of Christopher Makhoba that you were referred to earlier, do you agree with me?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: And that was on the 3rd of July 2016, a few days later after taking the 21 patients, do you agree?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: At that stage you didn't have a service level
5 agreement, you are not getting in any money, do you agree with me?

ETHEL NCUBE: Can I just refer before answering? Could you just rephrase the question?

ADV. LILLA CROUSE: My question is you received the first 21 patients on the 23rd of June 2017, the first patient that died in your center died on the 3rd
10 of July 2016.

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: and at that stage you didn't have any income from the department, you agree with me?

ETHEL NCUBE: Yes, Counsel.

15 **ADV. LILLA CROUSE:** You didn't have any SASSA grant income, you agree with me?

ETHEL NCUBE: Yes, Counsel. I agree with you.

ADV. LILLA CROUSE: Yet you say two weeks after the 23rd after Mr. Christopher Makhoba, has died you take in another 15 patients.

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: Why?

5 **ETHEL NCUBE:** Okay. It was through the criteria that was sent out to assist in that period of time until we will be catering for our exact-

ARBITRATOR, JUSTICE MOSENEKE: No, the questions is quite direct, why did you take more patients in even though one had already died on the 3rd of July?

10 **ETHEL NCUBE:** The officials were emphasizing on NGOs to assist with the department and with them continuing with being supportive partially still.

ADV. LILLA CROUSE: Ma'am what you are saying is that you were pressurized into receiving patients knowing full well that you couldn't cope with the first bunch, is that what you saying?

15 **ETHEL NCUBE:** Yes, Counsel, we've always stipulated our cry out, and they've always came back with positive and suring[?] statements of such support, and at a later stage they did deliver the support even though a lot of people have passed on and the suffering, the loans that we in and everything.

ADV. LILLA CROUSE: And thereafter there was still no subsidy, still no SASSA grants, and you taking another 9 patients. Is that so?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: Why was that?

5 **ETHEL NCUBE:** It was always a reason of being said you work with certain criteria, we are at the crisis, the MEC and the and the chief are at the crisis, everybody is in need of assisting with-

ADV. LILLA CROUSE: What were you hoping to get out of this?

ETHEL NCUBE: On my side personally, its playing, running a service to my
10 best ability from the experience and the day to day services that we rendering to the intellectually severe profound, which we know they end up being better on their condition, making a difference on one that cannot do for themselves while we have other support system besides the department.

ARBITRATOR, JUSTICE MOSENEKE: You going to kill us with many words,
15 you really are going to.

ETHEL NCUBE: I don't think so.

ARBITRATOR, JUSTICE MOSENEKE: Look the question is we all are concerned and wondering why you did this, that's the question, why did you do what you did?

ETHEL NCUBE: All right, I would say in one sentence-

5 **ARBITRATOR, JUSTICE MOSENEKE:** Your religion required it? You wanted to make money? You wanted to--I don't know, but there must be some driver. And that is the question the Counsel is putting to you, let's get there, let's get the substance.

ETHEL NCUBE: Okay, with the reason why I continued still is to gain
10 experience on how

ARBITRATOR, JUSTICE MOSENEKE: [clears throat] [coughs]

ETHEL NCUBE: -to expand with the current organization, because at the end our children are moving forth to be elders that they are introduced into. We also needed to know how to partake in, we also went with a confident of
15 getting support from the department as it grows within.

ADV. LILLA CROUSE: So, with the-

ETHEL NCUBE: And also with being mention that with all the record that we have in would be suitable for such and also the pressure that the department had with Anchor House and the MEC's and everybody that had to cater.

ADV. LILLA CROUSE: You wanted to gain experience to grow your organization, is that part of what you saying?

ETHEL NCUBE: Partially, besides being pressurized, I was at my pace, I was doing that. Now the department when they know within the business plan they
5 would give that as a reason why which would be something that you said, such pressure.

ARBITRATOR, JUSTICE MOSENEKE: [clears throat]

ADV. LILLA CROUSE: Money wise, did that go through your thoughts that you would make some money out of this?

10 **ETHEL NCUBE:** To some of us, it's not about money, it's about making a difference in a disabled person, advocating for those who can't advocate for themselves, and ensuring the little ability that it's there to be enhanced and to be accepted by the communities, as much as they accept our children and to bring out the least that it's still there in our criteria.

15 **ARBITRATOR, JUSTICE MOSENEKE:** [clears throat] It is put to you that did you do this for money?

ETHEL NCUBE: No, Counsel.

ARBITRATOR, JUSTICE MOSENEKE: Yes. I think that should be the answer. There might be questions to follow up.

ADV. LILLA CROUSE: Thank you very much. Can I ask you-

ARBITRATOR, JUSTICE MOSENEKE: Are you done with the money part of it?

ADV. LILLA CROUSE: I am.

5 **ETHEL NCUBE:**

ARBITRATOR, JUSTICE MOSENEKE: Well let me ask two questions about the money. You told us that once the paper work was done you were paid approximately a R100 000 a month.

ETHEL NCUBE: Yes, Counsel.

10 **ARBITRATOR, JUSTICE MOSENEKE:** When you were paid, was your initial payment inclusive with the three months arrears?

ETHEL NCUBE: Yes, Counsel.

ARBITRATOR, JUSTICE MOSENEKE: So, you would have received an amount in the vicinity of about R300 000 the first time around.

15 **ETHEL NCUBE:** Yes, Counsel.

ARBITRATOR, JUSTICE MOSENEKE: The first time around. Did the R100 000 continue to flow in your directions up to around October when your operation was shut down?

ETHEL NCUBE: Yes, it flowed, and we had to back date arrears.

