



17 March 2025

Enforceable Undertaking

Aged Care Quality and Safety Commission Act 2018

Section 74EC

Regulatory Powers (Standard Provisions) Act 2014

Section 114

The commitments in this undertaking are offered to the Aged Care Quality and Safety Commissioner by:

TLC Melbourne Pty Ltd

ABN 46 206 817 353

RACS 3954 and 4576

**Address: TLC Aged Care Pty Ltd, Level 10, 468 St Kilda Road,
Melbourne 3004**

Part 1. Definitions

In addition to terms defined elsewhere in this Undertaking and in the associated legislation, the following definitions are used:

TLC Melbourne means TLC Melbourne Pty Ltd, in its capacity as an approved provider.

Acceptance Date means the date of acceptance by the Commissioner of this Undertaking.

Aged Care Act means the *Aged Care Act 1997* (Cth).

Approved provider means a person approved by the Commissioner under section 63D of the Commission Act as a provider of aged care.

Care minutes responsibilities means the aged care responsibilities under section 10 of the Quality of Care Principles that relate to the required amounts of direct care (noting section 54-1(1)(h) of the Aged Care Act provides that it is a responsibility of an approved provider, in relation to the quality of the aged care that the approved provider provides, to comply with such other responsibilities as are specified in the Quality of Care Principles).

Care recipients means individuals receiving care and services from the approved provider through a service who are 'counted care recipients' (as is defined in section 10(4) of the Quality of Care Principles) for the purpose of the care minutes responsibilities

Commission Act means the *Aged Care Quality and Safety Commission Act 2018* (Cth).

Commission Rules means the *Aged Care Quality and Safety Commission Rules 2018* (Cth).

Commission means the Aged Care Quality and Safety Commission established by section 11 of the Commission Act.

Commissioner means the Commissioner of the Commission, or a person delegated under section 76 of the Commission Act to perform the Commissioner's functions or exercise the Commissioner's powers.

Direct care has the same meaning as the definition included in section 4 of the Quality of Care Principles.

Direct care staff member has the same meaning as the definition included in section 4 of the Quality of Care Principles.

Enrolled nurse staff member has the same meaning as the definition included in section 4 of the Quality of Care Principles

Quality of Care Principles means the *Quality of Care Principles 2014* (Cth).

Registered nurse staff member has the same meaning as the definition included in section 4 of the Quality of Care Principles

Regulatory Powers Act means the *Regulatory Powers (Standard Provisions) Act 2014* (Cth).

Service(s) means the residential care service(s), described below, through which the provider provides residential care:

- The Heights Donvale, 39-41 Mitcham Road Donvale VIC 3111
- Clifton Views, 217-241 Queens Parade, Fitzroy North VIC 3068

Undertaking means this Enforceable Undertaking.

Part 2. General Information

2.1 The Commissioner's role

The Commissioner may accept an Undertaking in accordance with section 114 of the Regulatory Powers Act.

2.2 Purpose

The purpose of this Undertaking is to state the undertakings offered to the Commission under section 74EC of the Commission Act and section 114 of the Regulatory Powers Act in relation to the non-compliance described in Part 4 of this Undertaking.

2.3 Commencement

This Undertaking commences on the acceptance date. Upon the Undertaking taking effect, the Undertaking may be enforced in accordance with section 115 of the Regulatory Powers Act.

2.4 Term of the Undertaking

This Undertaking continues, as may be varied from time to time with the Commissioner's consent, from the commencement date until it is withdrawn by TLC Melbourne with the Commissioner's consent under section 114 of the Regulatory Powers Act or cancelled by the Commission under section 114 of the Regulatory Powers Act, whichever is earlier.

Part 3. Background

Approved Provider Background

TLC has been the owner and operator of residential aged care since 1997 including TLC Melbourne Pty. Ltd trading as The Heights Donvale and TLC Melbourne Pty Ltd trading as Clifton Views (**the Services**). TLC began as a family business that initially purchased two older-style period homes operating as 'nursing homes'. These homes were closed, and in their place, TLC built a state-of-the art home in Wallington in 1997. The Wallington home ensured all residents had private rooms with ensuite bathrooms, as well as spacious diverse common and private areas.

