



Transcript of Proceedings

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MR A J MORRIS QC, Commissioner

SIR LLEW EDWARDS, Deputy Commissioner

MS MARGARET VIDER, Deputy Commissioner

MR D C ANDREWS SC, Counsel Assisting

MR E MORZONE, Counsel Assisting

MR D ATKINSON, Counsel Assisting

IN THE MATTER OF THE COMMISSIONS OF INQUIRY ACT 1950

BUNDABERG HOSPITAL COMMISSION OF INQUIRY

COMMISSIONS OF INQUIRY (No. 1) 2005

BUNDABERG

..DATE 30/06/2005

..DAY 16

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THE COMMISSION RESUMED AT 9.30 A.M.

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COMMISSIONER: Morning, ladies and gentlemen. I wanted to mention that, as foreshadowed, we went to a meeting last night of the local organisation of the local doctors, those in general practice and in private practice. There are two things arising from that meeting that I was requested to and do pass on, even though they don't necessarily fall squarely within the purview of this Inquiry.

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One again relates to the situation with overseas trained doctors, and I might add people who look like might be overseas trained doctors, and there is a still a great deal of feedback that people are all being tarred with the same brush. I just take the opportunity yet again to make the point that we have some 1700 overseas trained doctors in this State. On any view, they are vital to the medical system, both public and private, in Queensland. The vast majority of them do an incredibly good job, and some of them, we are reliably informed, are outstandingly good practitioners.

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It is tragic that the set of circumstances relating to one overseas trained doctor is creating the situation that many others feel that their services aren't appreciated and in many cases their services are specifically rejected by the patients, and we would just like to emphasise yet again that this Inquiry isn't a witch-hunt into overseas trained doctors, and we acknowledge and respect the contribution that many of them make to medical practice in this State.

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That's one thing that arises. The other thing that arises, I am not sure if anyone's here on behalf of the Medical Board at the moment, but concerns have been raised by overseas trained doctors in private practice that the new administrative arrangements relating to the declaration of Areas of Need have put a lot of them in a situation where they are in jeopardy until Area of Need declarations are reviewed and reestablished by the Medical Board, and we simply pass on to the Medical Board those concerns. Obviously our interim report was only concerned specifically with declarations of Areas of Need in the public sector, but there are a great many private sector overseas trained doctors who feel, rightly or wrongly, that their continued right to practice in Queensland and indeed their continuing right to stay in Australia is in jeopardy until those matters are reviewed, and I have been asked to pass on and I do pass on their urging those matters be attended to with priority so that they have some certainty as to their future in this country.

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That is not intended in any sense a criticism of the Medical Board, and I emphasise that very strongly, but one can understand their concerns and I am sure that the Medical Board will be doing all they possibly can to ensure that those matters are attended to as promptly as possible.

MS McMILLAN: I will pass that on to the Board. As we know,

the changes are already underway in terms of Mr O'Dempsey has received certain demonstrations but, of course, they don't take effect until January next year. I will pass those comments on. No doubt note will be taken.

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COMMISSIONER: Thank you very much for that, Ms McMillan. Mr Diehm, did you have something to raise? I saw you standing.

MR DIEHM: No.

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COMMISSIONER: You are just being particularly courteous as you always are. Mr Atkinson?

MR ATKINSON: Morning, Commissioner. It's proposed that Mr Messenger be recalled and made available for cross-examination.

COMMISSIONER: Yes. Is Mr Messenger there? There he is. If you can return to the witness box.

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ROBERT DESMOND MESSENGER, CONTINUING EXAMINATION-IN-CHIEF:

MR ATKINSON: Commissioner, there are three housekeeping matters arising out of the evidence that Mr Messenger gave on 25 May. The first is this, that, Commissioner, you suggested that Mr Messenger take advice from Mr Neil Laurie, the Clerk of Parliament. Mr Messenger has done that. As a consequence, he has revised his submissions, effectively only to this extent, that he's withdrawn references to Hansard or at least the body of the speeches contained within the submissions. That's the first point.

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What he didn't do, Commissioner, is revise timelines as a result of the advice he received. Commissioner, you might recall that there was a chronology called "Timelines", and you set aside an exhibit number, and that's to remain, if the Commissioners please, in its existing form.

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COMMISSIONER: All right. So, do we now have the documents in the form in which they can be treated as exhibits?

MR ATKINSON: We do, and I understand, Commissioner, you set aside Exhibit 15 for the submissions.

COMMISSIONER: Yes.

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MR ATKINSON: I propose to tender them, if I may, at the conclusion of the evidence.

COMMISSIONER: Yes.

MR ATKINSON: It may be the reference is-----

COMMISSIONER: Certainly, the timeline.

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MR ATKINSON: That's right, Commissioner.

COMMISSIONER: Which is Exhibit 14.

MR ATKINSON: Yes, Commissioner. So that's the first point. The second point is that in the course of the evidence on the earlier occasion Mr Messenger made reference to a policy. It was a policy that the Commissioners may recall about drug handling and what was to happen according to the Bundaberg Hospital where mental health patients were found with drugs on their person.

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COMMISSIONER: Yes.

MR ATKINSON: You asked, Commissioner, he obtain a copy of that policy, and Mr Messenger has done that. I have a copy here for tendering and copies for the parties, if they seek them.

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COMMISSIONER: All right. The drug handling policy will be Exhibit 104.

ADMITTED AND MARKED "EXHIBIT 104"

MR ATKINSON: Finally, Commissioners, on the previous occasion Mr Messenger made reference to a report by a Dr Mark Waters. Commissioner, you might recall there was a report into the Mental Health Unit at the Bundaberg Hospital and Mr Messenger explained that he'd only seen the recommendations arising rather than the report itself. You asked, Commissioner, that Queensland Health obtain a copy of the report. I'm not sure that one was formally tendered but the Commission now has a copy of the report itself. If it hasn't been tendered, I seek to tender it now.

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COMMISSIONER: Yes. I don't think we have seen it.

MR ATKINSON: No.

COMMISSIONER: So that would be useful. Exhibit 105 will be the review of Mental Health Services, Bundaberg, by Dr Mark Waters, dated July 2004.

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ADMITTED AND MARKED "EXHIBIT 105"

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MR ATKINSON: I should say I have copies for the party, if they seek them, Commissioner.

