

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 8/10/2021 2:38:29 PM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged: Defence - Form 33 - Rule 16.32
File Number: VID419/2021
File Title: THE AUSTRALIAN SALARIED MEDICAL OFFICERS' FEDERATION
& ANOR v WESTERN HEALTH
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 8/10/2021 2:38:32 PM AEDT

A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Defence

Federal Court of Australia
District Registry: Victoria
Division: Fair Work

No. VID 419/2021

The Australian Salaried Medical Officers' Federation

First Applicant

Joanne Peel

Second Applicant

Western Health

Respondent

By way of defence to the statement of claim filed 29 July 2021 (**Statement of Claim**), the respondent says as follows:

Notes:

- A. Unless otherwise defined, capitalised terms have the meaning ascribed to them in the Statement of Claim.

A THE PARTIES

A1 The applicants and the Group Members

1. As to paragraph 1, the respondent:

- (a) admits that the first applicant and the second applicant purport to bring this claim pursuant to Part IVA of the *Federal Court of Australia Act 1976* (Cth);
- (b) in relation to the second applicant (**Dr Peel**):
 - (i) admits the allegations in sub-paragraphs (c) to (f);
 - (ii) does not admit the allegations in sub-paragraphs (g) and (h);
- (c) in relation to the alleged Group Members:

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(i) admits that there were persons with the characteristics alleged in sub-paragraphs (c) to (f) (**Doctors in Training**);

(ii) otherwise does not admit the allegations in paragraph 1.

2. The respondent admits paragraph 2.

3. The respondent admits paragraph 3.

4. As to paragraph 4, the respondent:

(a) denies that the Group Members have claims against it as pleaded in the Statement of Claim for the reasons set out below;

(b) otherwise does not know and therefore cannot admit the allegations in paragraph 4.

A2 The respondent

5. The respondent admits paragraph 5.

B THE AGREEMENTS

B1 The 2013 Agreement

Application and coverage

6. The respondent admits paragraph 6.

Doctor Responsibilities

7. The respondent admits paragraph 7.

Hours of Work, Rostering, and Overtime

8. The respondent admits paragraph 8.

9. The respondent admits paragraph 9.

10. As to paragraph 10, the respondent:

(a) admits that the 2013 Agreement contains clauses 32.1, 32.2.1 and 32.2.2 as pleaded in the Statement of Claim;

(b) says further that the 2013 Agreement also contains the following clauses:

32.2.3 *Overtime may be converted into carer's leave in accordance with sub clause 47.3.3.*

32.3 Protocols - Authorised Un-rostered Overtime

32.3.1 *A Protocol must exist in the Hospital whereby overtime that cannot be authorised in advance but has been worked will be paid if it meets appropriate, clearly defined criteria.*

32.3.2 *The protocols described in sub clause 32.3.1 will be structured on the following basis:*

- (a) *the Doctor has performed the overtime due to a demonstrable clinical need and that need could not have been met by some other means;*
- (b) *authorisation of the overtime could not reasonably have been made in advance of the Doctor performing the work;*
- (c) *the Doctor has claimed for retrospective authorisation of overtime on the first occasion possible after the overtime was worked and on no occasion later than the completion of that pay fortnight;*
- (d) *the Doctor has recorded the reason for working the overtime and the duties performed in a form capable of Hospital audit and review; and*
- (e) *the claim for overtime must be reviewed by a Senior Doctor authorised by the Hospital to do so within 14 days of the claim being submitted.*

B2 The 2018 AgreementApplication and coverage

11. The respondent admits paragraph 11.

Doctor Responsibilities

12. The respondent admits paragraph 12.

Hours of Work, Rostering, and Overtime

13. The respondent admits paragraph 13.

14. The respondent admits paragraph 14.

15. As to paragraph 15, the respondent:

- (a) admits that the 2018 Agreement contains clauses 36.1, 36.2(a) to (c) as pleaded in the Statement of Claim;
- (b) says further that the 2018 Agreement also contains the following clauses:

36.2(d) *Overtime may be converted into carer's leave in accordance with subclause 61.3(c).*

36.3 Protocols - Authorised Un-rostered Overtime

- (a) *A Protocol must exist in the Health Service whereby overtime that cannot be authorised in advance but has been worked will be paid if it meets appropriate, clearly defined criteria.*
- (b) *The protocols described in sub clause 36.3(a) will be structured on the following basis:*
 - (i) *the Doctor has performed the overtime due to a demonstrable clinical need and that need could not have been met by some other means;*
 - (ii) *authorisation of the overtime could not reasonably have been made in advance of the Doctor performing the work;*
 - (iii) *the Doctor has claimed for retrospective authorisation of overtime on the first occasion possible after the overtime was worked and on no occasion later than the completion of that pay fortnight;*
 - (iv) *the Doctor has recorded the reason for working the overtime and the duties performed in a form capable of Health Service audit and review; and*
 - (v) *the claim for overtime must be reviewed by a Senior Doctor authorised by the Health Service to do so within 14 days of the claim being submitted.*

C DUTIES AND RESPONSIBILITIES OF DR PEEL AND GROUP MEMBERS

16. As to paragraph 16, the respondent:

- (a) admits that during the Relevant Period, Dr Peel's duties and responsibilities when providing medical services included, from time to time:
 - (i) ward round preparation;
 - (ii) ward rounds;
 - (iii) handover;
 - (iv) medical procedures preparation;
 - (v) medical emergency;
 - (vi) medical records;
 - (vii) medical communication;
 - (viii) patient admissions; and
 - (ix) other medical services;

- (b) otherwise denies the allegations in paragraph 16.

D THE SECOND APPLICANT'S CLAIM

- 17. The respondent admits paragraph 17.

D1 Neurology Sunshine / Footscray – 1 February 2016 to 1 May 2016

- 18. The respondent admits paragraph 18.

Rosters

- 19. As to paragraph 19, the respondent:

- (a) admits that during the Neurology Sunshine / Footscray Rotation, Dr Peel was rostered to work as pleaded;
- (b) says further that, in accordance with cl. 26.1.2 of the 2013 Agreement, as pleaded in paragraph 9 above, the Neurology Sunshine / Footscray Rotation rosters factored in and allowed time for the performance of the duties and responsibilities admitted at paragraph 16(a) of the Defence.

Ward round preparation overtime

- 20. As to paragraph 20, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included ward round preparation;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Neurology Sunshine / Footscray Rotation roster factored in and allowed time for ward round preparation;
- (c) otherwise denies the allegations in paragraph 20.

- 21. As to paragraph 21, the respondent:

- (a) says that there were occasions where Dr Peel was present at the Sunshine and Footscray Hospitals outside of her rostered ordinary working hours;
- (b) says further that:
 - (i) in accordance with cl. 32.3 of the 2013 Agreement and cl. 36.3 of the 2018 Agreement, the respondent implemented a protocol (as amended from time to time) for, inter alia, the authorisation of and remuneration for unrostered overtime, being overtime outside of rostered ordinary working hours that was required due to a

demonstrable clinical need that could not be have been met by some other means
(**Unrostered Overtime**) (the **Western Health Overtime Protocol**);

Particulars

The Western Health Overtime Protocol comprised the Western Health Remuneration Policy dated August 2015 (see, in particular, section 7.3.2) (subsequently updated in November 2018) and the Western Health Junior Medical Unrostered Overtime Substantiation Form.

- (ii) to be eligible for payment for Unrostered Overtime, a Doctor in Training must submit "the appropriate Overtime Authorisation form", being the Junior Medical Unrostered Overtime Substantiation Form, (**Overtime Claim**) setting out:
- A. the date of the Unrostered Overtime;
 - B. the start time and finish time of the Unrostered Overtime;
 - C. the total Unrostered Overtime hours worked;
 - D. the details and reason for the Unrostered Overtime, including the patient name or UR and / or other relevant clinical information;
 - E. the individual who requested that the Doctor in Training complete the Unrostered Overtime (noting that Unrostered Overtime cannot be self-initiated);
 - F. the signature of the consultant or unit head who authorised the Unrostered Overtime;
 - G. the ward or area where the Unrostered Overtime was worked;
 - H. the cost centre to be charged for the Unrostered Overtime;
 - I. the signature of the Doctor in Training and the unit head or medical workforce unit officer certifying that:
 - 1) the Unrostered Overtime was due to a demonstrable clinical need that could not have been met by some other means and was essential to patient care;
 - 2) no other Hospital Medical Officer on duty could have appropriately provided the care.

Particulars

Junior Medical Unrostered Overtime Substantiation Form.

- (iii) in accordance with the Western Health Overtime Protocol, all claims for Unrostered Overtime must be authorised by the Line Manager and Director prior to the commencement of the Unrostered Overtime and / or no later than upon completion of the pay fortnight in which the Unrostered Overtime occurred.

Particulars

Junior Medical Unrostered Overtime Substantiation Form.

- (iv) on the proper construction of the Western Health Overtime Protocol, authorisation must be express, and not implied;
- (v) Dr Peel was aware of the Western Health Overtime Protocol and the respondent's approach to Unrostered Overtime;

Particulars

Dr Peel's Employment Contract dated 10 October 2015 stated that the Western Health policies and procedures (which vary from time to time) were located on the intranet and applied to Dr Peel's employment. Those policies and procedures included the:

- Western Health Remuneration Policy dated August 2015, which was available on the Western Health intranet during the period it was in force.
- Western Health Remuneration Policy dated November 2018, which was available on the Western Health intranet during the period it was in force.
- Junior Medical Unrostered Overtime Substantiation Form, which was available on the Western Health intranet at all relevant times.

The Western Health Overtime Protocol was also referred to during annual orientation sessions for Hospital Medical Officers and Registrars (which all Doctors in Training were directed to attend).

- (vi) if Dr Peel performed ward round preparation overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 21.

22. As to paragraph 22, the respondent:

- (a) refers to and repeats paragraphs 20 and 21 above;
- (b) otherwise denies the allegations in paragraph 22.

23. As to paragraph 23, the respondent:

- (a) refers to and repeats paragraphs 20, 21 and 22 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged ward round preparation overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any ward round preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of ward round preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 23.

24. As to paragraph 24, the respondent:

- (a) refers to and repeats paragraphs 20 to 23 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked ward round preparation overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;

- C. made an Overtime Claim for that ward round preparation overtime; and
 - D. was subsequently not paid;
- (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged ward round preparation overtime, then it ought be concluded that either:
- A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine or Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)A and (iii)B above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 24.
25. As to paragraph 25, the respondent:
- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;
 - (b) otherwise denies the allegations in paragraph 25.
26. As to paragraph 26, the respondent:
- (a) refers to and repeats paragraphs 20 to 25 above; and
 - (b) otherwise denies the allegations in paragraph 26.
27. As to paragraph 27, the respondent:

- (a) refers to and repeats paragraphs 20 to 25 above; and
- (b) otherwise denies the allegations in paragraph 27.

Handover overtime

28. As to paragraph 28, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included conducting handover of patient information;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Neurology Sunshine / Footscray Rotation roster factored in and allowed time for the conducting of handover of patient information;
- (c) says that the Western Health Overtime Protocol notes that Doctors in Training are responsible for handing over to the covering doctor at the end of a shift to enable continuity of care, and requires that this handover occurs at the earliest opportunity to enable Doctors in Training to finish their shift;

Particulars

Western Health Overtime Protocol at pages 1-2

- (d) otherwise denies the allegations in paragraph 28.

29. As to paragraph 29, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed handover overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 29.

30. As to paragraph 30, the respondent:

- (a) refers to and repeats paragraphs 28 and 29 above; and
- (b) otherwise denies the allegations in paragraph 30.

31. As to paragraph 31, the respondent:

- (a) refers to and repeats paragraphs 28, 29 and 30 above;
- (b) says that:

- (i) whether Dr Peel was authorised to work any alleged handover overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any handover overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of handover overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 31.

32. As to paragraph 32, the respondent:

- (a) refers to and repeats paragraphs 28 to 31 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked handover overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that handover overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged handover overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Sunshine or Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 32.

33. As to paragraph 33, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 33.

34. As to paragraph 34, the respondent:

(a) refers to and repeats paragraphs 28 to 33 above; and

(b) otherwise denies the allegations in paragraph 34.

35. As to paragraph 35, the respondent:

(a) refers to and repeats paragraphs 28 to 33 above; and

(b) otherwise denies the allegations in paragraph 35.

Medical emergencies

36. As to paragraph 104, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included attending to medical emergencies;
 - (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Neurology Sunshine / Footscray Rotation roster factored in and allowed time for attending to medical emergencies;
 - (c) otherwise denies the allegations in paragraph 36.
37. As to paragraph 37, the respondent:
- (a) refers to and repeats paragraph 21 above;
 - (b) says further that if Dr Peel performed medical emergency overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
 - (c) otherwise denies the allegations in paragraph 37.
38. As to paragraph 38, the respondent:
- (a) refers to and repeats paragraphs 36 and 37 above; and
 - (b) otherwise denies the allegations in paragraph 38.
39. As to paragraph 39, the respondent:
- (a) refers to and repeats paragraphs 36, 37 and 38 above;
 - (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical emergencies overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical emergency overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical emergency overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 39.

40. As to paragraph 40, the respondent:

(a) refers to and repeats paragraphs 36 to 39 above;

(b) says further that:

(i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;

(ii) Dr Peel has not provided particulars of any occasions on which she allegedly:

A. worked medical emergency overtime;

B. sought and received either advance or retrospective authorisation for such overtime;

C. made an Overtime Claim for that medical emergency overtime; and

D. was subsequently not paid;

(iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical emergency overtime, then it ought be concluded that either:

A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Sunshine or Footscray Hospitals for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 40.

41. As to paragraph 41, the respondent:

(a) says that if:

- (i) Dr Peel had made an Overtime Claim; and
- (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 41.

42. As to paragraph 42, the respondent:

- (a) refers to and repeats paragraphs 36 to 41 above; and
- (b) otherwise denies the allegations in paragraph 42.

43. As to paragraph 43, the respondent:

- (a) refers to and repeats paragraphs 36 to 41 above; and
- (b) otherwise denies the allegations in paragraph 43.

Medical communication overtime

44. As to paragraph 44, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included speaking with patients, patients' families and visitors about patients' treatment;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Neurology Sunshine / Footscray Rotation roster factored in and allowed time for speaking with patients, patients' families and visitors about patients' treatment;
- (c) otherwise denies the allegations in paragraph 44.

45. As to paragraph 45, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical communication overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 45.

46. As to paragraph 46, the respondent:

- (a) refers to and repeats paragraphs 44 and 45 above; and

(b) otherwise denies the allegations in paragraph 46.

47. As to paragraph 47, the respondent:

(a) refers to and repeats paragraphs 44, 45 and 46 above;

(b) says that:

(i) whether Dr Peel was authorised to work any alleged medical communication overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;

(ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical communication overtime no later than the completion of the pay fortnight in which the overtime occurred;

(iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical communication overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 47.

48. As to paragraph 48, the respondent:

(a) refers to and repeats paragraphs 44 to 47 above;

(b) says further that:

(i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;

(ii) Dr Peel has not provided particulars of any occasions on which she allegedly:

A. worked medical communication overtime;

B. sought and received either advance or retrospective authorisation for such overtime;

C. made an Overtime Claim for that medical communication overtime; and

- D. was subsequently not paid;
- (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical communication overtime, then it ought be concluded that either:
- A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine or Footscray Hospitals for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 48.
49. As to paragraph 49, the respondent:
- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;
 - (b) otherwise denies the allegations in paragraph 49.
50. As to paragraph 50, the respondent:
- (a) refers to and repeats paragraphs 44 to 49 above; and
 - (b) otherwise denies the allegations in paragraph 50.
51. As to paragraph 51, the respondent:
- (a) refers to and repeats paragraphs 44 to 49 above; and

- (b) otherwise denies the allegations in paragraph 51.

Medical records overtime

52. As to paragraph 52, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included completion of medical records;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Neurology Sunshine / Footscray Rotation roster factored in and allowed time for the completion of medical records;
- (c) otherwise denies the allegations in paragraph 52.

53. As to paragraph 53, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical records overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 53.

54. As to paragraph 54, the respondent:

- (a) refers to and repeats paragraphs 52 and 53 above; and
- (b) otherwise denies the allegations in paragraph 54.

55. As to paragraph 55, the respondent:

- (a) refers to and repeats paragraphs 52, 53 and 54 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical records overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical records overtime no later than the completion of the pay fortnight in which the overtime occurred;

(iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical records overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 55.