ARBITRATOR, JUSTICE MOSENEKE: But you received monthly a R100 000 through to the point where the premier's office and the task team set-up came to shut down your operations?

5 **ETHEL NCUBE**: Yes, even January.

ARBITRATOR, JUSTICE MOSENEKE: Up to January and February?

ETHEL NCUBE: January and February, we were still taking care of the patients,

ARBITRATOR, JUSTICE MOSENEKE: Were you still being paid?

10 **ETHEL NCUBE**: We didn't get paid, we have submitted but it wasn't paid, we had to protest and-

ARBITRATOR, JUSTICE MOSENEKE: But you were paid regularly from?

ETHEL NCUBE: The previous months, Yes, Counsel.

ARBITRATOR, JUSTICE MOSENEKE: From June right through to, which
15 month, to December 2016?

ETHEL NCUBE: Yes, Counsel.

ARBITRATOR, JUSTICE MOSENEKE: Okay. With that amount, did you make any profit?

ETHEL NCUBE: No, Counsel. No, Judge. Sorry. Why the department-

ARBITRATOR, JUSTICE MOSENEKE: In other words, was the amount in excess of your expenses?

ETHEL NCUBE: It is not because it's back date, it's still the month usage and
5 working with diapers it's another expense, and-

ARBITRATOR, JUSTICE MOSENEKE: Okay listen to the question, it needs a short answer. I want to know whether every time you received a R100 000 a month, was that amount in excess of your month expenses?

ETHEL NCUBE: It went to back date, but we received it monthly.

10 **ARBITRATOR, JUSTICE MOSENEKE**: Was it more than your expenses?

ETHEL NCUBE: Yes, yes, yes, it was more than the expenses.

ARBITRATOR, JUSTICE MOSENEKE: And when you received more patients, was the amount also increased?

ETHEL NCUBE: No, Judge.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Why not?

ETHEL NCUBE: It was a minimum amount that was stipulated and together with the SASSA grants, they've mentioned that the SASSA grants will be assisted on.

ARBITRATOR, JUSTICE MOSENEKE: But in actual fact as the numbers under your care increased, did the amount increase, from the base of a R100 000?

ETHEL NCUBE: Yes, Counsel. Meaning that the R100 000 I'm adding all
5 patients that we got in total the 59, and then as they decrease you didn't put under claim, if a person deceased you don't claim for that person.

ARBITRATOR, JUSTICE MOSENEKE: No. After all, said and done, now that we all become wiser after the event, a lot of us, to evaluate what was happening in the past, and then you say, "I was stupid" ,or "I was smart", or "I
10 was moved by money"; "I was moved by my religion" or "no I was moved by love for other people". what do you say moved towards looking after 58
people with a variety of disabilities?

ETHEL NCUBE: It's still moves me because I am catering for a profound disabled daughter, catering for 20 intellectual severe and profound children,
15 we want them to have a home at the end, and we are building a legacy for them to have.

ARBITRATOR, JUSTICE MOSENEKE: I'm not asking about the children, I'm asking about the 58 people you were looking after, and I truly emphasize with your position as a parent who has a disable child to look after, you've got my

empathy. I'm struggling to understand what moved key people in this terrible tragedy and why they did what they did, that's what I'm trying to get at. So, I'm trying to get you to find strength in yourself to help tell of us, why you took in all these patients?

5 **ETHEL NCUBE**: I wanted to make a difference, I wanted to make a difference with the support that is being cater from Life Esidimeni, workers and the department as well.

ARBITRATOR, JUSTICE MOSENEKE: Counsel.

ADV. LILLA CROUSE: Thank you Justice. Ma'am, I'm going to take you to
10 when you fetched the patients for the first time.

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: Who fetched the first 21?

ETHEL NCUBE: Myself and the care giver.

ADV. LILLA CROUSE: Are either of you medically trained?

15 **ETHEL NCUBE**: No, Counsel.

ARBITRATOR, JUSTICE MOSENEKE: [clears throat]

ADV. LILLA CROUSE: Did you receive any medical files?

ETHEL NCUBE: No Counsel.

ADV. LILLA CROUSE: You said that you received some notes with the patients.

ETHEL NCUBE: With contact details and some had summary of the patients, those who had IDs we received the IDs, those who were on epilam
5 medication we received those medication as we are servicing intellectual profound patients.

ADV. LILLA CROUSE: And you received that medication?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: I'm not clear, how much medication was it? Was it for
10 four weeks, for 28 days, or 28 weeks? I'm not sure how much you received.

ETHEL NCUBE: I would estimate 28 weeks.

ADV. LILLA CROUSE: Four months?

ETHEL NCUBE: I would estimate with 28 weeks or so.

ADV. LILLA CROUSE: Do you dispense the medication to the patients?

15 **ETHEL NCUBE:** The care givers, because it's epilamem.

ADV. LILLA CROUSE: Are they qualified to dispense the medicine?

ETHEL NCUBE: The professional nurse would just check if the routine is going accordingly and the records.

ADV. LILLA CROUSE: My question is, the care givers, were they qualified to dispense the medication?

ETHEL NCUBE: No.

ADV. LILLA CROUSE: And you knew this?

5 **ETHEL NCUBE:** Yes, Counsel.

ARBITRATOR, JUSTICE MOSENEKE: And why did you allow it?

ETHEL NCUBE: We--with the criteria that we have, we also service at home, we are not trained to give epilem or any other disability medication. The problem lies with the other criteria, and then why we also ensured that it's in
10 place, that's why we asked a professional nurse just to keep on coming and checking the vitals and if everything it's in record.