COMMISSIONER: Yes, thank you, Mr Atkinson.

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MR ATKINSON: Mr Messenger, you recall you gave evidence on the 25th of May 2005?-- Yes, Mr Atkinson.

Is there anything about that evidence you'd like to change?-- Yes, there is. I think in that evidence that I said on the - the 8th of April there was a media article written by journalist Hedley Thomas.

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That's the 8th of April of 2005?-- That's correct, yeah. That media article was in fact written on the 13th of April.

That's the evidence-in-chief, Commissioner.

COMMISSIONER: Thank you. Who's next? Mr Harper?

MR HARPER: I have no questions.

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COMMISSIONER: Mr Allen?

MR ALLEN: No thank you, Commissioner.

COMMISSIONER: Mr Diehm?

MR DIEHM: I have no questions, Commissioner.

MR ASHTON: Nothing, Commissioner.

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MR MacSPORRAN: No questions.

MS McMILLAN: Nothing thank you, Commissioner.

COMMISSIONER: Mr Farr?

MR FARR: Looks like it's me.

COMMISSIONER: I'm sorry.

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MS GALLAGHER: I am happy to follow Mr Farr.

COMMISSIONER: Certainly.

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CROSS-EXAMINATION:

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MR FARR: Mr Messenger, my name is Brad Farr. I appear on behalf of Queensland Health?-- Mr Farr, do you appear on behalf of the Premier and the Health Minister as well?

No, Queensland Health and some of its staff, current and past.

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COMMISSIONER: Mr Messenger, just so you understand the situation, it's been made very clear that whilst leave has been given for Mr Farr and his learned leader to appear on behalf of Queensland Health, that's on the instructions of the Director-General, not on the instructions of the political government, if I can put it that way?-- So Mr Buckland.

Well, on the instructions of Mr Buckland but representing Queensland Health as an entity within the government. That's a fair statement.

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MR FARR: Yes, it is, thank you, Commissioner. Mr Messenger, can I take you to, firstly, evidence that you gave regarding the meeting that you had with Mr Buckland, given that Mr Buckland - with the women you referred to as the mental health grannies or the women that refer to themselves as the mental health grannies?-- Yes.

That meeting occurred after your appearance in Parliament with the women concerned present, as I understand it?-- Correct.

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And approaches were made ultimately and the meeting occurred later that very same day?-- That's right.

All right. Now, during the course of that meeting, the women concerned were given the opportunity to air the grievances that they had in relation to aspects of their working environment?-- That's right.

Correct? As I understand it, they were - they covered a number of issues; is that correct?-- That's right. It was quite a lengthy meeting. It went from an hour and a half to possibly two hours.

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And on my understanding - please tell me if they wrong - is they were allowed to put everything before the Director-General that they wished to put before the Director?-- I think I described it in my initial evidence as they laid all their cards on the table.

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All right. We know that subsequent to that meeting there was an investigation by Dr Waters at some later stage and that during the course of the meeting the Director-General in fact spoke of their being - there will be an investigation conducted; is that correct?-- That's correct, yes.

Is it your understanding that the Director-General had already started to set that in train or that he was responding on that

day to the issues which were raised. Are you able-----?-- It was my understanding that the investigation was as a result of presenting those mental health nurses in Parliament.

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I see. What date was that, can you just remind me?-- Sure. Do you mind if I check my notes?

No, no, by all means I think I have noted the 11th of May, but just to make sure that I'm correct-----?-- Yes, that agrees with my timeline. 11th of May.

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All right. You have said that the - well, you have never seen a copy of Dr Waters' report but you have seen the recommendations that he made as a consequence of his investigation; is that correct?-- That's correct. I was handed a copy of the review of the mental health services in Bundaberg just before I took the witness stand, probably 15 minutes ago.

I see. All right. In any event, we now know it's tendered before the Commission-----?-- Mmm.

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-----as an exhibit. Have you made any inquiries as to the implementation of the recommendations that were made by Dr Waters in that report?-- Yes, I have. I think I have written a letter early this year. If you like I can check my notes and tell you exactly when I had that - that ministerial correspondence.

All right. Well, the exact date of that is probably not significant?-- Yes.

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We won't take up time if we don't need to?-- And I issued also a press release late last year calling for the minister to make public and full disclose of the contents of that report.

Right. Just dealing with the recommendations, and there were a number of them, I think about 13?-- Yes, I think so, yes.

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Were you able to able to learn of the number that had been implemented?-- No. I have haven't received any feedback yet.

I see. All right. So, that is a topic about which you just have no information?-- That's correct.

I see. All right. During the course of the meeting on the 11th of May, who was present other than yourself, Mr Buckland and the three nurses from the Mental Health Unit?-- I had a staffer from Lawrence Springborg's office attend with me. Her name is Jan Fletcher. She's a senior policy advisor, senior health advisor.

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All right?-- There was Buckland, one of Buckland's - Cameron Miller - Milner, I think, is the name of the gentleman.

Milner?-- And I think there was also one other staffer as well.

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Could it have been a woman by the name of Jill Pfingst?-- I don't remember her name, but I will accept that, yes.

It was a woman anyway?-- Yes.

Female?-- Mmm.

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Okay. So there were a number of people present. And did you understand that Mr Milner was a staffer, Ms Pfingst, was from Queensland Health?-- I assumed - I knew that Cameron Milner was an advisor for the Health Minister-----

Right?-- -----Minister Nuttall. I was introduced to Steve Buckland, who's the Director-General of Health, and Miss Pfingst I wasn't sure of, but I assumed that she was from Queensland Health.

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Was this the first time that you'd met Mr Buckland?-- Yes, it was.

Okay. Now, during the course of the meeting, the women concerned, as you have said, aired their concerns and grievances and they were, as I understand it, speaking of issues relevant to the Mental Health Unit at Bundaberg?-- That's correct.

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That was their area of employment?-- That's correct.

Okay. And-----?-- But they also touched on issues greater than the Mental Health Unit at Bundaberg, specifically bullying and the fact that there - their claims of bullying weren't being addressed.

Right?-- And at the beginning of the meeting I also claimed whistleblower status for those three nurses.

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Right?-- And Mr Buckland or Dr Buckland acknowledged the fact that I at least claimed whistleblower status.

Right?-- Hopefully he was an approved entity.