56. As to paragraph 56, the respondent:

(a) refers to and repeats paragraphs 54 to 55 above;

(b) says further that:

(i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;

(ii) Dr Peel has not provided particulars of any occasions on which she allegedly:

A. worked medical records overtime;

B. sought and received either advance or retrospective authorisation for such overtime;

C. made an Overtime Claim for that medical records overtime; and

D. was subsequently not paid;

(iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical records overtime, then it ought be concluded that either:

A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Sunshine or Footscray Hospitals for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 56.

57. As to paragraph 57, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 57.

58. As to paragraph 58, the respondent:

(a) refers to and repeats paragraphs 52 to 57 above; and

(b) otherwise denies the allegations in paragraph 58.

59. As to paragraph 59, the respondent:

(a) refers to and repeats paragraphs 52 to 58 above; and

(b) otherwise denies the allegations in paragraph 59.

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60. The respondent admits paragraph 60.

Rosters

61. As to paragraph 61, the respondent:

(a) admits that during the Nephrology Sunshine Rotation, Dr Peel was rostered to work as pleaded;

(b) says further that, in accordance with cl. 26.1.2 of the 2013 Agreement, as pleaded in paragraph 9 above, the Nephrology Sunshine Rotation rosters factored in and allowed time for the performance of the duties and responsibilities admitted at paragraph 16(a) of the Defence.

Ward round preparation overtime

62. As to paragraph 62, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included ward round preparation;
 - (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Nephrology Sunshine Rotation roster factored in and allowed time for ward round preparation;
 - (c) otherwise denies the allegations in paragraph 62.
63. As to paragraph 63, the respondent:
- (a) refers to and repeats paragraph 21 above;
 - (b) says further that if Dr Peel performed ward round preparation overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
 - (c) otherwise denies the allegations in paragraph 63.
64. As to paragraph 64, the respondent:
- (a) refers to and repeats paragraphs 62 and 63 above;
 - (b) otherwise denies the allegations in paragraph 64.
65. As to paragraph 65, the respondent:
- (a) refers to and repeats paragraphs 62, 63 and 64 above;
 - (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged ward round preparation overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any ward round preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of ward round preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 65.

66. As to paragraph 66, the respondent:

(a) refers to and repeats paragraphs 62 to 65 above;

(b) says further that:

(i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;

(ii) Dr Peel has not provided particulars of any occasions on which she allegedly:

A. worked ward round preparation overtime;

B. sought and received either advance or retrospective authorisation for such overtime;

C. made an Overtime Claim for that ward round preparation overtime; and

D. was subsequently not paid;

(iii) if Dr Peel did not make an Overtime Claim in respect of the alleged ward round preparation overtime, then it ought be concluded that either:

A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 66.

67. As to paragraph 67, the respondent:

(a) says that if:

- (i) Dr Peel had made an Overtime Claim; and
- (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 67.

68. As to paragraph 68, the respondent:

- (a) refers to and repeats paragraphs 62 to 67 above; and
- (b) otherwise denies the allegations in paragraph 68.

69. As to paragraph 69, the respondent:

- (a) refers to and repeats paragraphs 62 to 68 above; and
- (b) otherwise denies the allegations in paragraph 69.

Handover overtime

70. As to paragraph 70, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included conducting handover of patient information;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Nephrology Sunshine Rotation roster factored in and allowed time for the conducting of handover of patient information;
- (c) says that the Western Health Overtime Protocol notes that Doctors in Training are responsible for handing over to the covering doctor at the end of a shift to enable continuity of care, and requires that this handover occurs at the earliest opportunity to enable Doctors in Training to finish their shift;

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- (d) otherwise denies the allegations in paragraph 70.

71. As to paragraph 71, the respondent:

- (a) refers to and repeats paragraphs 21 above;

- (b) says further that if Dr Peel performed handover overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 71.

72. As to paragraph 72, the respondent:

- (a) refers to and repeats paragraphs 70 and 71 above; and
- (b) otherwise denies the allegations in paragraph 72.

73. As to paragraph 73, the respondent:

- (a) refers to and repeats paragraphs 70, 71 and 72 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged handover overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any handover overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of handover overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 73.

74. As to paragraph 74, the respondent:

- (a) refers to and repeats paragraphs 70 to 73 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;

- (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked handover overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that handover overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged handover overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(B) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 74.

75. As to paragraph 75, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 75.

76. As to paragraph 76, the respondent:

- (a) refers to and repeats paragraphs 70 to 75 above; and
- (b) otherwise denies the allegations in paragraph 76.

77. As to paragraph 77, the respondent:

- (a) refers to and repeats paragraphs 70 to 76 above; and
- (b) otherwise denies the allegations in paragraph 77.

Medical emergency overtime

78. As to paragraph 78, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included attending to medical emergencies;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Nephrology Sunshine Rotation roster factored in and allowed time for attending to medical emergencies;
- (c) otherwise denies the allegations in paragraph 78.

79. As to paragraph 79, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical emergency overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 79.

80. As to paragraph 80, the respondent:

- (a) refers to and repeats paragraphs 78 and 79 above; and
- (b) otherwise denies the allegations in paragraph 80.

81. As to paragraph 81, the respondent:

- (a) refers to and repeats paragraphs 78, 79 and 80 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical emergency overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;

- (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical emergency overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical emergency overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 81.

82. As to paragraph 40, the respondent:

- (a) refers to and repeats paragraphs 78 to 81 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical emergency overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that medical emergency overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical emergency overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means,

including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 82.

83. As to paragraph 83, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 83.

84. As to paragraph 84, the respondent:

(a) refers to and repeats paragraphs 78 to 83 above; and

(b) otherwise denies the allegations in paragraph 84.

85. As to paragraph 85, the respondent:

(a) refers to and repeats paragraphs 78 to 84 above; and

(b) otherwise denies the allegations in paragraph 85.

Medical records overtime

86. As to paragraph 86, the respondent:

(a) admits that Dr Peel's duties and responsibilities when providing medical services included completion of medical records;

(b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Nephrology Sunshine Rotation roster factored in and allowed time for the completion of medical records;

(c) otherwise denies the allegations in paragraph 86.

87. As to paragraph 87, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical records overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 87.

88. As to paragraph 88, the respondent:

- (a) refers to and repeats paragraphs 86 and 87 above; and
- (b) otherwise denies the allegations in paragraph 88.

89. As to paragraph 89, the respondent:

- (a) refers to and repeats paragraphs 86, 87 and 88 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical records overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical records overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical records overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 89.

90. As to paragraph 90, the respondent:

- (a) refers to and repeats paragraphs 86 to 89 above;
- (b) says further that:

- (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical records overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that medical records overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical records overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 90.

91. As to paragraph 91, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 91.

92. As to paragraph 92, the respondent:

(a) refers to and repeats paragraphs 86 to 91 above; and

(b) otherwise denies the allegations in paragraph 92.

93. As to paragraph 93, the respondent:

(a) refers to and repeats paragraphs 86 to 92 above; and

(b) otherwise denies the allegations in paragraph 93.

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94. The respondent admits paragraph 94.

Rosters

95. As to paragraph 95, the respondent:

(a) admits that during the Aged Care Sunshine Rotation, Dr Peel was rostered to work as pleaded;

(b) says further that, in accordance with cl. 26.1.2 of the 2013 Agreement, as pleaded in paragraph 9 above, the Aged Care Sunshine Rotation rosters factored in and allowed time for the performance of the duties and responsibilities admitted at paragraph 16(a) of the Defence.

Ward round preparation overtime

96. As to paragraph 96, the respondent:

(a) admits that Dr Peel's duties and responsibilities when providing medical services included ward round preparation;

(b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Aged Care Sunshine Rotation roster factored in and allowed time for ward round preparation;

(c) otherwise denies the allegations in paragraph 96.

97. As to paragraph 97, the respondent:

(a) refers to and repeats paragraph 21 above;

- (b) says further that if Dr Peel performed ward round preparation overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
 - (c) otherwise denies the allegations in paragraph 97.
98. As to paragraph 98, the respondent:
- (a) refers to and repeats paragraphs 96 and 97 above;
 - (b) otherwise denies the allegations in paragraph 98.
99. As to paragraph 99, the respondent:
- (a) refers to and repeats paragraphs 96, 97 and 98 above;
 - (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged ward round preparation overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any ward round preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of ward round preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
 - (c) otherwise denies the allegations in paragraph 99.
100. As to paragraph 100, the respondent:
- (a) refers to and repeats paragraphs 96 to 99 above;
 - (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;

- (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked ward round preparation overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that ward round preparation overtime; and
 - D. was subsequently not paid;
- (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged ward round preparation overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 100.

101. As to paragraph 101, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 101.

102. As to paragraph 102, the respondent:

- (a) refers to and repeats paragraphs 96 to 101 above; and
- (b) otherwise denies the allegations in paragraph 102.

103. As to paragraph 103, the respondent:

- (a) refers to and repeats paragraphs 96 to 102 above; and
- (b) otherwise denies the allegations in paragraph 103.

Medical emergency overtime

104. As to paragraph 104, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included attending to medical emergencies;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Aged Care Sunshine Rotation roster factored in and allowed time for attending to medical emergencies;
- (c) otherwise denies the allegations in paragraph 104.

105. As to paragraph 105, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical emergency overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 105.

106. As to paragraph 106, the respondent:

- (a) refers to and repeats paragraphs 104 and 104(c) above; and
- (b) otherwise denies the allegations in paragraph 106.

107. As to paragraph 107, the respondent:

- (a) refers to and repeats paragraphs 104, 104(c) and 106 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical emergency overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;

- (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical emergency overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical emergency overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 107.

108. As to paragraph 108, the respondent:

- (a) refers to and repeats paragraphs 104 to 107 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical emergency overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that medical emergency overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical emergency overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine or Footscray Hospitals for reasons other than due to a demonstrable clinical need that could not have been met by

other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

D. further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 108.

109. As to paragraph 109, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 109.

110. As to paragraph 110, the respondent:

(a) refers to and repeats paragraphs 104 to 109 above; and

(b) otherwise denies the allegations in paragraph 110.

111. As to paragraph 111, the respondent:

(a) refers to and repeats paragraphs 104 to 110 above; and

(b) otherwise denies the allegations in paragraph 111.

Medical records overtime

112. As to paragraph 112, the respondent:

(a) admits that Dr Peel's duties and responsibilities when providing medical services included completion of medical records;

(b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Aged Care Sunshine Rotation roster factored in and allowed time for the completion of medical records;

(c) otherwise denies the allegations in paragraph 112.

113. As to paragraph 113, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical records overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 113.

114. As to paragraph 114, the respondent:

- (a) refers to and repeats paragraphs 112 and 113 above; and
- (b) otherwise denies the allegations in paragraph 114.

115. As to paragraph 115, the respondent:

- (a) refers to and repeats paragraphs 112, 113 and 114 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical records overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical records overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical records overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 115.

116. As to paragraph 116, the respondent:

- (a) refers to and repeats paragraphs 112 to 115 above;
- (b) says further that:

- (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical records overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that medical records overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical records overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 116.

117. As to paragraph 117, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 117.

118. As to paragraph 118, the respondent:

- (a) refers to and repeats paragraphs 112 to 117 above; and
- (b) otherwise denies the allegations in paragraph 118.

119. As to paragraph 119, the respondent:

- (a) refers to and repeats paragraphs 112 to 118 above; and
- (b) otherwise denies the allegations in paragraph 119.

Handover overtime

120. As to paragraph 120, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included conducting handover of patient information;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Aged Care Sunshine Rotation roster factored in and allowed time for the conducting of handover of patient information;
- (c) says that the Western Health Overtime Protocol notes that Doctors in Training are responsible for handing over to the covering doctor at the end of a shift to enable continuity of care, and requires that this handover occurs at the earliest opportunity to enable Doctors in Training to finish their shift;

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- (d) otherwise denies the allegations in paragraph 120.

121. As to paragraph 121, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed handover overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 121.

122. As to paragraph 122, the respondent:

- (a) refers to and repeats paragraphs 120 and 121 above; and
- (b) otherwise denies the allegations in paragraph 122.

123. As to paragraph 123, the respondent:

- (a) refers to and repeats paragraphs 120, 121 and 123 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged handover overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any handover overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of handover overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 123.

124. As to paragraph 124, the respondent:

- (a) refers to and repeats paragraphs 120 to 123 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked handover overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;

- C. made an Overtime Claim for that handover overtime; and
 - D. was subsequently not paid;
- (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged handover overtime, then it ought be concluded that either:
- A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine or Footscray Hospitals for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 124.

125. As to paragraph 125, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 125.

126. As to paragraph 126, the respondent:

- (a) refers to and repeats paragraphs 120 to 125 above; and
- (b) otherwise denies the allegations in paragraph 126.

127. As to paragraph 127, the respondent:

- (a) refers to and repeats paragraphs 120 to 126 above; and
- (b) otherwise denies the allegations in paragraph 127.

Medical communication overtime

128. As to paragraph 128, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included speaking with patients, patients' families and visitors about patients' treatment;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Aged Care Sunshine Rotation roster factored in and allowed time for speaking with patients, patients' families and visitors about patients' treatment;
- (c) otherwise denies the allegations in paragraph 128.

129. As to paragraph 129, the respondent:

- (a) says that there were occasions where Dr Peel was present at Sunshine Hospital during the Aged Care Sunshine Rotation outside of her rostered ordinary working hours;
- (b) refers to and repeats paragraph 21 above;
- (c) says further that if Dr Peel performed medical communication overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (d) otherwise denies the allegations in paragraph 129.

130. As to paragraph 130, the respondent:

- (a) refers to and repeats paragraphs 128 and 129 above; and
- (b) otherwise denies the allegations in paragraph 130.

131. As to paragraph 131, the respondent:

- (a) refers to and repeats paragraphs 128, 129 and 130 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical communication overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;

- (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical communication overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical communication overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 131.

132. As to paragraph 132, the respondent:

- (a) refers to and repeats paragraphs 128 to 131 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical communication overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that medical communication overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical communication overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine or Footscray Hospitals for reasons other than due to a demonstrable clinical need that could not have been met by

other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

D. further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(B) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 132.

133. As to paragraph 133, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 133.

134. As to paragraph 134, the respondent:

(a) refers to and repeats paragraphs 128 to 133 above; and

(b) otherwise denies the allegations in paragraph 134.

135. As to paragraph 135, the respondent:

(a) refers to and repeats paragraphs 128 to 134 above; and

(b) otherwise denies the allegations in paragraph 135.

Admissions overtime

136. As to paragraph 136, the respondent:

(a) admits that Dr Peel's duties and responsibilities when providing medical services included performing patient admissions into the Aged Care department;

(b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Aged Care Sunshine Rotation roster factored in and allowed time for admitting patients into the Aged Care department;

(c) otherwise denies the allegations in paragraph 136.

137. As to paragraph 137, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed admissions overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 137.

138. As to paragraph 138, the respondent:

- (a) refers to and repeats paragraphs 136 and 137 above; and
- (b) otherwise denies the allegations in paragraph 138.

139. As to paragraph 139, the respondent:

- (a) refers to and repeats paragraphs 136, 137 and 138 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged admissions overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any admissions overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of admissions overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 139.

140. As to paragraph 140, the respondent:

- (a) refers to and repeats paragraphs 136 to 139 above;
- (b) says further that:

- (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked admissions overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that admissions overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged admissions overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 140.

141. As to paragraph 141, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 141.

142. As to paragraph 142, the respondent:

(a) refers to and repeats paragraphs 136 to 141 above; and

(b) otherwise denies the allegations in paragraph 142.

143. As to paragraph 143, the respondent:

(a) refers to and repeats paragraphs 136 to 142 above; and

(b) otherwise denies the allegations in paragraph 143.

Other medical services overtime

144. As to paragraph 144, the respondent:

(a) admits that Dr Peel's duties and responsibilities when providing medical services included undertaking specific tasks relating to patient care;

(b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Aged Care Sunshine Rotation roster factored in and allowed time for undertaking specific tasks relating to patient care;

(c) otherwise denies the allegations in paragraph 144.

145. As to paragraph 145, the respondent:

(a) refers to and repeats paragraph 21 above;

(b) says further that if Dr Peel performed patient care overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;

(c) otherwise denies the allegations in paragraph 145.

146. As to paragraph 146, the respondent:

(a) refers to and repeats paragraphs 144 and 145 above; and

(b) otherwise denies the allegations in paragraph 146.

147. As to paragraph 147, the respondent:

(a) refers to and repeats paragraphs 144, 145 and 146 above;

(b) says that:

- (i) whether Dr Peel was authorised to work any alleged patient care overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any patient care overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of patient care overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 147.