Since that time, the family has developed 11 other homes, all designed with high quality finishes and a focus on delivering superior outcomes for all residents.

As aged care evolved, so did the company with the appointment of a Corporate CEO with a primary focus of providing the best outcomes for all residents.

To that end, through the leadership of the CEO, TLC has established medical centres at every TLC site (except for the two homes in the same suburb that share a medical centre). TLC sites are staffed by qualified and experienced aged care medical practitioners and geriatricians, ensuring residents have prompt access to a GP, reducing hospitalisation rates.

In the past two years, TLC has partnered with Melbourne University and Griffith University to conduct dedicated research into Intergenerational Care. This research highlights the benefits for both aged care residents and children under the age of six.

TLC's most recent development, undertaken during a period where few providers are building, includes residential aged care, medical centres, an early learning centre, a commercial gymnasium and hydrotherapy pool. These services enable residents to stay connected to their community and regain strength and condition through rehabilitation programs.

Looking ahead, TLC plans to develop additional sites based on its "Precinct Model". This model includes expanding into Day Surgery bring specialist medical services directly to the residents, ensuring they can access comprehensive care and services on-site.

TLC Aged Care comprises eight different providers, all governed by the same independent governing body and owned by the original two family members as shareholders.

Service Specific Background – The Heights Donvale

The Heights Donvale is located at 29 – 41 Mitcham Road, Donvale, in Victoria.

A primary care medical centre is co-located with the Services. All allied health professionals, support specialist nurses, general practitioners and geriatricians are located within the medical centre.

The Heights Donvale has:

- 94 approved places of which;
 - All are fully occupied; and
 - There are no places off line.

The average amount of direct care provided through the service by direct care staff members of the approved provider per counted care recipient per day (as calculated under s9(1)) for the following period(s):

October 2023 - December 2023	174.70 direct care minutes
January 2024 – March 2024	174.78 direct care minutes
April 2024 – June 2024	177.95 direct care minutes
July 2024 – September 2024	183.95 direct care minutes
October 2024 – December 2024	192.20 direct care minutes

Service Specific Background – Clifton Views

Clifton Views is located at Clifton Views, 217-241 Queens Parade, Fitzroy North in Victoria.

A primary care medical centre is co-located with the Services. All allied health professionals, support specialist nurses, general practitioners and geriatricians are located within the medical centre.

Clifton Views has:

- 123 approved places of which;
 - All are fully occupied; and
 - There are no places off line.

The average amount of direct care provided through the service by direct care staff members of the approved provider per counted care recipient per day (as calculated under s9(1)) for the following period(s):

October 2023 - December 2023	210.30 direct care minutes
January 2024 – March 2024	218.04 direct care minutes
April 2024 – June 2024	218.95 direct care minutes
July 2024 – September 2024	221.77 direct care minutes
October 2024 – December 2024	222.50 direct care minutes

Part 4. History of non-compliance

A meeting was held on 30 May 2024 with senior members of the Aged Care Quality and Safety Commission and the Department of Health and Aged Care and several members of the TLC Executive team. This meeting was to discuss TLC Aged Care progress toward meeting the legislative requirements for Care Minutes within several TLC homes.

While we were aware that we did not comply with the legislated minutes, our model was positively reinforced, noting the quality outcomes it achieved which is why we have not undertaken a significant restructure earlier.

Part 5 Acknowledgements

We acknowledge that the model of care TLC has developed does not comply with the legislated direct care minutes. TLC will comply with the legislated care minutes.

We acknowledge the Commission's powers to determine TLC to be non-compliant with the legislated care minutes and acknowledge the penalties that may arise from the non-compliance.

Part 6. Admissions

TLC Melbourne admits it is not compliant with the Direct Care Minutes as stipulated in the Quality of Care Principles.