All right. Now, during the course of the meeting, you speak of Mr Buckland at one stage or during - Buckland at one stage slamming his fist on the table. That was, you say, after you had suggested that any investigation should be more wide ranging than just the Mental Health Unit?-- That's correct.

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I take it that this was after some substantial period of time when - after the women had been given the opportunity of speaking about their concerns, rather than at the very beginning of the meeting?-- Yeah. If you ask me to - to pick a moment, maybe a quarter of the way through the - the whole conversation and the whole meeting.

About a quarter of the way through?-- Yeah.

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All right. So, there was a substantial part of the meeting that continued after that interjection by yourself, three-quarters of it, apparently?-- Yes, yeah, yeah.

And the meeting, as I understand it, ended with Dr Buckland indicating to the women concerned that he would attempt to address the concerns that they had raised to investigate those issues, to hopefully in one way or another identify whether problems in fact existed or not and if they do, correct them?-- That's right.

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That's the essence of it, if you like?-- Yes.

At the end of that meeting would it be fair to say that the women concerned left his office with some degree of optimism that their concerns had been listened to, firstly, and, secondly, that there was hope that they in fact were going to be acted upon?-- That's correct, yes. We all had optimism.

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All right. Insofar as the meeting itself is concerned, can I suggest this to you: at one stage during the course of the conversation you did make the suggestion that the review should be widened to include the whole of Bundaberg or the district, or words to that effect. I suggest that the Director-General said this in response to that, words to the effect, "I didn't come here to listen to petty politics, I'm here because I'm concerned about the mental health service and my staff."?-- You can suggest that to me, Mr Farr, but that is your - your suggestion is based on a false premise and my recollection is those words weren't uttered at all.

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All right. Can I suggest to you also that there was no banging of the table or raising of the voice?-- That's incorrect as well. There was banging of the table. There was a raised voice and there was a loud aggressive outburst from Dr Buckland.

You would say from your evidence that he was dismissive of the comment that you made?-- Of my comment which you describe as an interjection about the-----

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About expanding any investigation into the wider-----?-- Yes, he was dismissive of my comment of expanding the investigation to include the whole of the Bundaberg Health Service.

All right. Did you have any knowledge at the time of this meeting that Dr Buckland had already met with Queensland Nurses Union representatives regarding these issues?-- No, not at all.

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I see. All right?-- Although I myself also had a meeting with a Gay Hawksworth at a date after that.

All right. And can I suggest this to you as well, that at no stage during the course of that meeting did Dr Buckland apologise for anything that he had said or done during the

course of it?-- During the meeting?

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Yes?-- Yes, indeed he did, and that's why I - when the initial outburst happened, there was - it was met with stunned silence, and then - all around the room. I didn't make any comment whatsoever to his outburst, and then about five minutes after the outburst, after he cooled down a little bit, he then apologised to me for the outburst, which in my eyes increased his status.

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Right. Okay. Now, you - to be fair to you, you receive in the course of your representation of your electorate receive complaints from members of the public, members of your electorate. That's correct?-- That's what I'm there for.

And it's not your function, and I don't think you have ever purported to say otherwise, you don't in any way investigate things, you simply take them to the appropriate authority for appropriate action?-- Yes, with one proviso. You receive a lots of hearsay evidence. What I require of people is that if they are fair dinkum about their problems, I ask them to put it in writing. If they can't put it in writing, then we'll get one of my secretaries to take notes, but if they - if they give me a letter, I forward that letter on to the appropriate minister.

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Certainly. And the end result of the processes, of course, is that you are getting the point of view of whoever might be making the complaint. You ultimately might get the point of view of the other side, depending upon the outcome of the complaint concerned?-- Yep.

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And sometimes, I take it, in areas you might not even hear the outcome of the complaint, not just in health, but just generally speaking?-- Mmm.

That would be correct?-- That's correct.

And I dare say that one of the areas that you have to be careful of as a Member of Parliament, I think, which you just identified, is to try and obtain the most accurate information that you can, whatever the complaint might be, and to some degree remain rather objective in your dealings with the people concerned?-- Yes, that's always the challenge to remain objective and not be emotionally affected by what you are hearing, but sometimes an emotional person and sometimes people's stories do affect me.

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All right.

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COMMISSIONER: Mr Messenger, would I be right in thinking that to some extent at least you act as a bit of a sieve with these complaints coming in? You go to some effort to make sure that they are not just nonsense or - you know, there's some substance to it before passing them on?-- One of the other ways that I try and double-check my evidence, Commissioner, is by taping conversations, with people's knowledge.

Yes.

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MR FARR: And I take it if we use the Mental Health Unit as the example, because of the relevance, you do not purport to say that you know the full history of the unit or the problems or its benefits or its good points or its bad points going back a number of years?-- No, not at all.

Okay?-- I can - I'm only - my education started the day I was elected and then the constituents started - well, actually a little bit before the day I was elected and the constitutus come through to my office making their complaints.

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All right. Perhaps you can answer this question. If you can't, please say so, but do you understand that issues that have been raised by any number of people or any one person - it doesn't matter - in relation to the Mental Health Unit, these are issues, in fact, that are going - have been going back for a number of years now?-- I couldn't answer that honestly.

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You don't know?-- No.

All right. I take it from that answer then you also don't know what inquiries or investigations or steps have been taken in the past, at least prior to your involvement, in relation to issues that had arisen?-- I guess only the information that was made public in the papers.

Okay?-- I was with the media and I did follow issues of the day. There may have been a couple of instances before that date when the Mental Health Unit had popped up in the paper.

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All right. Were you aware of an investigation resulting in a report into the Mental Health Unit at Bundaberg back in the year 2000?-- No.

Okay. I take it you, therefore, are not aware of any recommendations arising from that matter?-- I just had a brief skim of this, and it was - was it the Brown report?

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Yes?-- Yes. The first time I heard the Brown report was about 10 minutes ago.

All right. That's all right. And insofar as some of the complaints - I'm not suggesting all and I'm not suggesting the most important - but some of the complaints that you were asked to be involved with, as it were, even got down to issues such as the appropriateness of a facility, for instance, the appropriateness of an area for a particular activity or whether a door opens inwards versus outwards?-- You are referring to the Psychiatric Intensive Care Unit?

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Yes?-- Yes.

Okay. It gets down to that level of particularity, if you like, of complaint?-- Oh, yes, and serious complaints too.