148. As to paragraph 148, the respondent:

- (a) refers to and repeats paragraphs 144 to 147 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked patient care overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that patient care overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged patient care overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;

- B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
- C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- D. further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 148.

149. As to paragraph 149, the respondent:

(a) says that if:

- (i) Dr Peel had made an Overtime Claim; and
- (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 149.

150. As to paragraph 150, the respondent:

- (a) refers to and repeats paragraphs 144 to 148 above; and
- (b) otherwise denies the allegations in paragraph 150.

151. As to paragraph 151, the respondent:

- (a) refers to and repeats paragraphs 144 to 150 above; and
- (b) otherwise denies the allegations in paragraph 151.

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152. The respondent admits paragraph 152.

Rosters

153. As to paragraph 153, the respondent:

- (a) admits that during the General Medicine Sunshine Rotation, Dr Peel was rostered to work as pleaded;
- (b) says further that, in accordance with cl. 26.1.2 of the 2013 Agreement, as pleaded in paragraph 9 above, the General Medicine Sunshine Rotation rosters factored in and allowed time for the performance of the duties and responsibilities admitted at paragraph 16(a) of the Defence.

Ward rounds overtime

154. As to paragraph 154, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included undertaking ward rounds;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the General Medicine Sunshine Rotation roster factored in and allowed time for undertaking ward rounds;
- (c) otherwise denies the allegations in paragraph 154.

155. As to paragraph 155, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed ward rounds overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 155.

156. As to paragraph 156, the respondent:

- (a) refers to and repeats paragraphs 154 and 155 above;
- (b) otherwise denies the allegations in paragraph 156.

157. As to paragraph 157, the respondent:

- (a) refers to and repeats paragraphs 154, 155 and 156 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged ward rounds overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that

could not be met by other means) depends on the circumstances of each alleged occasion;

- (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any ward rounds overtime no later than the completion of the pay fortnight in which the overtime occurred;
- (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of ward rounds overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 157.

158. As to paragraph 158, the respondent:

- (a) refers to and repeats paragraphs 154 to 157 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked ward rounds overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that ward rounds overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged ward rounds overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

- C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- D. further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 158.

159. As to paragraph 159, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 159.

160. As to paragraph 160, the respondent:

- (a) refers to and repeats paragraphs 154 to 159 above; and
- (b) otherwise denies the allegations in paragraph 160.

161. As to paragraph 161, the respondent:

- (a) refers to and repeats paragraphs 154 to 160 above; and
- (b) otherwise denies the allegations in paragraph 161.

Ward round preparation overtime

162. As to paragraph 162, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included ward round preparation;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Aged Care Sunshine Rotation roster factored in and allowed time for ward round preparation;

(c) otherwise denies the allegations in paragraph 162.

163. As to paragraph 163, the respondent:

(a) refers to and repeats paragraph 21 above;

(b) says further that:

(i) if Dr Peel performed ward round preparation overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;

(ii) otherwise denies the allegations in paragraph 163.

164. As to paragraph 164, the respondent:

(a) refers to and repeats paragraphs 162 and 163 above;

(b) otherwise denies the allegations in paragraph 164.

165. As to paragraph 165, the respondent:

(a) refers to and repeats paragraphs 162, 163 and 164 above;

(b) says that:

(i) whether Dr Peel was authorised to work any alleged ward round preparation overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;

(ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any ward round preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;

(iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of ward round preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 165.

166. As to paragraph 166, the respondent:

- (a) refers to and repeats paragraphs 162 to 165 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked ward round preparation overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that ward round preparation overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged ward round preparation overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 166.

167. As to paragraph 167, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 167.

168. As to paragraph 168, the respondent:

(a) refers to and repeats paragraphs 162 to 167 above; and

(b) otherwise denies the allegations in paragraph 168.

169. As to paragraph 169, the respondent:

(a) refers to and repeats paragraphs 162 to 168 above; and

(b) otherwise denies the allegations in paragraph 169.

Admissions overtime

170. As to paragraph 170, the respondent:

(a) admits that Dr Peel's duties and responsibilities when providing medical services included performing patient admissions;

(b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the General Medicine Sunshine Rotation roster factored in and allowed time for admitting patients;

(c) otherwise denies the allegations in paragraph 170.

171. As to paragraph 171, the respondent:

(a) refers to and repeats paragraph 21 above;

(b) says further that if Dr Peel performed admissions overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;

(c) otherwise denies the allegations in paragraph 171.

172. As to paragraph 172, the respondent:

(a) refers to and repeats paragraphs 170 and 171 above; and

(b) otherwise denies the allegations in paragraph 172.

173. As to paragraph 173, the respondent:

(a) refers to and repeats paragraphs 170, 171 and 172 above;

- (b) says that:
- (i) whether Dr Peel was authorised to work any alleged admissions overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any admissions overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of admissions overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 173.

174. As to paragraph 174, the respondent:

- (a) refers to and repeats paragraphs 170 to 173 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked admissions overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that admissions overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged admissions overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 174.

175. As to paragraph 175, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 175.

176. As to paragraph 176, the respondent:

(a) refers to and repeats paragraphs 170 to 175 above; and

(b) otherwise denies the allegations in paragraph 176.

177. As to paragraph 177, the respondent:

(a) refers to and repeats paragraphs 170 to 176 above; and

(b) otherwise denies the allegations in paragraph 177.

Medical records overtime

178. As to paragraph 178, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included completion of medical records;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the General Medicine Sunshine Rotation roster factored in and allowed time for the completion of medical records;
- (c) otherwise denies the allegations in paragraph 178.

179. As to paragraph 179, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical records overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 179.

180. As to paragraph 180, the respondent:

- (a) refers to and repeats paragraphs 178 and 179 above; and
- (b) otherwise denies the allegations in paragraph 180.

181. As to paragraph 181, the respondent:

- (a) refers to and repeats paragraphs 178, 179 and 180 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical records overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical records overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical records overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 181.

182. As to paragraph 182, the respondent:

- (a) refers to and repeats paragraphs 178 to 181 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical records overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that medical records overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical records overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - D. further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 182.

183. As to paragraph 183, the respondent:

- (a) says that if:

- (i) Dr Peel had made an Overtime Claim; and
- (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 183.

184. As to paragraph 184, the respondent:

- (a) refers to and repeats paragraphs 178 to 183 above; and
- (b) otherwise denies the allegations in paragraph 184.

185. As to paragraph 185, the respondent:

- (a) refers to and repeats paragraphs 178 to 184 above; and
- (b) otherwise denies the allegations in paragraph 185.

Medical emergency overtime

186. As to paragraph 186, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included attending to medical emergencies;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the General Medicine Sunshine Rotation roster factored in and allowed time for attending to medical emergencies;
- (c) otherwise denies the allegations in paragraph 186.

187. As to paragraph 187, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical emergency overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 187.

188. As to paragraph 188, the respondent:

- (a) refers to and repeats paragraphs 186 and 186(c) above; and

- (b) otherwise denies the allegations in paragraph 188.

189. As to paragraph 189, the respondent:

- (a) refers to and repeats paragraphs 186, 186(c) and 188 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical emergency overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical emergency overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical emergency overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 189.

190. As to paragraph 190, the respondent:

- (a) refers to and repeats paragraphs 186 to 189 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical emergency overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that medical emergency overtime; and

- D. was subsequently not paid;
- (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical emergency overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine or Footscray Hospitals for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs 40(b)(iii)A and 40(b)(iii)B above for the reasons in paragraphs 284 to 296 below;
- (c) otherwise denies the allegations in paragraph 190.

191. As to paragraph 191, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 191.

192. As to paragraph 192, the respondent:

- (a) refers to and repeats paragraphs 186 to 191 above; and
- (b) otherwise denies the allegations in paragraph 192.

193. As to paragraph 193, the respondent:

- (a) refers to and repeats paragraphs 186 to 192 above; and

- (b) otherwise denies the allegations in paragraph 193.

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194. The respondent admits paragraph 194.

Rosters

195. As to paragraph 195, the respondent:

- (a) admits that during the Neurology Sunshine Rotation, Dr Peel was rostered to work as pleaded;
- (b) says further that, in accordance with cl. 26.1.2 of the 2013 Agreement, as pleaded in paragraph 9 above, the Neurology Sunshine Rotation rosters factored in and allowed time for the performance of the duties and responsibilities admitted at paragraph 16(a) of the Defence.

Ward round preparation overtime

196. As to paragraph 196, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included ward round preparation;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Neurology Sunshine Rotation roster factored in and allowed time for ward round preparation;
- (c) otherwise denies the allegations in paragraph 196.

197. As to paragraph 197, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed ward round preparation overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 197.

198. As to paragraph 198, the respondent:

- (a) refers to and repeats paragraphs 196 and 197 above;
- (b) otherwise denies the allegations in paragraph 198.

199. As to paragraph 199, the respondent:

- (a) refers to and repeats paragraphs 196, 197 and 198 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged ward round preparation overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any ward round preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of ward round preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 199.

200. As to paragraph 200, the respondent:

- (a) refers to and repeats paragraphs 196 to 199 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked ward round preparation overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that ward round preparation overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged ward round preparation overtime, then it ought be concluded that either:

- A. Dr Peel did not work such overtime;
- B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
- C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 200.

201. As to paragraph 201, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 201.

202. As to paragraph 202, the respondent:

- (a) refers to and repeats paragraphs 196 to 201 above; and
- (b) otherwise denies the allegations in paragraph 202.

203. As to paragraph 203, the respondent:

- (a) refers to and repeats paragraphs 196 to 202 above; and
- (b) otherwise denies the allegations in paragraph 203.

Handover overtime

204. As to paragraph 204, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included conducting handover of patient information;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Neurology Sunshine Rotation roster factored in and allowed time for the conducting of handover of patient information;
- (c) says that the Western Health Overtime Protocol notes that Doctors in Training are responsible for handing over to the covering doctor at the end of a shift to enable continuity of care, and requires that this handover occurs at the earliest opportunity to enable Doctors in Training to finish their shift;

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- (d) otherwise denies the allegations in paragraph 204.

205. As to paragraph 205, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed handover overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 205.

206. As to paragraph 206, the respondent:

- (a) refers to and repeats paragraphs 204 and 205 above; and
- (b) otherwise denies the allegations in paragraph 206.

207. As to paragraph 207, the respondent:

- (a) refers to and repeats paragraphs 204, 205 and 206 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged handover overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr

Peel performing the work, Dr Peel was required to seek authorisation for any handover overtime no later than the completion of the pay fortnight in which the overtime occurred;

- (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of handover overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

- (c) otherwise denies the allegations in paragraph 207.

208. As to paragraph 208, the respondent:

- (a) refers to and repeats paragraphs 204 to 207 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked handover overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that handover overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged handover overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 208.

209. As to paragraph 209, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 209.

210. As to paragraph 210, the respondent:

(a) refers to and repeats paragraphs 204 to 209 above; and

(b) otherwise denies the allegations in paragraph 210.

211. As to paragraph 211, the respondent:

(a) refers to and repeats paragraphs 204 to 210 above; and

(b) otherwise denies the allegations in paragraph 211.

Medical emergency overtime

212. As to paragraph 212, the respondent:

(a) admits that Dr Peel's duties and responsibilities when providing medical services included attending to medical emergencies;

(b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Neurology Sunshine Rotation roster factored in and allowed time for attending to medical emergencies;

(c) otherwise denies the allegations in paragraph 212.

213. As to paragraph 213, the respondent:

(a) refers to and repeats paragraph 21 above;

- (b) says further that if Dr Peel performed medical emergency overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 213.

214. As to paragraph 214, the respondent:

- (a) refers to and repeats paragraphs 212 and 212(c) above; and
- (b) otherwise denies the allegations in paragraph 214.

215. As to paragraph 215, the respondent:

- (a) refers to and repeats paragraphs 212, 212(c) and 214 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical emergency overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical emergency overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical emergency overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 215.

216. As to paragraph 216, the respondent:

- (a) refers to and repeats paragraphs 212 to 215 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;

- (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical emergency overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that medical emergency overtime; and
 - D. was subsequently not paid;
- (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical emergency overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 216.

217. As to paragraph 217, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 217.

218. As to paragraph 218, the respondent:

- (a) refers to and repeats paragraphs 212 to 217 above; and
- (b) otherwise denies the allegations in paragraph 218.

219. As to paragraph 219, the respondent:

- (a) refers to and repeats paragraphs 212 to 218 above; and
- (b) otherwise denies the allegations in paragraph 219.

Medical communication overtime

220. As to paragraph 220, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included speaking with patients, patients' families and visitors about patients' treatment;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Neurology Sunshine Rotation roster factored in and allowed time for speaking with patients, patients' families and visitors about patients' treatment;
- (c) otherwise denies the allegations in paragraph 220.

221. As to paragraph 221, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical communication overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 221.

222. As to paragraph 222, the respondent:

- (a) refers to and repeats paragraphs 220 and 221 above; and
- (b) otherwise denies the allegations in paragraph 222.

223. As to paragraph 223, the respondent:

- (a) refers to and repeats paragraphs 220, 221 and 222 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical communication overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical

need that could not be met by other means) depends on the circumstances of each alleged occasion;

- (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical communication overtime no later than the completion of the pay fortnight in which the overtime occurred;
- (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical communication overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 223.

224. As to paragraph 224, the respondent:

- (a) refers to and repeats paragraphs 220 to 223 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical communication overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that medical communication overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical communication overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Sunshine or Footscray Hospitals for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 224.

225. As to paragraph 225, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 225.

226. As to paragraph 226, the respondent:

(a) refers to and repeats paragraphs 220 to 225 above; and

(b) otherwise denies the allegations in paragraph 226.

227. As to paragraph 227, the respondent:

(a) refers to and repeats paragraphs 220 to 226 above; and

(b) otherwise denies the allegations in paragraph 227.

Medical records overtime

228. As to paragraph 228, the respondent:

(a) admits that Dr Peel's duties and responsibilities when providing medical services included completion of medical records;

(b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Neurology Sunshine Rotation roster factored in and allowed time for the completion of medical records;

- (c) otherwise denies the allegations in paragraph 228.

229. As to paragraph 229, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical records overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 229.

230. As to paragraph 230, the respondent:

- (a) refers to and repeats paragraphs 228 and 229 above; and
- (b) otherwise denies the allegations in paragraph 230.

231. As to paragraph 231, the respondent:

- (a) refers to and repeats paragraphs 228, 229 and 230 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical records overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical records overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical records overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 231.

232. As to paragraph 232, the respondent:

- (a) refers to and repeats paragraphs 228 to 231 above;

- (b) says further that:
- (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical records overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that medical records overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical records overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 232.

233. As to paragraph 233, the respondent:

- (a) says that if:
- (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 233.

234. As to paragraph 234, the respondent:

(a) refers to and repeats paragraphs 228 to 233 above; and

(b) otherwise denies the allegations in paragraph 234.

235. As to paragraph 235, the respondent:

(a) refers to and repeats paragraphs 228 to 234 above; and

(b) otherwise denies the allegations in paragraph 235.

Admissions overtime

236. As to paragraph 236, the respondent:

(a) admits that Dr Peel's duties and responsibilities when providing medical services included performing patient admissions into the Neurology department;

(b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Neurology Sunshine Rotation roster factored in and allowed time for admitting patients into the Neurology department;

(c) otherwise denies the allegations in paragraph 236.

237. As to paragraph 237, the respondent:

(a) refers to and repeats paragraph 21 above;

(b) says further that if Dr Peel performed admissions overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;

(c) otherwise denies the allegations in paragraph 237.

238. As to paragraph 238, the respondent:

(a) refers to and repeats paragraphs 236 and 237 above; and

(b) otherwise denies the allegations in paragraph 238.

239. As to paragraph 239, the respondent:

- (a) refers to and repeats paragraphs 236, 237 and 238 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged admissions overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any admissions overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of admissions overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 239.

240. As to paragraph 240, the respondent:

- (a) refers to and repeats paragraphs 236 to 239 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked admissions overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that admissions overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged admissions overtime, then it ought be concluded that either:

- A. Dr Peel did not work such overtime;
- B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
- C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 240.

241. As to paragraph 241, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 241.

242. As to paragraph 242, the respondent:

- (a) refers to and repeats paragraphs 236 to 241 above; and
- (b) otherwise denies the allegations in paragraph 242.

243. As to paragraph 243, the respondent:

- (a) refers to and repeats paragraphs 236 to 242 above; and
- (b) otherwise denies the allegations in paragraph 243.

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244. The respondent admits paragraph 244.