ADV. LILLA CROUSE: We'll get back to the professional nurse. You said some of them did not have ID documents when you received them.

ETHEL NCUBE: Yes, Counsel.

15 **ADV. LILLA CROUSE:** How did you identify them?

ETHEL NCUBE: The first that we had they had pictures, with dates of birth, and that summary that also stipulates the background on the users.

ADV. LILLA CROUSE: And the diagnosis.

ETHEL NCUBE: The diagnosis were also mentioned. Evidence is also there.

ADV. LILLA CROUSE: And are you qualified to read or interpret a diagnosis?

ETHEL NCUBE: No, Counsel.

ADV. LILLA CROUSE: Let's just move on to the medicine, when the
5 medicine eventually ran out did you replace it?

ETHEL NCUBE: Yes, Counsel, and we were also waiting for the department
side.

ADV. LILLA CROUSE: Where did you get the medicine?

ETHEL NCUBE: The basic ones like your asthma, we went from a private
10 clinic.

ADV. LILLA CROUSE: I'm talking about the psychiatric medicine

ETHEL NCUBE: We were unable to get those, we weighed up on the
department, they would come in and-

ADV. LILLA CROUSE: So you couldn't replace that?

15 **ETHEL NCUBE**: We couldn't replace, they need to be brought in.

ADV. LILLA CROUSE: And you didn't replace those?

ETHEL NCUBE: It was replaced Counsel.

ADV. LILLA CROUSE: Were there any break in on taking that medication?

ETHEL NCUBE: A day--I would--I wouldn't want to give like in and say how many days and so forth because immediately when we sent a script the department coordinators would come and make a follow up to be speeded up,
5 because it's a lot of organizations that had a backlog.

ADV. LILLA CROUSE: The question is, was there any disruptions in a medication?

ETHEL NCUBE: Partially, Counsel.

ADV. LILLA CROUSE: My learned friend asked you the same question and
10 you said no, do you remember that?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: Why is that?

ETHEL NCUBE: As I was explaining that probably a difference would be a day, that why I say records of medication are there.

15 **ADV. LILLA CROUSE:** You now said that you sent out a script, how does that work?

ETHEL NCUBE: The department--we gives in with a script that was given at Life Esidimeni and after that's when the coordinators from the department came in to do an assessment.

ADV. LILLA CROUSE: Are you saying not only you got medicine from Life Esidimeni, you also got scripts?

ETHEL NCUBE: No, the scripts were made by the departments group-in, and the scripts that we had it were those who were on epilem and the medication.

ADV. LILLA CROUSE: Sorry to interrupt, I'm just trying to establish who was the doctor that gave this scripts?

10 **ETHEL NCUBE**: The scripts that we submit--It was still from Life Esidimeni.

ADV. LILLA CROUSE: So, did you receive the scripts from Life Esidimeni? Is that what you saying?

ETHEL NCUBE: It's not a script, it shows a medication and a dosage within. And the department when they came in they shown the prescription we should use when asking for medication.

15 **ADV. LILLA CROUSE**: Are you saying that the department gave you scripts without seeing your patients based on what was in the Life Esidimeni from the beginning?

ETHEL NCUBE: Yes, from the beginning.

ADV. LILLA CROUSE: And what did you do with the scripts?

ETHEL NCUBE: We had to send it to the district pharmacy where they would obtain the medication.

5 **ADV. LILLA CROUSE**: Are you sure that that happened?

ETHEL NCUBE: Pardon?

ADV. LILLA CROUSE: Are you sure that, that happened?

ETHEL NCUBE: Evidence is there as we were the ones that was collecting.

ADV. LILLA CROUSE: Did you collect it from the primary clinic?

10 **ETHEL NCUBE**: From the district pharmacy after the assessment by the department.

ADV. LILLA CROUSE: If this arbitration calls one of those people they would say they gave you this medicine?

ETHEL NCUBE: Come again, Counsel?

15 **ADV. LILLA CROUSE**: Somebody from that clinic will come and say they gave you, the medicine because they had that type of medicine with them?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: Can I just ask you, and I'm really nearly finished. You had staff at both the houses, and I'm not talking about your daycare center.

ETHEL NCUBE: Yes, please.

ADV. LILLA CROUSE: You had staff on both of them?

5 **ETHEL NCUBE:** Yes, Counsel. both.

ADV. LILLA CROUSE: Full time staff, which staff did you have?

ETHEL NCUBE: Both they had-

ADV. LILLA CROUSE: No. Let's start at your first house.

ETHEL NCUBE: We had day and night staff.

10 **ADV. LILLA CROUSE:** What staff did you have at the first house?

ETHEL NCUBE: We had care givers, cleaner and those Life Esidimeni workers that came in and out, of which they left. But the one that we remained with it was care givers and home-based careers.

ADV. LILLA CROUSE: Are you saying that your full-time staff was care
15 givers and home-based carers and a cleaner?

ETHEL NCUBE: And a cooker, and the security. And with the professional nurse she was assisting us, she is fully employed, she was just assisting us with no remuneration.

ADV. LILLA CROUSE: I'm talking about full time staff, Ma'am, I'm only trying to establish. So those were your full-time staff?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: You didn't have, like for instance, an OT?

5 **ETHEL NCUBE:** OTs is the ones that we were, okay OT's-

ADV. LILLA CROUSE: On full time staff Ma'am a?

ETHEL NCUBE: On full time no. It was the Municipality that--

ADV. LILLA CROUSE: Thank you. Did you have a physio on full time staff?

ETHEL NCUBE: Pardon?

10 **ADV. LILLA CROUSE:** Did you have a physio on full time staff?