Part 7. Undertakings

In accordance with the operation of section 114 of the Regulatory Powers Act and section 74EC of the Commission Act, the provider has offered, and the Commissioner has accepted, the following undertakings:

Basic assumptions for the purposes of the undertaking is on the 215 direct care minutes with 44 direct care provided by a Registered Nurse. Noting that the direct care minutes will change depending on the acuity of the residents and corresponding AN-ACC funding that is spent solely on care.

1. TLC will, to comply with the Legislated Direct Care Minutes, recruit externally, review internally, recruit from overseas and increase trainee numbers to an additional 25 Full Time Equivalent (FTE) staff.

The Heights Donvale require 8 FTE staff to meet the legislated care minutes.

January to March 2025	April to June 2025	July to Sept 2025	Oct. to Nov. 2025	TOTAL
4	4			8

We have an increase of .89 FTE over the Undertaking for the Quarter.

You will note that, not only have we met the undertaking for Quarter 3 but we have exceeded it by .89 FTE at The Heights Donvale. We note that Clifton Views is already meeting its obligations, (as a consequence of the layout of the service being over 9 floors).

Please note that we initially back loaded the numbers to ensure the process to restructure clinical services throughout the organisation is relatively seamless and residents are kept up to date on the changes. However, we have now reviewed that strategy to reflect the expectations of the Commission.

TLC acknowledges that the introduction of the care minute requirements commenced in October 2023, however, our model was positively reinforced by auditors, in written reports and through fact sheets that initially focused on the quality outcomes for residents. As a consequence TLC maintained its model until meeting with the Department and the Commission. These meetings were commenced in May 2024.

It is for this reason that we are lagging and will require the time to restructure. At no time will we permit standards to fall. We note that while our model does not comply, we have other staff that do not meet the care minute requirements that continue to provide residents with the care they want and require.

2. We are continuing to advertise for staff for The Heights Service through SEEK, on the TLC website, and by direct contact through our talent acquisition team continually searching for staff that meet the inherent requirements of providing quality care and services to residents.
3. We have increased our sponsored workers to 150 per annum across TLC services. 100 of these workers have been recruited internally which results in the previously part time workers being required to work full time for the period of sponsorship, being 2 years.

This has increased the number of shifts available to the service of the delta between the previous part time employee now working full time.

4. For the 2025 calendar year we have further increased our sponsored workers by another 50 workers, with 3 being allocated to The Heights.
5. The TLC Registered Training Organisation (**RTO**) is graduating 20 students in Certificate III (Aged Care) which will occur in May 2025. 4 of which will be allocated to The Heights Donvale and Clifton Views combined.

6. We have onboarded additional trainees to commence their Certificate III in Aged Care through the TLC Registered Training Organisation that have commenced. Of those, 1 was appointed to The Heights.
7. We have several "Talent Pools", whereby the numerous candidates that may not have been successful for one position and demonstrate that they have the skills and expertise to perform the functions are retained in the talent pool. Our talent acquisition team are currently going through those potential staff with a view of immediate appointment.

Commitment

The Heights Donvale and Clifton Views are committed to complying with their obligations to achieve the best outcomes for its residents in accordance with the legislation.

We will continue at our current pace of training, recruitment and onboarding sponsored workers to meet our obligations.

We continue to and will remain directing all care funding into the provision of care and care services to residents at The Heights Donvale and Clifton Views.

Part 8: How does and will TLC monitor meeting mandatory care minutes targets.

1. We have commenced discussions with Mirus Australia with a view of obtaining both "*Mirus Metrics*" and "*Mirus Care Manager*" programs to further facilitate the direct care minutes in line with the funding received through AN-ACC funding.
2. TLC Executive, including finance, quality, operations, legal, human resources, Information Technology and Primary Health care, have and will continue at all times to regularly monitor both the care minutes, and the quality outcomes for residents.
3. The General Managers of The Heights Donvale and Clifton Views will both monitor staff rostering on a daily basis in conjunction with the clinical leads and the regional manager. The executive team will monitor weekly and meet regularly to ensure that the acuity of residents is monitored and reflected in the increase or decrease of direct care minutes.
4. Our human resource team with its specialist talent acquisition function will continue to advertise, recruit and place staff at all services to achieve ongoing increases to the direct care minutes.
5. We continue to closely monitor our mandatory indicators which includes the mandatory quality indicators, and note that TLC Aged Care resident hospitalisations as reported in the Mandatory Quality Indicators is currently at 3.4% in comparison to the Aged Care industry average of 33%.

