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Transcript of Proceedings

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IN THE MATTER OF THE COMMISSIONS OF INQUIRY ACT 1950

BUNDABERG HOSPITAL COMMISSION OF INQUIRY

COMMISSIONS OF INQUIRY (No. 1) 2005

BUNDABERG

..DATE 23/06/2005

..DAY 13

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THE COMMISSION RESUMED 9.39 A.M.

COMMISSIONER: Well, I guess it's Ms Hoffman back to the witness box now.

MR ANDREWS: Yes. There's one matter of homework I would like to raise. The requests for various transcripts which were made, I think the afternoon before last, Commissioner, you suggested that you might make a ruling at some stage.

COMMISSIONER: Yes.

MR ANDREWS: Pending that ruling, it's my proposal to meet those requests with the supply of transcripts subject to a Fielder v. Gillespie type undertaking from counsel that they will be looked at only by counsel or counsel's instructing solicitor.

COMMISSIONER: Yes. I think it would be proper, and I will, of course, hear anything that Mr Morrison or anyone else wants to say about this, make a direction that those transcripts are only to be viewed for the time being by counsel and their instructing solicitors, subject to two qualifications. The first is that I will trust to the discretion of the lawyers involved if they wish to seek specific instructions from their clients about particular matters, and, secondly, that if there is felt to be a need to show the transcript or provide information to other parties, for example potential witnesses, then you can apply either formally to the Inquiry or through Counsel Assisting, and there shouldn't be a difficulty.

MR MORRISON: I have no problem with that.

MR DIEHM: Nor I.

MR ANDREWS: Thank you. I recall Toni Hoffman.

TONI HOFFMAN, CONTINUING:

COMMISSIONER: Ms Hoffman, make yourself comfortable. You will recall that you took an oath or affirmation at the commencement and you are still subject to that oath or affirmation.

Mr Andrews, is there any additional evidence-in-chief to be led?

MR ANDREWS: No, thank you, Commissioner.

COMMISSIONER: Mr Allen, is there anything?

MR ALLEN: No, not at this time, thank you, Commissioner.

COMMISSIONER: All right. Well, we are changing from the usual order and Mr Morrison has first go.

CROSS-EXAMINATION:

MR MORRISON: Thank you, Commissioner. Ms Hoffman, you know who I am. You have been here watching me for a couple of days, I think. All right. Let me ask you a number of questions to just clarify in my mind how things stand. Your experience dates back quite some time to the late 70s; that's correct, isn't it?-- Yes.

And your ICU experience dates back to some time in the '80s?-- Yes.

You came to Bundaberg in 2000?-- Yes.

As the NUM ICU?-- Yes.

And the NUM in that structure, whether it's ICU or otherwise, is largely an administrative position, isn't it?-- Yes.

You're responsible - I think the sort of phrase they use for NUMs is that you are the cost centre manager?-- Yes.

Right. So, staffing, stock, organisation of rosters and all that sort of stuff is your province?-- Yes.

That's not to say you don't do some clinical work when you have to relieve members of your staff or events might require it?-- Yes.

Okay. Now, just as the NUM is an administrative position, so is the Director of Nursing, isn't it?-- Yes.

You were the Acting Director of Nursing for a period of time, weren't you?-- Yes, just for three weeks.

And that was in late 2003?-- Just before Ms Mulligan started.

Just before she started?-- Mmm-hmm.

So, you would understand from your knowledge of your responsibilities at least in that three week period that the Director of Nursing isn't expected to do clinical work?-- No, that's right.

Right. And the Director of Nursing has a number of people reporting to her or him, or whoever that is?-- Yes.

Can I go through a few of them just to make sure I have got it right. All NUMs report to the DON, if I can call it the DON?-- Yes.

The DON. The Acting or the Assistant DON reports to the Director of Nursing?-- Yes.

Okay. Of the NUMs there were, I think in the time we are talking about, about 11?-- I don't know.

Okay. Nurses-----

COMMISSIONER: Does that figure sound about right?-- Not actually - it sounds a bit - sounds a bit-----

MR MORRISON: Light on?-- Light, yeah, a bit short.

There may be more?-- I think there's more, yeah.

Okay. Nurse educators, three of them?-- Oh, yeah, yes, yeah.

Nurse informatics, two of them?-- Mmm.

Clinical nurse consultants, two of them?-- Mmm.

Day bed managers, they report to the DON?-- Yes.

After hours nurse managers, there's four of them?-- Mmm.

And the permanent relieving after hours nurse, she reports to the DON as well?-- Yes.

Now, I did a bit of rough mathematics and that comes up at at least 25, and probably higher because I have worked on 11 NUMs, at least 25 direct reports to the DON?-- Mmm-hmm.

You probably experienced in your three weeks what all DONs experience and that is to say the demands on their time is pretty heavy?-- Mmm-hmm.

Administrative demands I am talking about?-- Yes.

Lots of people want to talk to the DON about lots of issues, not necessarily important or urgent, but it - administratively important; is that correct?-- Yes.

All right. And you probably experienced what other DONs experience, that is to say large sections of their day are taken up with meeting people in their reporting line?-- Yes.

Not only the people below them reporting up to them but the people to whom the DON must report. That's a fair assessment?-- Yes.

And the people to whom the DON reports or at least the direct line of report, I think you would know, is the District Manager?-- Yes.

Okay. Now, of course, that doesn't mean to say that only the people I have mentioned are people who want to see the DON or to whom the DON might wish to speak. In fact, it includes

almost everything, doesn't it?-- Yes.

As you mention in your statement and in your evidence in the previous occasion, that in the past, particularly I think with Ms Goodman, that the DON was to do what might be called in the old terminology matron's rounds. Is that right?-- That's very old terminology, but they-----

Yes?-- She certain - she did rounds, yes.

Well, it's not - might be old terminology but it's probably a reasonable analogy to say the rounds the DON would do because she wasn't doing - he wasn't doing clinical work as such?-- No.

So it's not a clinical round, it's really a tour of various parts of the wards or the hospital gathering what information might need to be gathered, speaking to those to whom the DON wanted to speak, whatever?-- Offering support, that's right.

Yes. Okay. Now, you know, don't you, that not all DONs, even now not all DONs, do the sort of rounds that were done in the old days by Ms Goodman?-- That's right.

Some do, some don't. It's as simple as that?-- Mmm-hmm.

And you probably have to respond verbally?-- Sorry.

Yes. The stenographer checks on her words and can't check on you. And so if, for instance - I will start again. The position description for the DON is probably not something you necessarily have regard to for your three weeks relieving, would I be right in that?-- I would have seen the position description, but they change all the time. So it depends-----

Right?-- -----on which one I would have seen.

The position description that you saw wouldn't have included a requirement to do rounds, would it?-- No, probably not. It doesn't go to that sort of detail.

So it really becomes - am I right in thinking it's a matter of what might be called personal preference by the DON?-- Yes, yes.

Some DONs do that style of management, other DONs do a different style of management?-- Yes.

Okay. And you don't necessarily criticise one for adopting one course or the other for adopting a different course, it's a matter of discretion?-- Yes.

Now, in addition to the matters that I have spoken about, I think you know and the Commission's heard something about this, of the number of committees there are involving all levels of staff within this hospital?-- Yes.

No doubt they are very similar, maybe they are the same as

committees that exist in most hospitals, but I only know about Bundaberg for the moment out of my ignorance so I am only going to talk about it. I counted up something like 20 different committees and I didn't do an exhaustive list, but it's of that number and more, isn't it?-- Probably.

Yes. Starting with the Leadership and Management Committee, the Executive Council Meetings, Clinical Service Forums, Heads of Department Meetings, ward level meetings, Nursing Heads of Department Meetings and so forth?-- That's right.

There are some forums. I mentioned one there, the Clinical Service Forums, and there are some other meetings on which the NUMs are participants?-- That's right.

The Clinical Service Forum is one. All NUMs go to that or should; is that right?-- I'm not quite sure which ones you are referring to. Are you referring to the medical and the Surgical Clinical Services Forums?

Well, you help me?-- Yes.

There's two sides. One's medical, one's clinical?-- There's - all of it - there's many - there's quite a few of them because there's different departments, yes. They are the ones you are speaking about.

COMMISSIONER: I think they are all clinical, medical and some surgical.

MR MORRISON: Yes

COMMISSIONER: There are also ones associated with other disciplines, like Mental Health or obstetrics?-- Yes.

MR MORRISON: Yes. All right. So, then we - I mention ward level nurses meetings, they were for the NUM to arrange?-- Yes.

Once again the NUM is, as it were, if I can use bad jargon, the boss of the area, that the NUM is in charge of-----?-- Yes.

And some of these meetings were monthly, some of them weekly. One I want to talk about in particular for a moment is the level 3, 4, 5 nurses meetings?-- Yes.

They were monthly?-- Yes.

Chaired by the DON?-- Yes.

All NUMs went to them?-- Yes.

The Clinical Nurse Consultants went to them?-- Yes.

The Assistant DON went to them?-- Yes.

And that was - dwelling on that for the moment, that was a

forum where issues could be aired and feedback received?-- Yes.

Right. And in many respects a pretty important forum where all of those people with their fingers on their various parts of the hospital proceedings could get together and raise what they wanted to raise?-- That's right.

All right. And I think I'm right in saying - just have a memory that someone told me this, maybe it was Nurse Aylmer, that they were very vocal meetings, they could be quite vocal, you know, there's a good exchange going on?-- There was some people who were vocal at the meetings. I wouldn't say they were a particularly good venue for open conversation at all.

Okay. Do you think something a bit more structured would have been better?-- No. I think something less structured where people were able - where people felt comfortable speaking out would have been better.

Less structured. Your experience of these things was like probably most people's experience of what committees they are on, there are those who talk and those who prefer not to talk?-- Yes.

And sit and listen?-- Yes.

That's a matter of personality as much as anything else, isn't it?-- Yes.

There were also within the range of meetings or committee meetings and so forth that I have had a chance to look at Nurse Educators meetings, staff meetings with each department, a general staff forum, the Local Consultive Forum, and so on. It goes on. There's plenty of them, aren't there?-- There's many.

All right. Now, you were on a number of them, I can't remember which ones and for the moment it probably doesn't matter, but you were on quite a number?-- Yes.

Okay. I want to talk about a couple of different periods, and at the moment I want to talk about the period before 2004, okay. The period before 2004. Now, Dr Patel arrived in early 2003?-- Yes.

Ms Mulligan arrived about a year later, early 2004?-- Yes.

So Patel had been there operating and behaving as you have described for nearly a year before Ms Mulligan came to the hospital?-- That's right.

And you say in your statement - have you got a copy with you in case you need it?-- Yes, I do, yes.

I am not sure you need it yet but feel free to pull it out. In paragraph 9 you say soon after he arrived you became concerned about post-operative complications. You don't

actually put a timeframe on that, except where we can gather it from the next paragraph, paragraph 9 which refers to patient P34 on the 11th of May. Is that the sort of timeframe you are talking about?-- Yes, probably. That is probably when I sent my first e-mail.

Now, I'm not sure that there is an e-mail relating to this, there might be, it doesn't look like it, but it doesn't matter. So we can take it then that from as early as May 2003 you had concerns about post-operative complications from Dr Patel?-- I had concerns about - I had different concerns about different things, mmm.

Probably at that time it was a little bit early to be talking about complications?-- We had seen several patients with complications but I was more concerned at that period with his behaviour.

His manner?-- And his - the thought processes, and his treatment of the patients.

I just want to concentrate for the moment on paragraphs 8 and 9, because it's - in paragraph 8 you say your concern at that time - I'm not saying you weren't concerned about his manner and so forth - but your concern at that time was post-operative complications. I can see you note that there?-- Yes.

You didn't put a time on it in 8 but I take it's - the timeframe is what's shown in 9. Am I right in that?-- Yes.

And in 9 you also referred to the fact that there was constant conflict between the anaesthetists on one part and Dr Patel and the physicians. Now, can you just explain that to me? When you say there was constant conflict, what are you talking about? Is it just a verbal - this is the top of page 4, if you want to find it, it's the third line - constant conflict about his care. Is this just a verbal exchange or is it more than that?-- It was verbal and it's my - and some - one of the other doctors and myself also made - well, it was also a verbal complaint to Dr Keating.

Right?-- And at the time-----

I think you deal with that specifically in paragraph 10?-- Mmm-hmm.

All right. We will get there in a second. One of your concerns in paragraph 9 was that Patel was saying one thing and the nurses were reporting a different thing?-- Correct.

Right. Now, apart from your visit to Dr Keating, I haven't yet seen anything in writing where that was dealt with as a report to the DON or a report to Keating. Is that the case, that it didn't get put in writing, you just went and saw him?-- The Director of Nursing was actually with me-----

Yes?-- -----at one meeting and then the second meeting when I

went with Dr John Joyner.

Dr Joyner, yes?-- I - there may not have been anything in writing.

Okay. All right. The reason I ask about notes and things is because I'm sure you appreciate and have appreciated for some time in your profession that accuracy is very important?-- Yes.

When one is recording events?-- Yes.

And that if you let it go and record it later you just heighten the chance that you miss something, your recollection is different, something else is impacted, you have moved on to something else, so the need for accuracy and quick access is important, isn't it?-- Yes.

Now, on your previous occasion of giving evidence - Commissioner, if you want to follow it, transcript 43 - you said you spoke to many people. Now, we know it's Goodman and Keating here and presumably Joyner, because he - it's a he, Dr Joyner?-- Yes.

He went along too. Anyone else?-- The staff in the ICU.

Right?-- Probably some of the other doctors.

You can't recall?-- I can't recall exactly, no.

All right. Okay. All right. And I think on the previous occasion, also at transcript 43 - it may be in your statement as well - that your comment to Keating wasn't that you come - that's right, it was his explanation that Patel came from a different country and you thought he - the difference between you all was that he - you were on different planets, it was as bad as that?-- Mmm.

Okay. I assume that your feelings in that regard didn't abate, they only got worse, your estimation that you and the nurses were just so far removed from Dr Patel's view of things?-- Yes, that's right.

It didn't - it didn't ease off, it only got exacerbated by what happened after that?-- That's right.

Right. Okay. Now, you were clearly unhappy, I gather, with the response you got from Dr Keating in paragraph 12 where he said, well, look, you know, he's from another country, you are just going to basically get on with things?-- Yes, we were unhappy.

And what was done about it then? Anything?-- Well, we continued to bring up the concerns as they-----

Yes?-- I continued to bring them up with my line manager, Director of Nursing and-----

Could I just ask you to pause. Hopefully you won't lose your train of thought. I do notice that in some part of your statement, and I will draw it to your attention if we have to, that you say that when Mulligan arrived she changed the line reporting so that you didn't report to the A/DON?-- Yes.

You reported to the DON?-- Yes.

But, in fact, it is the case that your line manager was the DON?-- Yes.

Okay?-- Yes. For certain things. It all depends on what they were, operational or professional. Operational went through the Acting - went through the Assistant Director of Nursing, professional-----

Professional though the DON?-- Yes.

Okay. Let's concentrate on the professional then.

COMMISSIONER: Sorry, was there any change to the structure when Mrs Mulligan arrived?-- Yeah, she did change the structure so that everything was reported through to her.

Okay. So, instead of going to the Assistant DON in relation to some operational issues, you now reported to the DON in relation to all issues?-- Yes.

Mr Morrison, does that-----

MR MORRISON: I will come back to it. It will do for the moment.

COMMISSIONER: One thing I did want to check was - while I'm interrupting - I normally try and prefer to refer to people by the title that they themselves use, and I see that your client in some correspondence signs as Mrs Mulligan and sometimes as Ms. Does she have a preference?

MR MORRISON: I can't tell you that. I tend to just call her Ms Mulligan.

COMMISSIONER: Yes.

MR MORRISON: And the DON.

COMMISSIONER: Yes.

MR MORRISON: In the non-Italian sense. In paragraph 12 you refer to - you have a description of your meeting with Dr Keating and Ms Goodman. Now, we can tell, I think, from paragraph 13 that was before the 6th of June. That's right, isn't it?-- Yes.

Okay?-- I believe so.

Now, at transcript 46 to 47 on the previous occasion you said the second meeting was in order to see if you could stop the

second oesophagectomy?-- Yes.

So it got as important as that. The effort was to actually stop an operation?-- Yes. We were very concerned about that surgery going ahead.

And around that time, if we can turn to patient 18, Dr Patel said to the staff that he'd be in ICU for the two days this oesophagectomy patient was in the unit and you say you took that comment to mean that he didn't trust the ICU staff?-- Yes.

Now, you know that there's some evidence that in America that's what the surgeons do, surgeons actually don't relinquish control of their patients into ICU, they actually keep track of them in ICU?-- Yes, I understand.

He's American trained?-- Yes, I understand that model of care.

So it's probably, would you agree, probably more the fact of his training that led him to that view rather than any particular distrust of the ICU staff?-- No. I do not agree with that at all.

COMMISSIONER: You have a reason for saying that?-- It didn't occur again and it didn't - hadn't occurred previously. It - that was not what was meant. What was meant was he was referring to the - to the previous issues that we brought up and the concerns that we had had.

MR MORRISON: That's the way you assessed it at least?-- Yes, and the - my staff as well who heard it, heard the comment.

All right. And the level of feeling about it, I think you describe as being in transcript 48 on the previous occasion, one of your staff was incensed over his comment?-- Yes.

Actually incensed. The level of feeling was that high?-- Well, probably, yes.

And with yourself?-- I was - I don't know if I would say I was incensed but I certainly was upset that he had such little disregard for the - what I regarded as the care that the nurses were able to give the patients.

You didn't resent the presence of a surgeon in the ICU, though, did you?-- No, of course not.

It's just what you perceived to be his level of distrust or lack of trust of-----?-- Yes.

-----ICU staff?-- Yes.

Although it didn't - as you say, it didn't ever get repeated?-- No, it didn't get repeated.

So it was a little oversensitivity on your part?-- It didn't

occur either. He didn't stay there for the whole today.

He didn't?-- No.

Okay?-- He said he was going to sleep there by the patient's bedside.

Well, maybe he was just terribly worried about his patient, do you think?-- You could maybe interpret it like that.

Now, at paragraph 15 of your statement, you say in the first line that there were numerous occasions where there was conflict between the orders for the medical treatment by Patel and the medical anaesthetic staff. When you say medical anaesthetic staff, you mean the anaesthetist, who is a doctor?-- Yes.

And numerous occasions where there's conflict between those two over orders for medical treatment. Now, can I just understand what you mean by "orders for medical treatment"?-- Dr Patel would order one type of drug or treatment or - you know, medication, or something, and the anaesthetist-----

The anaesthetist wanted to do another thing?-- The anaesthetist would order something else, and the nurses were confused about whose orders they were to follow.

Right. Now, what was done to resolve that, can you tell me?-- We spoke to Dr Patel about that.

And-----?-- Dr Patel just said - just said that we were to - the nursing staff were to follow his orders, but then when he would leave the unit, the anaesthetist would tell the nursing staff to follow their orders, so they became very concerned and confused about that.

Did they say to the anaesthetist, "Well, hang on, we are just not sure now, because you are saying this and Patel is saying that."?-- Yes, it was brought up with the anaesthetist, very often by different nurses, that this was something that needed to be addressed.

How was it addressed? That's what I'm interested in knowing. Did you go to Goodman about it?-- I spoke to Mrs Goodman about it and I spoke to the Director of Anaesthesia about it, and I don't know how he addressed it with Dr Patel.

Okay. So, you went up the line about it?-- Yes, I discussed it with my line manager.

Okay. That's what I'm interested in knowing.

COMMISSIONER: Was there a resolution that came out of that? Did someone eventually lay down the rule that you followed the one or the other?-- No, they didn't, no.

Do I have the impression the problem went away, though, because Patel spent less time in ICU?-- No, the problem never went away. It continued on. There was - right until the end, there was always this conflict, and he would follow the nurses around and say, "Who do you agree with? Do you agree with me or do you agree with that other doctor?", and try and stir up issues and trouble within the unit. So, it never - it never went away, no.

D COMMISSIONER VIDER: So, whose care did the patient actually receive?-- Probably whoever yelled the loudest.

MR MORRISON: Presumably since it was a continuing problem, you, no doubt, escalated your complaints up the line to the DON?-- I did.

And to the Director of Anaesthetics?-- Yes.

To no avail?-- No, to no avail.

Okay. Now, could I take you to something you said in relation to P18, and that was there was an incident of wound dehiscence. At transcript 49 on the previous occasion, you said you had seen that once - happen three times to P18 in a couple of weeks. That's a synopsis of what you said last time?-- Yes.

So, by definition, it was an unusual and disturbing event for you?-- Yes.

Did you take that to Goodman?-- About P18? Yes, I did.

Right, I just don't - I've never seen any piece of paper which indicates anything was put in writing about that?-- Right.