Rosters

245. As to paragraph 245, the respondent:

- (a) admits that during the Infectious Diseases Sunshine / Footscray Rotation, Dr Peel was rostered to work as pleaded;
- (b) says further that, in accordance with cl. 26.1.2 of the 2013 Agreement, as pleaded in paragraph 9 above, the Infectious Diseases Sunshine / Footscray Rotation rosters factored in and allowed time for the performance of the duties and responsibilities admitted at paragraph 16(a) of the Defence.

Other medical services overtime

246. As to paragraph 246, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included undertaking specific tasks relating to patient care;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Infectious Diseases Sunshine / Footscray Rotation roster factored in and allowed time for undertaking specific tasks relating to patient care;
- (c) otherwise denies the allegations in paragraph 246.

247. As to paragraph 247, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed patient care overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 247.

248. As to paragraph 248, the respondent:

- (a) refers to and repeats paragraphs 246 and 247 above; and
- (b) otherwise denies the allegations in paragraph 248.

249. As to paragraph 249, the respondent:

- (a) refers to and repeats paragraphs 246, 247 and 248 above;
- (b) says that:

- (i) whether Dr Peel was authorised to work any alleged patient care overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any patient care overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of patient care overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 249.

250. As to paragraph 250, the respondent:

- (a) refers to and repeats paragraphs 246 to 249 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked patient care overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that patient care overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged patient care overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 250.

251. As to paragraph 251, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 251.

252. As to paragraph 252, the respondent:

(a) refers to and repeats paragraphs 246 to 251 above; and

(b) otherwise denies the allegations in paragraph 252.

253. As to paragraph 253, the respondent:

(a) refers to and repeats paragraphs 246 to 252 above; and

(b) otherwise denies the allegations in paragraph 253.

Ward round preparation overtime

254. As to paragraph 254, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included ward round preparation;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement the Infectious Diseases Sunshine / Footscray Rotation roster factored in and allowed time for ward round preparation;
- (c) otherwise denies the allegations in paragraph 254.

255. As to paragraph 255, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that:
 - (i) if Dr Peel performed ward round preparation overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
 - (ii) otherwise denies the allegations in paragraph 255.

256. As to paragraph 256, the respondent:

- (a) refers to and repeats paragraphs 254 and 255 above;
- (b) otherwise denies the allegations in paragraph 256.

257. As to paragraph 257, the respondent:

- (a) refers to and repeats paragraphs 254, 255 and 256 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged ward round preparation overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any ward round preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of ward round preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance

authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 257.

258. As to paragraph 258, the respondent:

(a) refers to and repeats paragraphs 254 to 257 above;

(b) says further that:

(i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;

(ii) Dr Peel has not provided particulars of any occasions on which she allegedly:

A. worked ward round preparation overtime;

B. sought and received either advance or retrospective authorisation for such overtime;

C. made an Overtime Claim for that ward round preparation overtime; and

D. was subsequently not paid;

(iii) if Dr Peel did not make an Overtime Claim in respect of the alleged ward round preparation overtime, then it ought be concluded that either:

A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 258.

259. As to paragraph 259, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;
- (b) otherwise denies the allegations in paragraph 259.

260. As to paragraph 260, the respondent:

- (a) refers to and repeats paragraphs 254 to 259 above; and
- (b) otherwise denies the allegations in paragraph 260.

261. As to paragraph 261, the respondent:

- (a) refers to and repeats paragraphs 254 to 260 above; and
- (b) otherwise denies the allegations in paragraph 261.

Admissions overtime

262. As to paragraph 262, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included performing patient admissions into the Infectious Diseases department;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Infectious Diseases Sunshine / Footscray Rotation roster factored in and allowed time for admitting patients into the Infectious Diseases department;
- (c) otherwise denies the allegations in paragraph 262.

263. As to paragraph 263, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed admissions overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 263.

264. As to paragraph 264, the respondent:

- (a) refers to and repeats paragraphs 262 and 263 above; and
- (b) otherwise denies the allegations in paragraph 264.

265. As to paragraph 265, the respondent:

- (a) refers to and repeats paragraphs 262, 263 and 264 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged admissions overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any admissions overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of admissions overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 265.

266. As to paragraph 266, the respondent:

- (a) refers to and repeats paragraphs 262 to 265 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked admissions overtime;

- B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that admissions overtime; and
 - D. was subsequently not paid;
- (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged admissions overtime, then it ought be concluded that either:
- A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine or Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 266.

267. As to paragraph 267, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 267.

268. As to paragraph 268, the respondent:

- (a) refers to and repeats paragraphs 262 to 267 above; and
- (b) otherwise denies the allegations in paragraph 268.

269. As to paragraph 269, the respondent:

- (a) refers to and repeats paragraphs 262 to 268 above; and
- (b) otherwise denies the allegations in paragraph 269.

Handover overtime

270. As to paragraph 270, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included conducting handover of patient information;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Infectious Diseases Sunshine / Footscray Rotation roster factored in and allowed time for the conducting of handover of patient information;
- (c) says that the Western Health Overtime Protocol notes that Doctors in Training are responsible for handing over to the covering doctor at the end of a shift to enable continuity of care, and requires that this handover occurs at the earliest opportunity to enable Doctors in Training to finish their shift;

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- (d) otherwise denies the allegations in paragraph 270.

271. As to paragraph 271, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed handover overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 271.

272. As to paragraph 272, the respondent:

- (a) refers to and repeats paragraphs 270 and 271 above; and
- (b) otherwise denies the allegations in paragraph 272.

273. As to paragraph 273, the respondent:

- (a) refers to and repeats paragraphs 270, 271 and 272 above;

- (b) says that:
- (i) whether Dr Peel was authorised to work any alleged handover overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any handover overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of handover overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 273.

274. As to paragraph 274, the respondent:

- (a) refers to and repeats paragraphs 270 to 273 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked handover overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that handover overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged handover overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Sunshine or Footscray Hospitals for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 274.

275. As to paragraph 275, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 275.

276. As to paragraph 276, the respondent:

(a) refers to and repeats paragraphs 270 to 275 above; and

(b) otherwise denies the allegations in paragraph 276.

277. As to paragraph 277, the respondent:

(a) refers to and repeats paragraphs 270 to 276 above; and

(b) otherwise denies the allegations in paragraph 277.

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278. The respondent admits paragraph 278.

Rosters

279. As to paragraph 279, the respondent:

- (a) admits that during the Oncology Sunshine Rotation, Dr Peel was rostered to work as pleaded;
- (b) says further that, in accordance with cl. 26.1.2 of the 2013 Agreement, as pleaded in paragraph 9 above, the Oncology Sunshine Rotation rosters factored in and allowed time for the performance of the duties and responsibilities admitted at paragraph 16(a) of the Defence.

Ward round preparation overtime

280. As to paragraph 280, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included ward round preparation;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Oncology Sunshine Rotation roster factored in and allowed time for ward round preparation;
- (c) otherwise denies the allegations in paragraph 280.

281. As to paragraph 281, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed ward round preparation overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 281.

282. As to paragraph 282, the respondent:

- (a) refers to and repeats paragraphs 280 and 281 above;
- (b) otherwise denies the allegations in paragraph 282.

283. As to paragraph 283, the respondent:

- (a) refers to and repeats paragraphs 280, 281 and 282 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged ward round preparation overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical

need that could not be met by other means) depends on the circumstances of each alleged occasion;

- (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any ward round preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;
- (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of ward round preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 283.

284. As to paragraph 284, the respondent:

- (a) refers to and repeats paragraphs 280 to 283 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked ward round preparation overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that ward round preparation overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged ward round preparation overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 284.

285. As to paragraph 285, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 285.

286. As to paragraph 286, the respondent:

(a) refers to and repeats paragraphs 280 to 285 above; and

(b) otherwise denies the allegations in paragraph 286.

287. As to paragraph 287, the respondent:

(a) refers to and repeats paragraphs 280 to 286 above; and

(b) otherwise denies the allegations in paragraph 287.

Other medical services overtime

288. As to paragraph 288, the respondent:

(a) admits that Dr Peel's duties and responsibilities when providing medical services included undertaking specific tasks relating to patient care;

- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Oncology Sunshine Rotation roster factored in and allowed time for undertaking specific tasks relating to patient care;
- (c) otherwise denies the allegations in paragraph 288.

289. As to paragraph 289, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed patient care overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 289.

290. As to paragraph 290, the respondent:

- (a) refers to and repeats paragraphs 288 and 289 above; and
- (b) otherwise denies the allegations in paragraph 290.

291. As to paragraph 291, the respondent:

- (a) refers to and repeats paragraphs 288, 289 and 290 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged patient care overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any patient care overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of patient care overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 291.

292. As to paragraph 292, the respondent:

- (a) refers to and repeats paragraphs 288 to 291 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked patient care overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that patient care overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged patient care overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 292.

293. As to paragraph 293, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and

- (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 293.

294. As to paragraph 294, the respondent:

- (a) refers to and repeats paragraphs 288 to 293 above; and
- (b) otherwise denies the allegations in paragraph 294.

295. As to paragraph 295, the respondent:

- (a) refers to and repeats paragraphs 288 to 294 above; and
- (b) otherwise denies the allegations in paragraph 295.

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296. The respondent admits paragraph 296.

Rosters

297. As to paragraph 297, the respondent:

- (a) admits that during the Gastroenterology Sunshine / Footscray Rotation, Dr Peel was rostered to work as pleaded;
- (b) says further that, in accordance with cl. 26.1.2 of the 2013 Agreement, as pleaded in paragraph 9 above, the Gastroenterology Sunshine / Footscray Rotation rosters factored in and allowed time for the performance of the duties and responsibilities admitted at paragraph 16(a) of the Defence.

Ward round preparation overtime

298. As to paragraph 298, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included ward round preparation;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, and the Western Health Overtime Protocol, the Gastroenterology Sunshine / Footscray Rotation roster factored in and allowed time for ward round preparation;

(c) otherwise denies the allegations in paragraph 298.

299. As to paragraph 299, the respondent:

(a) refers to and repeats paragraph 21 above;

(b) says further that if Dr Peel performed ward round preparation overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;

(c) otherwise denies the allegations in paragraph 299.

300. As to paragraph 300, the respondent:

(a) refers to and repeats paragraphs 298 and 299 above;

(b) otherwise denies the allegations in paragraph 300.

301. As to paragraph 301, the respondent:

(a) refers to and repeats paragraphs 298, 299 and 300 above;

(b) says that:

(i) whether Dr Peel was authorised to work any alleged ward round preparation overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;

(ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any ward round preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;

(iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of ward round preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 301.

302. As to paragraph 302, the respondent:

(a) refers to and repeats paragraphs 298 to 301 above;

- (b) says further that:
- (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked ward round preparation overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that ward round preparation overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged ward round preparation overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine or Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 302.

303. As to paragraph 303, the respondent:

- (a) says that if:
- (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 303.

304. As to paragraph 304, the respondent:

(a) refers to and repeats paragraphs 298 to 303 above; and

(b) otherwise denies the allegations in paragraph 304.

305. As to paragraph 305, the respondent:

(a) refers to and repeats paragraphs 298 to 304 above; and

(b) otherwise denies the allegations in paragraph 305.

Other medical services overtime

306. As to paragraph 306, the respondent:

(a) admits that Dr Peel's duties and responsibilities when providing medical services included undertaking specific tasks relating to patient care;

(b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Gastroenterology Sunshine / Footscray Rotation roster factored in and allowed time for undertaking specific tasks relating to patient care;

(c) otherwise denies the allegations in paragraph 306.

307. As to paragraph 307, the respondent:

(a) refers to and repeats paragraph 21 above;

(b) says further that if Dr Peel performed patient care overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;

(c) otherwise denies the allegations in paragraph 307.

308. As to paragraph 308, the respondent:

(a) refers to and repeats paragraphs 306 and 307 above; and

(b) otherwise denies the allegations in paragraph 308.

309. As to paragraph 309, the respondent:

- (a) refers to and repeats paragraphs 306, 307 and 308 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged patient care overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any patient care overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of patient care overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 309.

310. As to paragraph 310, the respondent:

- (a) refers to and repeats paragraphs 306 to 309 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked patient care overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that patient care overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged patient care overtime, then it ought be concluded that either:

- A. Dr Peel did not work such overtime;
- B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
- C. Dr Peel was in attendance at the Sunshine or Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 310.

311. As to paragraph 311, the respondent:

(a) says that if:

- (i) Dr Peel had made an Overtime Claim; and
- (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 311.

312. As to paragraph 312, the respondent:

(a) refers to and repeats paragraphs 306 to 311 above; and

(b) otherwise denies the allegations in paragraph 312.

313. As to paragraph 313, the respondent:

(a) refers to and repeats paragraphs 306 to 312 above; and

(b) otherwise denies the allegations in paragraph 313.

Medical records overtime

314. As to paragraph 314, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included completion of medical records;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Gastroenterology Sunshine / Footscray Rotation roster factored in and allowed time for the completion of medical records;
- (c) otherwise denies the allegations in paragraph 314.

315. As to paragraph 315, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical records overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 315.

316. As to paragraph 316, the respondent:

- (a) refers to and repeats paragraphs 314 and 315 above; and
- (b) otherwise denies the allegations in paragraph 316.

317. As to paragraph 317, the respondent:

- (a) refers to and repeats paragraphs 314, 315 and 316 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical records overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical records overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical records overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims

made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 317.

318. As to paragraph 318, the respondent:

(a) refers to and repeats paragraphs 314 to 317 above;

(b) says further that:

(i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;

(ii) Dr Peel has not provided particulars of any occasions on which she allegedly:

A. worked medical records overtime;

B. sought and received either advance or retrospective authorisation for such overtime;

C. made an Overtime Claim for that medical records overtime; and

D. was subsequently not paid;

(iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical records overtime, then it ought be concluded that either:

A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Sunshine or Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 318.

319. As to paragraph 319, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 319.

320. As to paragraph 320, the respondent:

- (a) refers to and repeats paragraphs 314 to 319 above; and
- (b) otherwise denies the allegations in paragraph 320.

321. As to paragraph 321, the respondent:

- (a) refers to and repeats paragraphs 314 to 320 above; and
- (b) otherwise denies the allegations in paragraph 321.

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322. The respondent admits paragraph 322.

Rosters

323. As to paragraph 323, the respondent:

- (a) admits that during the Cardiology Sunshine Rotation, Dr Peel was rostered to work as pleaded;
- (b) says further that, in accordance with cl. 26.1.2 of the 2013 Agreement, as pleaded in paragraph 9 above, the Cardiology Sunshine Rotation rosters factored in and allowed time for the performance of the duties and responsibilities admitted at paragraph 16(a) of the Defence.

Ward round preparation overtime

324. As to paragraph 324, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included ward round preparation;

(b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Cardiology Sunshine Rotation roster factored in and allowed time for ward round preparation;

(c) otherwise denies the allegations in paragraph 324.

325. As to paragraph 325, the respondent:

(a) refers to and repeats paragraph 21 above;

(b) says further that if Dr Peel performed medical services overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;

(c) otherwise denies the allegations in paragraph 325.

326. As to paragraph 326, the respondent:

(a) refers to and repeats paragraphs 324 and 325 above;

(b) otherwise denies the allegations in paragraph 326.

327. As to paragraph 327, the respondent:

(a) refers to and repeats paragraphs 324, 325 and 326 above;

(b) says that:

(i) whether Dr Peel was authorised to work any alleged ward round preparation overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;

(ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any ward round preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;

(iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of ward round preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 327.

328. As to paragraph 328, the respondent:

- (a) refers to and repeats paragraphs 324 to 327 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked ward round preparation overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that ward round preparation overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged ward round preparation overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 328.

329. As to paragraph 329, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and

- (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 329.

330. As to paragraph 330, the respondent:

- (a) refers to and repeats paragraphs 324 to 329 above; and
- (b) otherwise denies the allegations in paragraph 330.

331. As to paragraph 331, the respondent:

- (a) refers to and repeats paragraphs 324 to 330 above; and
- (b) otherwise denies the allegations in paragraph 331.

Other medical services overtime

332. As to paragraph 332, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included undertaking specific tasks relating to patient care;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Cardiology Sunshine Rotation roster factored in and allowed time for undertaking specific tasks relating to patient care;
- (c) otherwise denies the allegations in paragraph 332.

333. As to paragraph 333, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed patient care overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 333.

334. As to paragraph 334, the respondent:

- (a) refers to and repeats paragraphs 332 and 333 above; and
- (b) otherwise denies the allegations in paragraph 334.

335. As to paragraph 335, the respondent:

- (a) refers to and repeats paragraphs 332, 333 and 334 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged patient care overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any patient care overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of patient care overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 335.