Mmm?-- Possible illegal behavior, illegal policies.

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Now, I'm just going to ask you a couple of matters. Once again, I know a lot of what you told this Inquiry is hearsay and there might be things that you simply don't have the answer to. If that's the case, please say so, and I won't pursue them with you. You spoke - excuse me for just a moment - you spoke in your evidence-in-chief, for instance, of one of the complaints you received related to one of the mental health nurses being assaulted by either a patient or perhaps a family member of a patient?-- Mmm.

And the complaint of assault not so much, but that there was a slow response to notify police, for instance, on the part of relevant people at the hospital?-- That's correct, yes.

MR ATKINSON: Excuse me, it is very hard to hear Mr Farr from over here, not just for me, but for-----

MR FARR: I will move this closer. Hopefully that's better. If I were to suggest to you that the police were notified of that assault by hospital administration on the same evening that it occurred, is that something about which you have any knowledge?-- The knowledge that I have about that, Mr Farr, is that I remember the mental health nurses - it was either Carol Gallard - actually, I think it was Yvonne - no, it was Carol Gallard, and I also believe that Yvonne Purt was also assaulted at some stage, too. There was a considerable delay - a delay of one to two hours before the police were notified, and I remember the nurses telling me that they were upset because of that delay.

Right. So, the delay that was the concern-----?-- Yes.

-----was the delay of something in the order of one to two hours; is that correct?-- That's correct.

And do you know when it was that the police, in fact, attended the hospital-----?-- No.

-----as a consequence of the complaint - whether it was the same night, for instance, or the next day?-- No, I don't.

COMMISSIONER: Mr Messenger, your information fits in with what Mr Farr is putting to you in the sense that police could well have attended within the same - the space of the same day or the same evening?-- Mmm.

The concern was the delay of one or two hours, as you understand?-- Yes. And the concern was that mental health staff themselves weren't allowed to contact the police. That was against policy. They had to go through an intermediary, through management, even in life-threatening situations.

MR FARR: Right. The end result of that particular incident, however, is, to the best of your understanding, that on the same day a complaint was made to police by hospital administration, and that police attended subsequently?-- To the best of my knowledge, yes.

All right. And, Commissioner, if you allow me to give evidence from the Bar table, my understanding is the police attended the following day.

COMMISSIONER: Yes.

MR FARR: Another matter about which you gave evidence was a meeting that you had with a Scott Jenkins?-- Yes. On 25 March?

That's correct. He was a psychiatrist in private practice in Bundaberg?-- Yes.

And he may have been a VMO at the time, perhaps?-- I wasn't - I can't remember what his status was with the Mental Health Unit.

You don't know one way or the other, I take it?-- No.

Can I ask you this: in the meeting with Mr Jenkins, was that a meeting that you initiated or he initiated?-- No, the shrink wanted to see me.

During the course of that conversation that you had with him, would it be fair to say that he spoke to you about the aims and goals of mental health delivery?-- The meeting - I didn't make any notes of the meeting, but I would accept what you have to say. It was a meeting that just, I guess, discussed general concerns about service delivery in the mental health area in Bundaberg.

Right. Could it be that the effect of the meeting was that you were, at the end of it, more educated on the issues of mental health delivery of service, if you like, and the aims of such things?-- Yes, I would agree with that, yes.

And would it be correct to say also that Dr Jenkins spoke to you about such things as the community focus of service delivery and health promotion and prevention, and early intervention, that type of thing?-- Yes, I - I think one of the things that I really wanted to find out more information about was the community-based focus for mental health service delivery and that policy. I don't know if I was aware of it at the time, but I can remember having a conversation with the manager of the Mental Health Unit and commenting on such low occupancy rates in the Bundaberg Mental Health Unit, and then being educated and him saying, "Gone are the days when we lock them up. You know, we have got a more progressive approach towards mental health service delivery and it is more of a community-based policy."

So, he was giving you some explanation as to why there might be lower bed rates on that particular day as opposed to a few years earlier?-- Mmm.

That would be a fair comment?-- Can you just repeat that again, Mr Farr?

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He was explaining to you, if you like, why the percentage of bed use might be lower now than it was some years earlier?-- I couldn't be that specific, but it is a possibility.

In any event, he did speak to you about the different approaches, if you like, that have developed in recent times, and the consequences of the approach being, as you say, the greater community involvement as opposed to hospitalisation or that type of thing?-- Yes, I would accept that. 10

All right. The issue with the Waters Report, you described it in the course of your evidence-in-chief as a Clayton's report, and correct me if I am wrong, but I think there were perhaps two bases for you making that comment: one is that you learned that Dr Waters was appointed to a position within Queensland Health at some stage around the time of that report?-- That's correct. I felt that the independent nature of the report had been compromised. At the beginning of the review process, Dr Waters, to my best knowledge, was not employed by Queensland Health, and then at some stage during the review process, he was then employed by Queensland Health. I thought that whatever the outcome of the report, it would be compromised by the fact that he subsequently became a well-paid employee of Queensland Health. 20

All right. Of course, as you have indicated, you didn't see the report yourself?-- No. I have got it here in front of me, though. It will make good bed-time reading. 30

Can I ask you this: your comment you thought that it may have been compromised - or the independence may have been compromised and it was a Clayton's report, that, I take it, is an opinion that you held, and that you may still hold, but that you acknowledge your opinion may be correct or it may not be correct; you would accept that?-- My opinion is correct. I think-----

Do you accept that?-- I think it is obvious for any objective viewer to draw the conclusion that a report is compromised - the independence of a report is compromised if, in fact, the people that the person is reporting on - let me start again. No, I'll stick with my comment. I think the report was compromised. 40

COMMISSIONER: Mr Messenger, may I approach it this way: it is a bit like the issue of justice not only being done but being seen to be done. When you talk about it being a Clayton's report, I don't understand you to be saying that Dr Waters got the wrong results, or the contents of the report itself are wrong, what you are saying is that the independence of it is compromised and therefore justice isn't seen to be done when someone doing an independent report is given a job at Queensland Health?-- That's correct, Commissioner. 50

It would be like - perhaps I shouldn't give such analogies, but it would be like if a member of this Commission of Inquiry accepted pre-selection for a political party before this

inquiry completed its course and handed down a final report; it may be that we would still give the right result but it would compromise the appearance of justice?-- That's correct, Commissioner. 1