ETHEL NCUBE: No Counsel.

ADV. LILLA CROUSE: Did you have a doctor or a psychiatric?

ETHEL NCUBE: No Counsel.

ADV. LILLA CROUSE: Did you have any nurses on full time staff?

15 **ETHEL NCUBE:** No Counsel. Can I support the statement or?

ADV. LILLA CROUSE: What was your daily involvement at the house?

ETHEL NCUBE: At the house, I would go in on daily basis check if there is--
the carers even myself, I would transport in to see if they are able to relieve
the others, I would give the reports on programme for the day, if there's any
urgent hiccups that I can run with during the day. And then I would go on both
5 centers and still source out with the programme needs.

ADV. LILLA CROUSE: Ma'am my question is just, what was your daily
involvement in house number one?

ETHEL NCUBE: Management.

ADV. LILLA CROUSE: For how long were you there every day?

10 **ETHEL NCUBE**: An hour, daily basis and night.

ADV. LILLA CROUSE: Sorry?

ETHEL NCUBE: I would go in probably once or twice on daily basis.

ADV. LILLA CROUSE: And that would be an hour?

ETHEL NCUBE: Yes.

15 **ADV. LILLA CROUSE**: Tell us, how many care givers did you have in house
number one?

ETHEL NCUBE: Two, four--we had four, and then depending on the shift of, of, of, of, of if it's a day shift or a night shift, and then we'd also have four with the cleaner and the cooker and the security guard.

ADV. LILLA CROUSE: Are you saying that you had five people in the house
5 during the day?

ETHEL NCUBE: Yes.

ADV. LILLA CROUSE: And at night?

ETHEL NCUBE: It would be less of, it would be like four to five.

ADV. LILLA CROUSE: Were your patients in a position to feed themselves?

10 **ETHEL NCUBE**: Yes, Counsel. Others would--okay let me answer and let you question.

ADV. LILLA CROUSE: Were they able to feed themselves?

ETHEL NCUBE: Some Counsel. Most of them.

ADV. LILLA CROUSE: Most of them?

15 **ETHEL NCUBE**: Yes, Counsel. And they were talking, as well.

ADV. LILLA CROUSE: If I could just think about it, you didn't have any experience in adult with the disability that you were given, is that right?

ETHEL NCUBE: Yes, Counsel., adults no.

ADV. LILLA CROUSE: And you had no skill in dealing with them?

ETHEL NCUBE: The criteria, yes.

ADV. LILLA CROUSE: Let's forget about the criteria, those people that were given to you, you didn't have any skill in dealing with them.

5 **ETHEL NCUBE:** Yes, Counsel.

ADV. LILLA CROUSE: You didn't have the sufficient resources to deal with them? Do you agree with me?

ETHEL NCUBE: Yes, Counsel.

10 **ADV. LILLA CROUSE:** And you did not have sufficient money to pay your staff even?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: Was it not irresponsible to take in these people?

ETHEL NCUBE: I would say, I don't know how to put it, but I was hurting as well with the turn out, it wasn't anticipated.

15 **ADV. LILLA CROUSE:** My question I was it-

ETHEL NCUBE: Responsibility I did take to my level best, with everybody that we worked with, we did our level best, and I wouldn't say we were irresponsible because we played our part our level best.

ADV. LILLA CROUSE: With no experience, no skill, not enough resources, not enough money; is it not irresponsible to take so many people?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: -is that not perhaps part of the-

5 **ARBITRATOR, JUSTICE MOSENEKE:** Did you say yes?

ETHEL NCUBE: The thing is when you explain.

ARBITRATOR, JUSTICE MOSENEKE: I don't want you to change it, I just want you to make sure I understood you well.

ETHEL NCUBE: No, [giggling] no, no, no, no, we played our part according to
10 everything that we, that why I said we were not irresponsible, as we played a huge part from what we. Our level best, it was just here and there that needed to fill up their puzzle.

ARBITRATOR, JUSTICE MOSENEKE/ADV. LILLA CROUSE: [?] [sighing]

ADV. LILLA CROUSE: Ma'am what did you say yes to when I asked you if
15 you were irresponsible?

ETHEL NCUBE: I did at first say we were not irresponsible, we played our level best, we needed other sides to fill the support system structure.

ADV. LILLA CROUSE: Ma'am, can I take you to a report of the department in which you were referred to earlier, it's on page 2494 date 28 July 2016, it was before you moments ago, its volume seven.

ETHEL NCUBE: What's the page?

5 **ADV. LILLA CROUSE:** 2494, it's the first page of the report, I'm going to refer you to later pages.

ETHEL NCUBE: What's the file number?

ADV. LILLA CROUSE: File seven. File seven [pause]

ETHEL NCUBE: 2370.

10 **ADV. LILLA CROUSE:** 2494. is the first page.

ARBITRATOR, JUSTICE MOSENEKE: [clears throat]

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: If you can turn the page to page 2495, at the bottom of that page, the second last bullet on the page. Can you read that please?

15 **ETHEL NCUBE:** The last sentence?

ADV. LILLA CROUSE: The second last bullet, on the page, 2495.

ETHEL NCUBE: There is no form of reliable patient identification as there is no either name tags, no identification clothing to identify the patients.

ADV. LILLA CROUSE: Yes, do you agree with that?

ETHEL NCUBE: No Counsel.

ADV. LILLA CROUSE: How did you identify the patients to give them their medicine?

5 **ETHEL NCUBE:** There is pictures--every patient had, and there is a--every patient's medication was in a bag, in the medication room. And umm—Yes, Counsel.