Did you just do it verbally with the DON?-- No, it is in the E-mail - one of my E-mails. In TH2, it is referred to-----

"This was a follow-up of yesterday's conversation."?-- Yes, I had had a conversation with Glennis.

And keeping the DON informed?-- Yes.

Okay. Now, no incident report was done in respect of that, was it?-- In respect to?

P18's three occasions of wound dehiscence in two weeks?-- No, not that I'm aware of, no.

Okay. And the only way it is documented is TH2?-- About me talking to the-----

Yes?-- Yes.

Right. Now, in TH2, I just was struggling to find any reference to wound dehiscence in it. It seems to talk about other things, but not wound dehiscence?-- I'm not quite sure of the dates of the wound dehiscence, I can't remember them, and I probably - as I said, I probably had discussed it with Glennis when she had come around on her rounds. At this point, we were seeing either the Assistant Director of Nursing or the Director of Nursing every day, so they were fairly au fait with the issues that were going on with patients.

Certainly if you look at TH3, you will find a reference to it and that's the one to Keating the next day?-- Yes.

Okay. Now, you say - or said last time at transcript 52 in relation to this incident that Dr Patel didn't seem to recognise - tell me if I'm pronouncing it right - chylothorax?-- Chylothorax.

Whatever. Alarm bells were ringing in your head about Patel?-- Yes.

This is June '03?-- Yes.

And were you forming the view as early as that that he was clinically unsound?-- I had concerns, yes.

Sorry, to say you had concerns, did it mean that you were getting worried that he might be, but you hadn't formed a view that he was?-- Yes.

You refer in your statement to some - sorry, I think it is in TH3 - yes, it is - in the last sentence of TH3, "The behaviour of the surgeon needs to be discussed as certain very disturbing scenarios have occurred." The very disturbing scenarios were an incident of sexual harassment?-- Yes.

And his yelling and screaming?-- Yes, and the abuse and the fact that he wasn't speaking - he had stopped speaking to me.

Right. No doubt you took all those to Goodman?-- Yes.

I haven't seen any paper in relation to that. Do I assume that was all oral?-- Sorry?

That was all oral?-- Yes, apart from this.

Apart from TH2 and 3?-- Yes.

So, at the moment we seem to be limited to those two E-mails for an accurate record of what was happening?-- Yes.

Now, can I say - refer you to paragraph 30 of your statement? This is staying in the pre-2004 period. You got an E-mail from Nurse Aylmer about dehiscence and set a meeting for 7 July. When you made your statement, you didn't have any recollection of attending any meeting on 7 July. Has your recollection got any better?-- I think I might have been on holidays.

Might have been on holidays. Okay. Presumably there was some sort of follow-up to that?-- Yes.

Do you remember what?-- I don't remember exactly what, but we continued to talk about trying to capture wound dehiscence and where it was being captured. We were worried that incident reports weren't being filled in where they should be filled in; if there was a central point for them, where it should be collected. We continued to be worried about that.

Okay. But in so far as we are trying to look for any accurate

record of what was said or recorded at the time, we don't seem to have one, do we?-- I don't, no.

Now, at transcript 64 through 67 on the previous occasion, you were talking about Dr Patel and said the yelling and screaming and denigration of staff was continuous or constant, maybe both; that there were quite a few stand-up fights in ICU, and I want to know if you go to Goodman about those things - the stand up fights in ICU?-- I would have spoken to her about them, yes.

I haven't seen any bits of paper that sort of lets me know what is an accurate record at the time or, indeed, any record at the time of the stand-up fights in ICU. You don't know of any, do you?-- Any documentation about that?

Yes?-- No, not that I can recall.

Do you see why I'm a little concerned about this, because all of these very serious things seem to have been happening in 2003 and yet the record - the recording of them is pretty limited?-- I wouldn't say that the recording of them was not limited, I would say the recording of them is actually quite constant and consistent in view of the fact that also these things have been brought up at several meetings and at - probably on a daily basis with people. The stand-up fights that Dr Patel had usually with the doctors and how they dealt with it was up to them, and I didn't - and they dealt with it in various ways.

Except that seems a little curious, because in so far as they had a stand-up fight that impacted on how the ICU operated, that's your business as well, isn't it?-- It is my business, that's right, but as we well know, Dr Patel was having no - would not speak to me or have any-----

All the more reason, surely, to actually document what was happening and keep the information flowing?-- Well, they were aware of what was happening. They were aware - whether it was documented or not, they were aware of it.

Yes. You say that, but, you see, here we are, a couple of years down the track, and the Commission is looking at some of these events and what would help them a lot would be not just to have your version or someone's version dependent on recollection fading over time, a contemporaneous record of it?-- That's exactly right if we knew that-----

COMMISSIONER: Mr Morrison, I think we are getting a little bit argumentative. I know it would be nice to have records of these things, but I don't think anyone in 2003 expected there would be a Commission of Inquiry in 2005, so it is a bit pointless to say it would be desirable to have-----

MR MORRISON: I won't argue with you either.

D COMMISSIONER VIDER: Can I ask a point of clarification? Do I understand you to say it was Mrs Goodman or the Assistant

Director of Nursing's habit to come to the unit so very often?-- Yes.

This information would have been when they were visiting the unit?-- Yes, it was discussed on a daily - pretty much on a daily basis with one or the other of them, and so it was not - the things that were put in writing were extra to that, so these E-mails were an adjunct to the verbal-----

It would be your normal practice to just go then and write a written account of a verbal report-----?-- No.

-----that you had given that morning when the Director of Nursing or the Assistant Director of Nursing had actually had the discussion with you - you updated them in person in the unit?-- Yes, that's right. I wouldn't then go and send an E-mail or a letter, because (a) I wouldn't have had time, and (b) as Commissioner Morris said, when this - all this started, we didn't know where it was going to end. I thought I was dealing with the issues as they arose with - at that time, and these issues were - these issues were manifold - there were many of them, and we were trying to deal with all sorts of different issues at different levels in different places.

MR MORRISON: Two things really are a fair assessment of it: the problems weren't going away, they were getting worse?-- That's right.

Secondly, a fair comment is that you weren't in the habit of documenting these things, but dealing with them orally; that's right, isn't it?-- I did document these things.

To the extent you have?-- That's right.

But not otherwise?-- Not otherwise, no.

Okay. Now, you mentioned last time at T64 - transcript 64 - the question of people using the word "dehiscence" in the reports. And you mentioned - I'm looking at transcript 63 - that there was something of a debate - that might be elevating it too much - but something of a debate about what the definition or interpretation of the word "dehiscence" was?-- Yes.

So, the use of that word or the non-use of that word was really the product of a disagreement about what dehiscence was - how you define it?-- There was a disagreement with what wound dehiscence was, yes.

Okay. Now, can I just ask you this: notwithstanding that you went to the Director of Nursing and whoever else, there was no resolution to this problem, it seems, of Patel yelling and screaming and denigrating the nurses and so forth?-- No.

And the feedback you got from them was what? Goodman and Keating - Dr Carter as well - because you discussed it with him - what sort of feedback did you get from them?-- Basically the feedback was that we just had to continue

working with Dr Patel.

Live with it, in other words?-- Yes.

Okay. Now, Dr Carter was the ICU Director?-- Yes.

And that was his view as well?-- Yes. I mean, these doctors may have spoken to Dr Patel. I'm not sure. I can't say that. I was never - it was never reported back to me that they had.

No. Okay. Now, you mention in paragraph 39 of your statement the incident with Dr Qureshi - if I have pronounced that right?-- Yes, Dr Qureshi.

When that arose, you were the acting DON, weren't you?-- Yes. I was the-----

Were you - sorry-----?-- I was the acting DON just for the weekend in relation to the Assistant Director of Nursing and the DON share call, so I was just on call.

As a temporary thing?-- Yes.

For the weekend?-- Yes.

You knew enough to send a record on to Keating, which is TH8, if you want to look at it?-- Yes, I also called Dr Keating about-----

Yes?-- Yes, that's right - that issue, yes.

But I'm interested in the way you put it in TH8. "Once again, nothing you can really report. I wasn't going to report, as it seemed too airy-fairy. I thought I should just alert you to the fact. The nurse would probably tell you about, but I doubt put in a formal complaint." So, did you discuss with the nurse whether she would make a formal complaint?-- Yes, I did. It was a very difficult situation-----

I don't want to know the ups and downs of it. Did she decide not to, is what I'm interested in?-- I think she subsequently has put in a formal complaint about this.

All right. But at this point, at least, this is the record of what took place - TH8?-- There was a verbal-----

Mmm?-- There was a verbal-----

With Dr Keating?-- With Dr Keating, and his instructions were carried out.

Which were?-- That I was to ring Dr Qureshi and ask him to ring Dr Keating.

Keating?-- At home, and then I spoke further with Dr Keating, which he gave me further directions, and that was carried out, and this was the follow-up letter later on-----

COMMISSIONER: What were those further directions. The first direction was ring Dr Qureshi and get him to call Dr Keating?-- Yes.

You again spoke to Dr Keating and he gave you some further instructions?-- Yes, he asked me to call around the hospital and to make sure that all of the staff knew that Dr Qureshi must have a chaperone when dealing with female patients.

Right.

D COMMISSIONER EDWARDS: Was that followed up with a written instruction for all staff in the future - for the future?-- I don't believe so, Sir Llew. I don't know. It may have been. No, I don't think so, otherwise I would have seen it.

MR MORRISON: Can I help you at transcript 70.28, Nurse Hoffman? What you said there was that you had to contact all the others and let them know about this chaperone arrangement. "It couldn't wait to be done in writing, it had to be done urgently, so I called them up."?-----

COMMISSIONER: Was it done in writing or we don't know?

MR MORRISON: I don't know the answer to that; maybe Ms Hoffman can-----?-- It would have been generated out of the Medical Superintendant's office, so I don't know about that. It needs to be asked of him, because the direction would have come from him - the memo would come from him, not me.

MR MORRISON: At the time you wrote TH8, basically you were simply alerting Dr Keating with really no expectation of anything being done; it is just to tell him about it?-- Yes, that's right.

It was something which you recorded as being a bit too airy-fairy to take further until something happened?-- We did end up taking it further.

Yes, I understand that, but at the time you wrote TH8, it was in that state?-- That's right.

Now, you say or said last time at transcript 71 that Dr Qureshi - his failures were discussed at various forums. I assume you mean the sort of forum meetings that I raised with you earlier on?-- Yes, medical services forum.

They were clearly a place where that sort of thing could be raised ahead?-- They were very small forums, that's right.

They are an appropriate place to raise that sort of thing and discuss it?-- Yes.

And you mentioned last time also that Dr Carter refused to have that doctor in ICU. Was that the subject of comment at the forums as well?-- It wouldn't have been at that particular forum they were speaking of, because they were different forums.

Okay. Now, let's look at paragraph 44 and move to something else. Here you are discussing - it is transcript 74 as well - things that weren't recorded. There were things going on not recorded in the theatre notes and no incident reports of them either?-- That's right.

And you said at transcript 74, there should have been incident reports and that there was a procedure for them?-- Yes.

But they were simply not being done?-- That's right.

And at transcript 75, you referred to the fact that the incident report should be done by the surgeon or whoever has witnessed the event?-- Yes, that's right.

That's your understanding of it?-- Yes.

Okay. Would you agree what that was demonstrating at that time - I think talking about 2003 still - we are - that really the procedures needed a little tightening up, people weren't following them?-- Yes.

Incident reports should have been done, but they weren't?-- Yes.

And that was just not on a surgeon level, that was also on a nurse level as well?-- Yes.

COMMISSIONER: Sorry, Mr Morrison, I am genuinely only interrupting for clarification purposes. Mr Morrison suggested that procedures needed tightening up or they weren't being applied.

MR MORRISON: I should have pointed out their adherence to them.

COMMISSIONER: Yes. I guess there are two questions. Were the existing procedures good enough, or did they need tightening up, and the second question was did adherence to the existing procedures - was that adequate and was some tightening up needed there?-- There were things in place that - you know, that allowed us to fill out incident reports, but they are only as good as the people who fill them in, and they weren't filled in - like, they weren't being filled in in theatre where things actually happened - like, the things that I described that were happening with Dr Patel, we were hearing about them when we got them post-operatively, but we didn't see any incident reports being generated out of there, and because - because they weren't generated out of there, we couldn't - we hadn't seen what had happened, and so we couldn't write them in ICU, so there was some discussion at - some of the forums about, you know, where incident reports are being done and are they being done, and there was some concern - that concern was brought up at the forums that these things weren't being done.

It is just that I think I'm right in saying, am I, that new

forms came in in early 2004?-- Yes, there was a new system brought in, yes.

And we have heard that described as being more user friendly, but did you find it actually more effective?-- I don't - no, I don't think so, still, because we still - people still weren't filling them in.

Yes?-- And so if they are not filled in - you know, if they are not filled in, they are not being used properly, and we still weren't getting any feedback back for them, and there was a lot of - there was quite a bit of disjointed sort of activity with the - with these forms. There was a lot of education going on, but still the forms weren't being filled in.

To use a favourite expression of Mr Devlin's, was it really a matter of the culture? You could change the forms, but you still had this culture that people weren't willing to fill in the forms or didn't feel motivated to do so?-- Yes, some places did generate a lot of forms and some things people always wrote incident report forms - medication errors and things like that - but for more serious things, like nicking a bladder or nicking a spleen or something like that that was generated that happened in theatre, those sort of things they weren't having incident reports being filled in.

I think we had the observation yesterday or the day before with another witness that when it was something like a piece of equipment breaking down, that always got documented. It was when it came to things that were actually more serious that people seemed reluctant to put pen to paper?-- Yeah, probably because still that issue - the culture of blame still exists or people were still frightened that they would get into trouble, I guess.

Yes?-- I mean, that's just me-----

If it is an inanimate object that breaks down, no-one is afraid there will be blame attributed to that, but as soon as it seemed to be critical of some clinical performance by some individual, there was a reluctance to put pen to paper?-- Yes. With incident reports, it should be done by the person who witnesses it or does it. That's how it should be done. So, it is very difficult when we get the patients in ICU and we hear that this is happening and no incident report exists and we can't write it, so you are sort of stuck between a rock and a hard place, because you can't do it, and it hasn't been done.

D COMMISSIONER VIDER: I just want to take that a little bit further, because you had said previously that some of that reporting was only done verbally at a handover?-- Yes.

From the theatre staff to the intensive care staff?-- Yes.

Do I understand that you have just said, though, that it was difficult for the intensive care staff to document the

clinical issues; for example, if a spleen has been nicked resulting in a splenectomy, how did intensive care staff deal with that? You can't pretend that that hadn't happened?-- That's right.

What happened in the intensive care documentation?-- Well, usually - the person that was - yes, that's exactly right. They would probably write something like "splenectomy" as if it had been done on purpose, or they may have written, you know - I'm not quite sure. They would have been passed on at some point that this was what was told verbally to the nurses from the theatre nurses, but - yeah, I don't - it didn't come out of the notes, probably, if they were Dr Patel's patients. Often, if you have nicked a spleen - he would often write "splenectomy" as if it was supposed to happen.

So, in actual fact then, the coding that would go on the patient's discharge - I'm jumping ahead a bit, I'm sorry, but this is a point for my clarification - so the coding then would be accurate, in that what the procedures were the patient had actually had would end up in the patient's record?-- I don't believe the coding was accurate at all. When I had a look at the charts, I didn't feel that the coding was accurate because it was only - as they said yesterday - it was only as good as they were written in the charts or in the Discharge Summary and often these things weren't written down at all. Often the complications just weren't written down at all or were described in different ways.

COMMISSIONER: Do you happen to know, just purely for my interest, in a situation as you are describing where a spleen is accidentally nicked during the course of some other form of surgery and that gets recorded as a splenectomy rather than an accidental cut, is that then noted down as another elective surgery that gets some more money for the hospital?-- I don't know. I don't know if that's the case.

D COMMISSIONER EDWARDS: Could I just follow that up a little too? Do you mean to say that if a splenectomy is done because it is injured or nicked, as you said, that all that would be recorded in the doctor's notes - I'm not asking you to comment, but asking you the question - all that would be recorded is a splenectomy has been done and no information recorded that it was, in fact, nicked, which is a risk in any operation?-- That's according to some documentation that I have seen, yes.

MR MORRISON: If I can just ask a question about that. We were concentrating on what is in a sense a fairly important handover; that is, from theatre to ICU. The notes coming out of theatre can be done by the doctor, the surgeon?-- Yes.

There is no reason why a nurse couldn't make note of what they saw - except for whatever inhibitions they feel about recording notes contrary to a doctor - but leaving that aside, there's nothing to stop them from making a note themselves, such as, "Saw spleen was nicked, repaired", for instance?-- Mr Morrison, I'm sure they could do that, but I don't - I'm not going to comment on that. I don't work in theatre.

No?-- I haven't seen it ever happen.

No, but as NUM of ICU, and receiver of patients who have just come out of theatre, you would most certainly hope that that was done, wouldn't you? Whether or not it's actually done, your expectations or hope would be that someone would tell you that important information?-- Yes, I would hope so.

And better in writing than just orally?-- Exactly.

No question about that, is there?-- No.

All right. Now, when these sort of things happened, as you say in paragraph 44, what did you do about it? You knew this

was happening that you were not getting anything in writing, things were happening in theatre, you were being told they were happening in theatre but weren't in the records, what did you do about it?-- I spoke to my line manager about it.

And at that time, I think, that was no longer Ms Goodman, this is the end of 2003, as one of the Acting DONS; would that be right?-- Yes.

Not yourself though?-- No.

Because I think your period came in March, ended in March. Who was it, Patrick Martin?-- It may have been Patrick Martin or even Beryl Callanan, who was there for a period of time before that, the complications.

I ask you, see, because I don't see - I haven't seen any, and I haven't been shown and there's no suggestion there is any record of your contact with the DON at the time raising this matter?-- Mr Morrison, this is done - with the complications with Dr Patel's patients, the issues with them and the concerns with them, were pretty much brought up on a daily basis with someone.

Yes?-- Whether it be the Director of Anaesthesia, whether it be one of the other doctors in ICU, whether it be a nursing staff member, whether it be one of my colleagues, it was a daily - just about a daily - a daily conversation about these issues and our concerns about what we were seeing and the pattern that we were seeing that was arising.

Just for the moment I accept what you are saying that there were conversations going on, my point was I don't see any writing, recording of the contact or the detail or the occasion, the time, even the patient that you were discussing with the DONs?-- That might be correct.

All right. Now, let me go on to something else. In paragraph 48 of your statement, you deal with the occasion when Dr Miach - I think I'm pronouncing it right, I'm not sure?-- Miach.

Miach, issued a directive that his patients were not to be touched by Dr Patel. Now, can I - that's an unusual direction to get, isn't it?-- Yes, it is.

Right. Did you get it firsthand yourself-----?-- Yes, I did.

-----or were you - you don't have any record, you say, of when you became aware of that, of those instructions, but you believe you got it at a Medical Services Meeting?-- Yes.

Does that mean Dr Miach was at the Medical Services Meeting?-- It was his meeting. He chaired the meeting.

Right. Okay. Now, can I suggest to you that that was a piece of information that when Ms Mulligan came, it wasn't passed on to her that Miach had issued this direction - not by you

anyway; that's right, isn't it?-- I can't recall.

Okay.

COMMISSIONER: Just to interrupt there. I think Mr Morrison is suggesting to you that Mrs Mulligan never knew about this direction by Dr Miach. Are you able to say anything to the contrary of that, that you discussed it with Mrs Mulligan, or that you're aware of someone else who discussed it with her, or you are at a meeting where it was discussed in her presence?-- I can't recall any specific meeting.

All right. Well, that's - if you can't recall specifics, then I think we should leave it there.

MR MORRISON: Yes, thank you. Now, in paragraph 49 - I want to deal with this briefly, if I may. This is now 2004, it's before - if you have a look, it's before Ms Mulligan arrived because you're the Acting Director of Nursing in the period you're talking about in paragraph 49. You went to see Mr Leck and had a meeting with him and you generated TH10 for that purpose. Is that an accurate summary of the position?-- Yes, it was an unofficial meeting that I had with Peter Leck.

Yeah?-- And I was discussing with him the issues - there was some issues in ICU that had some peripheral - had been brought up at another meeting and I just wanted him to be aware of what was going on there.

I wanted to ask you this question, if I may: the writing at the top, the handwriting is yours?-- Yes.

And you made a specific point last time - I will find the transcript reference if you need to be reminded, but I don't think you will - you were fairly insistent on making it clear that this was an unofficial report to Mr Leck?-- Yes.

And that you had, in fact, asked him not to act upon it yet?-- Yes, that's right.

Because you wanted to give or take one more go at bringing Dr Patel around?-- Yes.

Okay. Now, I just want to you ask a couple of things about this. It's only the arrowed parts that went to Mr Leck?-- It's a reworked document.

It's only part of the arrows?-- Yes.