MR FARR: Thank you, Commissioner. And I suppose that, in itself, would be dependent upon the timing, if you like, of the conclusion of the report and, I suppose, not only the appointment, but any preliminary steps to the appointment of Dr Waters to whatever job it was that he got. If, for instance, all of that occurred after the report had been concluded, then that might be sound basis for you to form the view that your opinion, hopefully, is incorrect, and it was an independent and well-structured report; you would agree with that?-- I don't understand the question that you put to me. Can you rephrase that again, please, Mr Farr? 10

If Dr Waters, for instance, was appointed to his position after he had finished his report and any preliminary steps to that appointment occurred after he had finished his report, that might, to some extent, reduce your fears?-- That would reduce my fears, but I would also then pose the question: at what stage during the reporting process did Dr Waters know that he was going to be employed by Queensland Health? 20

I appreciate that fact. That's why I'm talking about the preliminary steps as well.

COMMISSIONER: You wouldn't have the slightest problem if this was the situation: if the report was finished, Dr Buckland or someone else at Queensland Health said, "Gosh, this man Waters has done a good job on this. We are going to give him a job. He has done such a good job, we would like to have him full-time on our staff."?-- No problems at all, Commissioner. 30

MR FARR: Thank you, Commissioner. Now, if we can move on to another matter that you spoke briefly of in the course of your evidence-in-chief? You made the comment during the course of your evidence that you had formed the view or people had said to you that the mental health bar had been raised too high, and that people were being refused admission because of that. Do you have - I mean this in no derogatory way - but do you have any understanding, other than the general understanding that you have already discussed, of the aims and goals of mental health service delivery, what they are hoping to achieve and the ways in which they hope to achieve it?-- No, I don't, Mr Farr. The only knowledge that I really have is the anecdotal information that I've picked up from the mental health professionals who I have spoken to, but also conversations that I've had with my constituents who have had what they describe as problems with mental health and getting what they think is an adequate level of service - mental health service. 40 50

And is the term "the bar being raised too high" your opinion based on the information that those people have given you?-- Mmm.

That's correct?-- That's correct, yes.

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All right. You would, I dare say, accept that there may be some good clinical reason for raising the bar higher, to use your terminology, than it has been in the past?-- Can you just repeat that question again, please?

Would you accept that there might well be good clinical reason for raising the bar higher? The question is what is the appropriate level?-- I don't think I can express an opinion either way on that, Mr Farr.

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That's fine. Again on to another topic - and I won't use any names - I don't think it is necessary - but you did give evidence of one of the - I think one of the nurses involved - the mental health grannies - herself ultimately facing some charges or a charge - or at least being in the watchhouse, I think?-- That's correct, yes.

The question was asked of you, or at least the evidence was given - page 249, I believe-----

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COMMISSIONER: Mr Farr, your voice is dropping a little.

MR FARR: Sorry, page 249 of the transcript, "The important fact is that police action was taken apparently as a result of a complaint made from the Bundaberg Hospital; is that right?", and you said, "That's correct, that being the important aspect of what's occurred, given that it is a person that had been making, at some prior stage, some complaints about issues in the Mental Health Unit."?-- Yes, the nurse we are referring to is a nurse who was present at the meeting with Dr Buckland.

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Did you know of any of the details of the complaint that resulted in the police involvement in that matter?-- Am I privy to any police information, or-----

Not necessarily police information, but did you know any of the details - any of the allegations that resulted in the police involvement?-- The only details I have I gathered from the nurse in question.

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I see?-- I spoke to no-one else, other than her and her relatives.

I see. If I were to suggest to you, that, in fact, she had made threats to kill, is that something about which you had any information from her?-- She herself wasn't even sure what she'd said. This is a lady who was, to my best knowledge - and she told me - undertaking a course of electro-shock therapy and part-way through that electro-shock therapy, she says that people have told her that she made threats to - threats against the person - some of the management at Bundaberg Base Hospital. I didn't even know which of the management that she made these threats against.

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All right. Given all of that, and given your really very minimal knowledge on the topic, the evidence that you gave in

chief that the important aspect is that she ends up in the lock-up after having made a complainant, if you like, for some time-----

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COMMISSIONER: Mr Farr, I'm not going to stop you pursuing this if you feel it appropriate, but I think I can give you a clear intimation that no adverse findings are going to be made based on what's already transpired.

MR FARR: Certainly. In that case I won't take it any further. I was not wanting to do it at all, in fact. I can leave that topic now, Mr Messenger. Would you just excuse me for one moment? I will just check my notes here. One thing I want to ask you, Mr Messenger: are you aware of any system that's been put into place regarding Members of Parliament having quarterly meetings with district managers of health districts?-- Yes, yes.

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Has that been implemented as at yet? As of now, has that system started?-- Yes, there was a number of times when I've placed in my diary to have a meeting with the manager, Peter Leck, and there are a number of times, unfortunately, that I'd had to cancel those meetings because of other constituency business that I had to undertake and parliamentary business.

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Is my understanding correct that it is envisaged that it would ideally be a quarterly meeting?-- I'm not sure on the time-frame, but I know that there was a system where there was supposed to be regular contact between the Member of Parliament and the management of the hospital.

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All right. And I take it that that would be a positive thing in so far as you're concerned in your position?-- Oh, definitely. Yeah, the more I get to speak with any manager of any important institution - for example the Bundaberg Base Hospital - the better. Even - it would, I suggest, even be better if that Member of Parliament be allowed to actually visit the hospital while that meeting was taking place, rather than my office.

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All right. That's a suggestion that could no doubt be taken on Board. That's all I have, thank you.

COMMISSIONER: Mr Farr, there are a couple of questions I wanted to raise which you might wish to follow up on, so I will give you an opportunity.

MR FARR: Thank you.

COMMISSIONER: If you have the report in front of you, the Waters Report, I would like to draw your attention - and I admit I have only just seen it this morning myself - but I would like to take you to page 15 of that report. You will see there's a paragraph - the first new paragraph on the page commencing, "There were a significant number of interviewees who believed that the workplace is not healthy and that management does bully and intimidate and harass staff. The theme of these allegations is that staff who do not agree with

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managerial direction are nominated as incompetent or resistant to change. They are then subtly bullied through withholding of information or withholding of opportunities for career advancement. Concerns in this regard were raised about a perceived lack of transparency, recruitment and selection." That, I understand it, is consistent with the types of complaints you were receiving from your constituents and taking to Mr Buckland and others?-- Indeed, Commissioner, and I would have loved to have had this information a little bit sooner.