TLC Aged Care homes have all implemented the VVED (Victorian Virtual Emergency Department) following education to all Registered Nurses in the homes. The Victorian Ambulance Association invited TLC Whitewater to participate in a video which featured staff, residents and family members discussing the benefits of VVED as they noted TLC to be utilising this service for the residents so effectively.

6. The medical centres are also supported by chronic disease registered nurses, wound care specialists, palliative care nurses and a diabetic educator. These specialist nurses support all TLC residential aged care homes.

We will review the possibility of transferring the appropriate staff that are able to be included in the direct care minutes to those roles within the service.

Our medical centres, staffed by general practitioners, are co-located within our homes and are accessible to residents at all times. Residents have immediate access to general practitioners. Medical services are not delayed by waiting for external general practitioners or having to transfer residents to hospital unnecessarily.

Costs of Compliance

TLC Melbourne undertakes that it will pay all costs associated with its compliance with this Undertaking.

Part 9. Acknowledgments and statements

- 9.1 TLC Melbourne acknowledges that the Commissioner:

- a) Will publish this Undertaking on the Commission's website.
- b) May make public reference, including by way of media release and/or Commission publications, to the acceptance of this Undertaking, referring to its terms and to the concerns of the Commissioner which led to its acceptance. However, the terms of any media release must be consistent with this Undertaking.

- 9.2 TLC Melbourne acknowledges that:

- a) This Undertaking has no operative force until accepted by the Commissioner.
- b) The date of the Undertaking is the date on which it is accepted by the Commissioner.
- c) The Undertaking is given voluntarily by TLC Melbourne, who has obtained legal advice in relation to its obligations under, and the effect of, this Undertaking.

- d) The Commissioner's acceptance of this Undertaking does not affect any rights, remedies and powers available to the Commission, or the Commonwealth.
- e) The Commission may undertake compliance monitoring activities to verify the evidence submitted as required by Part 7 and TLC Melbourne compliance with the Undertaking.
- f) The Commissioner has the power to enforce the Undertaking under section 115 of the Regulatory Powers Act and may exercise this power if any requirement or condition of the Undertaking is breached.
- g) If any part of this Undertaking is held invalid, that part shall be severed from this Undertaking and the remainder of this Undertaking will continue to be valid and enforceable.
- h) The references to provisions of Commonwealth Acts of Parliament and Legislative Instruments in this Undertaking shall include references to those provisions as amended from time to time and in the event of a repeal of any of them, any equivalent provision from time to time.

9.3 Statement of ability to comply

TLC Melbourne confirms it has the operational and financial capacity to comply with the Undertaking.

Part 10. Provision of Documents

The address for providing the Commission with any notice or document which this Undertaking requires to be provided is:

Aged Care Quality and Safety Commission

GPO Box 9819

CANBERRA ACT 2601

Executed by TLC Melbourne Pty Ltd

ABN 46 206 817 353 in accordance
with its constitution



Signature of CEO/Managing Director

Lou Pascuzzi

Name of CEO/Managing Director
(please print)



Signature of Company Secretary

Sabine Phillips AM

Name of Company Secretary
(please print)

Date accepted by the Commissioner: 17 March 2025

ACCEPTED by the **AGED CARE**
QUALITY AND SAFETY
COMMISSIONER under section 74EC
of the Commission Act and Section
114 of the Regulatory Powers Act



Peter Edwards a/g Deputy
Commissioner

Aged Care Quality and Safety
Commissioner or delegate

Witness



Witness full name (please print)

Scott Rumbold