336. As to paragraph 336, the respondent:

- (a) refers to and repeats paragraphs 332 to 335 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked patient care overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that patient care overtime; and
 - D. was subsequently not paid;

- (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged patient care overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 336.

337. As to paragraph 337, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 337.

338. As to paragraph 338, the respondent:

- (a) refers to and repeats paragraphs 332 to 337 above; and
- (b) otherwise denies the allegations in paragraph 338.

339. As to paragraph 339, the respondent:

- (a) refers to and repeats paragraphs 332 to 338 above; and
- (b) otherwise denies the allegations in paragraph 338.

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340. The respondent admits paragraph 340.

Rosters

341. As to paragraph 341, the respondent:

- (a) admits that during the Infectious Diseases Footscray Rotation, Dr Peel was rostered to work as pleaded;
- (b) says further that, in accordance with cl. 26.1.2 of the 2013 Agreement, as pleaded in paragraph 9 above, the Infectious Diseases Footscray Rotation rosters factored in and allowed time for the performance of the duties and responsibilities admitted at paragraph 16(a) of the Defence.

Other medical services overtime

342. As to paragraph 342, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included undertaking specific tasks relating to patient care;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Infectious Diseases Footscray Rotation roster factored in and allowed time for undertaking specific tasks relating to patient care;
- (c) otherwise denies the allegations in paragraph 342.

343. As to paragraph 343, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed patient care overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 343.

344. As to paragraph 344, the respondent:

- (a) refers to and repeats paragraphs 342 and 343 above; and
- (b) otherwise denies the allegations in paragraph 344.

345. As to paragraph 345, the respondent:

- (a) refers to and repeats paragraphs 342, 343 and 344 above;

- (b) says that:
- (i) whether Dr Peel was authorised to work any alleged patient care overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any patient care overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of patient care overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 345.

346. As to paragraph 346, the respondent:

- (a) refers to and repeats paragraphs 342 to 345 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked patient care overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that patient care overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged patient care overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 346.

347. As to paragraph 347, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 347.

348. As to paragraph 348, the respondent:

(a) refers to and repeats paragraphs 342 to 347 above; and

(b) otherwise denies the allegations in paragraph 348.

349. As to paragraph 349, the respondent:

(a) refers to and repeats paragraphs 342 to 348 above; and

(b) otherwise denies the allegations in paragraph 349.

Ward round preparation overtime

350. As to paragraph 350, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included ward round preparation;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Infectious Diseases Footscray Rotation roster factored in and allowed time for ward round preparation;
- (c) otherwise denies the allegations in paragraph 350.

351. As to paragraph 351, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed ward round preparation overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 351.

352. As to paragraph 352, the respondent:

- (a) refers to and repeats paragraphs 350 and 351 above;
- (b) otherwise denies the allegations in paragraph 352.

353. As to paragraph 353, the respondent:

- (a) refers to and repeats paragraphs 350, 351 and 352 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged ward round preparation overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any ward round preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of ward round preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 353.

354. As to paragraph 354, the respondent:

- (a) refers to and repeats paragraphs 350 to 353 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked ward round preparation overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that ward round preparation overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged ward round preparation overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 354.

355. As to paragraph 355, the respondent:

- (a) says that if:

- (i) Dr Peel had made an Overtime Claim; and
- (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 355.

356. As to paragraph 356, the respondent:

- (a) refers to and repeats paragraphs 350 to 355 above; and
- (b) otherwise denies the allegations in paragraph 356.

357. As to paragraph 357, the respondent:

- (a) refers to and repeats paragraphs 350 to 356 above; and
- (b) otherwise denies the allegations in paragraph 357.

Admissions overtime

358. As to paragraph 358, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included performing patient admissions into the Infectious Diseases department;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Infectious Diseases Footscray Rotation roster factored in and allowed time for admitting patients into the Infectious Diseases department;
- (c) otherwise denies the allegations in paragraph 358.

359. As to paragraph 359, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed admissions overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 359.

360. As to paragraph 360, the respondent:

- (a) refers to and repeats paragraphs 358 and 359 above; and

- (b) otherwise denies the allegations in paragraph 360.

361. As to paragraph 361, the respondent:

- (a) refers to and repeats paragraphs 358, 359 and 360 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged admissions overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any admissions overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of admissions overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 361.

362. As to paragraph 362, the respondent:

- (a) refers to and repeats paragraphs 358 to 361 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked admissions overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that admissions overtime; and

- D. was subsequently not paid;
- (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged admissions overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs 48(b)(iii)A and 48(b)(iii)B above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 362.

363. As to paragraph 363, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 363.

364. As to paragraph 364, the respondent:

- (a) refers to and repeats paragraphs 358 to 363 above; and
- (b) otherwise denies the allegations in paragraph 364.

365. As to paragraph 365, the respondent:

- (a) refers to and repeats paragraphs 358 to 364 above; and

- (b) otherwise denies the allegations in paragraph 365.

Handover overtime

366. As to paragraph 366, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included conducting handover of patient information;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Infectious Diseases Footscray Rotation roster factored in and allowed time for the conducting of handover of patient information;
- (c) says that the Western Health Overtime Protocol notes that Doctors in Training are responsible for handing over to the covering doctor at the end of a shift to enable continuity of care, and requires that this handover occurs at the earliest opportunity to enable Doctors in Training to finish their shift;

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- (d) otherwise denies the allegations in paragraph 366.

367. As to paragraph 367, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed handover overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 367.

368. As to paragraph 368, the respondent:

- (a) refers to and repeats paragraphs 366 and 367 above; and
- (b) otherwise denies the allegations in paragraph 368.

369. As to paragraph 369, the respondent:

- (a) refers to and repeats paragraphs 366, 367 and 368 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged handover overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that

could not be met by other means) depends on the circumstances of each alleged occasion;

- (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any handover overtime no later than the completion of the pay fortnight in which the overtime occurred;
- (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of handover overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 369.

370. As to paragraph 370, the respondent:

- (a) refers to and repeats paragraphs 366 to 369 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked handover overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that handover overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged handover overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 370.

371. As to paragraph 371, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 371.

372. As to paragraph 372, the respondent:

(a) refers to and repeats paragraphs 366 to 371 above; and

(b) otherwise denies the allegations in paragraph 372.

373. As to paragraph 373, the respondent:

(a) refers to and repeats paragraphs 366 to 372 above; and

(b) otherwise denies the allegations in paragraph 373.

Medical records overtime

374. As to paragraph 374, the respondent:

(a) admits that Dr Peel's duties and responsibilities when providing medical services included completion of medical records;

(b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Infectious Diseases Footscray Rotation roster factored in and allowed time for the completion of medical records;

- (c) otherwise denies the allegations in paragraph 374.

375. As to paragraph 375, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical records overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 375.

376. As to paragraph 376, the respondent:

- (a) refers to and repeats paragraphs 374 and 375 above; and
- (b) otherwise denies the allegations in paragraph 376.

377. As to paragraph 377, the respondent:

- (a) refers to and repeats paragraphs 374, 375 and 376 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical records overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical records overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical records overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 377.

378. As to paragraph 378, the respondent:

- (a) refers to and repeats paragraphs 374 to 377 above;

- (b) says further that:
- (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical records overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that medical records overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical records overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 378.

379. As to paragraph 379, the respondent:

- (a) says that if:
- (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 379.

380. As to paragraph 380, the respondent:

- (a) refers to and repeats paragraphs 374 to 379 above; and
- (b) otherwise denies the allegations in paragraph 380.

381. As to paragraph 381, the respondent:

- (a) refers to and repeats paragraphs 374 to 380 above; and
- (b) otherwise denies the allegations in paragraph 381.

Medical emergency overtime

382. As to paragraph 382, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included attending to medical emergencies;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Infectious Diseases Footscray Rotation roster factored in and allowed time for attending to medical emergencies;
- (c) otherwise denies the allegations in paragraph 382.

383. As to paragraph 383, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical emergency overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 383.

384. As to paragraph 384, the respondent:

- (a) refers to and repeats paragraphs 382 and 383 above; and
- (b) otherwise denies the allegations in paragraph 384.

385. As to paragraph 385, the respondent:

- (a) refers to and repeats paragraphs 382, 383 and 384 above;

- (b) says that:
- (i) whether Dr Peel was authorised to work any alleged medical emergency overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical emergency overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical emergency overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 385.

386. As to paragraph 386, the respondent:

- (a) refers to and repeats paragraphs 382 to 385 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical emergency overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that medical emergency overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical emergency overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 386.

387. As to paragraph 387, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 387.

388. As to paragraph 388, the respondent:

(a) refers to and repeats paragraphs 382 to 387 above; and

(b) otherwise denies the allegations in paragraph 388.

389. As to paragraph 389, the respondent:

(a) refers to and repeats paragraphs 382 to 388 above; and

(b) otherwise denies the allegations in paragraph 389.

D11 Oncology Sunshine (Second Rotation) - 7 May 2018 to 13 May 2018

390. The respondent admits paragraph 390.

Rosters

391. As to paragraph 391, the respondent:

- (a) admits that during the Oncology Sunshine Second Rotation, Dr Peel was rostered to work as pleaded;
- (b) says further that, in accordance with cl. 26.1.2 of the 2013 Agreement, as pleaded in paragraph 9 above, the Oncology Sunshine Second Rotation rosters factored in and allowed time for the performance of the duties and responsibilities admitted at paragraph 16(a) of the Defence.

Ward round preparation overtime

392. As to paragraph 392, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included ward round preparation;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Oncology Sunshine Second Rotation roster factored in and allowed time for ward round preparation;
- (c) otherwise denies the allegations in paragraph 392.

393. As to paragraph 393, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed ward round preparation overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 393.

394. As to paragraph 394, the respondent:

- (a) refers to and repeats paragraphs 392 and 393 above;
- (b) otherwise denies the allegations in paragraph 394.

395. As to paragraph 395, the respondent:

- (a) refers to and repeats paragraphs 392, 393 and 394 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged ward round preparation overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical

need that could not be met by other means) depends on the circumstances of each alleged occasion;

- (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any ward round preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;
- (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of ward round preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 395.

396. As to paragraph 396, the respondent:

- (a) refers to and repeats paragraphs 392 to 395 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked ward round preparation overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that ward round preparation overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged ward round preparation overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 396.

397. As to paragraph 397, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 397.

398. As to paragraph 398, the respondent:

(a) refers to and repeats paragraphs 392 to 397 above; and

(b) otherwise denies the allegations in paragraph 398.

399. As to paragraph 399, the respondent:

(a) refers to and repeats paragraphs 392 to 398 above; and

(b) otherwise denies the allegations in paragraph 399.

Other medical services overtime

400. As to paragraph 400, the respondent:

(a) admits that Dr Peel's duties and responsibilities when providing medical services included undertaking specific tasks relating to patient care;

- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Oncology Sunshine Second Rotation roster factored in and allowed time for undertaking specific tasks relating to patient care;
- (c) otherwise denies the allegations in paragraph 400.

401. As to paragraph 401, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed patient care overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 401.

402. As to paragraph 402, the respondent:

- (a) refers to and repeats paragraphs 400 and 401 above; and
- (b) otherwise denies the allegations in paragraph 402.

403. As to paragraph 403, the respondent:

- (a) refers to and repeats paragraphs 400, 401 and 402 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged patient care overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any patient care overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of patient care overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 403.

404. As to paragraph 404, the respondent:

- (a) refers to and repeats paragraphs 400 to 403 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked patient care overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that patient care overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged patient care overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 404.

405. As to paragraph 405, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and

- (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 405.

406. As to paragraph 406, the respondent:

- (a) refers to and repeats paragraphs 400 to 405 above; and
- (b) otherwise denies the allegations in paragraph 406.

407. As to paragraph 407, the respondent:

- (a) refers to and repeats paragraphs 400 to 406 above; and
- (b) otherwise denies the allegations in paragraph 407.

Medical records overtime

408. As to paragraph 408, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included completion of medical records;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Oncology Sunshine Second Rotation roster factored in and allowed time for the completion of medical records;
- (c) otherwise denies the allegations in paragraph 408.

409. As to paragraph 409, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical records overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 409.

410. As to paragraph 410, the respondent:

- (a) refers to and repeats paragraphs 408 and 409 above; and
- (b) otherwise denies the allegations in paragraph 410.

411. As to paragraph 411, the respondent:

- (a) refers to and repeats paragraphs 408, 409 and 410 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical records overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical records overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical records overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 411.

412. As to paragraph 412, the respondent:

- (a) refers to and repeats paragraphs 408 to 411 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical records overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that medical records overtime; and
 - D. was subsequently not paid;

- (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical records overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 412.

413. As to paragraph 413, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 413.

414. As to paragraph 414, the respondent:

- (a) refers to and repeats paragraphs 408 to 413 above; and
- (b) otherwise denies the allegations in paragraph 414.

415. As to paragraph 415, the respondent:

- (a) refers to and repeats paragraphs 408 to 414 above; and
- (b) otherwise denies the allegations in paragraph 415.

Medical communication overtime

416. As to paragraph 416, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included speaking with patients, patients' families and visitors about patients' treatment;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Oncology Sunshine Second Rotation roster factored in and allowed time for speaking with patients, patients' families and visitors about patients' treatment;
- (c) otherwise denies the allegations in paragraph 416.

417. As to paragraph 417, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical communication overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 417.

418. As to paragraph 418, the respondent:

- (a) refers to and repeats paragraphs 416 and 417 above; and
- (b) otherwise denies the allegations in paragraph 418.

419. As to paragraph 419, the respondent:

- (a) refers to and repeats paragraphs 416, 417 and 418 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical communication overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical communication overtime no later than the completion of the pay fortnight in which the overtime occurred;

(iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical communication overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 419.

420. As to paragraph 420, the respondent:

(a) refers to and repeats paragraphs 416 to 419 above;

(b) says further that:

(i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;

(ii) Dr Peel has not provided particulars of any occasions on which she allegedly:

A. worked medical communication overtime;

B. sought and received either advance or retrospective authorisation for such overtime;

C. made an Overtime Claim for that medical communication overtime; and

D. was subsequently not paid;

(iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical communication overtime, then it ought be concluded that either:

A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

- (c) otherwise denies the allegations in paragraph 420.

421. As to paragraph 421, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 421.

422. As to paragraph 422, the respondent:

- (a) refers to and repeats paragraphs 416 to 421 above; and
- (b) otherwise denies the allegations in paragraph 422.

423. As to paragraph 423, the respondent:

- (a) refers to and repeats paragraphs 416 to 422 above; and
- (b) otherwise denies the allegations in paragraph 423.

D12 Respiratory Footscray - 14 May 2018 to 10 June 2018

424. The respondent admits paragraph 424.

Rosters

425. As to paragraph 425, the respondent:

- (a) admits that during the Respiratory Footscray Rotation, Dr Peel was rostered to work as pleaded;
- (b) says further that, in accordance with cl. 26.1.2 of the 2013 Agreement, as pleaded in paragraph 9 above, the Respiratory Footscray Rotation rosters factored in and allowed time for the performance of the duties and responsibilities admitted at paragraph 16(a) of the Defence.

Ward round preparation overtime

426. As to paragraph 426, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included ward round preparation;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Respiratory Footscray Rotation roster factored in and allowed time for ward round preparation;
- (c) otherwise denies the allegations in paragraph 426.

427. As to paragraph 427, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed ward round preparation overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 427.

428. As to paragraph 428, the respondent:

- (a) refers to and repeats paragraphs 426 and 427 above;
- (b) otherwise denies the allegations in paragraph 428.

429. As to paragraph 429, the respondent:

- (a) refers to and repeats paragraphs 426, 427 and 428 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged ward round preparation overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any ward round preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of ward round preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 429.

430. As to paragraph 430, the respondent:

- (a) refers to and repeats paragraphs 426 to 429 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked ward round preparation overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that ward round preparation overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged ward round preparation overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 430.

431. As to paragraph 431, the respondent:

- (a) says that if:

- (i) Dr Peel had made an Overtime Claim; and
- (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 431.

432. As to paragraph 432, the respondent:

- (a) refers to and repeats paragraphs 426 to 431 above; and
- (b) otherwise denies the allegations in paragraph 432.

433. As to paragraph 433, the respondent:

- (a) refers to and repeats paragraphs 426 to 432 above; and
- (b) otherwise denies the allegations in paragraph 433.

Other medical services overtime

434. As to paragraph 434, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included undertaking specific tasks relating to patient care;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Respiratory Footscray Rotation roster factored in and allowed time for undertaking specific tasks relating to patient care;
- (c) otherwise denies the allegations in paragraph 434.