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I will come to it soon. You will see further down in that page, fourth paragraph, "It is obvious, however, that an unacceptable workplace situation exists. It is clear that many in-patient staff feel undervalued, intimidated and unappreciated, and considerable personal animosity exists in a service which requires resolution." It goes on in the next paragraph, "There is clearly now a loss of trust, loss of respect and sensitivity around communication which must be resolved for the service to be the best it can be and to be truly integrated in all facets of service delivery. This problem is most evident in the relationship between some members of the in-patient staff and management and between some members of the in-patient unit and other mental health workers." Again, that's almost exactly along the lines of the complaints you were taking-----?-- It is completely consistent with the complaints that I heard.

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See, what this raises in my mind, Mr Messenger, is that for you to do your job well as a representative of the electorate for which you are elected to parliament, it is not enough for you to be proactive in gathering up complaints from your electorate and taking them to the responsible Minister or the responsible department, it has to be a two-way street. You have to get feedback so you can show your constituents that their concerns are being taken seriously and receiving consideration at the highest level. Would that be a fair comment?-- That's a very fair comment, Commissioner.

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And in this instance, if the powers that be in Queensland Health had informed you and allowed you to inform the complainants that their concerns had been recognised, that would have gone a long way towards establishing good faith within the system?-- And not only establishing good faith, Commissioner, also helping the mental health of those workers who decided to blow the whistle. Those workers, those three nurses, I know, have suffered considerably since the time that we had that first meeting with Dr Buckland.

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We have issued, within the last week or so, some discussion papers arising out of this Inquiry, and one of them concerns whistleblowers generally, and complaints reporting systems, and one of the issues we have put out for discussion - and it is only put out for discussion - is that any efficient complaint system needs to have a feedback loop. If there's no feedback loop, people think they are being ignored or treated with disrespect or disdain, even though that may not, in fact, be the case, and I guess it goes back to what you said about

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the appearance of bias from Dr Waters taking appointment with Queensland Health. It is not the fact of it that matters, it is whether there is the appearance or perception that things are being handled in a proper way, and would you agree with the suggestion that if you had been able to read this report and inform the complainants that their concerns had been considered by Dr Waters, it may well be that you would never have had any doubts about Dr Waters' independence and impartiality?-- That's correct, Commissioner, and not only has Dr Waters, in my opinion, considered it, he's acknowledged it and justified their original complaint. So, they weren't crazy.

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Yes. Mr Farr, is there anything you want to follow up on that?

MR FARR: There's nothing I wish to ask the witness, but I did want, just for completeness, if I may, to read the third paragraph-----

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COMMISSIONER: Yes, of course.

MR FARR: -----if you don't mind, which says - and I will read the relevant part - "I remain unaware of any specific findings which endorse categorically behaviours consistent with management workplace harassment or bullying. There are references, both in previous reviews and by many interviewees, of a direct confrontational and controlling management style. This seems likely to be valid. There are also references in previous reviews to errors of judgment on the part of management." I just put that on the record because I thought it should be put in full.

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COMMISSIONER: It is perfectly fair for you to do that. Anyone else have any questions of Mr Messenger?

MS GALLAGHER: Yes, Commissioner.

COMMISSIONER: Yes.

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CROSS-EXAMINATION:

MS GALLAGHER: Mr Messenger, my name is Ms Gallagher and I act for the AMAQ - Medical Association of Queensland - and some of its members as well?-- Ms Gallagher, yes.

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Could I ask you to turn your mind to the events of the end of March, beginning of April this year?-- Do you mind if I just check my notes?

Indeed?-- Yes.

By that time in the scheme of things, you had, in fact, received a lot of complaints, hadn't you?-- Complaints

relating to what, Ms Gallagher?

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To care delivered at Bundaberg and particularly Dr Patel?--
Yes, yes.

And you had spoken to a lot of people as well in respect of,
as you said previously, about trying to exclude some PSA and
get some definitive information?-- That's correct. I started
collecting letters - at least collecting letters at that
point, yes, and forwarding on concerns to the Minister.

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And in respect of those conversations that you had had, you
hadn't taped them all, had you?-- All the conversations?

Mmm?-- Definitely not, no.

And you hadn't, in each and every instance, made extensive
notes of conversations you had had with various people?--
There were key people that I - that - whose conversations are
burned into my memory.

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Indeed. And at that point in time, it is probably fair to say
to you you were doing your best to represent the interests of
your constituents, but hadn't yet, as many of us hadn't, a
real appreciation of where it was all likely to go or what was
likely to be the outcome of those complaints?-- No, that's
correct.

It was about that time that you saw the AMAQ media release?--
Not only saw the AMAQ media release, I heard various news
items which featured, and I assume that you are referring to
Dr Molloy.

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Indeed?-- Yes, I heard Dr Molloy.

And you had cause to speak to Dr Molloy in respect of what had
been said in the media?-- That's correct, yes. I made a
phone call to him.

And I think your evidence previously was that when you were at
Hervey Bay, the timing of the conversation was during the
Indigenous Health Leadership Forum?-- Yes.

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And that conversation with Dr Molloy was in respect of the
Patel situation?-- That's correct. The reason that I - what
motivated me to call Dr Molloy was - I was feeling very angry
about the comments that he had made in the media publicly.

Could I suggest to you that during the course of that
conversation, it became clear that Dr Molloy was upset that
the discussion had been made in Parliament in circumstances
where there had not yet been a formal investigation and any
findings of that investigation?-- Can you just repeat that
again, Ms Gallagher, please?

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Indeed. That part of - at least the force of the conversation
from Dr Molloy's perspective was that he was upset that there
had been the naming of a doctor in Parliament, comment in

respect of clinical aptitude, if you like-----?-- I can't remember those comments or that sentiment.

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All right. Could I also suggest to you that what he said was that he hadn't yet had an opportunity to gather intelligence from his members or the membership in Bundaberg?-- No, he did not say that. I asked him - one of the first things that I wanted to ask Dr Molloy about this whole situation was whether he had, in fact, read the letter written by Ms Hoffman and I tabled in Parliament.