Okay. I just happened - I'm struggling to see - perhaps you can help me. Where you refer in that to patient P34 or P18, or the errors in the records, or what you described last time as the falsification of the records, I'm just - maybe it's there and I have missed it, but I don't think so, and if you conclude like I do that it's not, can you just tell me why? Unofficial though it was, this is a report to the District Manager and you left out what you have been describing to us at least is very critical matters?-- Those - no, those other

issues had already been passed on.

To - in the hierarchy?-- To the hierarchy.

So you felt no need to raise them with Leck?-- No need to raise it with him at that point of time.

I understand?-- These are issues that had been brought up by another doctor that I was trying to clarify with him.

Okay. I want to ask you about one thing in particular. If you look down a couple of inches, above the bottom arrow, there is a paragraph starting, "There is such a feeling of disunity"; do you see that?-- Yes.

"It's upsetting to nurses." I want to ask about this. "They", the nurses, "literally refuse to care for Dr Patel's patients."?-- Yes.

Is that literally true, you are saying nurses refused to care for his patients?-- Some of the nurses didn't want to care for his patients, no.

Are you saying to the Commission that they, in fact, didn't care for those patients because of that?-- They would ask for a different assignment, and if a nurse asks for a different assignment, it's usually for a fairly good reason and I would try and accommodate that.

Right.

COMMISSIONER: No patients were left without care-----?-- No.

-----you're not saying that?-- No, never. No.

MR MORRISON: I'm not suggesting that, but I'm just interested in the fact that nurses were refusing to deal with those patients?-- The nurses were extremely perturbed by Dr Patel's behaviour, Dr Patel's patients. They were concerned for their own well-being. They were concerned that nothing was being done, even though we were trying to get things - trying to have things dealt with by other people other than just myself, and, yes, they were afraid to care for Dr Patel's patients, as well as the fact that some of them were being sexually harassed and he - he made it very uncomfortable for them to care for his patients.

D COMMISSIONER EDWARDS: Can I ask you - just let me get this straight. Do you mean to say that nurses refused to look after some patients, and was that reported up the line, and what did up the line do about that very, very important statement?-- They were - it was passed up the line and they were aware of it, but I guess we handled the situation internally by just someone else would care for his patients. So nothing was really done about it.

So if it went up the line, what did up above you do when that statement was given to them?-- Nothing.

COMMISSIONER: Indeed, it's your evidence that TH10 was, indeed, given to Mr Leck?-- Yes.

And he-----?-- Yes.

Therefore he had - to take up Mr Morrison's point - he actually had it in writing that nurses were refusing to take Dr Patel's patients, in the sense that they were asking to be transferred to other duties?-- Yes, they would care for a different patient and someone else would care for his patients. It wasn't common, and it didn't happen very often, but it did happen and there was, you know, there was a lot of disunity in the unit because of the way Dr Patel would act and would behave and-----

D COMMISSIONER VIDER: Can you clarify what is the usual patient/nurse assignment ratio in the Intensive Care Unit?-- For a sick surgical patient, if they're ventilated or ill, it's one to one, and for cardiacs it's usually one to two.

So you accommodated the request of a nurse not wanting to look after a patient of Dr Patel's-----?-- Yes.

-----by assigning that nurse to another patient?-- Yes.

And shifts the workload that way?-- Yes.

MR MORRISON: That must have been pretty hard because Dr Patel was the main surgeon?-- That's right, he was.

I wonder about sending it up the line though. Can I just ask you this: see in TH10 you expressly make the point it was unofficial and you ask Leck not to do anything about it?-- Yes.

We see that note in there?-- Yes.

You actually transformed this document when you made it officially into TH16?-- Yes, I reworked it.

Can I ask you to look at TH16 and to the same paragraph, the one starting, "There is such a feeling of disunity", and do you see there that you have taken that comment out and you've replaced it with words that say, "Every time we have a patient of Dr Patel's, staff anticipate an argument," not that they refuse to care. So when you made it official, you took that comment out; isn't that right?-- Well, obviously.

Yeah?-- Mmm.

So in terms of sending it up the line, you, yourself, took a very, very important piece of information out. In the unofficial "don't act on this" version it was there, but when it goes official it's not; how do you account for that?-- I don't. I can't. I don't - I don't - I just reworded - reworked the document and that's all I can comment on.

Well, there are a number of changes made in TH16 to what was originally TH10. I will go to some others later if I need to?-- It's a reworked document, of course there are changes.

I understand. In the third line, for instance - one of the changes was in the third line of TH10. You said there it appeared to distress some of the surgeons, in other words, more than one, and when you go to TH16, when it becomes official, it's actually only one of the surgeons. No doubt you are only talking about Patel. So you actually changed the nature of what you were discussing, do you see that?-- Yes. I think in that first document I was talking a little bit more general, generally about the issues of the unit and the level of the unit and how when the new doctors came it wasn't made clear to them at orientation, and things like that, that we were a short-term unit.

When you reworked it, TH16, am I right in thinking that P34 and P18, the errors in the records and the falsification of documents, didn't get into it even then? The bit that was added on related to - I think we will see it at the bottom, "critical ill patient", the 46 year old male, that's - I'm not sure if I can use the name. I think I can.

COMMISSIONER: Mr Morrison-----

MR MORRISON: Mr Bramich. I just want to go over any lines-----

COMMISSIONER: -----there's no difficulty in using the names. The press and media well understand that they are not to report names if they-----

MR MORRISON: Thank you. The bit you added on, Ms Hoffman, was in relation to Mr Bramich, wasn't it?-- Yes.

So how do you account for the fact-----?-- Can I just go back to an issue, Mr Morrison?

Sure?-- When I went to see - the patients that you were talking about, P18, or whatever patients you were talking about-----

34 and 18, I mentioned?-- I hadn't yet gone back and done an audit of the charts or the patients.

No?-- So the concerns that I was taking to my line manager were in the e-mails that I sent and I hadn't yet done an audit to identify those patients. So those patients would not be in this document, because at that point I had not gone and done an audit of the charts. It was only when I did an audit of the charts and I found these - all of these different things that I put them in writing and asked Peter Leck to just to have them investigated, to have them looked at.

That's really not quite right, Ms Hoffman, because if you look at paragraph 24 of your affidavit, your concerns about P18 were with you when you went to writing at least in a limited

sense at the time and you didn't need to do any audit about that, and I think the same is the case for P34. So the fact that those two aren't in there wasn't dependent upon any audit being done. I'm just interested to know, do you say because you had already reported them you didn't need to say them again?-- That's right.

Right. Well-----?-- In that issue, in that particular-----

This is the first time I think you had gone to Mr Leck?-- About?

About these matters?-- This was-----

Yes. Previously-----?-- Which document are you talking about?

Previously you had spoken to Goodman and Keating?-- Yes.

This was the first time you had sent something to Leck about these matters, yes?-- The meeting that I had with Mr Leck-----

COMMISSIONER: Mr Morrison isn't suggesting this is the first time, to put it generally, the first time you have spoken to Leck about your problems with Dr Patel, let's put it in those general terms?-- Yes.

MR MORRISON: Thank you.

COMMISSIONER: Mr Morrison, is that a convenient time for the morning break?

MR MORRISON: It is. I was hoping to maximise time.

COMMISSIONER: We will just take 10 minutes.

THE COMMISSION ADJOURNED AT 10.50 A.M.

THE COMMISSION RESUMED AT 11.07 A.M.

TONI HOFFMAN, CONTINUING CROSS-EXAMINATION:

COMMISSIONER: Mr Morrison?

MR MORRISON: Ms Mulligan, while we've got TH10 still with us-----?-- Ms Hoffman.

I'm truly sorry. I do beg your pardon. It just comes. There are so many names and so many events. Ms Hoffman, while we've got TH10 open, can I ask you about one other thing. You urge in that, just a couple of lines below the comment about the nurses caring for or not caring for patients - the last sentence of that paragraph is a statement that the admission and discharge policy of ICU must be adhered to. That's the don't hold them longer than 24 to 48 hours?-- Yes.

You were urging on Mr Leck at that time a view that there really should be adherence to that policy and patients should be moved within that time-frame?-- Yes.

And I think you - that survived to TH16. Yes, it did. But it's not right to say that it was always adhered to, is it?-- No.

It was relaxed frequently, and really in the interests of families. If the families were distressed about their patient, then that policy was not adhered to?-- It wasn't necessarily about patients being - families being distressed, it was what was in the best interests of the patient. It was often because - it was always, I'd say, in the best interests of the patients that the policy was relaxed, usually.

Usually, yes. Can I just remind you of some evidence you gave in two places - two different days. Transcript 32 about line 45, and transcript 160 line 15. You said there, "If you only had one patient, because it's very distressing for the family, if the patient was going to go off a tube and be moved", transcript line 53, "It's very disturbing for the patients and their relatives." So in fact it's not just the patients' interests. You were looking to the impact on the family as well?-- That's exactly right, yes.

And on those bases there would not be strict adherence to the policy that you were urging on Mr Leck?-- No.

Okay.

COMMISSIONER: Mr Morrison, sorry to interrupt you. There seems to be a slight problem with the audio system, and one theory is that it's mobile phones or computers with Internet connections are causing this hum in the background. So if anyone is sort of online at the moment, perhaps they could

turn off and we'll see if that prevents this buzzing that we all hear.

MR MORRISON: When it happened the other day I think it was Deputy Commissioner Edwards was responsible, because when they fiddled with his microphone it stopped.

COMMISSIONER: Yes, I don't think that problem exists any more.

MR MORRISON: Okay.

D COMMISSIONER EDWARDS: I'll put my hands in my pocket.

MR MORRISON: Ms Hoffman, you say in relation to TH10 - it's in paragraph 53 of your statement if you need to go to it - I don't think you do - that you expressly told Mr Leck that you did not want him to take any formal action. I assume by "formal action" you mean instigating some sort of investigation or speaking to people or taking some action?-- That's right.

What sort of formal action did you have in mind?-- Any of those things that you mentioned.

At that point in time Patel wasn't talking to you?-- No.

I take it you weren't trying to speak to him either?-- He wouldn't speak to me.

So you weren't speaking to him either. You weren't continuing to talk to him, only to be met with a stone wall?-- If he spoke to me, I would speak to him, but he didn't speak to me.

All right. If he spoke to you, you would have responded, but otherwise neither of you would speak to each other. Is that right?-- Yeah.

COMMISSIONER: Were there times when you addressed questions or remarks to him and, as Mr Morrison says, you just got a stone wall?-- Yes.

MR MORRISON: So you thought at this time that you gave this document to Mr Leck, though, that you'd have a go at bringing him around?-- I wanted to go back and discuss with my director of the unit, Dr Carter, a way to try and see if we could work with Dr Patel. All of the things that we now know about Dr Patel we still weren't aware of then.

I understand that?-- And I wanted to go back and try very hard to try and work out some sort of working relationship with Dr Patel with the aid of Dr Carter.

And you obviously went and saw Dr Carter about that?-- Yes, I did.

And did you work out a strategy, the two of you?-- Dr Carter didn't - wasn't interested in what I had to say about this

particular incident.

You didn't get any support from your director. Did you nonetheless formulate your own strategy for how to go back and work out a working relationship with Dr Patel?-- I was hoping when the new Director of Nursing came, that things may change and there may have been some sort of constraints put on Dr Patel's behaviour and that, and I was hoping that that was one of the things that would happen.

Right. Okay. So do I take it from that that when you didn't get the support - any support from Carter, you basically - you didn't go and try and resolve the issue with Dr Patel, you left it until somebody new came?-- Yes, I didn't go and approach him myself.

I understand. Now, just staying with TH10 for one last time, you had not formed the view, I take it, at that point that Dr Patel was clinically unsound?-- I had the view that he was clinically unsound, but I didn't-----

I notice you don't mention that in TH10?-- Well, it's very - it's a very serious thing to mention, isn't it.

It certainly is?-- That's right. So I had my own opinions and my views on it, but I didn't put it in writing here to Mr Leck, no, in that particular instance.

COMMISSIONER: Did you feel that you had at that stage enough data to back up such an allegation if you did put it in writing?-- I had - I didn't - I had my own feelings and my own thoughts, but it seemed like I didn't have the support - well, I didn't have the support of the director of the unit in those terms, and I didn't - I hadn't gone back - we needed some further evidence. That's why I needed to go back and look at those patients after I had the meeting with Peter Leck in October, and I went back and looked at those other patients. I still was only asking at that point in time for someone else - for someone to look at these things and see if there was an issue or not. I mean, at the time that I went to see Peter Leck in October, I was still hoping I was wrong. I was still hoping that there was some reason for all of these complications and these things that were happening, and I stated that at the time. I said, you know, "I hope that I'm proven wrong." I wanted to be proven wrong. I didn't want to be right, even though I did have my own thoughts about these issues, and so did the nurses in ICU and so did my other colleagues and that sort of thing, but it was so difficult because, as I said, we just kept running up against brick walls everywhere and we just felt that nobody was listening to us.

MR MORRISON: You speak in the plural all the time?-- Yes.

Are you talking only about ICU nurses or the other nurses as well?-- No, I'm talking about the other nurses on the wards as well.

I don't want to get to October just quite yet. I will. I want to stay in the time period of TH10, which is some eight months earlier, February '04. You said you didn't - you had formed the view that Dr Patel was clinically unsound, but you didn't put it in here, as I understand it, because that's a very serious thing to say?-- It is a very serious thing to say and I wanted-----

Well, can I just ask you this - you explained that before, but I just want to ask you this: you made some very serious statements about Dr Patel in this anyway. For instance, that he was guilty of instilling fear and intimidating nurses, that he abused people, that he was giving conflicting orders over the treatment of patients and so forth. Why was it so hard to include the view you actually held that he was clinically unsound?-- I think bullying and intimidation and being clinically unsound are two totally different things from two different - from two totally different angles, and I-----

Do you think-----?-- Yes, I do.

I'll ask the question notwithstanding that you answered it. Do you think that Mr Leck wouldn't have been interested in the fact that the NUM of ICU had formed the view that the head surgeon was clinically unsound? You don't say that, do you?-- Do I say that now in hindsight?

Did you have the view at the time of TH10 that that was the view - a piece of information that Mr Leck wouldn't be interested in?-- I don't recall. I don't-----

You didn't turn your mind to it, I take it?-- I don't remember.

D COMMISSIONER VIDER: Was it difficult for you to advance your concerns factually without the support of Dr Carter, given the culture in which doctors and nurses clinically operate - and we've heard in previous evidence here that nurses very rarely independently comment on the clinical competence of a doctor without the consent or the support - the support - of Dr Carter. Was that having an impact on your view?-- Yes, it was having a huge impact on my view, and one of the - I think one of the hardest things is in the unit Dr Carter would verbalise how terrible he thought Dr Patel was. He was the doctor who, you know, coined the phrase "Dr Death", and he would verbalise it on a daily basis about how dreadful he was, but when the chips were down he wouldn't - he was not willing to make a complaint or come with me or support me. He would talk about it to all of us in the ICU about how terrible he was and openly, you know, say, you know, "Don't let him near me" and all this sort of thing, but when the chips were down he wouldn't support me, no. It was very difficult because I also knew that at the time - at the time - there was no incident reports at the time generated out of theatre, and it seemed that if there was anybody that was going to make a complaint, it was only going to be me, and I wasn't going to be taken seriously because it was just me at that time.

MR MORRISON: Are you saying that you showed TH10 to Dr Carter before you gave it to Mr Leck?-- I can't recall whether I did or not. I may have done. I may have showed it to him.

It doesn't get mentioned in your statement, you know?-- No, it may not.

Or any of your evidence on the previous couple of days?-- That's right, it may not, but I'm not sure. I may have shown it to him. I can't remember.

If you had shown TH10 to your director, surely that is something you would recall?-- I can't remember. I don't remember whether I showed him this or not.

Because you would have been asking him also to take no official action on this information?-- As I just said, I don't recall whether I showed it to him or not.

And your meeting with Carter came after you saw Leck. Isn't that right? Because you said to Leck, "I don't want you to do anything with this now. I'm going to have another crack at it", and you went back to see Carter to try and formulate a strategy and got rebuffed by him. Isn't that what you've told us?-- Yes.

So writing this down wasn't the product of any lack of support from Carter. This preceded that?-- Yeah, that's right, yeah.

So putting in details that you've done in TH10 about Dr Patel's behaviour wasn't, as it were, suppressed by any lack of support from Carter, was it? TH10 is not the product of your thoughts being suppressed by his lack of support. Do you understand?

COMMISSIONER: Mr Morrison, I really think we're going around in circles. What the witness has said is that the reason she didn't put into this document anything about clinical unsoundness was a lack of support. The witness has not at any stage complained about a lack of support from Dr Carter prior to writing these things down.

MR MORRISON: Right. Then we are agreed. Just let me ask you this: you didn't put in there the details of P14 and - P18 and P34, I think they were - forgive me if I get the numbers wrong - and that was because you said you'd sent them up the line already to Goodman and Keating?-- That's right, and I also wasn't talking about specific patients. I was talking about overall issues.

A general course of conduct?-- Yep.

And yet you say that you had formed the view at that time, that is at the time that TH10 was generated and you went to Mr Leck, that Patel was in fact clinically unsound as a matter of your opinion, but you did not mention that to Leck. That's right, isn't it?-- That's right.

Can I ask you this then: shortly after that Ms Mulligan arrived at the hospital to take up the position of DON?-- Mmm hmm.

That's subsequent to you having gone to Leck with TH10, subsequent to your approach to Carter which then was rebuffed by him. Correct?-- Yes.

Now, you say in paragraph 54 of your statement that in the handover to Ms Mulligan you were careful not to make adverse comments about Patel because you wanted her to be able to come into her role - sorry, you wanted to be able to come to her in your role as the NUM in the event that something hadn't been sorted out with Patel?-- That was part of the reason, and the other reason is I wanted her to be able to form her own opinion about Dr Patel.

All right-----?-- With - from the information given to her.

Let me just understand this, please. I want to understand it properly. If we look at paragraph 54, what's apparent is that the problem with Patel had not been sorted out, but you were still hopeful that it would be at the time Mulligan arrived. Do you see that? I was careful not to make adverse comments about Dr Patel as I wanted to be able to come to her in the role of NUM of Intensive Care in the event I was not able to sort something out with Dr Patel.

That's right, isn't it? At the time she arrived you were still in the throes of thinking you could sort it out with Patel?-- That's correct.

And that and the desire not to prejudice her mind led to you making no adverse comments about Patel in the handover. Correct?-- There was one comment that was made where Ms Mulligan said to me - we were talking about Dr Patel - "I hear he's excellent clinically", and I said to her, "That is not"-----

How you saw it?-- How I saw it.

That's what you say in paragraph 55. I'll come to that in a moment. Do we understand rightly that that's the only comment that was made about Dr Patel or issues to do with Dr Patel in the handover?-- From what I can remember.

Great. Okay. Now, can we then understand it this way: notwithstanding that there were these serious events that you had raised with Drs Keating and Carter, Mr Leck, Nurse Goodman, Mr Martin, that you did not reveal those things to Ms Mulligan in the handover, did you?-- Not that I can recall.

Now, can I just ask you one thing about this. You mentioned your comment in paragraph 55. Can I suggest to you that Linda Mulligan did not say what you attribute to her. She didn't say that she'd heard Patel was excellent clinically or

clinically excellent. She didn't make that comment?-- No, she did make that comment.

If you say she did, wouldn't that have been the most perfect opportunity to say a little more than, "That wouldn't be how I see it", to say a little more about all of the things that you had been raising, these extraordinarily serious matters in TH10, let alone your view that Patel was in fact clinically unsound? That would have been the perfect occasion, wouldn't it?-- No.

Here she says, "I've heard he's terrific", and you've got the chance to say, "Well no, he's not, and guess what, here's a few documents and here's a few incidents and that is what happened."?-- No, that wasn't the time or the place.

A handover?-- No.

From the Acting DON to the new DON?-- No.

Is not the place to inform her about serious matters to do with the hospital-----

COMMISSIONER: I think you've made your point, Mr Morrison.

MR MORRISON: I'm asking the witness, do you seriously say that that's right, that's not the occasion?-- It wasn't, no.

All right. Now, it looks like, can I suggest to you, Ms Hoffman, that you were setting my client up for a fall by keeping back from her information she needed to know. Isn't that right?-- No.

You were setting her up for a fall, weren't you?-- No.

And you still are, aren't you?-- No.

Do you not have the view that - hold the intention that you will try and get her sacked out of this?-- No.

Have you not said that to others?-- No.

That your intention is to get Ms Mulligan sacked out of this?-- No, my intention - I had one intention. I had one intention-----

To fix the system?-- Not to fix the system. If we can fix the system, that would be wonderful. I had one intention and that was to stop Dr Patel from operating on any more patients. That was my one intention, to try and save just one life, just one more life.