ADV. LILLA CROUSE: Yes, I accept that there were pictures, you said you got them from Life Esidimeni, I'm asking how did you identify the patients to
10 make sure you give them the right medicine?

ETHEL NCUBE: It's written in their medication and it corresponds with the pictures and the person that we give the medicine unto.

ADV. LILLA CROUSE: So, you relied on somebody to take a photograph and decides this is the patient that should get this meds.

15 **ETHEL NCUBE:** On those that had the medication, there was pictures with the name of the medication, the dosage as well, it was labeled.

ADV. LILLA CROUSE: I'm going to move off from that. If you can turn to page 2494, do you see the box with paragraph 4 in it? 2496 paragraph 4, the second last box, do you see it?

ETHEL NCUBE: Page 2496?

5 **ADV. LILLA CROUSE:** Page 2496, do you see that?

ETHEL NCUBE: Which box?

ADV. LILLA CROUSE: Box 4.

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: You said quite a bit about Lego, could you please
10 read the bullet point under 4.

ETHEL NCUBE: There is currently no activity scheduled for patients, some
staff members are trained in stimulation of children with special needs and
improve to adapt their for the adults. They also need assistance in back and
pressure parts care for bed ridden, and spastic patient to avoid further
15 complications of patients already admitted for pressure ulcers.

ADV. LILLA CROUSE: Could you read the next bullet point please?

ETHEL NCUBE: There is no training for medical intervention taking place
currently.

ADV. LILLA CROUSE: The next bullet point.

ETHEL NCUBE: Individual progress report of each patient are not available.

ADV. LILLA CROUSE: And the next bullet point.

ETHEL NCUBE: Patients are kept indoors throughout the day and night, they

5 don't expose to outside environment.

ADV. LILLA CROUSE: Do you agree with that?

ETHEL NCUBE: No Counsel

ADV. LILLA CROUSE: Why not?

ETHEL NCUBE: There is a programme that we do, gross motors, and fine

10 motors, and functions and on daily bases there would be and even-

ADV. LILLA CROUSE: Are you sure that those things happened given that
you weren't at the house for very long every day?

ETHEL NCUBE: The evidence of pictures and patients and even some other
family members, they would also testify to it.

15 **ADV. LILLA CROUSE:** And they were going outside?

ETHEL NCUBE: Yes, Counsel.

ADV. LILLA CROUSE: In terms of paragraph 5, the first bullet says both centers have a center management and one professional nurse on duty on day duty and one sessional professional nurse for night duty. Is that right?

ETHEL NCUBE: No Counsel.

5 **ADV. LILLA CROUSE:** There weren't a professional nurse on day duty?

ETHEL NCUBE: No Counsel.

ADV. LILLA CROUSE: Thank you. And the last bullet point says the staff is not trained in first aid technique. Do you agree with that?

ETHEL NCUBE: No Counsel.

10 **ADV. LILLA CROUSE:** What did you do?

ETHEL NCUBE: With home based carers, they have their points of records on what they've been trained on as evidence and as well if you would get one to testify you can conduct one.

ADV. LILLA CROUSE: Ma'am, can I ask you how you would have done this differently knowing what you know now?
15

ETHEL NCUBE: Joh--As I said earlier on, I would have prepared completely, we talking still to the Life Esidimeni right? I would have completely ensured that the proper place has been assigned to, and linen, every resources that

we had to loan money for, take from community and lose a lot of..., being a lot of deaths, and induction on the kinds of patients, being introduced to family members so that they know where their loved ones will be as there is a form that need to be filled by the very same family members with all the details,
5 and they would also have a copy of our-

ARBITRATOR, JUSTICE MOSENEKE: [clears throat]

ARBITRATOR, JUSTICE MOSENEKE: The question is what would you done differently?

ETHEL NCUBE: What I would have done differently is-

10 **ARBITRATOR, JUSTICE MOSENEKE:** Would you now again, for instance, believe the official department when they say they are in a crisis?

ETHEL NCUBE: I wouldn't believe hear this time, I would—in fact even

ARBITRATOR, JUSTICE MOSENEKE: There is a way is introducing you to what are the things that you would do differently now, the one thing is you
15 won't believe them when they say they have a crisis, right?

ETHEL NCUBE: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Take our crisis, you won't do that right?

ETHEL NCUBE: No.

ARBITRATOR, JUSTICE MOSENEKE: What else you won't do again?

ETHEL NCUBE: What I wouldn't do again is accepting little of information knowing the criteria in what I will also be comfortable working with, and not—

5 umm-

ARBITRATOR, JUSTICE MOSENEKE: Would you run a service about which you know nothing?

ETHEL NCUBE: Not at all Counsel.

ARBITRATOR, JUSTICE MOSENEKE: Relating to lives of 57 adults, would
10 you?

ETHEL NCUBE: Not at all Counsel, because I haven't been exposed to such, it is such a traumatic experience at this point.

ARBITRATOR, JUSTICE MOSENEKE: Would you start an operation which is not properly licensed, and therefore unlawful, would you?

15 **ETHEL NCUBE**: No Counsel.

ARBITRATOR, JUSTICE MOSENEKE: Would you start an operation where you have not signed a service level agreement, would you?

ETHEL NCUBE: No Judge.

ARBITRATOR, JUSTICE MOSENEKE: And would you take care of so many people before you have properly determined the particulars of their family members and where you might find them in case of emergency?

ETHEL NCUBE: No Judge.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Would you run an operation like this without professional staff; a nurse, an occupational therapist, a doctor, a psychiatrist; would you do that?

ETHEL NCUBE: No Judge, from the bottom of my heart.