435. As to paragraph 435, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed patient care overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 435.

436. As to paragraph 436, the respondent:

- (a) refers to and repeats paragraphs 434 and 435 above; and

- (b) otherwise denies the allegations in paragraph 436.

437. As to paragraph 437, the respondent:

- (a) refers to and repeats paragraphs 434, 435 and 436 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged patient care overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any patient care overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of patient care overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 437.

438. As to paragraph 438, the respondent:

- (a) refers to and repeats paragraphs 434 to 437 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked patient care overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that patient care overtime; and

D. was subsequently not paid;

(iii) if Dr Peel did not make an Overtime Claim in respect of the alleged patient care overtime, then it ought be concluded that either:

A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Sunshine Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 438.

439. As to paragraph 439, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 439.

440. As to paragraph 440, the respondent:

(a) refers to and repeats paragraphs 434 to 439 above; and

(b) otherwise denies the allegations in paragraph 440.

441. As to paragraph 441, the respondent:

(a) refers to and repeats paragraphs 434 to 440 above; and

- (b) otherwise denies the allegations in paragraph 407.

Medical records overtime

442. As to paragraph 442, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included completion of medical records;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Respiratory Footscray Rotation roster factored in and allowed time for the completion of medical records;
- (c) otherwise denies the allegations in paragraph 442.

443. As to paragraph 443, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical records overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 443.

444. As to paragraph 444, the respondent:

- (a) refers to and repeats paragraphs 442 and 443 above; and
- (b) otherwise denies the allegations in paragraph 444.

445. As to paragraph 445, the respondent:

- (a) refers to and repeats paragraphs 442, 443 and 444 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical records overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical records overtime no later than the completion of the pay fortnight in which the overtime occurred;

- (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical records overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 445.

446. As to paragraph 446, the respondent:

- (a) refers to and repeats paragraphs 442 to 445 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical records overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that medical records overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical records overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

- (c) otherwise denies the allegations in paragraph 446.

447. As to paragraph 447, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 447.

448. As to paragraph 448, the respondent:

- (a) refers to and repeats paragraphs 442 to 447 above; and
- (b) otherwise denies the allegations in paragraph 448.

449. As to paragraph 449, the respondent:

- (a) refers to and repeats paragraphs 442 to 448 above; and
- (b) otherwise denies the allegations in paragraph 449.

Admissions overtime

450. As to paragraph 450, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included performing patient admissions into the Respiratory department;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement, the Respiratory Footscray Rotation roster factored in and allowed time for admitting patients into the Respiratory department;
- (c) otherwise denies the allegations in paragraph 450.

451. As to paragraph 451, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed admissions overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;

- (c) otherwise denies the allegations in paragraph 451.

452. As to paragraph 452, the respondent:

- (a) refers to and repeats paragraphs 450 and 451 above; and
- (b) otherwise denies the allegations in paragraph 452.

453. As to paragraph 453, the respondent:

- (a) refers to and repeats paragraphs 450, 451 and 452 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged admissions overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any admissions overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of admissions overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 453.

454. As to paragraph 454, the respondent:

- (a) refers to and repeats paragraphs 450 to 453 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked admissions overtime;

- B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that admissions overtime; and
 - D. was subsequently not paid;
- (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged admissions overtime, then it ought be concluded that either:
- A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 454.

455. As to paragraph 455, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 455.

456. As to paragraph 456, the respondent:

- (a) refers to and repeats paragraphs 450 to 455 above; and
- (b) otherwise denies the allegations in paragraph 456.

457. As to paragraph 457, the respondent:

- (a) refers to and repeats paragraphs 450 to 456 above; and
- (b) otherwise denies the allegations in paragraph 457.

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458. The respondent admits paragraph 458.

Rosters

459. As to paragraph 459, the respondent:

- (a) admits that during the General Medicine Footscray Rotation, Dr Peel was rostered to work as pleaded;
- (b) says further that, in accordance with cl. 26.1.2 of the 2013 Agreement and cl.35.1(b) of the 2018 Agreement, as pleaded in paragraphs 9 and 14 above, the General Medicine Footscray Rotation rosters factored in and allowed time for the performance of the duties and responsibilities admitted at paragraph 16(a) of the Defence.

Ward round preparation overtime

460. As to paragraph 460, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included ward round preparation;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl.35.1(b) of the 2018 Agreement, the General Medicine Footscray Rotation roster factored in and allowed time for ward round preparation;
- (c) otherwise denies the allegations in paragraph 460.

461. As to paragraph 461, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed ward round preparation overtime as pleaded in the Statement of Claim, she was able to submit and Overtime Claim;
- (c) otherwise denies the allegations in paragraph 461.

462. As to paragraph 462, the respondent:

- (a) refers to and repeats paragraphs 460 and 461 above;

- (b) otherwise denies the allegations in paragraph 462.

463. As to paragraph 463, the respondent:

- (a) refers to and repeats paragraphs 460, 461 and 462 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged ward round preparation overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any ward round preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of ward round preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 463.

464. As to paragraph 464, the respondent:

- (a) refers to and repeats paragraphs 460 to 463 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked ward round preparation overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that ward round preparation overtime; and

D. was subsequently not paid;

(iii) if Dr Peel did not make an Overtime Claim in respect of the alleged ward round preparation overtime, then it ought be concluded that either:

A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 464.

465. As to paragraph 465, the respondent:

(a) says that if:

(i) Dr Peel had made an Overtime Claim; and

(ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 465.

466. As to paragraph 466, the respondent:

(a) refers to and repeats paragraphs 460 to 465 above; and

(b) otherwise denies the allegations in paragraph 466.

467. As to paragraph 467, the respondent:

(a) refers to and repeats paragraphs 460 to 466 above; and

- (b) otherwise denies the allegations in paragraph 467.

Admissions overtime

468. As to paragraph 468, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included performing patient admissions into the General Medicine department;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl. 35.1(b) of the 2018 Agreement, the General Medicine Footscray Rotation roster factored in and allowed time for admitting patients into the General Medicine department;
- (c) otherwise denies the allegations in paragraph 468.

469. As to paragraph 469, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed admissions overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 469.

470. As to paragraph 470, the respondent:

- (a) refers to and repeats paragraphs 468 and 469 above; and
- (b) otherwise denies the allegations in paragraph 470.

471. As to paragraph 471, the respondent:

- (a) refers to and repeats paragraphs 468, 469 and 470 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged admissions overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any admissions overtime no later than the completion of the pay fortnight in which the overtime occurred;

(iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of admissions overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 471.

472. As to paragraph 472, the respondent:

(a) refers to and repeats paragraphs 468 to 471 above;

(b) says further that:

(i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;

(ii) Dr Peel has not provided particulars of any occasions on which she allegedly:

A. worked admissions overtime;

B. sought and received either advance or retrospective authorisation for such overtime;

C. made an Overtime Claim for that admissions overtime; and

D. was subsequently not paid;

(iii) if Dr Peel did not make an Overtime Claim in respect of the alleged admissions overtime, then it ought be concluded that either:

A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

- (c) otherwise denies the allegations in paragraph 472.

473. As to paragraph 473, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 473.

474. As to paragraph 474, the respondent:

- (a) refers to and repeats paragraphs 468 to 473 above; and
- (b) otherwise denies the allegations in paragraph 474.

475. As to paragraph 475, the respondent:

- (a) refers to and repeats paragraphs 468 to 474 above; and
- (b) otherwise denies the allegations in paragraph 475.

Handover overtime

476. As to paragraph 476, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included conducting handover of patient information;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl. 35.1(b) of the 2018 Agreement, the General Medicine Footscray Rotation roster factored in and allowed time for the conducting of handover of patient information;
- (c) says that the Western Health Overtime Protocol notes that Doctors in Training are responsible for handing over to the covering doctor at the end of a shift to enable continuity of care, and requires that this handover occurs at the earliest opportunity to enable Doctors in Training to finish their shift;

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(d) otherwise denies the allegations in paragraph 476.

477. As to paragraph 477, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed handover overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 477.

478. As to paragraph 478, the respondent:

- (a) refers to and repeats paragraphs 476 and 477 above; and
- (b) otherwise denies the allegations in paragraph 478.

479. As to paragraph 479, the respondent:

- (a) refers to and repeats paragraphs 476, 477 and 478 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged handover overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any handover overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of handover overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 479.

480. As to paragraph 480, the respondent:

- (a) refers to and repeats paragraphs 476 to 479 above;

- (b) says further that:
- (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked handover overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that handover overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged handover overtime, then it ought be concluded that either:
 - A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 480.

481. As to paragraph 481, the respondent:

- (a) says that if:
- (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 481.

482. As to paragraph 482, the respondent:

- (a) refers to and repeats paragraphs 476 to 481 above; and
- (b) otherwise denies the allegations in paragraph 482.

483. As to paragraph 483, the respondent:

- (a) refers to and repeats paragraphs 476 to 482 above; and
- (b) otherwise denies the allegations in paragraph 483.

Other medical services overtime

484. As to paragraph 484, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included undertaking specific tasks relating to patient care;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl. 35.1(b) of the 2018 Agreement, the General Medicine Footscray Rotation roster factored in and allowed time for undertaking specific tasks relating to patient care;
- (c) otherwise denies the allegations in paragraph 484.

485. As to paragraph 485, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed patient care overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 485.

486. As to paragraph 486, the respondent:

- (a) refers to and repeats paragraphs 484 and 485 above; and
- (b) otherwise denies the allegations in paragraph 486.

487. As to paragraph 487, the respondent:

- (a) refers to and repeats paragraphs 484, 485 and 486 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged patient care overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any patient care overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of patient care overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 487.

488. As to paragraph 488, the respondent:

- (a) refers to and repeats paragraphs 484 to 487 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked patient care overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;
 - C. made an Overtime Claim for that patient care overtime; and
 - D. was subsequently not paid;
 - (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged patient care overtime, then it ought be concluded that either:

- A. Dr Peel did not work such overtime;
- B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
- C. Dr Peel was in attendance at the Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 488.

489. As to paragraph 489, the respondent:

(a) says that if:

- (i) Dr Peel had made an Overtime Claim; and
- (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

(b) otherwise denies the allegations in paragraph 489.

490. As to paragraph 490, the respondent:

(a) refers to and repeats paragraphs 484 to 489 above; and

(b) otherwise denies the allegations in paragraph 490.

491. As to paragraph 491, the respondent:

(a) refers to and repeats paragraphs 484 to 490 above; and

(b) otherwise denies the allegations in paragraph 491.

Medical records overtime

492. As to paragraph 492, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included completion of medical records;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl.35.1(b) of the 2018 Agreement, the General Medicine Footscray Rotation roster factored in and allowed time for the completion of medical records;
- (c) otherwise denies the allegations in paragraph 492.

493. As to paragraph 493, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical records overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 493.

494. As to paragraph 494, the respondent:

- (a) refers to and repeats paragraphs 492 and 493 above; and
- (b) otherwise denies the allegations in paragraph 494.

495. As to paragraph 495, the respondent:

- (a) refers to and repeats paragraphs 492, 493 and 494 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical records overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical records overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical records overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims

made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 495.

496. As to paragraph 496, the respondent:

(a) refers to and repeats paragraphs 492 to 495 above;

(b) says further that:

(i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;

(ii) Dr Peel has not provided particulars of any occasions on which she allegedly:

A. worked medical records overtime;

B. sought and received either advance or retrospective authorisation for such overtime;

C. made an Overtime Claim for that medical records overtime; and

D. was subsequently not paid;

(iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical records overtime, then it ought be concluded that either:

A. Dr Peel did not work such overtime;

B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. Dr Peel was in attendance at the Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 496.

497. As to paragraph 497, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 497.

498. As to paragraph 498, the respondent:

- (a) refers to and repeats paragraphs 492 to 497 above; and
- (b) otherwise denies the allegations in paragraph 498.

499. As to paragraph 499, the respondent:

- (a) refers to and repeats paragraphs 492 to 498 above; and
- (b) otherwise denies the allegations in paragraph 499.

Medical emergency overtime

500. As to paragraph 500, the respondent:

- (a) admits that Dr Peel's duties and responsibilities when providing medical services included attending to medical emergencies;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl.35.1(b) of the 2018 Agreement, the General Medicine Footscray Rotation roster factored in and allowed time for attending to medical emergencies;
- (c) otherwise denies the allegations in paragraph 500.

501. As to paragraph 501, the respondent:

- (a) refers to and repeats paragraph 21 above;
- (b) says further that if Dr Peel performed medical emergency overtime as pleaded in the Statement of Claim, she was able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 501.

502. As to paragraph 502, the respondent:

- (a) refers to and repeats paragraphs 500 and 501 above; and
- (b) otherwise denies the allegations in paragraph 502.

503. As to paragraph 503, the respondent:

- (a) refers to and repeats paragraphs 500, 501 and 502 above;
- (b) says that:
 - (i) whether Dr Peel was authorised to work any alleged medical emergency overtime (including whether Dr Peel worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of Dr Peel performing the work, Dr Peel was required to seek authorisation for any medical emergency overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) Dr Peel has not provided particulars of the circumstances of each alleged occasion of medical emergency overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to her for such overtime, nor provided particulars of the claims made by her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 503.

504. As to paragraph 504, the respondent:

- (a) refers to and repeats paragraphs 500 to 503 above;
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that Dr Peel make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) Dr Peel has not provided particulars of any occasions on which she allegedly:
 - A. worked medical emergency overtime;
 - B. sought and received either advance or retrospective authorisation for such overtime;

- C. made an Overtime Claim for that medical emergency overtime; and
 - D. was subsequently not paid;
- (iii) if Dr Peel did not make an Overtime Claim in respect of the alleged medical emergency overtime, then it ought be concluded that either:
- A. Dr Peel did not work such overtime;
 - B. Dr Peel was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. Dr Peel was in attendance at the Footscray Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- (iv) further or alternatively, Dr Peel is estopped from asserting the contrary of the matters in subparagraphs (iii)(B) and (iii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 504.

505. As to paragraph 505, the respondent:

- (a) says that if:
 - (i) Dr Peel had made an Overtime Claim; and
 - (ii) the Overtime Claim satisfied the criteria set out in the Western Health Overtime Protocol,

the respondent would have considered and processed the Overtime Claim in accordance with the Western Health Overtime Protocol;

- (b) otherwise denies the allegations in paragraph 505.

506. As to paragraph 506, the respondent:

- (a) refers to and repeats paragraphs 500 to 505 above; and
- (b) otherwise denies the allegations in paragraph 506.

507. As to paragraph 507, the respondent:

- (a) refers to and repeats paragraphs 500 to 506 above; and
- (b) otherwise denies the allegations in paragraph 507.

Loss

508. As to paragraph 508, the respondent denies the allegations for the reasons pleaded above.

GROUP MEMBERS' CLAIMS

509. As to paragraph 509, the respondent:

- (a) admits that, in the course of their employment during the Relevant Period, Doctors in Training:
 - (i) worked in one or more of the services operated by the respondent as set out in paragraph 1(d) of the Statement of Claim; and
 - (ii) were rostered to work 38 ordinary hours per week, or an average of 38 hours per week for up to 4 weeks;
- (b) otherwise denies the allegations in paragraph 509.

E1 Ward round preparation overtime

510. As to paragraph 510, the respondent:

- (a) admits that the duties and responsibilities of a Doctor in Training when providing medical services included ward round preparation;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl. 35.1(b) of the 2018 Agreement, rosters factored in and allowed time for the performance of ward round preparation; and
- (c) otherwise denies the allegations in paragraph 510.

511. As to paragraph 511, the respondent:

- (a) refers to and repeats sub-paragraphs 21(b)(ii) to 21(b)(v) above;
- (b) says further that:
 - (i) in accordance with cl. 32.3 of the 2013 Agreement and cl. 36.3 of the 2018 Agreement, the respondent implemented the Western Health Overtime Protocol;
 - (ii) Doctors in Training were, or ought to have been, aware of the Western Health Overtime Protocol and the respondent's approach to Unrostered Overtime;

(iii) if Doctors in Training performed Unrostered Overtime, they were able to submit an Overtime Claim;

(c) otherwise denies the allegations in paragraph 511.

512. As to paragraph 512, the respondent:

(a) refers to and repeats paragraphs 510 and 511 above;

(b) otherwise denies the allegations in paragraph 512.

513. As to paragraph 513, the respondent:

(a) refers to and repeats paragraph 511 above; and

(b) otherwise denies the allegations in paragraph 513.