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Indeed?-- And he replied no, he didn't - well, he hadn't read the letter, which I replied, "Isn't it about time that you got your facts straight before you start making public comments?"

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Yes, but the suggestion I put to you in fact was one step away from that, if you like. It was that he said that he hadn't yet had opportunity to obtain intelligence, if you like, or comment from, or hadn't yet received information from his members in Bundaberg?-- No, that's completely incorrect, and the way I remember it he had in fact said - and I will repeat again, as I did in my initial evidence - that he'd - the intelligence that he'd received from Bundaberg Base Hospital through his contacts was the fact that it was a case of lazy nurses and Patel was merely trying to whip them into shape.

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If I suggest to you that the phrase "lazy nurses" was one that was not used by Dr Molloy, but in fact was a phrase that was suggested by you - and I'm not saying anything about the truth or otherwise of the phrase - what would you say in respect of that suggestion?-- I'd say that the person giving you your instructions is living in La-La Land.

Well, thank you. You would agree with the proposition that Dr Molloy was upset about the discussion in Parliament that day?-- He was upset, yes. He was very upset that natural justice was being denied to doctors. That was one of the reasons that he was upset.

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Could that have been in fact he was upset because an investigation had not been undertaken and findings of an independent investigation ascertained and provided? Are they in fact possibly the same thing?-- No, I couldn't comment on that.

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COMMISSIONER: But that's what you'd understand by "natural justice", that there'd be some sort of independent consideration of the evidence?-- Okay, yeah, I'd agree with that, Commissioner.

So when Dr Molloy says, "I'm unhappy that there's been no natural justice", that could be interpreted - whether he said these words or not - as meaning, "I'm unhappy that these things have been said in Parliament before there's been an independent scrutiny of the facts."?-- Yes, I'll accept that.

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MS GALLAGHER: Thank you, Commissioner. You were still concerned at this point in time, weren't you, about the ongoing complaints you were receiving?-- Oh, yes, yes. My primary focus was patient care.

And you, indeed consistent with that focus, it seems, continued to meet with the Patel Patient Group?-- The first meeting of the Patel Patient Group happened, I think, on the 14th of April. Yes. That was at the Bundaberg Brothers Sports Club.

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You continued to do what you could to agitate the issues that had been raised with you by your constituents?-- That's correct. I used the Parliament - I'm a parliamentarian, that was my forum - I used the Parliament, and also press releases, letters, to do the best I could to agitate for an independent, comprehensive investigation.

So you too continued to be concerned about health care service in this district?-- I've always been concerned about the health care service in this district. In - Commissioner, am I allowed to just say that in my maiden speech-----

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COMMISSIONER: Yes, of course. Mr Laurie has helpfully, for both of us, clarified his concerns as the Clerk of Parliament, and essentially he has no concern about your mentioning what you said in Parliament so long as it's not the subject of any question or challenge?-- Yes. I mentioned that there was a health care crisis in this area, and I also identified it before my election as part of my election strategy, and the campaign I ran was we need more nurses, doctors and specialists. We don't need nor excuses.

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MS GALLAGHER: Thank you, Mr Messenger. I've nothing further, Commissioner.

COMMISSIONER: We might just have a short break before any re-examination. We'll adjourn for 15 minutes.

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THE COMMISSION ADJOURNED AT 10.35 A.M.

THE COMMISSION RESUMED AT 10.54 A.M.

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ROBERT DESMOND MESSENGER, CONTINUING:

COMMISSIONER: Is there any re-examination, Mr Atkinson?

MR ATKINSON: Just a couple of questions, Commissioner.

COMMISSIONER: Certainly.

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RE-EXAMINATION:

MR ATKINSON: You were asked questions, Mr Messenger, by my learned friend Mr Farr about that meeting on the afternoon of 11 May 2004, and it was suggested to you that what was said by Dr Buckland was he didn't come there to listen to petty politics, I think were the words that were used?-- Mmm.

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Was there any discussion before the episode that we're talking about about party politics or about politics generally?-- None whatsoever, and I distinctly remember the conversation with Dr Buckland started, "I don't care - I don't care if

you're a Member of Parliament. I will not be told what to do."

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You were asked questions by Mr Farr again about that meeting, and it was put to you that there might have been communications between Queensland Health and the Nurses' Union on the previous date about Bundaberg Hospital. Were you ever informed about those discussions?-- Never.

You were asked questions about the Waters report and about the independence of Dr Waters. You issued a press release, according to your submissions, in August 2004. Was there any response from the Minister or the Director General about that press release? I should clarify, it's a press release going to the independence of the report?-- Not that I can remember.

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And you answered questions from Ms Gallagher about Dr Molloy, and questions were put to you about natural justice. In the discussions with Dr Molloy, can you say whether or not you realised that Toni Hoffman's letter was five months earlier, 22 October 2004?-- No, he told me categorically that he hadn't read the letter that was tabled in Parliament, and that was tabled 22 March, but as you rightly pointed out, it was written on the 22nd of October.

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Nothing further.

COMMISSIONER: Thank you, Mr Atkinson. Mr Messenger, before you leave the witness box, I do want to make some comments.

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When Nurse Hoffman finished her evidence earlier this week I referred to the fact that she's regarded by many people in the local community as a hero, and you made similar comments yourself when you gave evidence in Brisbane on the first occasion. At that stage I was a little constrained as to what I could or should say given that we had no hard evidence. Now we're in a position that we have the report from Queensland Health indicating a clinical assessment that Dr Patel was negligent in connection with eight deaths.

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What that makes clear to me at least is that three individuals in particular have brought to light a situation which would not have come to light but for their courage and their tenacity, and those three individuals I will identify as being Ms Hoffman, yourself, and also, I have to say, Mr Hedley Thomas from The Courier-Mail.

Obviously some of the media aren't satisfied with the figure of eight. One headline this morning talked about Patel linked with "only eight deaths". One might wonder whether that particular journalist, had he or she been writing a little over a century ago, might have come up with a headline such as "Jack The Ripper linked with only eight deaths". The fact is there are eight deaths, which is eight too many. The three of you deserve the credit for bringing those matters to light.