Ms Hoffman-----?-- No, I will finish now. And that is what my only intention was. This was never about them and us. This was never about Executive and myself. Executive - when I went to make the complaint I thought Executive would be glad that I went to make the complaint. I thought Executive would be glad to try and save some of these patients' lives, and I

thought Queensland Health would be supporting me in that, but instead that is not the case, and it has become a them and us situation. That is not - that was not my intention. It was never my intention.

Now, you've jumped ahead to October again, haven't you?-- Maybe.

When you went to see Leck and Mulligan and laid it all out for them. You've jumped ahead, haven't you?

COMMISSIONER: Mr Morrison, you're not being fair. What you put to the witness was that it is still her intention-----

MR MORRISON: Yes, I understand that.

COMMISSIONER: You can't criticise her for jumping ahead when you're the one who has jumped ahead to her present state of mind.

MR MORRISON: I'll do it differently.

COMMISSIONER: Thank you. Now, when you saw Mr Leck and when the handover to Ms Mulligan took place at the start of March - early March - some time in March 2004, you did not have the data or the evidence - let's call it the evidence that you had in October. Correct?-- Would you repeat the question?

In October - sorry, in March when the handover occurred, and shortly before that when you saw Leck, you did not have the evidence that you had amassed by the time of October, the audit of the files and so forth?-- No, no.

Right. And it was the audit of the files that led you to the view that you wanted to stop Patel operating on any more patients, save one more life. That's right, isn't it?-- No, the audit of the files was done in response to me going to see Peter Leck and he wanted some more information. The audit of the files was done in response to that.

All right. Sorry, yes, it was done in response to that. That's right. Okay. Now, at the time you went to Mr Leck and at the time of the handover, so we are talking late February or - February/March 2004, not October, was it your state of mind then that you wanted to prevent Dr Patel operating on any more patients and to save lives that might be lost because of that?-- Yes.

Why did you not say that to Mr Leck and why did you not say that to Ms Mulligan?-- In October?

No, in February when you saw Leck and in March when you handed over to Mulligan. You just told me that you had the view then-----?-- I had a-----

-----that you wanted to stop Patel from operating on anyone else in order to save at least one life, hopefully more, but at least one, and you had that view and that intention in February and March '04?-- No. I had-----

Is that not right?-- No, I had the intention in October.

October, yes. All right. Let me just go back to one thing. I asked you there a little before - you gave us your views about Ms Mulligan, and do you disavow any intention on your part to cause her being sacked over this?-- No. Yes, I do. I don't.

You do? You don't seek that?-- Seek her being sacked?

Mmm?-- No. I don't. It's not-----

So far as you are aware-----?-- That's not my call.

So far as you are aware, is that the QNU's intention?-- I'm not commenting on-----

MR ALLEN: Excuse me. Can that be clarified as to what's being referred to there? Is it the incorporated industrial-----

MR MORRISON: I suspect it's perfectly plain.

MR ALLEN: Some official in the QNU, a local rep?

MR MORRISON: It's all right. I won't pursue the question in view of the protest that is made.

COMMISSIONER: Mr Morrison, let's try and leave some of the theatre out of it. QNU is an industrial organisation. It's got its own responsibilities to its members. At the moment the witness in the box is Ms Hoffman. If you want to put to her she's got an intention, then that's up to you, but I don't think this is the occasion to be challenging industrial or other agendas.

MR MORRISON: I wasn't challenging her, I was just trying to find out-----

COMMISSIONER: Well-----

MR MORRISON: It's all right. In view of the protest, I won't take it any further. Now, can I ask you to go to paragraph 56 of your statement. This is dealing with patient P14, and you say that on the 11th of April 2004 the wound fell apart. Do you see that?-- Mmm-hmm, yes.

Now, did you actually see that happen?-- I was present at the time. I was - I was present at some point.

Right.

COMMISSIONER: You saw the wound in-----?-- I saw the wound at some point, yes.

MR MORRISON: Did it make it into an incident report or an Adverse Event Report?-- Not that I know of.

No?-- It happened on the ward, to my knowledge.

Yeah. But even so-----?-- Yeah, I'm not sure. I don't know if it did make it into an incident report or not.

Because you said at transcript 101 there was a complete evisceration of the wound. That sounds and probably is pretty damn serious?-- Yes.

Didn't make it into an Adverse Event Report or an incident report at all. How do you account for that, given that you saw it?-- As I explained before, even if we saw things, if we - I didn't see it initially happen, and the person who saw it initially happen or where it initially occurred should have generated the incident report.

But surely you should have also since you saw it?-- I see - I would see the patients on a daily basis and I wouldn't be writing an incident report on every wound or whatever that I saw, so no.

Okay. All right. Now, you refer to in paragraph 59 to patient P1 and the perforation of the jugular. I take it you saw that?-- No.

Does this information only come from the Discharge Summary?-- I think it was - I think it was from when I did the audit.

Right. Okay.

COMMISSIONER: And I think, Mr Morrison, to be fair, in the fourth line it says, "I don't have any personal recollection of this case."

MR MORRISON: Yes, it does. I beg your pardon.

COMMISSIONER: Yes.

MR MORRISON: Now, patient P37 is in paragraph 60 and you got information from Nurse Stumer about what had happened in theatre - no - yes. No, what had happened in the ICO. Patel had attempted an evacuation. Is that - am I understanding it right, that wasn't in theatre, that was actually in ICU?-- I actually think that Karen Stumer had gone to the Surgical Ward and this actually happened.

In the Surgical Ward?-- In the Surgical Ward. That's my recollection of that, but I could not - I could be wrong.

Do we know of any incident report or Adverse Event Report out of that lot? Have you come across any such thing?-- No.

Okay.

COMMISSIONER: Presumably, though, it would be in the nursing notes for the appropriate ward that there had been an evacuation of a haematoma?-- If one was generated it should have gone from the Surgical Ward to - it wouldn't come to me in my capacity. It would go to - to - through the other - through the appropriate channels.

MR MORRISON: This wasn't one audited? I think you only went and looked where deaths were occurring?-- No, I didn't. I looked for anything - anything that I could find in the ICU patients that I would - that I wanted investigated.

Right?-- There was no - it was a very generalised look at the patients that were in ICU that had some sort of adverse event that I was concerned about and I wanted looked at it. That's all I was asking for.

Was P37 an ICU patient?-- I believe she was an ICU patient at some point.

Was it one of the ones you audited?-- I can't remember. I can't - yeah, I can't remember.

When you audited it did you look at more than a Discharge Summary? Did you look at the whole-----?-- I looked at the whole file.

Well, for P37 did you see any Adverse Event Report or anything?

COMMISSIONER: Well, again, Mr Morrison, I think you will see that it's in the last line of paragraph 60-----?-- Mmm.

-----that Ms Hoffman reviewed the file and noted that Dr Patel's notes consistently said the patient was well.

MR MORRISON: Yes. That doesn't, with respect, answer my question. Was there any Adverse Event Report or incident report on the file, P37?-- The incident reports don't go into the file. They go - they go to a separate area.

That's enough of an answer for me. It wouldn't be in where

you were looking?-- No.

Right. Good?-- There might be a notation "Incident Report" written.

But not the form?-- Something like that, but not the form.

Right. Paragraph 62 and 63 I want to take you to. This is the ASPIC meeting 14 April. This stands for Anaesthetic, Surgical, Preadmission and Intensive Care, ASPIC?-- Yes.

And going with - this is TNH11 - which I think - I am right in saying are the minutes? Yes, they are, and as we see from the minutes, Dr Carter was there, you were there, Dr Keating, a whole lot of nurses, and from what you say, Carter, Keating and you at least of that group knew all about the Patel problems. That's correct, isn't it?-- Yes.

Now, Carter at that time was still director of your unit?-- Yes.

You were the NUM?-- Yes.

Keating was Director of Medical Services. Are the other names then to the right, apart from Dooley, nurses in ICU or surgical or anaesthetic?-- No. They are all NUMs or CNC.

Or NUMS or acting NUMS?-- CNC.

This would be a very good forum to air in a formal way concerns over Patel, wouldn't it? Here are people who know what they are talking about. It's a fairly formal meeting, high level, NUMs minimum and above, and yet you are talking about various doctors but Patel doesn't get discussed, does he?

COMMISSIONER: What do you mean, he doesn't get mentioned by name?

MR MORRISON: Either by name, I think I'm right in saying, or by topic, namely, "There's this doctor we have problems with. What are we going to do?"

COMMISSIONER: For example, on the second last page there's a big segment about wound dehiscence.

MR MORRISON: Yes.

COMMISSIONER: According to the evidence so far, which may or may not be right, that was specifically focused on Dr Patel.

MR MORRISON: Yes, quite. But it's not what I am talking about. I am talking about Dr Patel's ability about - you had formed a view about, about his conduct to nurses, about his berating, his belittling of them, his fear and intimidation. None of that gets a run at this meeting, does it?-- No.

Why?-- Because it had already been discussed with the key

people, Martin Carter, Darren Keating, and it wasn't - it's not - I didn't - well, I wouldn't have thought it would have been appropriate to bring it up with all those other people that were there that had - may or may not have had anything to do with - had any issues to do with Dr Patel.

Sorry, are you saying the others may not have had any issue?-- They may not have. They may - it wasn't a meeting where you brought up someone's behavioural issues or things like that. It was a meeting where you discussed other things, such as the ones that we have discussed, and in retrospect or in hindsight perhaps - perhaps it could have been brought up, but it wasn't.

It wasn't by anyone. Yet you say everybody knew about this and everybody felt concerns about it, yet it just doesn't even get into the minutes, does it?-- No.

Okay. Let's have a look - sorry, those minutes reflect, I think, under the heading the Chairman referred to, "Wound Dehiscence", the question of getting a definition for it. There was a difference in views about what constituted dehiscence, wasn't it?-- Yes.

All right. Let's go back to your statement in paragraph 66. Now, you are pretty, if I may say so without any disrespect, vague about which nurses, you can't identify them. How did they bring these matter to your attention, orally?-- Yes.

Okay. So they brought to your attention orally that they had discussions with junior doctors. Did they say which ones or is it unknown?-- They would have said which ones but I don't recall at the moment.

You can't remember?-- I believe David Risson was one of them, and I don't - I don't recall the others, no.

Okay. Indicating Patel did not wish them to use certain words when completing discharge summaries, particular words, or was this more specific than that when these matters were raised with you?-- They were - I was told there were specific words he didn't want written on-----

You didn't know what the specific words were? Was it "dehiscence"?-- Yes.

COMMISSIONER: Do you recall if there were others?-- I think there may have been some others too. "Infection" may have been one of them.

MR MORRISON: Were those two linked, dashes and infection?-- I don't know. Yeah, I know that those were the two that I can definitely recall. I don't know if there were any others.

Can I ask you what happened as a result of that information you got? What did you do? Albeit second, perhaps even thirdhand you have just be told that Patel was asking them not to use certain words when completing the discharge

statements?-- I discussed it with several people.

Namely?-- Sorry?

Namely?-- I discussed it with Dr Carter.

Right?-- I discussed it with - I think the NUM of the Surgical Ward to see if she'd come across the same issue.

What was Carter's response?-- I don't recall.

Was he going to take up the issue on your behalf?-- I don't recall.

All right. Okay. Let me ask you something else. When Ms Mulligan came, you have mentioned there was a change in some procedures, one of which you said was that the A/DON couldn't sign off on some forms, they had to go to the DON. You had a meeting, I don't mean you specifically, but a lot of people had a meeting with Ms Mulligan early after she arrived at which various procedures were dealt with, isn't that right, a meeting of nursing officers 3 to 5 and the District Director of Nursing. Do you recall such a meeting, 8th of April?-- There were many meetings. I don't know what meeting you are talking about.

I will put it on the screen, if I may, and - sorry, I don't have a separate copy to give you, I am afraid, I have only got the one, so you will have to look at it on the screen. I'm sorry, it might be a little higher. If you go left and up, please, Mr Operator. You will see that this is a meeting - nursing officers 3 to 5 and the A/DON, 8 April '04, and you will see the participants, Goodchild, Schoneveld, Mulligan, Robinson. See that? Just go to right a bit, please, Mr Operator. See all the names? You are there. See "T Hoffman"?-- Yeah, I can see that. Yep.

Do you remember this meeting?-- I can remember - I think it was Linda's first meeting. I think we brought her a cake to welcome her.

Good?-- It was so exciting to get someone new.

Can you go down the central column, please, Mr Operator. That's probably all I need for the moment. You see the minutes of the meeting with some questions and other matters being raised by Ms Mulligan. I have highlighted some in yellow. She was asking the meeting - those at the meeting to consider those matters which included things like professionalism, matters of confidentiality when dealing with staff and clients, and what that was about was that the staff and clients had to be able to trust those to whom information was given with the information they gave. Can you remember that topic being raised and discussed?-- Not specifically.

Turn the page, please, Mr Operator. The highlighted bit will do. "All number 3s, except Goodchild, to report directly to the D/DON. A/DON is not a line manager, therefore unable to

authorise leave", et cetera. So, this was - this change to the system was raised right at the start and laid out, wasn't it?

COMMISSIONER: What is an RAF? Is that a rostered day off or something?-- No, it's a roster adjustment form. If you have a day off or something you have to fill in a form.

MR MORRISON: Okay. Now, you can see how the change was raised right at the start and you were all told what would happen, didn't come as a surprise to you when this happened, did it?-- No.

It was all laid down. Turn the page, please, Mr Operator. Sorry, yes, go down. Then on the question of access and appointments you will see what was raised there. This is by Ms Mulligan. "Every attempt for level 3s to have access to the D/DON on urgent matters on the same day will be made. Otherwise please make an appointment with Amelia for elective issues." So, the fact you complain about the inability to get to the DON from time to time - this is really nothing of a surprise to you. You were told this is the way it would be done. "Every attempt to let you have access on urgent matters the same day." Otherwise if it's just for elective issues make an appointment. So that's nothing of a surprise when that's the way-----?-- No. It's right there.

COMMISSIONER: Was it a surprise compared with the previous arrangement?-- No. It's not - it wasn't a surprise but that's not how it happened. Like, this is fine. He can show me as many of these as he wants but this isn't how it happened. So, when I get asked that question I will answer it but-----

MR MORRISON: If I ask it you can?-- Thank you.

Of course. Now, the next page we see the question of documentation templates and correspondence. Just before you read that one, did anyone at the meeting speak up and say, "Excuse me, about the access business and making appointments, we don't like to operate that way and we don't want to and you shouldn't. We should stick with the old ways."? Anyone voice that in to what she wanted to do?-- No.

No. Okay. Here we are. "Linda spoke about the wide range of documentation that she has received, some in pencil, unsigned, undated." She was saying to you, wasn't she, that things are better done when they are properly documented and that unsourced - undated information is suboptimal. Correct?-- Yes.

You'd agree with that, wouldn't you?-- Yes.

Right. Did anyone argue against that proposition?-- Not that I can recall.

I think that's it. It is. I will tender those minutes, may it please the Commissioner.

COMMISSIONER: Is it your evidence that what was stated by Mrs Mulligan at this meeting in fact is what transpired after the meeting?-- Later on, no. It wasn't my experience.

The minutes of the meeting of nurses and officers of the 8th of April 2004 will be Exhibit 84.

ADMITTED AND MARKED "EXHIBIT 84"

MR MORRISON: Now, on the question of rounds, one of the things you say is that the DON didn't do regular rounds. That's correct, isn't it?-- Yes.

But she did do what might be called a round, she went around the hospital from time to time, didn't she?-- Occasionally I saw her.

And obviously what you can't see you don't know about. It is almost certain she went around other parts of the hospital, isn't it?-- She could have done.

Yes. And the A/DON was still doing regular rounds, though, wasn't she?-- Yes, she was, yes.

And the A/DON reports to the DON, doesn't it?-- Yes, she does.

Yes. Okay. So, there were still regular rounds. Okay. Now, you referred to at one stage a complaint that when an Acting DON was brought in after Ms Mulligan's arrival, sometimes - sorry, I will start again. Prior to her arrival the Acting DON always came from Bundaberg, you say?-- Yes.

And after arrival it wasn't always from Bundaberg; correct?-- Can you - could you - where is that?

I think you say it in transcript 124.5. This is on the previous occasion. At page 27 of your statement, I am told. Yes, yes, it's at the end of paragraph 76. In your experience in the past an A/DON would act up as the DON in the absence of the Director of Nursing?-- Yes.

She changed that and it was unusual?-- Yes.

You use the word "unusual"?-- Yes.

It wasn't always the case, was it?-- Well, it is - we have a career structure and - I mean, it is unusual.

Who's Miss Callanan?-- Beryl Callanan.

You know her?-- Yes, I do. I do know her.

She's a nurse from Brisbane?-- She's the Director of the Holy Spirit, Northside.

And she relieved as the DON?-- She relieved as the DON, yes, she had.

And Fay McGrath Douse from Childers had?-- Oh, yes, she has.

COMMISSIONER: Childers is part of the Bundaberg district?

MR MORRISON: It may well be.

COMMISSIONER: Is that right?-- Yes, it is.

MR MORRISON: But Ms Douse was the A/DON of Bundaberg Hospital, was she?-- No.

Okay?-- Ms Callanan relieved when Ms Kennedy was on holiday.

Well, there's no set hard and fast rule about it, was there? Was there?-- I don't - I don't know if there was a set hard and fast rule about it.

No?-- Obviously there's not.

Why was it so unusual? What did it matter as long as the person was qualified?-- It didn't matter.

Okay. Now, you complain in paragraph - I just remember the paragraph but no doubt you will - someone will remind you - about the fact that you had to go through the secretary to speak to Ms Mulligan?-- Yes.

But you could in fact e-mail her and you did that frequently; correct?-- Yes.

And you and she corresponded quite a deal by e-mail on a variety of topics over the time. Yes?-- Yes.

COMMISSIONER: Paragraph 80 was the paragraph you are looking for.

MR MORRISON: Thank you. "We had to make appointments with the secretary and you have to give a reason for why we wanted the appointment."?-- Yes. Appointment were often cancelled after they were made.

In terms of cancellations, you'd well appreciate, wouldn't you, that busy people in the hospital might be called off to do urgent things and, therefore, prearranged appointments may have to be postponed?-- Yes.

So the fact that there was some cancellations doesn't really take the matter one way or the other, does it? It's not really a matter of complaint, is it? I mean, why are we talking about it? That's what I want to know. You seem to make some point about the fact that appointments were often

cancelled after they were made and yet you tell me, or agree with me, that in her position that may well happen if she had to be called off to do something else. So what's - what's the point you are trying to make?-- It was in the context of how difficult it was to actually talk to Ms Mulligan as a Director of Nursing.

You don't mean talk to her one to one, you mean get through to her through the secretary?-- From - yeah, whichever way, yeah.

And the secretary was simply wanting to know from you what do you want to talk about and how long will it be, in other words, if you wanted an appointment how long does your appointment have to be?-- Yes.

And what do you want to talk about?-- Yes.

It's not an unusual request, is it?-- I think it's unusual to ask a level 3 what they want to talk to their Director of Nursing about.

Why, is it an affront to a level 3, is it?-- Could be confidential and it could be private.

You could say that to the secretary, "Listen, it's private but it's urgent"?-- Yes, could do.

And if you said that to the secretary, surely your own experience would tell you that if you said to the secretary, "It's a private matter but it's urgent", then you'd get through, wouldn't you? Wouldn't you?-- Not always, no.

Did you ever say to the secretary, "There is an urgent matter. I need to speak to Ms Mulligan now.", and not get through to her?-- I don't recall.

No. Did you ever say to the secretary, "Look, this is a private matter. I can't tell you what it's about but I do need to speak to her.", and not get through?-- I don't recall that either.

Well, did you just give up trying to get through to the secretary? Is that really what it comes down to?-- I think because it was so difficult to get through to - to get access to Ms Mulligan that, yes, we - that I did - that I did think twice about accessing her.

And used e-mail instead?-- Well, even e-mail I didn't use as much as I would have previously with the previous Director of Nursing.

Mmm-hmm. Well, you probably didn't need to use e-mail at all with the previous Director of Nursing. From what you say she was always available and never unavailable. That's not really what you are trying to say, is it?-- No. She was pretty much always available. She carried a free-set around with her. We were able to call her at any time.

So?-- So did Ms Mulligan.

COMMISSIONER: She-----?-- Well-----

MR MORRISON: Didn't she carry a free-set?-- Ms Mulligan didn't often answer the free-set and I don't know if she carried it around with her. The free-set number was taken off the - her e-mail - the name access on the bottom-----

The thing on the e-mails?-- Yes, and we certainly weren't encouraged to call her using the free-set. We were told to call through the secretary.

Yes. And her free-set number wasn't taken off the internal directory, which I think is what you say. Paragraph 81, "She took her free-set number off the internal contact details listing available to us on our e-mail network."?-- That - by that I mean the e-mail letter that came around, not the phone book.