514. As to paragraph 514, the respondent:

(a) refers to and repeats paragraphs 510 and 511 above;

(b) says that:

(i) whether a Doctor in Training was authorised to work any alleged ward round preparation overtime (including whether the Doctor in Training worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;

(ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of the Doctor in Training performing the work, the Doctor in Training was required to seek authorisation for any ward round preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;

(iii) no Doctor in Training has provided particulars of the circumstances of any alleged occasion of ward round preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to him/her for such overtime, nor provided particulars of the claims made by him/her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 514.

515. As to paragraph 515, the respondent:

- (a) refers to and repeats paragraphs 511 to 514 above; and
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that a Group Member make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) if a Group Member did not make an Overtime Claim in respect of the alleged ward round preparation overtime, then it ought be concluded that either:
 - A. the Group member did not work such overtime;
 - B. the Group Member was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. the Group Member was in attendance at the Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iii) further or alternatively, the Group Member is estopped from asserting the contrary of the matters in subparagraphs (ii)(B) and (ii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 515.

516. As to paragraph 516, the respondent:

- (a) refers to and repeats paragraphs 510 to 515 above; and
- (b) otherwise denies the allegations in paragraph 516.

517. As to paragraph 517, the respondent:

- (a) refers to and repeats paragraphs 510 to 515 above; and
- (b) otherwise denies the allegations in paragraph 517.

E2 Ward round overtime

518. As to paragraph 518, the respondent:

- (a) admits that the duties and responsibilities of a Doctor in Training when providing medical services included undertaking ward rounds;

- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl. 35.1(b) of the 2018 Agreement, rosters factored in and allowed time for the undertaking of ward rounds; and
- (c) otherwise denies the allegations in paragraph 518.

519. As to paragraph 519, the respondent:

- (a) refers to and repeats sub-paragraphs 21(b)(ii) to 21(b)(v) above;
- (b) says further that:
 - (i) in accordance with cl. 32.3 of the 2013 Agreement and cl. 36.3 of the 2018 Agreement, the respondent implemented the Western Health Overtime Protocol;
 - (ii) Doctors in Training were, or ought to have been, aware of the Western Health Overtime Protocol and the respondent's approach to Unrostered Overtime;
 - (iii) if Doctors in Training performed Unrostered Overtime, they were able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 519.

520. As to paragraph 520, the respondent:

- (a) refers to and repeats paragraphs 518 and 519 above;
- (b) otherwise denies the allegations in paragraph 520.

521. As to paragraph 521, the respondent:

- (a) refers to and repeats paragraph 519 above; and
- (b) otherwise denies the allegations in paragraph 521.

522. As to paragraph 522, the respondent:

- (a) refers to and repeats paragraphs 518 and 519 above;
- (b) says that:
 - (i) whether a Doctor in Training was authorised to work any alleged ward round overtime (including whether the Doctor in Training worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of the

Doctor in Training performing the work, the Doctor in Training was required to seek authorisation for any ward round overtime no later than the completion of the pay fortnight in which the overtime occurred;

- (iii) no Doctor in Training has provided particulars of the circumstances of any alleged occasion of ward round overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to him/her for such overtime, nor provided particulars of the claims made by him/her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 522.

523. As to paragraph 523, the respondent:

(a) refers to and repeats paragraphs 519 to 522 above; and

(b) says further that:

- (i) payment for Unrostered Overtime is subject to the condition that a Group Member make an Overtime Claim in relation to the overtime purportedly worked;
- (ii) if a Group Member did not make an Overtime Claim in respect of the alleged ward round overtime, then it ought be concluded that either:
 - A. the Group member did not work such overtime;
 - B. the Group Member was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. the Group Member was in attendance at the Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
- (iii) further or alternatively, the Group Member is estopped from asserting the contrary of the matters in subparagraphs (ii)(B) and (ii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 523.

524. As to paragraph 524, the respondent:

(a) refers to and repeats paragraphs 518 to 523 above; and

- (b) otherwise denies the allegations in paragraph 524.

525. As to paragraph 525, the respondent:

- (a) refers to and repeats paragraphs 518 to 523 above; and
- (b) otherwise denies the allegations in paragraph 525.

E3 Handover overtime

526. As to paragraph 526, the respondent:

- (a) admits that the duties and responsibilities of a Doctor in Training when providing medical services included conducting handover;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl. 35.1(b) of the 2018 Agreement, rosters factored in and allowed time for conducting handover; and
- (c) otherwise denies the allegations in paragraph 526.

527. As to paragraph 527, the respondent:

- (a) refers to and repeats sub-paragraphs 21(b)(ii) to 21(b)(v) above;
- (b) says further that:
 - (i) in accordance with cl. 32.3 of the 2013 Agreement and cl. 36.3 of the 2018 Agreement, the respondent implemented the Western Health Overtime Protocol;
 - (ii) Doctors in Training were, or ought to have been, aware of the Western Health Overtime Protocol and the respondent's approach to Unrostered Overtime;
 - (iii) if Doctors in Training performed Unrostered Overtime, they were able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 527.

528. As to paragraph 528, the respondent:

- (a) refers to and repeats paragraphs 526 and 527 above;
- (b) otherwise denies the allegations in paragraph 528.

529. As to paragraph 529, the respondent:

- (a) refers to and repeats paragraph 527 above; and

- (b) otherwise denies the allegations in paragraph 529.

530. As to paragraph 530, the respondent:

- (a) refers to and repeats paragraphs 526 and 527 above;
- (b) says that:
 - (i) whether a Doctor in Training was authorised to work any alleged handover overtime (including whether the Doctor in Training worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of the Doctor in Training performing the work, the Doctor in Training was required to seek authorisation for any handover overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) no Doctor in Training has provided particulars of the circumstances of any alleged occasion of handover overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to him/her for such overtime, nor provided particulars of the claims made by him/her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 530.

531. As to paragraph 531, the respondent:

- (a) refers to and repeats paragraphs 527 to 530 above; and
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that a Group Member make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) if a Group Member did not make an Overtime Claim in respect of the alleged handover overtime, then it ought be concluded that either:
 - A. the Group member did not work such overtime;
 - B. the Group Member was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. the Group Member was in attendance at the Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iii) further or alternatively, the Group Member is estopped from asserting the contrary of the matters in subparagraphs (ii)(B) and (ii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 531.

532. As to paragraph 532, the respondent:

(a) refers to and repeats paragraphs 526 to 531 above; and

(b) otherwise denies the allegations in paragraph 532.

533. As to paragraph 533, the respondent:

(a) refers to and repeats paragraphs 526 to 531 above; and

(b) otherwise denies the allegations in paragraph 533.

E4 Medical procedures preparation overtime

534. As to paragraph 534, the respondent:

(a) admits that the duties and responsibilities of a Doctor in Training when providing medical services included medical procedures preparation;

(b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl. 35.1(b) of the 2018 Agreement, rosters factored in and allowed time for performing medical procedures preparation; and

(c) otherwise denies the allegations in paragraph 534.

535. As to paragraph 535, the respondent:

(a) refers to and repeats sub-paragraphs 21(b)(ii) to 21(b)(v) above;

(b) says further that:

(i) in accordance with cl. 32.3 of the 2013 Agreement and cl. 36.3 of the 2018 Agreement, the respondent implemented the Western Health Overtime Protocol;

- (ii) Doctors in Training were, or ought to have been, aware of the Western Health Overtime Protocol and the respondent's approach to Unrostered Overtime;
 - (iii) if Doctors in Training performed Unrostered Overtime, they were able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 535.

536. As to paragraph 536, the respondent:

- (a) refers to and repeats paragraphs 534 and 535 above;
- (b) otherwise denies the allegations in paragraph 536.

537. As to paragraph 537, the respondent:

- (a) refers to and repeats paragraph 535 above; and
- (b) otherwise denies the allegations in paragraph 537.

538. As to paragraph 538, the respondent:

- (a) refers to and repeats paragraphs 534 and 535 above;
- (b) says that:
 - (i) whether a Doctor in Training was authorised to work any alleged medical procedures preparation overtime (including whether the Doctor in Training worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of the Doctor in Training performing the work, the Doctor in Training was required to seek authorisation for any medical procedures preparation overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) no Doctor in Training has provided particulars of the circumstances of any alleged occasion of medical procedures preparation overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to him/her for such overtime, nor provided particulars of the claims made by him/her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 538.

539. As to paragraph 539, the respondent:

- (a) refers to and repeats paragraphs 534 to 538 above; and
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that a Group Member make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) if a Group Member did not make an Overtime Claim in respect of the alleged medical procedures preparation overtime, then it ought be concluded that either:
 - A. the Group member did not work such overtime;
 - B. the Group Member was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. the Group Member was in attendance at the Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iii) further or alternatively, the Group Member is estopped from asserting the contrary of the matters in subparagraphs (ii)(B) and (ii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 539.

540. As to paragraph 540, the respondent:

- (a) refers to and repeats paragraphs 534 to 539 above; and
- (b) otherwise denies the allegations in paragraph 540.

541. As to paragraph 541, the respondent:

- (a) refers to and repeats paragraphs 534 to 539 above; and
- (b) otherwise denies the allegations in paragraph 541.

E5 Medical emergency overtime

542. As to paragraph 542, the respondent:

- (a) admits that the duties and responsibilities of a Doctor in Training when providing medical services included attending to medical emergencies;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl.35.1(b) of the 2018 Agreement, rosters factored in and allowed time for attending to medical emergencies;
- (c) otherwise denies the allegations in paragraph 542.

543. As to paragraph 543, the respondent:

- (a) refers to and repeats sub-paragraphs 21(b)(ii) to 21(b)(v) and paragraph 542(a) above;
- (b) says further that:
 - (i) in accordance with cl. 32.3 of the 2013 Agreement and cl. 36.3 of the 2018 Agreement, the respondent implemented the Western Health Overtime Protocol;
 - (ii) Doctors in Training were, or ought to have been, aware of the Western Health Overtime Protocol and the respondent's approach to Unrostered Overtime;
 - (iii) if Doctors in Training performed Unrostered Overtime, they were able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 543.

544. As to paragraph 544, the respondent:

- (a) refers to and repeats paragraphs 542 and 543 above;
- (b) otherwise denies the allegations in paragraph 544.

545. As to paragraph 545, the respondent:

- (a) refers to and repeats paragraph 543 above; and
- (b) otherwise denies the allegations in paragraph 545.

546. As to paragraph 546, the respondent:

- (a) refers to and repeats paragraphs 542 and 543 above;
- (b) says that:
 - (i) whether a Doctor in Training was authorised to work any alleged medical emergency overtime (including whether the Doctor in Training worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;

- (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of the Doctor in Training performing the work, the Doctor in Training was required to seek authorisation for any medical emergency overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) no Doctor in Training has provided particulars of the circumstances of any alleged occasion of medical emergency overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to him/her for such overtime, nor provided particulars of the claims made by him/her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 546.

547. As to paragraph 547, the respondent:

- (a) refers to and repeats paragraphs 542 to 546 above; and
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that a Group Member make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) if a Group Member did not make an Overtime Claim in respect of the alleged medical emergency overtime, then it ought be concluded that either:
 - A. the Group member did not work such overtime;
 - B. the Group Member was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. the Group Member was in attendance at the Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iii) further or alternatively, the Group Member is estopped from asserting the contrary of the matters in subparagraphs (ii)(B) and (ii)(C) above for the reasons in paragraphs 583 to 595 below;
- (c) otherwise denies the allegations in paragraph 547.

548. As to paragraph 548, the respondent:

- (a) refers to and repeats paragraphs 542 to 547 above; and
- (b) otherwise denies the allegations in paragraph 548.

549. As to paragraph 549, the respondent:

- (a) refers to and repeats paragraphs 542 to 547 above; and
- (b) otherwise denies the allegations in paragraph 549.

E6 Medical records overtime

550. As to paragraph 550, the respondent:

- (a) admits that the duties and responsibilities of a Doctor in Training when providing medical services included completion of medical records;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl. 35.1(b) of the 2018 Agreement, rosters factored in and allowed time for completing medical records; and
- (c) otherwise denies the allegations in paragraph 550.

551. As to paragraph 551, the respondent:

- (a) refers to and repeats sub-paragraphs 21(b)(ii) to 21(b)(v) above;
- (b) says further that:
 - (i) in accordance with cl. 32.3 of the 2013 Agreement and cl. 36.3 of the 2018 Agreement, the respondent implemented the Western Health Overtime Protocol;
 - (ii) Doctors in Training were, or ought to have been, aware of the Western Health Overtime Protocol and the respondent's approach to Unrostered Overtime;
 - (iii) if Doctors in Training performed Unrostered Overtime, they were able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 551.

552. As to paragraph 552, the respondent:

- (a) refers to and repeats paragraphs 550 and 551 above;
- (b) otherwise denies the allegations in paragraph 552.

553. As to paragraph 553, the respondent:

- (a) refers to and repeats paragraph 551 above; and
- (b) otherwise denies the allegations in paragraph 553.

554. As to paragraph 554, the respondent:

- (a) refers to and repeats paragraphs 550 and 551 above;
- (b) says that:
 - (i) whether a Doctor in Training was authorised to work any alleged medical records overtime (including whether the Doctor in Training worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of the Doctor in Training performing the work, the Doctor in Training was required to seek authorisation for any medical records overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) no Doctor in Training has provided particulars of the circumstances of any alleged occasion of medical records overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to him/her for such overtime, nor provided particulars of the claims made by him/her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 554.

555. As to paragraph 555, the respondent:

- (a) refers to and repeats paragraphs 550 to 554 above; and
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that a Group Member make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) if a Group Member did not make an Overtime Claim in respect of the alleged medical procedures preparation overtime, then it ought be concluded that either:
 - A. the Group member did not work such overtime;

- B. the Group Member was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
- C. the Group Member was in attendance at the Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iii) further or alternatively, the Group Member is estopped from asserting the contrary of the matters in subparagraphs (ii)(B) and (ii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 555.

556. As to paragraph 556, the respondent:

- (a) refers to and repeats paragraphs 550 to 555 above; and
- (b) otherwise denies the allegations in paragraph 556.

557. As to paragraph 557, the respondent:

- (a) refers to and repeats paragraphs 550 to 555 above; and
- (b) otherwise denies the allegations in paragraph 557.

E7 Admissions overtime

558. As to paragraph 558, the respondent:

- (a) admits that the duties and responsibilities of a Doctor in Training when providing medical services included performing patient admissions into the ward or department in which the Doctor in Training was working;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl. 35.1(b) of the 2018 Agreement, rosters factored in and allowed time for admitting patients; and
- (c) otherwise denies the allegations in paragraph 558.

559. As to paragraph 559, the respondent:

- (a) refers to and repeats sub-paragraphs 21(b)(ii) to 21(b)(v) above;
- (b) says further that:

- (i) in accordance with cl. 32.3 of the 2013 Agreement and cl. 36.3 of the 2018 Agreement, the respondent implemented the Western Health Overtime Protocol;
 - (ii) Doctors in Training were, or ought to have been, aware of the Western Health Overtime Protocol and the respondent's approach to Unrostered Overtime;
 - (iii) if Doctors in Training performed Unrostered Overtime, they were able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 559.

560. As to paragraph 560, the respondent:

- (a) refers to and repeats paragraphs 558 and 559 above;
- (b) otherwise denies the allegations in paragraph 560.

561. As to paragraph 561, the respondent:

- (a) refers to and repeats paragraph 559 above; and
- (b) otherwise denies the allegations in paragraph 561.

562. As to paragraph 562, the respondent:

- (a) refers to and repeats paragraphs 558 and 559 above;
- (b) says that:
 - (i) whether a Doctor in Training was authorised to work any alleged admissions overtime (including whether the Doctor in Training worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of the Doctor in Training performing the work, the Doctor in Training was required to seek authorisation for any admissions overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) no Doctor in Training has provided particulars of the circumstances of any alleged occasion of admissions overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to him/her for such overtime, nor provided particulars of the claims made by him/her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;

(c) otherwise denies the allegations in paragraph 562.

563. As to paragraph 563, the respondent:

(a) refers to and repeats paragraphs 558 to 562 above; and

(b) says further that:

(i) payment for Unrostered Overtime is subject to the condition that a Group Member make an Overtime Claim in relation to the overtime purportedly worked;

(ii) if a Group Member did not make an Overtime Claim in respect of the alleged admissions overtime, then it ought be concluded that either:

A. the Group member did not work such overtime;

B. the Group Member was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or

C. the Group Member was in attendance at the Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iii) further or alternatively, the Group Member is estopped from asserting the contrary of the matters in subparagraphs (ii)(B) and (ii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 563.

564. As to paragraph 564, the respondent:

(a) refers to and repeats paragraphs 558 to 563 above; and

(b) otherwise denies the allegations in paragraph 564.