ARBITRATOR, JUSTICE MOSENEKE: Why do you think these people died?

10 After all the answers you have given me now, why did 23 people under your care, die?

ETHEL NCUBE: There weren't enough parties, relevant parties that would carry the whole marathon.

ARBITRATOR, JUSTICE MOSENEKE: Thank you for that candor, it took us
15 quite some time to get there. But let me ask you something that a 'bee' in my bonnet; have the police been to you?

ETHEL NCUBE: A number of times Counsel.

ARBITRATOR, JUSTICE MOSENEKE: Were they taking warning statements from you as a suspect?

ETHEL NCUBE: Yes. They needed statements, I wouldn't say as a suspect.

ARBITRATOR, JUSTICE MOSENEKE: No, after all the deaths, I know you
5 have been to the police a few times, you've made affidavits in order to a certain identities of patients. You see I've been listening to you throughout the whole day, I'm asking a different question, and have members of the South African Police Service come to you to say that they are investigating the deaths of 23 people who were at your facility?

10 **ETHEL NCUBE**: Yes, Counsel. and I was also being called to come and give statements of happened and everything has been given.

ARBITRATOR, JUSTICE MOSENEKE: Have you made statements under oath to the police about what happed at your facility?

ETHEL NCUBE: With every decease that happened, yes Judge.

15 **ARBITRATOR, JUSTICE MOSENEKE**: And these were sworn statements?

ETHEL NCUBE: Yes Judge.

ARBITRATOR, JUSTICE MOSENEKE: Have they come back to you to say what is the progress in the investigation?

ETHEL NCUBE: No Judge.

ARBITRATOR, JUSTICE MOSENEKE: Its nearly 10months now from the time your facility was closed down, perhaps the police have the SIU, Special Investigative Unit come to you at all?

5 **ETHEL NCUBE**: They have sent out emails, I think 3 days ago, which we busy with their investigations.

ARBITRATOR, JUSTICE MOSENEKE: For the first time 3 days ago they send you an email?

ETHEL NCUBE: And they phoned in, and we had responded that we will give
10 in all those relevant documents.

ARBITRATOR, JUSTICE MOSENEKE: What was their enquiry about?

ETHEL NCUBE: All files, that everything that happened in our NGO especially with the deceased.

ARBITRATOR, JUSTICE MOSENEKE: I don't understand that, did they want
15 you to make a statement about what happened?

ETHEL NCUBE: They need files, evidence.

ARBITRATOR, JUSTICE MOSENEKE: Files that you kept?

ETHEL NCUBE: Yes.

ARBITRATOR, JUSTICE MOSENEKE: During your care of the patients who passed on?

ETHEL NCUBE: Yes Judge.

ARBITRATOR, JUSTICE MOSENEKE: Have you given the files to them?

5 **ETHEL NCUBE**: We have a date for the 19th to produce them.

ARBITRATOR, JUSTICE MOSENEKE: Were the South African Police Force ask any files from you?

ETHEL NCUBE: Whenever you make a statement they would check in what you are saying.

10 **ARBITRATOR, JUSTICE MOSENEKE**: And do you know the names of all the people who died under your care whose bodies were subjected to a post mortem examination? That is which deceased underwent a post mortem examination and which did not.

ETHEL NCUBE: Yes, most of them I know.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Can you compile a list of that and give it to the advocate who led you right at the beginning?

ETHEL NCUBE: Yes, but after making those statements the chief-

ARBITRATOR, JUSTICE MOSENEKE: I'm talking about the post mortem, I want to know which of the people you cared for underwent post mortem examination?

ETHEL NCUBE: I would give them because there's a statement we have to
5 give before they could do the post mortems.

ARBITRATOR, JUSTICE MOSENEKE: Can you give a list of those who underwent the post mortem examination.

ETHEL NCUBE: Will do Judge.

ARBITRATOR, JUSTICE MOSENEKE: Okay. Counsel I'd ask you to follow
10 up and get that list, so that we can hand it appropriately.

ADV. NONTLATLA YINA: Thank you Justice, I've made a note.

ARBITRATOR, JUSTICE MOSENEKE: Advocate Groenewald.

ADV. DIRK GROENEWALD: Thank you very much Justice. Ma'am, I just
15 have a few questions for you. In respect of you testify that you did not have the license for your facilities in Atteridgeville and Danville, you only received that in December of 2016?

ETHEL NCUBE: On the names of the premises, yes.

ADV. DIRK GROENEWALD: Yes, correct. The department knew that you had a facility in Atteridgeville and Danville and that you have patients there?

ETHEL NCUBE: Yes, Counsel.

ADV. DIRK GRUNEWALD: Yes. So irrespective of you didn't have the
5 license, the department condoned that and sent you patients, is that correct?

ETHEL NCUBE: Yes, Counsel.

ADV. DIRK GROENEWALD: Now Ma'am, you testified that you took the first
patients on the 23rd of June, is that correct?

ETHEL NCUBE: Yes, Counsel.

10 **ADV. DIRK GROENEWALD:** You testified that on the 28th of July 2016, you had an investigation, or an assessment done by the department, of your premises. That the report that you were referred to now the whole time, you agree?

ETHEL NCUBE: Yes, Counsel.

15 **ADV. DIRK GROENEWALD:** Do you agree?

ETHEL NCUBE: Yes, Counsel.

ARBITRATOR, JUSTICE MOSENEKE:

ADV. DIRK GROENEWALD: Ma'am I put it to you that at that point and time on the 28th July 2016, 23rd June you took in patients, on 28 July 2016, already 9 patients have died at your facility.

ETHEL NCUBE: I'll have to go back with the listing.