Because it is in the internal directory, isn't it?-- Yes.

The DON's free-set number?-- Yes.

And isn't it true to say that it is the same number that Goodman had?-- Yes.

It is the same number that you had when-----?-- Yes, we knew the number. Knowing the number wasn't the issue. Getting someone to answer the number was the issue.

And do you think when she didn't answer her free-set, she might actually have been in a meeting with someone and didn't want to interrupt it?-- Could have been.

And for that reason it was routed to her secretary?-- Could have been.

Now, can I ask you to look at TH12? This is an E-mail that Ms Mulligan sent the Level 3's prior to having an individual meeting with each of them, and you got this one; do you remember this?-- Yes.

You obviously read it?-- Yes.

You saw that she wanted to know from you, say in the fourth star point, any issues for the area you were responsible for. You saw those words?-- Yes.

In the next dot point, "What would you change in nursing services if you had an opportunity? What are the things you think are done poorly? What are the solutions?" You saw that as well?-- Yes.

Then the last dot point: "Anything else you might like to raise for further discussion?", pointing out-----

COMMISSIONER: "Because you will be limited to an hour each."

MR MORRISON: You saw that?-- Yes.

You had the chance to raise questions about Dr Patel in the meeting you had with Linda Mulligan, didn't you?-- Yes.

You chose not to; isn't that right?-- I believe that I did bring it up about Dr Patel. I think I brought it up about Dr Patel, but I think that at the time I said that it needed to be discussed in a longer - at a separate meeting than this one, because there was so much that needed to be discussed at this meeting.

Did you say to Mulligan that your view was that Patel was clinically unsound?-- I can't remember.

Did you say to Mulligan anything about what had happened to patients P18 or P34?-- I can't remember, but I probably didn't because it was a long time before she came.

Were you still in the mindset at that time that you didn't want to poison her mind; you wanted her to find out things for herself?-- No, no, I was not.

So, you had changed to a mindset where you thought you should reveal to her important matters that she ought to know?-- I wanted to bring them up at appropriate times with her.

Well, you had an hour. In terms of the importance of things, your views about Dr Patel and his behaviour in theatre ranked a lot higher than any other thing you could talk about, surely? It is miles above, "How do you see yourself as a nurse?", or, "What do you think nurses can do better?" In terms of importance to patients, it is miles above that?-- That is probably why I wanted to discuss it at a separate meeting, not one that we were discussing all of this.

Can I suggest to you you didn't raise Patel at all?-- You can suggest it, but I don't-----

You disagree?-- I cannot - unless I could see what was actually written down for the meeting, I can't exactly recall.

You didn't take any notes, though, I take it?-- No, I didn't take any notes.

Right, okay?-- But Ms Mulligan did.

You would be prepared to stand by what Ms Mulligan's notes say?-- Probably.

Thank you. That will do.

COMMISSIONER: Ms Hoffman, just for your assistance, we barristers tend to speak differently from other human beings, and when Mr Morrison says, "I suggest to you" or "I put to you", words like that, he is really inviting you to respond to it, either to say you agree or disagree, or make any other comment you think appropriate. Whenever Mr Morrison or any of the other barristers use expressions like that - "I suggest to you", or, 'I put to you" - that's your opportunity to respond if you do have some response to make?-- Okay. Thank you.

MR MORRISON: Now, paragraph 73 of your statement, you say here that Ms Mulligan had determined to be less accessible to the Level 3s - that's in the second line. You don't mean to say any more than it was the product of the system that was in place about making appointments?-- I'm not quite sure what you mean.

I'm wondering what you mean?-- What I mean?

"Ms Mulligan had determined to be less accessible to us." I'm saying to you do you mean any more there than that was the product of the appointment system?-- And the rounds - doing the rounds - and I think that often when we brought issues up in meetings, in our meetings we were told that wasn't the

appropriate place to bring the issues up and that we were to make an appointment and go and see her and discuss them there. So, we did have accessibility issues with Ms Mulligan.

D COMMISSIONER VIDER: When you sought to make an appointment to see Ms Mulligan, what was the average length of time you had to wait?-- Sometimes it was a really long time, sometimes it was up to two or three weeks, especially at the beginning when she had - like, you know, was very busy with all her other appointments, and because of the nature, I think, too, of ICU and that, it was very difficult sometimes for me to actually leave the unit. So, from our previous - from the previous - we had had - just so we had - we had a review done of the hospital - I think it was in late 2000, where the nursing staff - the Level 3's were asked then about what they would have liked - what they wanted changed in the structure of the Bundaberg Hospital then - and one of those things was that we needed to have our Director of Nursing and our Level 4 be more accessible to ourselves, so that if you wanted just to discuss something little, you could. Some things are so small that you don't need to actually make an appointment to do that, and to actually physically have to make the appointment to do it, you just think, well, that issue is not big enough to do that, but if you saw that person on a daily basis, you could just run something by them, and also I think the other big issue was that by the person doing rounds, they also then would have picked up other issues that were going on in the hospital - in the ICU at the time - like, "Why is that patient still there?" They would be looking around and seeing - like, "Why is that patient still in that bed? He has been in that bed for the last five days I have been down here." - things like that. So, out of the review that happened at the end of 2000 by Judy March at Toowoomba, that is one of the issues, and that's when, I think, the Director of Nursing at the time - they started doing these alternate rounds, and it wasn't - after a while, it wasn't that you even needed to do the rounds every day, it was that you had built up a rapport and you knew that the support was there that if you needed to talk to someone, you know, you could, and I think that that was just - that was an incredibly important - important thing, and it was important for me, I felt, and it was very important for the other staff. So, I think that when the rounds were actually stopped - and I'm not saying that they needed to continue on a second-daily basis or whatever - it removed that accessibility to us, just to run something by someone; like, "Do you think this is a good idea? Is this a bad idea? Could I be doing this better? Could I be doing this a different way?", not something that you necessarily make a structured appointment for that you had to leave your workplace and go to.

COMMISSIONER: Having yourself acted in the position of Director of Nursing, are you aware of any position description or guideline or directive, or whatever the title is, I don't know, but anything that's come down from the Queensland Health Corporate Offices that indicates to people like Director of Nursing or the Director of Medical Services or other superintendent level people how they should access issues, whether it is desirable that they do have regular rounds, that

they do visit the clinical areas of the hospital, or, to the contrary, whether there is anything that says they should have a system of telephone calls being screened by a personal assistant or something like that? Are you aware of any of that?-- I'm not aware of anything like that - perhaps that's in writing - but having done a grad cert in management, we are all aware that there's different types of managers. There's enablers and disablers, and also lots of other different types, and accessibility and - accessibility is one of the big things that, you know, is brought home to you when you do do a management degree - is that you have to be out there and seen amongst the people that you work for. The staff in ICU said even at the - right at the end, towards - after Ms Mulligan had been there a year, that they couldn't even recognise either Ms Mulligan, Dr Keating, or Mr Leck, and - so, I just think that's - those things are sort of really important. I know that, myself, when I was relieving - I have been A/DON in different places as well for short periods of time - that I feel that it is very important to be visible and to be out there talking to the staff, and knowing what's going on in the hospital.

If we can diffuse some of these sort of personality points - and Mr Morrison has suggested that you or the Nursing Union or someone may have it in for Ms Mulligan - put all that to one side - our interest is really to ensure that the problems that exist in the system are addressed. Now, accepting that it would seem you and Mrs Mulligan have different views as to management styles, and without criticising her for her views or without criticising yourself for your views, can you tell us why, from your viewpoint as a senior nursing administrator, you feel it is important for the Director of Nursing and other people in that sort of level of the hierarchy to be readily accessible to come and visit the wards and clinical areas of the hospital at regular intervals, to be available so that you can speak to them directly without going through a secretary, to be able to visit them without having to make an appointment, and those sort of things - just to assist us in our assessment of what should happen in the future?-- Basically because of communication. I think that if you have some sort of honest and open communication within an area, that - perhaps this whole situation wouldn't have happened - and if that exists - if that exists and people aren't frightened, also, or intimidated about going and talking to someone and bringing up something that may be even very small, they are more likely to do that. I mean, it is actually - there's quite a lot of literature written about communication - not necessarily about communication with Directors of Nursing - but, for instance, how patient care improves when - when the doctors and the nurses have good relationships, because the nurses aren't afraid to speak to the doctor about certain issues if they know that they are not going to get yelled at or belittled, or whatever, for what they bring up, if they know that - if they go to tell the doctor something and it is really little, that that doesn't matter, that that doctor will still listen to them, and there's a lot of literature out there that shows that patient care actually is improved the more communication that exists within a hospital,

and that's why I think it is important that you be able to access people - you know, within a reasonable - I'm sure, you know, there's times when you can't get hold of people because they are busy, but if you know that they are going to call you back within an hour or an hour and a half or two hours - most meetings only go for an hour - you know, that's - you can usually handle that - that's usually okay.

D COMMISSIONER VIDER: I've got a few things that I'm interested in pursuing. One is the last point I'll take up, and that's about meetings. I think in every hospital today, there are a huge number of meetings that gets programmed and everybody goes to. In any of these meetings that you go to or even in your capacity as Acting DON when you went to them, is there ever a system at the end of a given time period, say 12 months, where there is an evaluation of the committee undertaken and a review done, so that you actually, as members of the committee, sit down and say, "What's the purpose of this committee? What are we doing here? Should there be some changes?" Is there that sort of evaluation that goes on?-- No, there hasn't been that I've seen, but I think that's an excellent idea. I've not come across that in this situation - or at the Bundaberg Hospital - or probably anywhere else - but I think that's really great. We have, I suppose, reviewed Terms of Reference at certain times, which sort of does do the same sort of thing, but to actually evaluate the meetings and actually see, you know, what have we achieved, perhaps - is it worth having these meetings - I think that would be really important.

Certainly, and the ACHS accreditation system, that gave us all a huge framework of meetings, but I think we also have to come back and review them. You don't get rid of all them, but you might only need to meet every second month or four times a year, and that lessens the load, because otherwise you can spend your day going to meetings?-- Yes.

The other thing you mentioned was in relationship to the career advancement and the opportunities that acting up provides for a nurse at a Level 3 level. One of the elements that you are alluding to, from my hearing, is the notion of leadership?-- Yes.

That you are looking for-----?-- Yes, mentorship.

In the position of the Director of Nursing?-- Yes.

What are your thoughts about how leadership can be provided into the future, within, say, the organisational framework? Have you got any thoughts on how you would like to see that evolve, unfold?-- I think, from my own point of view, when you see someone who is a good leader, you want to emulate them, so if you see someone who is effective, who has got good interpersonal skills, who is honest and open, all of those things, you want to - you want to emulate - you want to emulate them, and I think it is really important to enable people to do things, and I think that was one of the things that happened when the A/DON didn't act up into the DON

position and the - there was only one A/DON at Bundaberg Hospital and there's a lot of Level 3's that want to act up into the A/DON position or another position to - you know, to facilitate their own career, and, you know, it is all very good experience, but there was no - there was no mentoring going on for the last year, and there was - and there certainly was no leadership styles or enabling of people. It was more like disabling. There was a lot of disabling that went on. Many conversations that we would have - that I would have with Ms Mulligan, I would come away feeling disabled and very disheartened and quite put down, often. There was nobody there sort of enabling you to do your best or encouraging you to be the best that you could be, and I think that is something that we, as nurses, felt very strongly about - the Level 3 nurses felt very strongly about - most of them.

COMMISSIONER: Just picking up on some of those points - and I also am getting the sense - and I may be completely wrong about this - but in many walks of business and commerce and activity, people tend to have more respect for a manager who has come from the factory floor, someone who has done that job and is respected by people as being someone who is good at it. Am I getting the sense that there's some resistance to the fact that you have got people in managerial positions who haven't earnt that respect within a clinical environment - and I don't mean that personalised to Ms Mulligan or Dr Keating or anyone else - just with the current administrative structures within Queensland Health, is there a bit of a sense of resistance that they are office people rather than clinical people?-- I think a comment that's always made is how quickly people forget what it is like to be at the grass roots. When they go into an administrative position, they very quickly become corporate, and that's one - that is a criticism that you hear all the time. I don't necessarily know that it is always true. I don't know that a good manager has to come from the grass roots. I'm not quite sure about that myself. But I think that a good manager has to be someone who understands people and who is a people person, and who does the best to enable people and enable individuals. Not everybody is the same, and everybody has to be - their best points have to be encouraged. You know, you pick out the best in people and you encourage that part of it. I know that in my unit, I pick out certain people who are good at certain things and I encourage them to - you know, to pursue that sort of angle, that sort of thing. You know, it is all about enabling individuals, rather than enabling a whole area as well, I think.

Deputy Commissioner Vider was asking you about committees and the impact of what happens at committees, and when Mr Morrison started his questions, I think he identified some 25 or more committees, subcommittees, forums and so on which the Director of Nursing has to participate in. My concern is when you hear that sort of statistic, that administrative staff are almost being driven into bureaucratic gridlock where they have got so many meetings to attend and so many memos to read and so many memos to write, and so on, that there's no time to actually do anything?-- Mmm.

They are just going to meetings?-- Yes.

What was your sense of that as an Acting Director yourself?-- That they could be incredibly dysfunctional and that you could go to a meeting and have an hour's meeting and nothing comes out of it at the end of it. I mean, I have been there for nearly five years now, and some meetings we haven't progressed from where we started, you know, years ago. There has to be outcomes at meetings and there has to be - as Ms Vider said, you have to evaluate it at the end of, you know, a given period of time and look at what you have achieved and that. There are far too many meetings in hospitals. And the other thing is that there's several meetings that are almost the same. There's lots of - I mean, we have - just within nursing now, we have what's called a Level 3, 4, 5 - just the different levels of nursing - but we also have a nursing Heads of Department as well. You know, that's two or three hours a month where the issues you know, override, and I think that often - and often in - from some departments, everybody in one department will go to that meeting instead of just one person and disseminate the information. So, I think some of the meetings - there's far too many meetings that people have to attend.

You said something earlier in response to a question from Mr Morrison that really struck a cord with me and I think he said did you need a more formal environment to raise this, and your response was, "No, I needed a less formal environment."?-- Yes.

And it strikes me that so many of these things we are talking about would be far more effectively dealt with if you and your Director of Nursing and/or Director of Medical Services, whoever, could sit down and - over a cup of coffee and talk about it as human beings rather than have to have minutes and agendas and formalities?-- Yes, exactly.

Look, I wonder if I can make an attempt - and I don't know whether this will succeed to depersonalise some of this - I'm sure you were here yesterday when I made some comments in relation to Ms Mulligan. Do you accept that she was working within a system, within a framework, within a structure where she was, for example, required to attend all of these meetings and required to operate in accordance with rules and guidelines and so on from Queensland Health?-- Yes, I do. I do accept that.

Yes?-- But in saying that, if I had been able to go to her and she had listened to me, instead of perpetuating the issue that this was a personality conflict between Dr Patel and myself, and she had had some respect for me as an individual, I don't think we would be sitting here today. So, in saying that, I realise that she did have all those things to go to, but, as my manager, as my line manager, she let me down, and that's - and that's just a statement of fact from my point of view.

Let's be realistic about this. When you initially came to deal with Dr Patel, you were reluctant to jump to the conclusion that this was Dr Death, that he was killing people, and so on. It took quite some time for you to realise what a difficult situation you were dealing with?-- Mmm.

And by exactly the same token, you would accept that Ms Mulligan, when she came on Board in the early part of 2004, she wasn't going to be jumping to any conclusions that she had a maniac in her operating theatre and that there were those problems?-- Mmm.

I just wonder whether it is particularly useful to try and cast blame on these things rather than look at what's gone wrong and say, "Can we sort it out for the future?"?-- I would rather move on and sort out the bigger issues rather than carrying on about this, because we still have not got to what we are here about. We are here about that group of people there, and that's where I want to go to. I don't want to discuss this any longer. It is there. It is out there, and Mr Morrison can try and discredit me as much as he wants, but we need to look at what we are here for, and we are here for the patients.

I'm not here to defend Mr Morrison. He can defend himself. But he is not trying to discredit you. I'm sure that's right. His client is Ms Hoffman-----?-- No.

MR MORRISON: Mulligan.

COMMISSIONER: Sorry, his client feels that things that have been said about her are bad for her reputation and will affect her future and those things have to be clarified, but I'm just wondering whether we can all sort of put that in the past and say, "Well, she was working to the best of her ability in her situation governed by her rules.", and move on from that and just focus on, as you say, the important thing: what happened to the patients and what we can do in the future. Do you think, Mr Morrison, that's something we might all think about over lunch, and pick up from where we have got to after the break?

MR MORRISON: I will give it some thought.

COMMISSIONER: Thank you.

THE COMMISSION ADJOURNED AT 12.28 P.M. TILL 2 P.M.

THE COMMISSION RESUMED AT 2.00 P.M.

TONI HOFFMAN, CONTINUING CROSS-EXAMINATION:

COMMISSIONER: Mr Morrison?

MR MORRISON: Just one matter. You raised a question with Ms Hoffman, the prospect of - or maybe Ms Hoffman raised it - that it would be a good idea for committees to sort of annually evaluate how they are going.

COMMISSIONER: Yes.

MR MORRISON: In fact, in Ms Raven's evidence she will give this evidence when eventually she comes, the formal evaluation process was put in place last year.

COMMISSIONER: Excellent.

MR MORRISON: Members all complete the evaluation which was designed for effectiveness and achievements, and so on. The calendar is prepared annually and is available to all staff on G drive, which is the main drive on the computer. At meetings they are asked to evaluate their performance in May and June and ready for the Terms of Reference to be updated in July. Ms Hoffman, I'm just asking whether you know from your participation in ASPIC and the Ethics Committees whether that evaluation process has been put in place?-- I have never been a part of it, no.

Now, could I direct your attention to paragraph 73 of your statement. I just want to clear something up there. You were talking before about one in the first couple of lines. In the second line following you say, "Ms Mulligan appeared to be concentrating on bureaucratic and pernickety without concerning the big issues or wishing to be informed about what was actually going on clinically in various ward." You don't mean to suggest by that that she wasn't concerned about the big issues, do you, because you say it appeared she was concentrating without concern for, you don't really mean to suggest she had no concern for the big issues, do you?-- No.

And you don't mean to suggest that she didn't want to be informed about what was going on, you don't mean that, this is just some comparative comment?-- Correct.

Now, can I ask you about this: in paragraph 74 you refer to as an example of things you had to deal with the template letter and I think it's 213. Now, what you say about that is that it's - you got concerned about this because of the potential isolation of nurses and you were concerned about the lawful direction that, as you put it, the recipient of the letter must not discuss allegations with any staff member of the complainant. Also -just have a look at it. If you look

at T13, it's a document directed towards a patient's complaint, isn't it? You can see that because it's addressed to, "Dear staff member" - sorry, you haven't got T13 there? Okay. See how it's addressed "Dear" and then the recipient is intended to be a staff member? "I'm in receipt of a complaint concerning alleged behaviour from a client" - that's a term that's used for patients - "on his recent visit to the" - presumably "relevant details" means the area, whether it's ICU or Outpatients, or whatever. It's clearly directed as being a document to deal with a patient's complaint against a staff member, isn't it?-- That's not how we interpreted it and that's not how we interpreted it at the meeting where it was discussed either.

Do you accept now that that's so?-- It looks like that, yes.

And in the second paragraph you will see that the author of it, whoever it is, the entire NUM, or nurse manager, or CNC is as part of the letter says, "I'm required to ascertain whether there's any evidence to substantiate the allegations, therefore ask you provide written response", and that's not an unreasonable thing, is it?-- No.

And in the third one, "To ensure the integrity of the investigation into the complaint against you and to maintain upmost confidentiality" - this being a patient's complaint against a staff member - "it's expected you do not discuss these allegations with any staff member or with a patient who has made the complaint." In other words, any staff member who's made a complaint, or patient who has made a complaint, and you knew at the time what that was directed to was to ensuring that there was no muddying of the evidence?-----

COMMISSIONER: Well, I think that's the difficulty, Mr Morrison, it's ambiguous as to whether the restriction extends to all staff. Because, as you say, it seems to be designed to refer to the complaint made by a client or patient. So where it says "not to discuss these allegations with any staff member or with the client who has made this complaint against you", it could be interpreted either way.

MR MORRISON: I suggest to you, Ms Mulligan, it was explained to you in the meeting that dealt with this document, when it was discussed, that it was in respect of patients' complaints; correct?-- That's not how we interpreted it.

Did she explain to you that that's what it's about, that's what I'm putting, that she did?-- I can't - I can't - I don't recall that, no.

All right. And that the purpose of the stipulation about confidentiality, and so forth, was to ensure that there was no collusion between evidence givers about the response that might be made, and to prevent any general discussion of it, so that the patient's business and the relevant staff member's business didn't become the subject of general gossip. In other words, it was confined to those involved in the incident that could give evidence about it and didn't become

scuttlebutt in the unit. That's what it was all about. That's what she explained, do you agree?-- No.