565. As to paragraph 565, the respondent:

(a) refers to and repeats paragraphs 558 to 563 above; and

(b) otherwise denies the allegations in paragraph 565.

E8 Medical communication overtime

566. As to paragraph 566, the respondent:

- (a) admits that the duties and responsibilities of a Doctor in Training when providing medical services included communicating with patients, patients' families and visitors about a patient's treatment;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl. 35.1(b) of the 2018 Agreement, rosters factored in and allowed time for communicating with patients, patients' families and visitors about a patient's treatment; and
- (c) otherwise denies the allegations in paragraph 566.

567. As to paragraph 567, the respondent:

- (a) refers to and repeats sub-paragraphs 21(b)(ii) to 21(b)(v) above;
- (b) says further that:
 - (i) in accordance with cl. 32.3 of the 2013 Agreement and cl. 36.3 of the 2018 Agreement, the respondent implemented the Western Health Overtime Protocol;
 - (ii) Doctors in Training were, or ought to have been, aware of the Western Health Overtime Protocol and the respondent's approach to Unrostered Overtime;
 - (iii) if Doctors in Training performed Unrostered Overtime, they were able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 567.

568. As to paragraph 568, the respondent:

- (a) refers to and repeats paragraphs 566 and 567 above;
- (b) otherwise denies the allegations in paragraph 568.

569. As to paragraph 569, the respondent:

- (a) refers to and repeats paragraph 567 above; and
- (b) otherwise denies the allegations in paragraph 569.

570. As to paragraph 570, the respondent:

- (a) refers to and repeats paragraphs 566 and 567 above;
- (b) says that:
 - (i) whether a Doctor in Training was authorised to work any alleged medical communication overtime (including whether the Doctor in Training worked the alleged

overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;

- (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of the Doctor in Training performing the work, the Doctor in Training was required to seek authorisation for any medical communication overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) no Doctor in Training has provided particulars of the circumstances of any alleged occasion of medical communication overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to him/her for such overtime, nor provided particulars of the claims made by him/her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 570.

571. As to paragraph 571, the respondent:

- (a) refers to and repeats paragraphs 566 to 570 above; and
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that a Group Member make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) if a Group Member did not make an Overtime Claim in respect of the alleged medical communication overtime, then it ought be concluded that either:
 - A. the Group member did not work such overtime;
 - B. the Group Member was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
 - C. the Group Member was in attendance at the Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);
 - (iii) further or alternatively, the Group Member is estopped from asserting the contrary of the matters in subparagraphs (ii)(B) and (ii)(C) above for the reasons in paragraphs 583 to 595 below;

- (c) otherwise denies the allegations in paragraph 571.

572. As to paragraph 572, the respondent:

- (a) refers to and repeats paragraphs 566 to 571 above; and
- (b) otherwise denies the allegations in paragraph 572.

573. As to paragraph 573, the respondent:

- (a) refers to and repeats paragraphs 566 to 571 above; and
- (b) otherwise denies the allegations in paragraph 573.

E9 Other medical services overtime

574. As to paragraph 574, the respondent:

- (a) admits that the duties and responsibilities of a Doctor in Training when providing medical services included other medical services;
- (b) says that in accordance with cl. 26.1.2 of the 2013 Agreement and cl. 35.1(b) of the 2018 Agreement, rosters factored in and allowed time for the performance of other medical services; and
- (c) otherwise denies the allegations in paragraph 574.

575. As to paragraph 575, the respondent:

- (a) refers to and repeats sub-paragraphs 21(b)(ii) to 21(b)(v) above;
- (b) says further that:
 - (i) in accordance with cl. 32.3 of the 2013 Agreement and cl. 36.3 of the 2018 Agreement, the respondent implemented the Western Health Overtime Protocol;
 - (ii) Doctors in Training were, or ought to have been, aware of the Western Health Overtime Protocol and the respondent's approach to Unrostered Overtime;
 - (iii) if Doctors in Training performed Unrostered Overtime, they were able to submit an Overtime Claim;
- (c) otherwise denies the allegations in paragraph 575.

576. As to paragraph 576, the respondent:

- (a) refers to and repeats paragraphs 574 and 575 above;

- (b) otherwise denies the allegations in paragraph 576.

577. As to paragraph 577, the respondent:

- (a) refers to and repeats paragraph 575 above; and
- (b) otherwise denies the allegations in paragraph 577.

578. As to paragraph 578, the respondent:

- (a) refers to and repeats paragraphs 574 and 575 above;
- (b) says that:
 - (i) whether a Doctor in Training was authorised to work any alleged other medical services overtime (including whether the Doctor in Training worked the alleged overtime due to a demonstrable clinical need that could not be met by other means) depends on the circumstances of each alleged occasion;
 - (ii) further or alternatively, pursuant to the Western Health Overtime Protocol, where authorisation of the overtime could not reasonably have been made in advance of the Doctor in Training performing the work, the Doctor in Training was required to seek authorisation for any other medical services overtime no later than the completion of the pay fortnight in which the overtime occurred;
 - (iii) no Doctor in Training has provided particulars of the circumstances of any alleged occasion of other medical services overtime worked (including of the demonstrable clinical need that could not be met by other means), nor provided particulars of the advance authorisation given to him/her for such overtime, nor provided particulars of the claims made by him/her (and approved by the respondent) for retrospective authorisation of such overtime, and the respondent cannot properly plead without those particulars;
- (c) otherwise denies the allegations in paragraph 578.

579. As to paragraph 579, the respondent:

- (a) refers to and repeats paragraphs 574 to 578 above; and
- (b) says further that:
 - (i) payment for Unrostered Overtime is subject to the condition that a Group Member make an Overtime Claim in relation to the overtime purportedly worked;
 - (ii) if a Group Member did not make an Overtime Claim in respect of the alleged other medical services overtime, then it ought be concluded that either:

- A. the Group member did not work such overtime;
- B. the Group Member was not authorised to work such overtime (including because there was no demonstrable clinical need that could not have been met by other means); and/or
- C. the Group Member was in attendance at the Hospital for reasons other than due to a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education (as contemplated in the Western Health Overtime Protocol);

(iii) further or alternatively, the Group Member is estopped from asserting the contrary of the matters in subparagraphs (ii)(B) and (ii)(C) above for the reasons in paragraphs 583 to 595 below;

(c) otherwise denies the allegations in paragraph 579.

580. As to paragraph 580, the respondent:

- (a) refers to and repeats paragraphs 574 to 579 above; and
- (b) otherwise denies the allegations in paragraph 580.

581. As to paragraph 581, the respondent:

- (a) refers to and repeats paragraphs 574 to 579 above; and
- (b) otherwise denies the allegations in paragraph 581.

E8 Loss and damage

582. The respondent denies the allegations in paragraph 582 for the reasons pleaded herein.

F ESTOPPEL BY CONDUCT

Background to the estoppel

583. Pursuant to the terms of their employment contracts, Dr Peel and the Group Members were informed that their conditions of employment were governed by:

- (a) the 2013 Agreement or the 2018 Agreement;
- (b) their individual contracts of employment; and
- (c) the Western Health policies and procedures, including the Western Health Overtime Protocol.

584. Pursuant to the Western Health Overtime Protocol, Unrostered Overtime must only be performed due to a demonstrable clinical need that could not have been met by some other means.

Particulars

Western Health Remuneration Policy dated August 2015, section 7.3.2.

Western Health Remuneration Policy dated November 2018, section 7.3.2.

Junior Medical Unrostered Overtime Substantiation Form

585. Pursuant to the Western Health Overtime Protocol, in order to claim payment for Unrostered Overtime, Dr Peel and Group Members were required to:

- (a) complete an Overtime Claim, setting out:
 - (i) the date of the Unrostered Overtime;
 - (ii) the start time and finish time of the Unrostered Overtime;
 - (iii) the total Unrostered Overtime hours worked;
 - (iv) the details and reason for the Unrostered Overtime, including the patient name or UR and / or other relevant clinical information;
 - (v) the individual who requested completion of the Unrostered Overtime (noting that Unrostered Overtime cannot be self initiated);
 - (vi) the signature of the consultant or unit head who authorised the Unrostered Overtime;
 - (vii) the ward or area where the Unrostered Overtime was worked;
 - (viii) the cost centre to be charged for the Unrostered Overtime;
 - (ix) the signature of the Doctor in Training certifying that the Unrostered Overtime was due to a demonstrable clinical need that could not have been met by some other means and was essential to patient care, and that no other Hospital Medical Officer on duty could have appropriately provided the care.

Particulars

Western Health Remuneration Policy dated August 2015, section 7.3.2.

Western Health Remuneration Policy dated November 2018, section 7.3.2.

Junior Medical Unrostered Overtime Substantiation Form

- (b) have the Overtime Claim authorised by the Line Manager and Director prior to the commencement of the Unrostered Overtime and / or no later than upon completion of the pay fortnight in which the Unrostered Overtime occurred.

Particulars

Junior Medical Unrostered Overtime Substantiation Form

586. Dr Peel and Group Members were directed to, and expected to, attend annual orientation sessions for Hospital Medical Officers and Registrars at which a power point presentation was shown, which stated that any Unrostered Overtime must be recorded on a substantiation form and authorised by the head of unit before submission.

Particulars

Western Health Medical Workforce Unit 2017 HMO/Registrar Presentation, slide 5.

Western Health Medical Workforce Unit 2018 HMO/Registrar Presentation, slide 5.

Western Health Medical Workforce Unit 2019 HMO/Registrar Presentation, slide 5.

Further particulars in relation to Group Members will be provided after the Group Members are known.

587. From time to time throughout the Relevant Period, Group Members submitted claims for Unrostered Overtime which were approved and for which they were paid (**Claimed Unrostered Overtime**).

Particulars

Particulars in relation to Group Members will be provided after the Group Members are known.

588. By reason of paragraphs 583 to 587 above, Dr Peel and Group Members were:

- (a) aware of their ordinary hours of work;
- (b) aware of the requirement to obtain retrospective authorisation for Unrostered Overtime from the Line Manager and Director no later than upon completion of the pay fortnight in which the overtime occurred, if authorisation could not reasonably be obtained in advance of the doctor performing the work;

- (c) aware of the requirement to submit an Overtime Claim and the process for doing so; and
- (d) capable of complying those requirements.

Operation of the estoppel

589. In the circumstances set out in paragraphs 583 to 588 above, to the extent that Dr Peel and the Group Members:

- (a) attended or remained at work outside their ordinary hours of work other than for rostered overtime or authorised Unrostered Overtime, authorisation having not been able to reasonably have been made in advance; or
- (b) did not submit an Overtime Claim in accordance with the Western Health Overtime Protocol;

then, by that conduct, Dr Peel and the Group Members induced the respondent to assume, and the respondent did assume:

- (c) that they were not, or were not required to be, in attendance at a hospital to carry out functions that they had been called upon to perform on behalf of the respondent during any such time;
- (d) further or alternatively, that any attendance at a Western Health facility during any such time was for reasons other than a demonstrable clinical need that could not have been met by other means, including for the purposes of observation or education.

590. Dr Peel and the Group Members did not correct any mistake in the assumptions set out in sub-paragraph 589(c) and, further or alternatively, sub-paragraph 589(d) above (**unapproved or unclaimed time assumptions**), despite being under a duty to do so:

- (a) by reason of their contractual obligations set out in paragraph 583 above;
- (b) further or alternatively, because, by reason of the matters in paragraphs 583 to 588 above:
 - (i) Dr Peel and Group Members knew, or should reasonably have known, that the respondent would be induced by the acts or omissions referred to in sub-paragraphs 589(a) or 589(b) above to make the unapproved or unclaimed overtime assumptions; and
 - (ii) a reasonable person would have expected Dr Peel and Group Members to correct any mistake in those assumptions by submitting an Overtime Claim in accordance with the Western Health Overtime Protocol.

591. In the circumstances set out in paragraph 590 above, to the extent that Dr Peel or Group Members engaged in the conduct in sub-paragraphs 589(a) or 589(b) above, it amounted to a representation

by Dr Peel and Group Members as to the matters in sub-paragraph 589(c) and, further or alternatively, sub-paragraph 589(d) above (**unapproved or unclaimed overtime representations**).

592. The respondent acted in reliance on the unapproved or unclaimed overtime representations and the unapproved or unclaimed overtime assumptions, in that the respondent, by reason of the unapproved or unclaimed overtime representations and the unapproved or unclaimed overtime assumptions:
- (a) was not aware of, and did not investigate contemporaneously, any assertion that Dr Peel or Group Members had purportedly attended at work outside their ordinary hours of work other than during the periods of Rostered Overtime and claimed Unrostered Overtime;
 - (b) did not make any payment to Dr Peel or Group Members in relation to any purported attendance at work outside their ordinary hours of work other during the periods of Rostered Overtime and claimed Unrostered Overtime; and
 - (c) did not take steps that were available to the respondent to reduce any such time being worked by Dr Peel and Group Members.

Particulars

The steps that would have been available to the respondent included :

- 1) reviewing and, if necessary, changing roster arrangements to reduce the possibility of Unrostered Overtime arising;
- 2) changing models of care and making operational changes in the delivery of health services, such as changing theatre scheduling arrangements, to address the causes of Unrostered Overtime, based on the information provided by Dr Peel and Group Members;
- 3) employing or rostering more doctors;
- 4) reallocating responsibility for some activities or functions to more senior doctors or other personnel;
- 5) issuing directions in relation to working or not working Unrostered Overtime or performing or not performing particular activities;
- 6) planning, forecasting or budgeting for the Unrostered Overtime to ensure that the respondent could meet any liability for Unrostered Overtime.

593. To the extent that Dr Peel or Group Members engaged in the conduct in sub-paragraphs 589(a) and 589(b) above, it was reasonable for the respondent to regard that conduct as amounting to the

unapproved and unclaimed time representations, to make the unapproved or unclaimed overtime assumptions, and to rely on those assumptions as set out paragraph 592 above, in circumstances in which Dr Peel and Group Members:

- (a) were obliged to comply with the Western Health Overtime Protocol in relation to obtaining authorisation for Unrostered Overtime and submitting claims for Unrostered Overtime, as set out in paragraphs 583 to 586 above;
- (b) were informed of those obligations by the respondent as set out in paragraph 583 and 585 above;
- (c) were capable of complying with those obligations as set out in paragraphs 586 and 587 above; and
- (d) were on notice that the respondent's reliance on the unapproved or unclaimed overtime representations and the unapproved or unclaimed overtime assumptions.

Particulars

Dr Peel and the Group Members were on notice including because:

- 1) they were not paid in relation to any purported attendance at work outside their ordinary hours of work other than during the periods of Rostered Overtime and claimed Unrostered Overtime;
- 2) their day-to-day work was autonomous, such that they could not reasonably expect the senior staff with authority to approve or require Unrostered Overtime on behalf of the respondent to have known they were working outside their ordinary hours unless they submitted a claim or otherwise brought that work to the respondent's attention.

594. The respondent would suffer detriment if Dr Peel and Group Members were permitted to assert to the contrary of any of the unapproved or unclaimed overtime assumptions, to the extent that any of those assumptions is incorrect (which is not admitted), being that:

- (a) the respondent would be required to make further payments to Dr Peel and Group Members in relation to Unrostered Overtime;
- (b) further or alternatively, the respondent has lost the opportunity to avoid all or some of the Unrostered Overtime by taking the steps referred to in sub-paragraph 592(c) above,

which they did not take in reliance on the unapproved or unclaimed overtime representations and the unapproved or unclaimed overtime assumptions.

595. By reason of paragraphs 589 to 594 above, Dr Peel and Group Members are estopped from asserting:

- (a) that they were, or were required to be, in attendance at a Western Health facility to carry out functions that they had been called upon to perform on behalf of the respondent during any such time;
- (b) further or alternatively, that any attendance at a Western Health facility during any such time was for reasons other than a demonstrable clinical need that could not have been met by other means, including voluntary.

Date: 8 October 2021

.....
Signed by Andrew Morrison
Lawyer for the respondents

This pleading was prepared by Andrew Morrison and Emma Mawson, Lawyers for the respondent and settled by Frank Parry QC and Helen Tiplady, Counsel for the respondent.

Certificate of lawyer

I Andrew Morrison certify to the Court that, in relation to the defence filed on behalf of the respondents, the factual and legal material available to me at present provides a proper basis for:

1. each allegation in the pleading; and
2. each denial in the pleading; and
3. each non admission in the pleading.

Date: 8 October 2021



.....
Signed by Andrew Morrison
Lawyer for the respondent

Schedule of Parties

Federal Court of Australia
District Registry: Victoria
Division: Fair Work

No. VID 419/2021

First Applicant: The Australian Salaried Medical Officers' Federation

Second Applicant: Joanne Peel

Respondent: Western Health