5 **ADV. DIRK GROENEWALD:** Well, we have a document that confirms that, and just for the sake of my colleagues and yourself Justice, it's ELaH4, there we have the dates of this. Again, just to confirm, after the investigation or the assessment that was done by the department, 9 patients have already died, the apartment did not close you down, is that correct?

10 **ETHEL NCUBE:** Yes, Counsel.

ADV. DIRK GROENEWALD: So, you kept on providing service to these individuals. Now, thereafter a further 12 patients died, but you remained open, is that correct?

ETHEL NCUBE: Yes, Counsel.

15 **ADV. DIRK GROENEWALD:** Did the department know of these deaths?

ETHEL NCUBE: Yes, Counsel.

ADV. DIRK GROENEWALD: Did the department intervene at any point and time?

ETHEL NCUBE: They--should I say yes or no, or just give a statement?

ADV. DIRK GROENEWALD: You could just yes or no.

ETHEL NCUBE: Partially.

ADV. DIRK GROENEWALD: Can you just qualify[sic] 'partially' in a since that
5 did they intervene to say we have noticed that since you have opened your
facilities, that in a question of 2 months 20 patients have died, your facility is
not fit to look for and care for these patients?

ETHEL NCUBE: They did that, and together with the MEC.

ADV. DIRK GROENEWALD: But when? Dates are very important here.

10 **ETHEL NCUBE**: I would check with the visitor's book and the pictures that we
also took in as evidence.

ADV. DIRK GROENEWALD: Was it after August?

ARBITRATOR, JUSTICE MOSENEKE: You mean Counsel August 2016?

ADV. DIRK GROENEWALD: August 2016 Justice.

15 **ETHEL NCUBE**: Yes, probably there.

ADV. DIRK GROENEWALD: Because we know that in fact there was still
patient's individuals that last registered death at Precious Angels, is on the
30th January 2017.

ETHEL NCUBE: 30th from where? I don't know about that?

ARBITRATOR, JUSTICE MOSENEKE: Aren't they part of the 3 who were originally with you and died at hospital? Some of your patients went to Kalafong, others to Pretoria West hospitals, and you told us in your evidence
5 that 3 of them passed on, after they'd left your facility.

ETHEL NCUBE: In hospitals?

ARBITRATOR, JUSTICE MOSENEKE: Yes.

ETHEL NCUBE: Yes, I would say. But they were not under our care the ones that passed on after wards.

10 **ADV. DIRK GROENEWALD**: This specific patients were not under your care?

ETHEL NCUBE: Under our care. No.

ADV. DIRK GROENEWALD: Okay. Ma'am, after the assessment after 28th July 2016, did the department request you to provide with follow up report to show to them that you've complied?

15 **ETHEL NCUBE**: Umm. Reports were sent on monthly basis, yes.

ADV. DIRK GROENEWALD: Okay but on this specific report, they said you comply with this or we will have to close you down.

ETHEL NCUBE: No Counsel.

ADV. DIRK GROENEWALD: To what extend would you say the department knew of everything that happened in your facility? Would you say that they knew of everything that happened, most of what happening in your facility or nothing that we happening?

5 **ETHEL NCUBE:** They knew, Counsel

ADV. DIRK GROENEWALD: Everything?

ETHEL NCUBE: Everything, Counsel.

ADV. DIRK GROENEWALD: Thank you very much Justice, no more questions.

10 **ARBITRATOR, JUSTICE MOSENEKE:** Thank you Counsel. Did anybody in the department, in particular Dr. Manamela, helped you with the movement of deceased bodies?

ETHEL NCUBE: No Judge.

ARBITRATOR, JUSTICE MOSENEKE: All people who died at your facilities
15 you placed them in mortuaries and you found their way to their families yourself?

ETHEL NCUBE: Dr. Manamela, when she would visit it was on urgent calls that even the coordinators couldn't assist us on, that when she would come in,

but she was always checking on the report and coming to the NGOs unannounced just to check if everything is an okay, even the MEC when after hearing such cry out, she came in, even the doctor from Life Esidimeni came in.

5 **ARBITRATOR, JUSTICE MOSENEKE**: MEC came in to where?

ETHEL NCUBE: To both our centers, at Atteridgeville and Danville

ARBITRATOR, JUSTICE MOSENEKE: When was this?

ETHEL NCUBE: It was probably August, because with all the

ARBITRATOR, JUSTICE MOSENEKE: It must be somewhere 2016 August
10 and October or November 2016.

ETHEL NCUBE: Probably August, September, towards those, with all the other doctors from Life Esidimeni.

ARBITRATOR, JUSTICE MOSENEKE: And they were aware that several people died at your facility?

15 **ETHEL NCUBE**: A number of people yes, they were aware.

ARBITRATOR, JUSTICE MOSENEKE: But the question was about the deceased bodies, what was the role of the provincial health department in the removal of the bodies, or their conveyance to families?

ETHEL NCUBE: When the first one passed on, they mentioned that they do not assist at the moment for burial, that when I had to call our local municipality, then that's when the social worker came it to do all the necessary processes for indigent burial, where at the altar stage even the
5 family members, they would be able to be traced and know where they have rested. It something that I had to-

ARBITRATOR, JUSTICE MOSENEKE: The short answer is the department did not help in cutting the deceased bodies to various destinations.

ETHEL NCUBE: No.

10 **ARBITRATOR, JUSTICE MOSENEKE**: Counsel Hutamo. I intend to sit till 5pm, so you have 30 minutes to cross examine

ADV. TEBOGO HUTAMO: Thank you Justice. There are no questions to the witness.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Oh, that does help. (laugh) I'm back to re-examination.