And part of it also was to ensure that where a patient had made a complaint, you didn't have the staff member going back to the patient, the accused staff member going back to the patient, thereby preventing any suggestion of imposing on the patient to withdraw, that was explained as part of this process. Sorry, I don't want to stop you reading if you are reading, but can you answer my question?-- Sorry, what was your question?

It was explained to you as part of the process?-- I - this is not how we interpreted it - how I interpreted it.

Right. And Ms Mulligan also explained to you this was being done with the approval of the QNU?-- She may have, I don't know.

And that as far as she was concerned, that patients' complaints would not be - any patient complaint would not necessarily be regarded as trivial and they would be taken seriously and dealt with fairly and with transparency?-- She may have, I don't know.

COMMISSIONER: Mr Morrison, I'm really not sure where we are getting with this. We've got the document in front of us. We can form our own views about it. On the face of it, I'm a long way from being persuaded that there is transparency or fairness in the system that says when a nurse is the subject of a complaint that she can't speak to other staff members to see who is willing to support her version. But that's not a matter for cross-examination, that's a matter that we can deal with later.

MR MORRISON: Not within really the scope of this Inquiry's consideration.

COMMISSIONER: It may have some relevance ultimately.

MR MORRISON: Only in a peripheral sense and it's there and it's the "genie is out of the bottle" principle again. Once the genie is out, now it is difficult to put it back in and you have to deal with it.

COMMISSIONER: I accept that, but I don't see how it assists us to ask Ms Hoffman, to tax Ms Hoffman as to the interpretation of it or view of it or whether she was told that this had QNU approval. On its face - you can accuse me of being bias, if you like - I think it's an outrageous document, but we will hear an explanation. Maybe it was a standard thing that the QNU did approve. We will hear that.

MR MORRISON: All right. And is part of what you were told in the meeting concerning that document was that you could always go to the EAS for support?-- Yes.

And you also could go to the Union for support?-- I don't - I

don't remember that, no.

You could talk to the DON for support?-- Yep, I guess. Yep.

But that complaints were not to become everyone's business, just for those involved?-- Complaints were not ever everybody's business. Everybody was very aware of them.

Were you told that, that was the question? I'm putting to you that you were told?-- Perhaps. I don't recall it. I don't recall the whole conversation of this.

Okay. I just want to have you look at this document, please. It's moving to a point that I touched on before, but I will get rid of it now before I forget it. This is in paragraph 76 where you deal with the question of an Acting DON coming from within the Bundaberg Hospital - sorry, yes, Acting DON acting up. If you have a look at this, I think you will agree with me that this is a list of those acting in that position between 2001 and 2004, see that?-- Yeah, I can see it.

Okay. And if we go from the bottom up, Caroline Kennedy comes from the Bundaberg Hospital. What about June Fisher?-- June Fisher was the other A/DON at the time.

Right. Fay McGrath-Dowse?-- At Childers.

Childers, yes. Let's go to Beryl Callanan, she was at Brisbane?-- Yes.

We see Beryl Callanan, for instance, that prior to Ms Mulligan's arrival, there's someone from outside the district, outside the hospital coming into the acting position?-- Mmm.

It's not right really to say that Ms Mulligan changed some previously set procedure in that it was unusual in that regard like you do in 76. It's clearly not right, is it, it had happened before?-- There's one incidence of it happening there and the A/DON at the time was on holiday, and if you want me to say that that's correct, that's correct.

Thank you. I will tender it. And it's the fact, isn't it, that the District Manager selects and appoints who will be acting A/DON - sorry, Acting DON, the District Manager selects that person, doesn't he?-- I don't know.

COMMISSIONER: The document headed "Occupant History for the Position of Director of Nursing at BBH" covering the period from May 2001 through to and including October 2004 will be Exhibit 85.

ADMITTED AND MARKED "EXHIBIT 85"

MR MORRISON: Can you please help me on that topic. When you were asked about this on the previous occasion of giving evidence, transcript 124, line 25, you were asked a terrific question, "How did that make you feel?" - that is, to say when the Acting DON came from outside Bundaberg - and you said, "Oh, it didn't bother me per se because nobody particularly liked working up there very much in the Executive area, but it was" - and then you went on to say, "it didn't allow us to develop professionally in any way or form. So we felt that it was unfair". Which of those is right? You start out by saying, "It didn't bother me because nobody really liked working up there but then it didn't allow us to develop professionally."?-----

COMMISSIONER: Is there any inconsistency between those? How can you say which of those are right? It sounds to me they can be both right.

MR MORRISON: I'm suggesting there is inconsistency.

COMMISSIONER: What's the inconsistency between nobody liked doing the job, but not getting an opportunity to do it as it prevents us from obtaining professional development?

MR MORRISON: I will leave it go and I will contend for the inconsistency later.

COMMISSIONER: Okay.

MR MORRISON: Now, in paragraph 77 - just let me pause. I'm just thinking about paragraph 77 in light of what you said yesterday, Commissioner.

COMMISSIONER: Yes.

MR MORRISON: And I think on the basis of what you said, I will let it go. Now, in paragraph 79 you comment, amongst other things, but no doubt in the context of the unacceptability - yes, it is - of Ms Mulligan about where her office was and the glass petitions, and so forth. Is there something specific about that? It's the same office that Goodman used, it's the same office that you used, is there something that's specifically changed when Mulligan started to use it?-- It was just setting the scene for what we were discussing, that's all.

Just setting the scene, okay. And let me ask you about this: in paragraph 82, you say that you would get a summons sometimes to go up and see the DON, often about what you regarded as trivial matters, and it caused inconvenience because it was sometimes difficult to leave the ICU Unit. But if your absence from the ICU was going to create a problem, you simply wouldn't go, would you, you would put the patient's safety ahead of the DON's requirement; isn't that right?-- That is what - that is correct.

Mmm?-- But I was actually ordered at one point to leave the ICU, when I said it was very busy, to go to another meeting at

another time because of an issue that is described later on. So it didn't always work like that.

But if your absence was truly going to harm any patient's, you would have ignored that too; quite correctly, I suggest?-- Well-----

COMMISSIONER: Mr Morrison, there's been no suggestion of this witness suffering anything more than considerable inconvenience. Now, you know, you talk about letting genies out of bottles, if you want to explore it further you are welcome to, but at the moment the evidence stands that some inconvenience was caused, considerable inconvenience was caused having to leave ICU to visit the DON's office. If you want to take that further, please do.

MR MORRISON: And the example you give related to when you were A/DON?-- Can you tell me what example you are talking about?

Top of page 29, "I recall on one occasion I was summonsed"-----?-- To Ms Mulligan's office to be asked why she hadn't been notified of the status of a nurse.

Yeah. In that example you were A/DON at the time?-- I don't think - yeah, I may have been, yes. Yes, I may have been.

And there were two number 3 nurses who were very ill?-- No, there was a Level 3 nurse who was very ill.

And Ms Mulligan wanted to know how they were progressing with their illness?-- No, she summonsed me to the office and she asked me why she wasn't notified by e-mail by the e-mail that I had notified the other staff about the condition of the nurse.

And she wanted to know about the condition of the nurse?-- Yes, and I explained to her the reason she didn't receive the e-mail was she wasn't at work that day.

All right. Now, on the 27th of July, paragraph 83 - this is the night when P11 died?-- Sorry? Yes.

You have got that?-- Yes.

You say you rang the office?-- Yes.

But was told by the secretary that Ms Mulligan couldn't see you for two weeks?-- Yes.

You wanted to see Ms Mulligan about the circumstances in which a patient had died?-- Yes.

Correct?-- Yes.

Did you say that to the secretary , "I wish to see the DON because a patient has died."?-- No.

Did you say anything remotely like that to impress upon the secretary the urgency and seriousness of the occasion?-- Ms Mulligan should have known about the urgency.

Excuse me, did you say anything to the secretary to impress upon her the urgency and seriousness of the occasion?-- I can't remember.

Okay.

COMMISSIONER: Do you feel it was your function to be impressing a secretary with the urgency and seriousness?-- No, I don't, and the status of the hospital is that a report goes out every morning that everybody gets, all of the Level 3s and the Director of Nursing. She was - she would have been aware, according to that report, that there had been a death in ICU at midnight of a patient that was due to be transferred out. She also should have been aware that I'd stayed back to 7.30 when I was supposed to go home at 4.30, and she - just by the very nature of the things of the material that is sent around the hospital - Ms Mulligan should really have been aware of this situation, and we actually were - we actually thought that she would actually come down to the ICU that day and talk to the staff, but she didn't. So I see it from a different angle to how Ms Mulligan saw it.

MR MORRISON: Well, you say you never got past the secretary?-- No.

It's not a question of Ms Mulligan saying, "Don't put the nurse - the Unit Manager from ICU to me about that dead patient," is it? I mean, you just didn't get through the secretary you say?-- No, but I'm also saying that she would have had other ways to find out what had happened in the hospital.

In other words, in that sense, it didn't matter that you didn't get through the secretary?-- And that she should have actually come down to the ICU to talk to the ICU staff.

You had a meeting with, amongst others, Ms Mulligan on the 28th of July 2004, which is the day after the event, didn't you? The 3, 5, 6 meeting on the 28th of July 2004 went for two hours approximately?-- That was a regular meeting.

Sorry?-- That was an ordinary, regular meeting.

Yes, that's right?-- Yeah.

A two hour meeting the day after the man had died?-- Yeah.

You could have easily said what you needed to say to Ms Mulligan on that occasion, couldn't you?-- No, that's not the place to bring it up.

But, Ms Hoffman, aren't you one of the more vocal at the meetings you attend?-- It depends.

Aren't you?-- It depends.

And there was a District Manager's forum shortly thereafter, followed by a lunch, and the NUMs were all invited, you could have gone to that and made contact if you had anything to say?-- And, what, you suggest you would go to a District Manager's forum and bring up an issue like that?

Yeah, when you broke for lunch, go and speak to Ms Mulligan, why not? And you had a meeting with her on the 5th of August, we see that reflected in TH14. Did you bring it up then?-- Ms Mulligan was aware that an Adverse Event Form had been filled in.

So the short and long of it then is what you talk about in 83 - is it 83? That's correct. Whatever the paragraph was - 83 it was, where you say you rang but couldn't get through the secretary, in fact didn't matter because of the-----?-- No, it did matter.

Because of the information-----?-- It did matter, because I did want to talk to her about the issue.

Now, paragraph 83, you also say that you managed to corner Ms Mulligan in the office in ICU?-- Mmm.

Can I suggest to you that what happened was that Ms Mulligan came down to ICU to talk about some QNU issues and there was a staff meeting?-- No, that's not correct.

She sat down on the chair on the other side of the desk in your room and talked about those matters with you?-- She came - she came into the office and I can't remember what we discussed, but I asked her would she speak to some of the staff.

She said to you that she had had no complaints from the nurses at that time?-- Yes.

And you accepted that that was so?-- Yes.

And you said, "Could you talk to the staff some time?" and she said, "What about now?"?-- No. No, I actually asked her would she speak to the staff now and I went outside and looked after the patients while the staff went in and talked to her.

Yeah, that's right. Okay. Now, in paragraph 84, you deal with a meeting with Ms Mulligan, you say, concerning Dr Patel?-- Mmm.

And she intimated it was only a personality conflict?-- Yeah.

This is where you got the book. Now, can you - you can't remember the date of that, can you?-- I attempted to get the dates of the meetings, but I can't - I am not quite sure which ones were cancelled and which ones weren't.

I'm going to suggest to you the 8th of July. I don't know if

you can tell that from the list of appointments you got, but you might want to accept it or not, 8th of July at 11 a.m. in the morning. What it was was a routine Performance and Development Meeting between you and Ms Mulligan, does that start ringing any bells for you?-- It may have been, yep.

And during that meeting you expressed concerns about Dr Patel's style of communication and behaviour?-- Mmm.

And you made comments about the following: that Dr Patel was always loud and full of himself. Yes?-- Could have done, yeah.

That he would make negative comments to his junior nursing staff and about Ms Hoffman's disagreement with him, that's with Patel; yes?-- Yes.

That he was always saying how great his skills were?-- Yes.

And that you hadn't agreed with him at times and which case he would then ignore you and not talk to you?-- No, he had always ignored me from the first time I made a complaint.

And can I suggest to you, Ms Mulligan asked you whether you felt able to confront Dr Patel when he behaved inappropriately? She asked you that question, "Do you feel able to confront him?"; do you remember that?-- No.

You responded saying you found that difficult?-- No.

And that that wasn't, in fact, unique to Dr Patel, but a problem you had otherwise, inability to confront?-- No. No.

And Ms Mulligan then went through with you the options that you had in light of what you had raised, namely you could lodge a complaint or a grievance, or she could arrange a meeting attended by you and Patel, Dr Keating and herself. Now, you know, they were two of your options. Yes, she mentioned those to you?-- I don't recall that.

And you indicated that you didn't want to pursue either of those options?-- No, I don't recall that.

And then she suggested to you that it might help with your skill development to consult a psychologist from the EAS?-- I do recall that.

And as well she offered you the book?-- Yeah, she gave me the book to read, yeah.

Saying it had been helpful for staff she had worked with previously on dealing with difficult behaviour; do you remember that?-- I remember the book that she gave me on dealing with difficult people.

And you and she agreed that it would be appropriate for you to undertaking additional training on conflict resolution; do you agree with that?-- No.

And at that meeting you also discussed the question of - the issue, rather, of admission and transfer to ICU and the capacity for ventilated beds?-- It may have done, yes.

And you told Ms Mulligan that was an issue that you had discussed with Dr Carter?-- May have done, yes.

And you said that there were problems between the doctors in internal medicine and those in surgical and the situation might be improved by updating the existing Admission Transfer Guidelines?-- May have.

And you said that there was an existing policy which had been in place for some time to the effect that if there were more than two ventilated patients in ICU arrangements would be made for transfer?-- Yes.

And that was because caring for more than two was difficult with the available nursing staff?-- Yes.

But you also told Ms Mulligan, I suggest, that you had been unable at that time to locate a copy of the existing policy?-- No. No.

And you told Ms Mulligan that problems were arising because of communication problems between Dr Patel and Dr Miach?-- I don't recall the specifics of that at all.

And that was because the situation was being exacerbated by Dr Patel's policy of keeping his patients in Bundaberg for longer than provided in the current policy?-- Well, that was true. He was keeping his patients longer.

And you expressed the view to Ms Mulligan that if there was a clear and concise, updated policy, that would help in resolving the communication problems between Patel and you, as well as between the medical staff, if there was a clearer, updated policy about transfer?-- I don't remember the specifics of that.

You don't disagree with it though?-- From my recollection, even the earliest policy before I started there stated that patients were only kept for 24 to 48 hours. That's my understanding of that.

And you agreed with Ms Mulligan, I'm suggesting to you, that you would work with Dr Carter with whom you felt comfortable to progress the updating of the admission/transfer policy?-- Yes, that's right. I do remember that part, yep.

And in fact you did thereafter?-- Yes.

It took some time to develop. I think it was only finally produced in February 2005. Is that right?-- I can't remember.

Now, what I want to suggest to you is that the meeting on 8 July was the first time that you had told Ms Mulligan of any issues you had with Dr Patel. That's right, isn't it?-- Any specific issues that I had with Dr Patel.

Mmm?-- It may have been, yes.

Well, the first time you'd ever informed her of any issues that you had with Dr Patel is what I'm putting to you?-- May have been.

And the issues you raised at that meeting related to Dr Patel's communication and behaviour and the admission/transfer of his patients, nothing to do with his clinical performance. Correct?-- I don't recall the specifics of that.

All right. Let's go to another topic, paragraph 86. This is P11. This is the one where you documented your concerns in TH16, the updated or amended version of TH10, and you sent that to Mr Martin?-- Yes.

But you didn't send it to Ms Mulligan, did you?-- I sent it to Patrick just so he could have a look, just so he could read it before I sent it on, to give his opinion on it.

He was A/DON at the time, wasn't he?-- I think so. I can't remember.

If he was, doesn't that mean that he was acting in the position while Mulligan was away?-- I can't remember.

Okay. But you don't have any recollection or record to suggest it was sent to Mulligan?-- This particular-----

TH16?-- No. Not at that time, no.

But amongst the other things you did around that time, as a consequence you went and got Dr Truscott involved?-- No.

Did you not?-- No, Dr Truscott came down to visit me.

Well, she became involved?-- Dr Truscott called me and asked - said that we needed to fill out a Sentinel Event Form because the patient had died, and that she'd been informed about that by Jennifer Kirby.

You sent the document to Dr Keating?-- No, Ms Truscott came down and we filled the form in together, and she wanted it done as a matter of urgency-----

Sorry, we might be at cross-purposes. Did you not send TH16 to Dr Keating-----

COMMISSIONER: No, the statement says - 86, the last sentence - that it was Dr Truscott who gave it to Dr Keating.

MR MORRISON: Sorry?-- It was Dr Truscott who gave it to Dr Keating and, as far as I'm aware, to the Director of Nursing and the District Manager. When the Sentinel Event Form left the Intensive Care Unit, I had made a very quick statement of events, because at this time we had already called the Union for advice and we were waiting for the statements from the other staff involved.

Yes?-- We knew that there was going to be a coroner's case as well.

You in fact called the coroner?-- I called the coroner because I was so concerned about what was going on.

And you called the police as well?-- And I called the police, yes, I did.

You didn't call Mulligan. There were lots of people being called and told and involved, but not Mulligan. Is there some particular reason for that?-- Well, I assumed that she - Ms Mulligan knew about the issue.

She would know from the Sentinel Event Form?-- Exactly.

Right. Okay?-- And because of, you know, all of the other ways that she should have known what was going on in the ICU.

COMMISSIONER: Did she in fact visit ICU after she became aware of it?-- After she became - only when she came down to talk to the staff that day. She didn't - she didn't ever come down and talk about the particular patient or-----

So the only visit was the one you mentioned earlier?-- Yes, yes.

D COMMISSIONER VIDER: At no stage did the Director of Nursing come to the unit and say to you, "I'd like to speak to the staff. I understand they are distressed about a patient incident that occurred here last night."?-- Yes.

Did that happen?-- No, never.

MR MORRISON: By that time the Union were involved?-- Yes.

They were involved for the purpose of giving you advice about what to do?-- Yes.

And also giving support to your staff?-- Yes.

Yes, that's right. Okay. You didn't tell Ms Mulligan that you'd contacted the coroner, did you?-- I called the coroner myself.

Yes, I know. You didn't tell Ms Mulligan either that you were going to or had?-- No.

Likewise, you didn't tell her that you were going to or had talked to the police?-- No.

And the same with the RFD?-- The RFD - no.

Okay. All right. Now, you say - I'm just finding the place - at transcript 150 on the last occasion - I'm just having trouble locating this in your statement. It may not be there. You said about this incident that Ms Mulligan didn't make any contact with you about the patient, about Bramich, and that was the reason why you sent a letter to her on the 26th of August which was - I think it's TH22 if you want to have a look at that. You said this was just informing her of the situation and about another situation, and that you hadn't got any contact from her about a patient, about Bramich. Is that right or not?-- Well, I have a copy of an email that I sent on the 26th of the 8th to her where I'm attaching that report, and I explained to her that the report was - my first report was written in haste as I was asked to lodge it ASAP with DQDSU as part of the sentinel event.

Can I just ask you to pause while I mention what you said last time, because I think it will truncate and bring it back to your memory. You were asked by Mr Andrews about sending the statement to Mulligan on the 26th - that's the thing you're looking at - and the question was, "Is that the first report you made to Mulligan", then he referred you to the exhibit number, and you said, "Yes. I think she was aware of this because of the Sentinel Event Form. She would have been given

a copy of the Sentinel Event Form. She certainly didn't make any contact with me about the patient, about Mr Bramich, and so I was just - in that letter - I was just informing her of the situation." Is that evidence correct? That you had no contact from Mulligan over the Bramich patient?-- I may have had contact with her by this time. I don't - I don't know when exactly I had first contact with her about the patient.

Well, your evidence last time was that she certainly didn't make any contact with me about the patient-----?-- She didn't.

-----Mr Bramich?-- She didn't make any contact with me about Mr Bramich.

In any way?-- Not that I can recall, no.

So we should put a qualification on that evidence from last time, that maybe she did and you couldn't remember.

COMMISSIONER: I think we can all assume that all of the evidence is qualified that it's to the best of the witness's memory.

MR MORRISON: That's not what the transcript says, Mr Commissioner. Have a look at this document?-- Is there a date on there?

On the 13th of August you got this email from Ms Mulligan. "Just wanted to catch up with you this week. I know you were off sick and did a nightshift. Thank you for that...drop you an email to let you know the Adverse Event Form you sent is being investigated and when there's more information I'll get back to you." You remember that, don't you?-- I actually have a copy of this, yes.