ADV. NONTLATLA YINA: Thank you Justice. Just 2 questions. The first one relates to the affidavits that you said that you made at the police station in respect to the families that you were trying to locate, Can you make those copies available please.

ETHEL NCUBE: Yes, even the SMSs of trying to get hold of the family members, everything you need I would not leave without providing.

ADV. NONTLATLA YINA: Second one relates to the files that had in respect of the patients where you record when you give them medication, can we also
5 have copies of those?

ETHEL NCUBE: Would give in.

ADV. NONTLATLA YINA: Thank you Justice.

ARBITRATOR, JUSTICE MOSENEKE: We going to get copies because I presume the police would want them too. Very well. And this is your moment,
10 here we tend to give witnesses the last word after spending the day with us.
On a lighter note, let me tell you Ms. Ncube, one of your facilities was on Mosalo street-

ETHEL NCUBE: Yes Judge.

ARBITRATOR, JUSTICE MOSENEKE: You know how close that is to my
15 home in Atteridgeville?

ETHEL NCUBE: No.

ARBITRATOR, JUSTICE MOSENEKE: Your home Tlale Street, your home is on corner Thembisa and Tlale street in Atteridgeville, and Mosalo is the very street.

ETHEL NCUBE: All right, thank you. Yes, it is.

5 **ARBITRATOR, JUSTICE MOSENEKE**: It was very close to the bone. Anyway, it's a totally irrelevant consideration. Is there anything you want to say before we discharge you from the witness box?

ETHEL NCUBE: There is no amount of words that would change the situation, there no amount of sympathy I would give to family members that
10 will bring back their loved ones, it wasn't intentional, and it is something that haunts me as a person, I mean losing one family member in your home without bringing such programmes, its trauma. What more of adults in your name, as young as you are? At this point in time, all the stakeholder who were assisting in running the center and the drive that I'm in, they've pulled out
15 because of my name being marked on Life Esidimeni. I'm currently sitting unemployed, lots of debts, angry family members. I have to be the one that bare that. And to me on a series note, it would've been an amazing path to go on seeing adults reaching to their best ability, knowing that even our little ones have a smooth path to the years that they would have lived. Other family
20 members still send encouraging words, and I'm also encouraged to the

number of years that Life Esidimeni patients, especially with the severe intellectually profound disability that they have encountered. It is encourages me that there is still life we can still hope for, and the drive that we also give in, it can be sent out. But I would request as well for all the department that

5 they give early intervention, starting from people who are being diagnosed, from the hospital, there should be counseling for parents who had been given such patients, source of support, and there should be inclusive training because at the end we also want our loved ones to be the members of the society, to also indulge the able people resources that they do in, in sports, in

10 all cases, medical, therapeutically, in all angles that the able people are doing. Some of us are not here for money, I'm suiting here as a parent that know how it like to want to help a child that you cannot help.

ARBITRATOR, JUSTICE MOSENEKE: Whilst we are there perhaps we should bring it to a close, but I wondered whether you think it's appropriate to

15 apologize to the families of the people who died at your facility?

ETHEL NCUBE: As I said earlier on-

ARBITRATOR, JUSTICE MOSENEKE: You don't have to, I'm just wondering if it's something that you find in you that you are able to do?

ETHEL NCUBE: I would give my life for filling their hearts with peace and everything that they had to go through because I know that someday, I would also have to go through such, and I have always cried out with those family members. It's not an easy thing, I still suffer from such trauma, I can imagine
5 for them. Still no counselling been given, and closure is the post mortems, knowing what really happened, and to be at peace at the end, and as well with those that wanted to do rituals, as we have also said, they are more than welcome at any given time, whatever that will make families be at peace from the side of my efforts, our efforts and the tragedy that had to happen, I really
10 deeply sympathizes, even now, I mean with anybody being stigmatized with such a number of adults being deseeded under your name.

ARBITRATOR, JUSTICE MOSENEKE: But besides you, I don't hear you say, for whatever my omissions might have been, I apologize. Shouldn't you reach there? You are not really forced to, but I understand your pain, but I
15 mean do you want to get there or not?

ETHEL NCUBE: That's why I said I would give my life for the sorry, the sympathy, the pain that the families are feeling, and it wasn't intentional, at all, in short, I am deeply sorry to a point of saying I would exchange for your family members in my place.

ARBITRATOR, JUSTICE MOSENEKE: Okay, thank you ever so much, and

thank you again for coming up, and for braving it all in coming to say your side of this difficult tragedy. You are excused if you may want to leave now.

Obakeng wants to make one small announcement, I don't know where it is,

5 and he though he wants to do it before we adjourn. Obakeng.

OBAKENG: Good afternoon everyone. I have one tiny announcement

regarding the venue, so tomorrow we will not be using this venue, tomorrow

until Friday we will not be using this venue. So, we have two venues that will

be in use, it's the one outside, the bigger venue, there will give preference to

10 the presiding officers, judge and his team, and the legal teams, and family

members and the members of the media. Once that room is full, we'll move to

another room which will have a TV where the whole proceedings will be

broadcast live, something like the, I'm not good with technology, but the other

room will have a TV. So, all the people who are not able to sit in the main

15 venue, they'll move to that one. But in the main venue we'll try to give

preference to the deputy Chief Justice, former deputy Chief Justice, the legal

teams, family members and all the members of the media. everyone who is

attending will have to go to a smaller room. Thank you that will be until Friday.

Thank you.

ARBITRATOR, JUSTICE MOSENEKE: Thank you to everybody, after had a difficult day, we will now adjourn until tomorrow at 9;30. Thank you