Yes?-- Yes.

Didn't make it to your statement, I see, but anyway, "...when there is more information I will get back at you", and then you sent back an email saying, "Well, can I read it as meaning 'get back to you' rather than 'get back at you' (joking)." Do you want to see this document? Have a look on the screen?-- Yes, I remember this. I actually thought this was part of my - I thought this was actually in here.

No. And not only is it not in your statement, but in the evidence you gave last time at page 150 line 37, your evidence was to give the clear impression that notwithstanding this event, you had had no contact at all from Ms Mulligan, and that's simply not true, is it?-- I had no contact from Ms Mulligan in the close period of time surrounding Mr Bramich's death, and I don't know whether she's talking - she talks about an adverse event. She doesn't talk about the sentinel event in this email here.

COMMISSIONER: But, Ms Hoffman, just so that we can get over this hurdle, the evidence you gave on the previous occasion

might have suggested it took four weeks. Mr Morrison is making the point that in fact Ms Mulligan was back to you in only about two weeks after the death of Mr Bramich. You'd accept that that's the case?-- I'll accept it, yeah.

MR MORRISON: That's not quite what she said, Mr Commissioner, but we'll move on.

COMMISSIONER: Isn't that the case? Two weeks? 27 July to-----

MR MORRISON: Transcript 150 was not qualified in time. I'll tender those emails that were just on the screen.

COMMISSIONER: The email from Ms Mulligan to Ms Hoffman of - sorry, I said two weeks, it's a bit more - the 13th of August 2004, and the reply of 16 August 2004 will together form Exhibit 86.

ADMITTED AND MARKED "EXHIBIT 86"

MR MORRISON: Now, in paragraph 103 you refer to an email you got back about the conflicting information over the thoracotomy that was coming up?-- Yes.

And it's TH22, if you need to look at the document. That's an occasion when you sent an email to the DON concerned about an upcoming operation, and your response from Ms Mulligan, you appreciated at the time, was relaying to you what the doctors had said. Isn't that right?-- Yes.

So she had gone urgently to get information about what you had raised, tried to speak to you personally, but you'd gone, and so she was sending you this email, and then she relayed to you what the doctors said. Correct?-- Yes.

Now, what she relays to you - sorry, the subject matter of what was happening was that you'd been told that there was a particular type of operation on, the doctors said it was something other than that, or something different from that. Correct?-- Yes.

Right. And then in the second paragraph she refers to the fact that there was conflicting information and how difficult that is to sort out, especially in the circumstances in which it had been raised, the night before the surgery. You refer to the next sentence in your affidavit, though I'm not quite sure why you do because you don't say anything about it, that Ms Mulligan said, "This highlights to me the issues/strategies with communication that you and I have discussed previously. They're not resolving. Further action needs to occur." That's what you discussed back in July, communication problems with Patel and how to resolve them?-- Mmm hmm.

Isn't it? That's what that's referring to?-- Can we talk about the thoracotomy?

No, answer my question. Isn't that what that's talking about, that second paragraph?-- It appears there's conflicting information, that's right, but the conflicting information isn't because I'm giving conflicting information.

No, no, no, and she wasn't suggesting that either. She simply said there is some. It's difficult to sort things out when there's conflicting information?-- That's right, there is.

COMMISSIONER: But there wasn't any conflict. Your information was right, wasn't it?-- My information was right, and what I was saying was that both Dr Keating and Ms Mulligan said to me that it was confirmed the case is not a thoracotomy, that it's a wedge resection of the lung, which - what I said - you cannot do a wedge resection of a lung without doing a thoracotomy.

MR MORRISON: Ms Hoffman, don't you understand that what she's simply saying to you is, "You say it's one thing, the doctors tell me it's not."?-- No, that's not-----

That's what she says, with the greatest of respect, Ms Hoffman?-- No, no.

"Dr Keating sought information re the same and has confirmed the case is not a thoracotomy."?-- Well, then why is it called a thoracotomy in all of the-----

I can't answer that question, Ms Hoffman, but the doctor apparently said it to Ms Mulligan and she passed it to you?-- Mr Morrison-----

Isn't that right? All she was doing was passing on what the doctors said. If the doctor got it wrong, that's another matter, but Ms Mulligan simply passed on to you what the doctors said?-- Ms Mulligan should have known also that a wedge resection of a lung cannot be done without a thoracotomy being done. It's basic Nursing 101, and when you - I'm sorry, when you look at this and then you look at the surgeon's report and it says "thoracotomy", what I was trying to - what I was making out was that Dr Patel was saying one thing on his notes and he was telling the doctors another thing, and the doctors were then trying to feed back to me this information, saying that a wedge resection was being done and not a thoracotomy. You cannot do a wedge resection of the lung without a thoracotomy, and the subsequent documentation proves that they did go ahead and do a thoracotomy when they said they were not going to on a Friday afternoon. This is my issue.

Can you focus on the question I'm asking?

COMMISSIONER: Can I try and slow this down a bit? Your point is that a thoracotomy is essentially an opening of the thorax cavity, isn't it?-- Yes.

To do the wedge resection you have to open that?-- You have to do that.

You can't get the wedge resection-----?-- Yes.

But your concern was not that there was a breakdown in communication as Ms Mulligan was suggesting, your concern was Dr Patel was pulling the wool over peoples eyes trying to baffle them with science by saying, "This isn't a thoracotomy. It's only a wedge resection."?-- Yes.

And that Ms Mulligan fell into that trap?-- Yes.

And what you are highlighting in your statement is that a clinician in that position should have known better than to let Dr Patel trick her-----?-- Yes.

-----by saying, "It's not a thoracotomy. It's a wedge resection."?-- Yes.

The answer you get back from her is, "This is a breakdown in communications."?-- Yes.

And your point is it's not a breakdown in communications, it's Dr Patel actually lying?-- Yes, because this is what - this is another example of what he used to do. He would - if - he would use a different word for something. He would falsify records. He would - a Whipple surgery would become a different - he would just use a different name. This was just an example of that, and this was a really good example. I didn't - the reason - there was no breakdown in communication. I was highlighting an issue to her that this was the type of thing that was being done. He was booking large surgeries for the weekend when staff weren't there. He was doing a thoracotomy on a Friday - booking a thoracotomy on Friday when for the rest of the weekend the hospital is down on staffing. These are not good - these are not good practice issues. These are bad practice issues and this is-----

MR MORRISON: Would you like to stop and answer my question now? Okay? The question I was asking you about was the second paragraph-----

COMMISSIONER: I'd prefer that she-----

MR MORRISON: That's what I directed your attention to.

COMMISSIONER: Mr Morrison, I'd prefer the witness be allowed to finish her answer to my question.

MR MORRISON: All right.

COMMISSIONER: Please go on?-- I've forgotten it.

Fair enough. You now have a question, Mr Morrison.

D COMMISSIONER VIDER: Can I just ask a clarifying question, Mr Morrison? Would it be your expectation that the Director of Nursing, and for that matter the Director of Medical Services, would have understood that a wedge resection of the lung involved a thoracotomy?-- Yes.

Thank you?-- Definitely.

MR MORRISON: You appreciated that at the time?-- Yes.

Yes, definitely?-- Yes.

Anatomy 101.

COMMISSIONER: That's why you were so offended to get an email saying this was just a breakdown in communication?-- Just another communication-----

MR MORRISON: Look at this document then. You sent a response back to Ms Mulligan, didn't you?-- Yes-----

Anatomy 101?-- Yes.

What did you say? "A wedge resection is also a thoracotomy."? No, you said, "Thank you for your response. Surgery was relayed to me as a thoracotomy." Do I see you there saying, "This just doesn't make sense."?-- I sent that email before I saw the rest of the documentation. That email was sent before I saw the rest of the documentation. There is no way in the world I would not recognise that you could not do a wedge resection without doing a thoracotomy.

You were told it was a wedge resection. That's what Ms Mullins said that the doctors had said to you. You tell this Commission that it's elementary and anybody would know a wedge resection can't be done without a thoracotomy?-- That's why I got the rest of the documentation.

When you responded you didn't make that point. It wasn't even evident to you, was it?-- What do you mean it wasn't even evident to me?

I tender that e-mail.

MR ANDREWS: Actually, I think Mr Morrison said, "It wasn't even evident to you, was it?", and Ms Hoffman said, "What do you mean it wasn't evident to me?" It's my submission that there - it is quite possible that the witness didn't understand Mr Morrison's question because the "it" portion of the question is plainly ambiguous.

MR MORRISON: All right.

COMMISSIONER: It would be fair Mr Morrison clarified that as well.

MR MORRISON: I will ask one more question. When you replied, it's not evident from your reply that you discerned that it was - a wedge resection couldn't be done without a thoracotomy, you relied , "Oh, thank you. I was told otherwise." Isn't that right?-- I was fully - when I - when I was in receipt of all of the - all of the documentation which I got and I saw that it was booked as a thoracotomy on the booking sheet, it was booked as a thoracotomy in a surgeon's report, it says it was a thoracotomy, and I knew - I knew that the - you could not have a wedge resection of a lung without a thoracotomy.

Mmm-hmm?-- And that's - that's my statement. That's what I say.

Yes. Okay. Paragraph 107.

COMMISSIONER: The e-mails 26th of August 2004 and reply of 30th of August 2004 will be Exhibit number 87.

ADMITTED AND MARKED "EXHIBIT 87"

MR MORRISON: Paragraph 107 relates to TH32 and you say there that you think you spoke to Ms Mulligan about this meeting, but it doesn't turn up on the list of meetings, does it not?-- I'm sorry, I can't find that paragraph at the moment. Can you just-----

107, page 37 and TH32. And the point you were making in the

statement is that it refers to you having a meeting with Linda that afternoon?-- Yes, yes.

But it's not in the list of meetings that you have got in TH14?-- No.

Therefore, you don't know whether you had the meeting or not?-- I can't - I can't recall-----

No?-- -----that, no.

But there would have been no problem in just flicking this e-mail on to Ms Mulligan, would it, and saying, "Dear Linda, I'd like to talk about these matters."?-- Well, I thought I was having a meeting with her that afternoon.

It's apparent now you didn't, isn't it?-- I don't know. I can't remember.

And if it didn't happen you could have just flicked this e-mail on and said, "I'd like to talk to you about the matters raised in this."?-- Well, I could have, yep.

Okay. Now, can you look at TH33. It's paragraph 108 that refers to it. You don't say much in 108. You can just go to TH33. This was a meeting of the 3, 5, 6 nurses. You were there. So was Mulligan. This one went for about a shade under two hours and is on the 25th of August 2004. Do you see that?-- Yes.

And it's the day before you do your statement to Ms Mulligan, which I think is TH21?-- Yes.

It's the day before you wrote up a report about Bramich. This meeting occurred the day before that. Now, of the list of people who were there you at least were involved in the Bramich case. What about others in the list of TM33? Were there any others there in that list that were involved in the Bramich case, either in surgery or in theatre - sorry, in ICU?-- No, not that I know of. The only person that may have been would be Sue Vanderberg.

Right?-- If she had happened to be on when - no, she wouldn't have been on when she - he came in, no.

Have you formed, at that time, the view that Dr Patel was a danger to patients?-- Yes.

And that he was clinically unsound?-- Yes.

And that this patient had died because of him?-- That's my belief, yes.

Why wouldn't you raise it for everyone's benefit at that meeting that went for something a little short of two hours when you got all the 3, 4, 5s there or at least a significant number of them?-- Because most of the staff that were there were also of the same opinion or were aware of my feelings at

the time.

But not many of them, if any of them, were involved in the Bramich case?-- No.

MR HARPER: Excuse me, can I ask my learned friend to refer to him as Mr Bramich. I have instructions from Mrs Bramich. It's giving her some concern. Thank you.

MR MORRISON: Can I unreservedly apologise for that. It's the economy of barristers, not any intended rudeness.

COMMISSIONER: That's all right.

MR MORRISON: Now, in paragraph 91 and 95 of your statement you go out of your way to say that you took it upon yourself to draw the matter to the attention of appropriate persons and that you were doing all you could or you wanted to do something to stop Dr Patel interfering any more in the care of patients, and yet here for a two hour meeting you said nothing about the Bramich case when you had a perfect opportunity to do so to alert others in an effort to stop Dr Patel interfering.

COMMISSIONER: I thought the evidence was already given by Ms Hoffman that everybody else at the meeting either knew her opinions or shared them. Is there some ambiguity about that that we need to clarify?

MR MORRISON: Knew your feelings about what, to stop Patel?-- Knew my feelings or my concerns about Patel.

They didn't know about Mr Bramich, did they?-- We didn't bring specific patients up in these meetings. That is not what these meetings were for. I - what I did do was I talked about staffing issues and I talked about the stress that the ICU staff were under and asked for extra staff, for some agency staff to help, and I explained how I had tried to access EAS for the staff and I couldn't get them.

You couldn't? Why, because they were busy?-- They - they had some staffing issues themselves and they couldn't - and we couldn't get EAS staffing.

And the Union couldn't help out either; is that right?-- The Union couldn't help out with getting counselling?

Yes, that's part of what they do, they help out with support for staff?-- The Union do help out with support for staff. The Union at this time were trying to guide us in trying to work out what we could possibly do to stop Dr Patel from this occurring and before - I think that if we want to tell the story there's some very important things that we've skipped over.

Well, I'd prefer, if you don't mind, if you just answer the questions I'm interested in. There will be other people asking you questions in due course but we are on limited time

and I want to make the most of it, if I may.

D COMMISSIONER VIDER: Could I ask just - Mr Morrison, ask a question? If this meeting you would not have considered an appropriate place to raise such an issue, what clinical meetings would be more likely where you would raise an issue? For example, is there an Intensive Care Committee where you review deaths or is there a-----?-- No.

-----Morbidity and Mortality Committee?-- No, there isn't. Dr Patel was reviewing - was auditing and reviewing his own patients. Dr Carter had taken this issue - it's my understanding Dr Carter had taken this issue to Mr - about Mr Bramich to Dr Keating that next day. I had - I had - I had asked Dr Carter that we - I had begged Dr Carter when I ran into him at the lift that morning when I found out Mr Bramich - when I found that Mr Bramich had died that we had to stop Dr Patel. Every time I tried to do - to talk to Linda she wasn't - I found that she just wasn't interested or didn't - she just - it was all based on personal-----

MR MORRISON: Excuse me?-- -----conflict.

I will ask you to stop for a second?-- No, no, I will not stop.

COMMISSIONER: Mr Morrison-----

MR MORRISON: I want her to explain the occasions.

COMMISSIONER: Mr Morrison, this is an answer to a question from the Bench. I am not going to allow you to interrupt a response to a question from Deputy Commissioner Vider, unless you have an objection.

MR MORRISON: It's not an objection.

COMMISSIONER: If it's not an objection, be quiet, and we will get the end of the answer.

MR MORRISON: We will be here - it's only going to prolong matters.

COMMISSIONER: All right. We will take a five minute break then.

THE COMMISSION ADJOURNED AT 3.05 P.M.

TONI HOFFMAN, CONTINUING CROSS-EXAMINATION:

COMMISSIONER: Mr Devlin, just before you leave, one of our concerns is we are not going to reach you this afternoon.

MR DEVLIN: I have made other arrangements.

COMMISSIONER: Yes. Can I say this: we're very interested in hearing what questions you have on behalf of the Medical Board and I realise it will be an imposition for Ms Hoffman but I think we'll have to ask her to come back at a time that suits your convenience.

MR DEVLIN: Can I give Ms Hoffman this comfort, that I'm interested in teasing out where I can the details of the procedures which the Medical Board's particularly interested in. So it's more a technical teasing out of what she can offer in terms of direct or reliable information.

COMMISSIONER: Without implying in this question any contrast with anyone else's cross-examination, you are not expecting to be in any sense aggressive or-----

MR DEVLIN: I will tease out information that Ms Hoffman may have but hasn't already appeared here. And that's - I intend to be doing that always in the public interest, and other people have other interests that they must pursue.

COMMISSIONER: Indeed. And I make no criticism of that. I should make it clear that all of us are very appreciative of the input the Medical Board through you has had in these proceedings.

MR DEVLIN: Thank you.

COMMISSIONER: And that's why at the risk of some inconvenience to Ms Hoffman we'd prefer to allow you to conduct your cross-examination at a time when you have sufficient time to-----

MR DEVLIN: I think it will probably take about an hour and a half, no more.

COMMISSIONER: Thank you for that.

MR ANDREWS: Indeed for the scheduling of witnesses, I wonder if Mr Devlin is likely to have questions for Dr Miach as well.

MR DEVLIN: My Junior will be here on Monday - here on Tuesday and he will be fully ready to proceed.

COMMISSIONER: Can I ask, Mr Devlin, when you expect to get back?

MR DEVLIN: The following week and sooner if I can get a settlement in a thing I am committed to.

COMMISSIONER: Thank you very much for your assistance.

MR DEVLIN: Thank you.

COMMISSIONER: Mr Morrison?

MR MORRISON: I haven't got a question at the moment because I interrupted her.

COMMISSIONER: Yes. Do you wish to-----

D COMMISSIONER VIDER: I was - I think you might have answered my question.

COMMISSIONER: Let's draw a line in the sand and, Mr Morrison, you have got a bit over an hour and we will try and give it to you as uninterrupted as possible.

MR MORRISON: Thank you, Mr Commissioner. Now, paragraph 111 of your statement refers to the 3rd of September 2004 and an occasion when you spoke to Kym Barry of the QNU. Barry's advice to you was that you couldn't - sorry. Have you found it?-- Yes.

Barry's advice to you was that you could not sit on the information that you had gathered; correct, isn't it?-- Yes.

And by that time you had done your work in going back through the records; is that right?-- I'd done a very cursory-----

Only cursory?-- Very cursory.

Not the full audit you did later on?-- I never did a full audit.

I'm sorry, I thought you had?-- No.

Okay. And you didn't take the information to Mulligan at that point, did you?-- I can't remember the exact date that I took the information to Linda. We were waiting on statements from all of the other staff.

This is still to do with Mr Bramich principally, isn't it?-- Yes, to do with Mr Bramich.

Now, in paragraph 113 you refer to a statement by Ms Fox?-- Yes.

Can I suggest to you that's the only one you e-mailed through to Mulligan? All the others went directly to Mr Leck because Mrs Mulligan was on leave. In 114 you say you passed it on to Linda Mulligan. I'm suggesting to you apart from the fact the others went direct to Leck-----?-- Well, I would have to check that.

COMMISSIONER: It does sound right, doesn't it?-- Well, a lot of them took a long time, so it depends on how long she was on

holiday for. A lot of them did take a long time before we got the - got the - the-----

We don't need to quibble about things like that. No doubt she's got her e-mail records?-- Okay.

If she didn't get it, she didn't get it?-- Okay.

MR MORRISON: Now, I will take you to paragraphs 119 and 120.

COMMISSIONER: While you are doing that, Mr Morrison, I might just say for the benefit of the other Brisbane contingent here that I think many of you are on the same flight after 5 o'clock. I certainly won't take offence if you want to start packing your bags and heading out whilst this is continuing.

MR MORRISON: Now, there's an exchange of e-mails between you about the issue of staff and the resignation of a staff member. What is it you are trying to say about this? If it's not to any particular point, I would be content to move on?-- Sorry, can you - which e-mail?

Well, it's a bit further back. You say you e-mailed Linda Mulligan and that's in 35, TH35. Maybe it's easier to understand by going to TH35 and you have got to start from the bottom of the second page and work up to follow the exchange of e-mails. The first one is you at the bottom of that second page, "Hi, Linda, hope you are back now." TH35?-- Yep.

"I have a couple of things to run by you. I have asked Martin Carter to delay if possible the routine surgery", and we can follow the exchange of e-mails right through to the end on top of the first page of TH35, but I am just not quite sure what it is we are supposed to draw from this?-- I'm just drawing Linda's attention to the fact that the - the - the staffing issues and the staff were so exhausted from periods of high activity, high acuity, and coming in on their days off and that sort of thing. That's all I'm trying to say and I asked if she could get some agency staff for a while.

You got responses from her and so on it went?-- Yeah.

Okay. Thank you. All right. Now, in paragraph 120, we will come to that one, you refer to having made an appointment to see Linda Mulligan approximately two days before your written statement. What written statement are you referring to?-- I'm referring to the complaint, the written complaint that I gave to Peter Leck.

Right. Not TH16, it's the subsequent one, isn't it?-- Yeah.

The major-----?-- The major complaint, yes.

All right. Now, I want to suggest to you a sequence of events and I want to ask you whether you accept them or not. On the 18th of October Ms Mulligan visited ICU. Now, I don't expect you to remember the date necessarily but I'm putting to you

that on the 18th of October Ms Mulligan came down to ICU and spoke to you and that's when you relayed to her what the QNU had said to you - sorry, this is complicated - about what she had said about you. You told Ms Mulligan the QNU had said to you that Ms Mulligan had said the only current issue was a personality conflict?-- Yes.

And that's what the QNU had said to you?-- Yes.

You told Ms Mulligan that on this occasion when she came down to ICU. You'd accept that?-- I don't recall the situation but I'm - may have, yes.

And she explained to you that that's not what she had said, but that she had gone through with the QNU the options that you had discussed with her in July, namely you put in a complaint or a grievance or mediation, take some other stuff in relation to Patel?-- I don't know.

Okay. And she told you that you were the only person who had raised any issues in relation to Patel with her, that is with Mulligan, leaving aside Mr Bramich, and that those issues were really behaviour communication issues and the admission transfer policy. That's what she said to you?-- I remember that she - she kept saying that it was - it was a personality based issue, yes.

Well, I'm suggesting she didn't say that to you. What she said was, "That's what the QNU reported I said, but that's not right. I didn't say that at all."?-- She did say that to me at one point because she said, "Why am I only ever receiving complaints from you, Toni?"

Well, it was evident from that comment, whatever she thought was the cause of the problem, she hadn't had complaints from anyone else?-- Yes.

Okay. And then you went on to talk about the issues related to the number of ventilated patients and transfer issues, I'm suggesting. Are you content with that?-- Yes.

And she told you that it was imperative that you provide detailed information to her and to the Executive so that they can address the matter. You weren't discussing Bramich. That was being dealt with - sorry, Mr Bramich - but these were issues you were raising about the number of ventilated patients and the ability to transfer them out. She said to you, "Look, it is imperative that you give detailed information about that so we can deal with it."?-- That detailed information was being sent every month on the budget report.

Let's do it step-by-step. Do you remember her saying that to you?-- I don't recall that specific statement.

Do you disagree with it?-- No, I don't disagree with it, no.

And Ms Mulligan reminded you that she was happy to meet with any staff and wanted you to encourage them if they had issues to document them and provide them?-- I don't dispute that.

Okay. And while she was in ICU, she met three staff, two female registered nurses and one male registered nurse?-- I know that that meeting took place. I don't know the date.

They talked to Ms Mulligan about Mr Bramich's case? Were you there then-----?-- No, I was looking after the patients.

Of course you were. I beg your pardon. Now, at - now, on two days later, on the 20th of October, you came up to Ms Mulligan's office at 11 a.m. at her request; do you agree with that?-- I remember the meeting of the 20th, yes.

It wasn't arranged by you and it didn't concern the staffing matters which were the subject of those E-mails. This was a different topic, wasn't it?-- What number E-mail was that? I can't remember what the topic was about.

Well, I want to suggest to you that Ms Mulligan wanted to talk to you about the unresolved communication issues between you and Patel?-- Well, I don't know. She may have.

And she suggested that an external trained mediator come in to try and get some resolution to it; can you remember her

suggesting an external trained mediator?-- I remember we discussed mediation, and when - but there was not supposed - I don't recall any external mediator being asked to be present at this time.

No, no, I'm not saying they were there, she was proposing that to you-----?-- She was proposing that, perhaps, we could - Dr Patel and I could have mediation.

And for that purpose, an external mediator would probably be a good idea?-- I don't recall that.

And she told you that Dr Patel had agreed to participate in mediation?-- Yes.

And then you then told her that it wasn't just an issue about Patel's behaviour and communication, but you believed that his patients were dying because of his care and that Patel falsified records?-- I was concerned that that may be the case, yes.

Leaving aside the niceties of the words?-- Mmm.

On this occasion I'm suggesting you told her, "Look, it's not just a behaviour/communication issue, patients are dying because of Patel's care and he's falsified records." I mean, you said something to that effect, I think you accept?-- Yes, I was concerned about the number of deaths that had occurred, I was concerned about his behaviour and I was concerned about the level of complications that patients were coming through to the Intensive Care Unit with after being operated on by Dr Patel.

And you told Ms Mulligan that there were a number of cases, although you didn't have the details with you?-- That's right.

And you told Ms Mulligan that you had raised these issues previously with other medical staff and, in particular, you mentioned the occasion when you went to Dr Keating with Dr Joyner?-- Yes.

That you had found Dr Keating dismissive and that you had discussed the matter at the time with the DON at the time?-- Yes.

You told her also that - about Dr Miach saying that Dr Patel couldn't treat his patients?-- Yes.

You told her also that David - Dr Risson had mentioned to you about his concerns with Dr Patel?-- Yes.

Who was Dr Risson?-- He was - I think he was a JHO or RHO.

Okay. And you also told Ms Mulligan on that occasion that Dr Patel was delaying the transfer of patients to Brisbane and there are a number of examples which you couldn't give on the spot about that?-- Yes.

Now, it is right to say, isn't it, that Ms Mulligan was quite shocked at what you had told her - evidently shocked. If you can't answer that, let me ask you this: she asked you why hadn't you given her that information sooner?-- No, I don't recall that.

You were crying, and you kept saying that you were sorry that you hadn't told her everything sooner?-- I don't recall that, no.

And she said to you that if you were going - if you were making allegations about patient outcomes and safety, that was very serious and it must be investigated by a medical practitioner who had expertise in the area?-- No, I don't recall that.

And she explained that she would try to get to Mr Leck urgently and raise the matter - see him personally and raise the matter and she would call you back as soon as she had spoken to Leck?-- I recall that she told me that I needed to go away and put my concerns in writing, and that she would be in contact with Peter Leck at some point.

Could I suggest to you that at the meeting, when you revealed all this, she said, "Look, I'm going to try and see Leck urgently and raise these matters and I'll call you back as soon as I've spoken to him." You wouldn't disagree with that, would you?-- I just remember that when she did call back, I was surprised she called back on the same day and that I was to go and see Peter Leck then, because-----

Sorry, she called back on the same day you met her?-- Yeah, later that day.

Yes, I'm saying that, too?-- Yes.

COMMISSIONER: You were saying that's a surprise, so maybe-----?-- I was surprised. She hadn't indicated - I don't believe she had indicated to me that she was going to deal with it that quickly.

MR MORRISON: You might have missed that in the upset that you were in?-- Yes, maybe.

And can I suggest to you that that was the first occasion when you had told Ms Mulligan of concerns you had in relation to Dr Patel's clinical competency, other than Mr Bramich?-- I don't know. I don't know.

Okay. Now, can I suggest to you that you were called up to Mr Leck's office shortly thereafter to discuss what you had said?-- Yes.

And Mr Leck and Ms Mulligan were there?-- Yes.

And you were asked to document the allegations by the following Monday?-- No, they - I spoke of my concerns to

Peter Leck and he took copious notes then, and he told me to go - to go away and put it all in writing.

Document it?-- Document it, yeah.

And by the following Monday?-- I don't think - I can't remember if he said that.

You can't recall that. All right. Now, can I ask you this: you were reminded either by Mr Leck or Ms Mulligan that you had the ability to go to the union support group or to the EAS for assistance. They mentioned that to you - "Just remember, you can do this."?-- I don't recall that.

Okay.

COMMISSIONER: When you say you don't recall-----?-- Yes.

-----are you accepting it is possible it was said and it slipped your mind?-- It may have been said, yes.

Thank you.

MR MORRISON: And you raised an issue with them about the fact that another staff member was having problems about getting to EAS?-- Yes.

And Mr Leck said to you, "Well, document that as well and get that staff member to come to me."?-- Yes.

Okay?-- He may not have said, "Get that staff member to come to me.", but he intimated that he would arrange for - I had told him that she was accessing external counselling, and he intimated that that could be arranged to be paid for.

Okay.

D COMMISSIONER VIDER: Just a point of clarification: the reporting mechanism that exists in the hospital would come from various channels to the Executive. The after-hours hospital manager, by whatever name that person is known, fills in a report that would go to the Executive?-- Yes.

So, for example, patients in Intensive Care who either died or returned to the operating theatre between 5 p.m. and, say, 8 a.m. would be noted on such a report?-- Yes.

That would go to the Director of Nursing?-- Yes.

To the Director of Medical Services?-- Yes.

So, every morning they would have an opportunity to read a report of events that had gone on virtually since normal close of business the previous day?-- Yes. They would also know how many days the patient had been in ICU, and, you know, what they returned to theatre for, all of those things. I mean, they were aware of how many extra hours overtime that was being done, how much overrun we were with the budget-----

So, any patient who died or had returned to the operating theatre or been admitted in a critical state or whatever, that's on their desk?-- Yes.

Was it everywhere?-- Yes.

At the start of business each day?-- Yes, with all the Executive, yes.

D COMMISSIONER EDWARDS: May I clarify to whom they went? You said Mr Leck-----?-- Mmm, Mr Leck, Dr Keating, and Ms Mulligan.

All three?-- Yes.

At all times?-- Yes.

MR MORRISON: The information that you laid out for Linda Mulligan and again for Mr Leck that day involved information you had got from going and doing that semi-audit, whatever you call it - that review?-- Yes, what I did was I looked at patients that I was concerned about-----

Yes, I'm not so much concerned with how you got the information, but it was that sort of information that you gave them - it was the product of doing that thing - that review?-- Patients that I was concerned about that I asked Mr Leck to look into.

Yes. Okay. Now, can I ask you this: each of Ms Mulligan and Mr Leck were horrified, evidently horrified, at what you told them, weren't they, on that day; would you agree?-- They appeared to be - I don't know - I'm not going to use the word "horrified". They appeared to be concerned, yes.

Can I invite you, by looking at this document, to go down the bottom, please, Mr Operator. This is an E-mail from yourself to Beryl Callanan, 25 October. So, it is a few days later. "And I didn't get to the HIC but went to see PL" - Peter Leck - "and LM" - Linda Mulligan - "instead with a big report about JP." - that's Dr Patel - "Only hope it doesn't backfire on me big time. LM and PL seem horrified, so I hope justice is done." Sweet Pea is Mr Martin, isn't it?-- Mmm.

"He's up in Exec being Grand Pooh-Bah for a week." Let's leave the rest of it. You used that description of the reaction of Leck and Mulligan as being horrified by what you had told them when you spoke to Ms Callanan just a few days later?-- Mmm.

It is a correct description of how you saw them at the time?-- That's how I have described it, yes.

I'll tender that E-mail.

COMMISSIONER: The bundle of E-mails passing between Toni Hoffman, Beryl Callanan and Patrick Martin between 20

August-----

MR MORRISON: It is really only that one, Mr Commissioner. I don't want to clutter up the record with unnecessary ones.

COMMISSIONER: It is probably easier to have it all go in as one, though. Anyway, that bundle of E-mails leading up to the final E-mail on 28 October will be Exhibit 88.

ADMITTED AND MARKED "EXHIBIT 88"

MR MORRISON: And it is right to say, isn't it, that when you related this information to Ms Mulligan, both the first time and then again with Mr Leck, she was quite supportive of you, wasn't she?-- Yes, she was supportive of me, yes.

And it would have been evident to you, I would suggest, that that was the first she had heard of what you had to tell her?-- I dispute that. It might have been the first she heard from me telling her that, but she was the Director of Nursing of the whole hospital. She was aware of what was going on all around the whole hospital.

Let me cut it down then. It is certainly the first she heard from you about that?-- Yes.

COMMISSIONER: It is almost certainly the first time it had been laid out for her in that way?-- Yes, perhaps. From what - from my point of view, I suppose, yes.

MR MORRISON: You may not know this, perhaps - I don't know - but I will ask you anyway - Ms Mulligan went on leave within a day or so after that, and Mr Leck took over the obtaining of information and the processing of it; do you recall that at all?-- Not really, no.

Okay. We will have someone else deal with that. Can I just ask you a couple of other things about this particular aspect? In paragraph 132 of the statement - sorry, before I get to that, I think what happened thereafter is that statements were obtained and progressively sent on to Mr Leck, and that's how the process which led to Mr Fitzgerald - Dr Fitzgerald being involved started; is that right?-- That's right. I would have thought I would have sent them to Linda first because she was my line manager, and I think I have some E-mails that actually say that, but-----

You may have copied them through?-- Yes.

One way or the other, they got through to Leck?-- Yes.

Now, in paragraph 132 - this jumps back in time a bit. I'm interested in one particular aspect, and this is a meeting with Kym Barry where at an earlier point in time, you were

speaking to Kym Barry about whether you would go to the Health Rights Commissioner, Dr Kerslake, with your concerns - and I think at that point they were about Mr Bramich; is that right?-- They were about Mr Bramich, but they were also about-----

The wider issues?-- -----the wider issues of Dr Patel and being heard in the hospital, I guess.

And the advice that you got from the union was that you should not take your complaints about Dr Patel through Mr Leck or Ms Mulligan?-- Yes.

And they said you should go straight to either the CMC or Director-General or the Health Rights Commission?-- Yes, I may not be correct about the CMC. The Health Rights Commission and-----

Dr Kerslake?-- Yeah.

Sorry, he's the Health Rights Commissioner?-- Yes.

Or the D-G?-- Yes, that was my other option.

And you basically decided against following the advice to go down to those people?-- Mmm.

Because you wanted to give another chance - or at least a chance, rather - not another chance - to give Mr Leck and Ms Mulligan a chance to deal with it?-- Yes, I did.

But was it Kym Barry who advised you that you should not go through Ms Mulligan?-- She didn't exactly. She gave me choices and she explained why she thought each choice was - would have been-----

Had its downsides?-- Yes.

But tentative arrangements were made to go and see, I think, Dr Kerslake; is that right?-- Yes.

Now, I want to take you to TH37. This is the letter of complaint, if I can put it that way. Have you got it? TH37?-- Yes.

Now, you have no doubt had a chance to read and reread this before a number of times and especially when you did your statement, because I think - I just had this memory of some evidence of yours that the statement took about a week to do - I think the first day you gave evidence; is that right - about a week to do this? Not this statement, the whole statement to the Commission?-- The whole statement, yes.

You had plenty of time to reflect on this. Are the facts in this accurate?-- I believe so.

All right. Now, you will see it is a letter to Dr - to Peter Leck, addressed, "Dear Peter", and I'm just interested in the

first line, for the moment. "I'm writing to you to officially inform you of the concerns I have." Now, that's as opposed to the unofficial sort of contact you had had back in February earlier?-- Yes, and in response to the meeting that I had had with him two days earlier.

Now, you then set out a sequence of events starting at the top of the next page, "Soon after Dr Patel started operating here"?-- Yes.

And then you run through a whole sequence of events of what's happened, right down to - or up to the next - top of the next page?-- Mmm.

And that's a fairly accurate sequence of events?-- That's what I believed to be an accurate sequence of events, yes.

Thank you. And I just want to ask you about this question - this point: have a look at the last page. "The nurses union have offered advice in that there are several ways these concerns can be reported, if not dealt with internally. After my conversation with Peter Leck and Linda Mulligan on Wednesday"-----?-- Mmm.

-----"I believed they were not in receipt of the full concerns. Now that they are, they will deal with them."?-- Mmm.

Now, that's an accurate statement, isn't it?-- That's what I was hoping was accurate, yes.

It is more accurate in the fact that after you had spoken to them, you believed that they were, in fact, not in receipt of the full details prior to that time?-- When I was telling them some of the issues, they appeared not to be aware of them, yes, that's right.

And can I ask you this: that paragraph seems a little odd in a letter addressed to Peter Leck, because it then refers to him sort of, as it were, in the third person. Might this letter have been actually a draft prepared for someone like Dr Kerslake and then you-----?-- No-----

-----transcribed it?-- No, I didn't ever prepare a draft for David Kerslake.

Okay. In any event, that paragraph - the third last paragraph on the second page we can accept as an accurate statement; is that right?-- Yes.

Can I just ask you one or two other things: can I ask you to put that away and go to paragraph 133. You refer there to data that was requested of you in late 2004?-- Mmm.

Data for the Intensive Care Unit?-- Mmm.

That was the data that Ms Mulligan had been seeking in support of the issues about ventilation beds?-- Yes.

And you had to go and get that data in order to, as it were, make a case to change the policy and so forth?-- I don't know. I just remember being asked by both-----

To get the data?-- Yeah.

Okay. And at that point, at least, there was still no updated policy. That was the one that had been discussed in July. That didn't come out for some months after that when you and Dr Carter were trying to work on it?-- Yeah.

Okay. Now, can I ask you to turn to paragraph 143?-- 140 - sorry?

143?-- Yes.

Now, this was a meeting between Ms Mulligan, Ms Doherty and you?-- Mmm.

And Ms Jenkins?-- Mmm.

In which Ms Mulligan told you that an investigation would be proceeding?-- Mmm hmm.

And she went through your rights and the rights of the staff to be free of threat. In other words, no retribution. She went through and highlighted - or at least raised that you should be free of retribution, that was your right. Do you recall that?-- No, not that part. I recall the meeting, but I don't recall that part.

In that category again that it might have been said, but-----?-- Might have been said, yes, but I just don't know.

And she also made a reference to Dr Patel's right to natural justice. Do you recall that?-- I don't recall the exact words, but I don't dispute it wasn't said.

And that you could access the DAS or the Union for assistance. Can you recall that?-- I don't recall - I don't recall the intricacies. I don't recall the exact wording of that meeting.

And if you or your staff were approached by Dr Patel over the complaints or investigation, you were to get straight back to her?-- I do remember her saying that, yes.

And you mentioned that you were - you felt intimidated or frightened of Dr Patel because of your previous verbal encounters with him?-- Mmm.

But in fact you said there was no real validation for fear of physical intimidation?-- I did feel intimidated and frightened, but intellectually, I knew that probably it was not a valid feeling.

Okay. She wanted - that is Ms Mulligan wanted you and Doherty and Jenkins to go and talk - disseminate that message to your staff?-- Which message was that?

To confirm that - to go and talk to your staff to see if they had any issues, tell them the message about there is no retribution, what their rights are and so forth, and then go back to confirm to Mulligan that you had in fact spoken to staff?-- Yes, I do remember that.

And I think - well, you certainly did that, whenever it was. Can I ask you one other thing? In paragraph 173 - there's just something I'm interested in. You mentioned there that in 2004 a nurse told you that she'd pulled up the name of a Dr Patel on an Oregon Medical Board website with a restriction on what the doctor could do?-- Yes.

Were you curious enough to go and have a little look at that yourself?-- No, I didn't look at it - look at that myself because - sorry, what paragraph was that?

Paragraph 173, page 58?-- She - because she said that there were about 100 Dr Jayant Patels on that site.

One hundred Jayant Patels?-- She said there were about 100 Jayant Patels on the site and-----

I'm just interested because - it's easy, I suppose, for me when I'm not there doing it at the time, but if one had a doctor one was really seriously concerned about, both for his personal behaviour and for his apparent clinical standards, and a name similar to that popped up on a website with a condition attached to it, I think I'd be interested in seeing whether it was really him?-- Well, I did look it up on the Queensland Health one which said that he had his qualifications with no restrictions, so we did look it up on that. But as for going to the Oregon site, no, I didn't do that because the conversation was - it was informal and-----

It doesn't matter. If you didn't do it, you didn't do it?-- Well, and we were looking at things in hindsight, and I assumed that of course he was registered and-----

D COMMISSIONER EDWARDS: Could I ask you, in your statement you say some time during the year 2004 you looked up - you investigated Dr Patel. Was that early in the year, late in the year? This is in 173?-- It would have been late in the year, yes.

Thank you.

MR MORRISON: Just give me a moment to let me check something. That's all I have, Mr Commissioner.

COMMISSIONER: Thank you, Mr Morrison. Before you sit down, I just want to go to some of the ultimate issues arising from this. You know, Ms Hoffman, that I'm very anxious to get out of the minutiae of the personality issues and get to the big picture. From your evidence, both on the previous occasion and today, would it be fair to say that you don't identify any wrongdoing on the part of Ms Mulligan by way of breach of the criminal law or breach of Code of Conduct or breach of ethics or anything of that nature?-- My only-----

Well, is that right?-- Yes.

Is what I've said to you right?-- Yes.

No doubt you have disagreements with her in relation to things like management style and how she operates her activities?-- Yes, yes.

But it's no more than that, is it? You're not suggesting any criminal conduct or official misconduct or corruption or dishonesty or anything of that character?-- There may be an issue where I may think that there's some dishonesty involved, but not of official misconduct, or not of-----

Well, when you say "dishonesty", you and she obviously have different recollections in relation to some of the events?-- Yes.

But not dishonesty in the sense of falsifying records or anything of that sort?-- I don't believe she has done that, no.

Is that of any assistance, Mr Morrison?

MR MORRISON: Yes, thank you.

COMMISSIONER: I think we'll adjourn now and resume here on Tuesday morning at 9.30, unless there's anything that anyone else wishes to raise this afternoon. Thank you, Ms Hoffman, for your evidence today. I know it's been a long day and I'm sorry to have to drag you back next week, but we'll see you here on Tuesday at 9.30.

THE COMMISSION ADJOURNED AT 3.50 P.M. TILL 9.30 A.M., TUESDAY, 28 JUNE 2004