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Now, in saying that I'm not, of course, announcing any findings in relation to any aspects of the evidence, nor am I

making any party political pronouncements based on the fact you come from one side of politics rather than the other, but what I would like to emphasise is that our community depends ultimately on two bodies to bring to light matters of concern in the community. One is the Parliament, the other is the press and media. I think what we have heard in these proceedings is a very good indication that you - and I'm not saying you are alone in this, but you at least understand and recognise the importance of Parliament as a place to raise issues of concern in the community and to give a voice to the voiceless, whether it's the mental health grannies or Toni Hoffman, or anyone else who is denied the opportunity to tell their story in another forum. It also emphasises the importance of journalists in our community in bringing these matters to light.

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I don't know, Mr Messenger, whether you are a fan of history or whether you've read political theorists of the past like Locke and Hobbes and Montesquieu and Thomas Payne, but again and again the lesson of history is that without an independent Parliament and independent Parliamentarians prepared to speak out, and without journalists prepared to push the barrow on behalf of individuals in the community, nothing ever changes.

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I would like for my part to thank you for your contribution, not only to this Inquiry, but to the circumstances which led to the establishment of this Inquiry, and to extend that thanks not only to you, but also to Nurse Hoffman and her supporters amongst the nursing staff at the hospital, and also to the media who have produced the situation in which now for the first time we have clear clinical proof linking eight deaths with the conduct of Dr Patel, and raising the distinct possibility that there are many more than that that can't be linked merely from the clinical records.

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So on behalf of the Commission of Inquiry, we thank you for your participation and the contribution you've made for the benefit of all Queenslanders. Thank you, Mr Messenger.

WITNESS: Thank you, Commissioner.

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MR ATKINSON: Commissioners, I'll just formally tender, if I may, first of all the timelines document which is Exhibit 14.

COMMISSIONER: That can go straight to the secretary. Exhibit 14 is the timeline document.

MR ATKINSON: Mr Messenger's submissions as indicated, which are, of course, Exhibit 15.

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COMMISSIONER: Mr Messenger, you're excused from further attendance.

WITNESS EXCUSED

MR ATKINSON: Commissioners, it's now proposed to call some patients. The patients, by reference to coding - the first one will be P99, the second will be P126-----

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MS McMILLAN: May I raise a matter about that, please?

COMMISSIONER: Yes.

MS McMILLAN: For various reasons - perhaps it's not particularly important - Dr Boyd's statements, which have reference to P99, I wish to obviously have a look at, because they have some reference to my area of interest, obviously, exploring a doctor's conduct, because that's a matter complained of. I may need some time to look at that. Also P99's file, a copy of it - I'm not sure it's a complete one - has really only just come to light.

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Now, Mr Allen, who is before me, is now looking at the file. We're both content for her to be led in chief, it just may be that we need some time before we are to cross-examine her. I mean today, but we need a stand-down.

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COMMISSIONER: Yes.

MS McMILLAN: P126, that affects Mr Diehm, I think, more than anyone else. His file, I gather, is available now and he may be in a similar position. There just seems to be a problem getting the patient files in a timely manner to be able to examine them so that we can usefully cross-examine.

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COMMISSIONER: I want to make very clear that so far as we are concerned patients are in a different category from other witnesses who have been called. Obviously nursing staff at Bundaberg Hospital have been given time off from their ordinary professional duties to come here and give evidence.

MS McMILLAN: Yes.

COMMISSIONER: People like doctors and Mr Messenger, who is a Member of Parliament, suffer no direct financial loss as a result of their presence. The situation with patients is obviously different. There is a compensation system for their time, but that's less than entirely adequate for obvious reasons. So we will be doing our best not to inconvenience patients, so that when they're called they're called at the time foreshadowed and finished, hopefully, within the day. Obviously that has to also take into account considerations of fairness and natural justice, and if you do need time to review files and so on, you will be given that time, but it's our expectation that you will do that as efficiently as possible so that the patients aren't inconvenienced.

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MS McMILLAN: Well, I imagine everybody is bearing that in mind. I just wish to raise that at this point.

COMMISSIONER: Thank you for that. Mr Diehm?

MR DIEHM: I have nothing further to say.

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MR ATKINSON: Commissioner, the first patient, as I say, is P99. The second will be P126, the third P21, and the fourth is P26. When I say those issues will be raised or those witnesses will be called, one of them obviously is deceased. His widow will be called.

COMMISSIONER: Yes.

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MR ATKINSON: What Counsel Assisting has endeavoured to do in relation to each patient is to also adduce evidence from nurses or doctors to the extent that time permits and it's relevant to the issues before the Commission.

COMMISSIONER: Well, it's obviously appropriate that the non-publication orders for the patients of those four names be rescinded. In fact one of them you mentioned, P126, which is Mr Fleming, his name is already in the public forum. The first witness you identified is P99, Linda Parsons, and that name is now released from previous non-publication orders. You also mentioned Gerard Kemps. That name is released. And P26, that name is also released.

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MR ATKINSON: As the Commission pleases.

COMMISSIONER: Thank you.

MR ATKINSON: Might I call then Ms Parsons.

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MR MACSPORRAN: Just one point of housekeeping, might I ask if there are statements for Mrs Kemps and anything in relation to the other gentleman, P26?

MR ATKINSON: The Kemps statement has been finalised this morning. There is a police statement that many of the parties have already seen, but there is a married statement, if you like, of the information that the Commission has and the information that the police have. That will be available today.

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COMMISSIONER: Yes.

MR ATKINSON: In relation to the P26 matter, there is a statement that has just been finalised today and that will be available in the course of the day.

COMMISSIONER: I might ask Mr Scott to make sure that counsel for the other parties have everything that's available at the moment and, as soon as the other statements are produced, that they get distributed amongst the representatives of the parties.

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MR ATKINSON: As the Commission pleases.

COMMISSIONER: Thank you. Thank you, Mr Macsporrان.

MR MACSPORRAN: We haven't seen the police statement either, I understand it, but that will be coming-----

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COMMISSIONER: Mr Scott is giving you a copy now.

MR MACSPORRAN: Thank you.

MR ATKINSON: If I may then, I call Linda Ann Parsons.

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LINDA ANN PARSONS, SWORN AND EXAMINED:

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MR ATKINSON: Witness, would you tell the Commission your full name, if you would?-- Linda Ann Parsons.

And you live in the Bundaberg district?-- Yes, I do.

Ms Parsons, you were born on 21 August 1959?-- Yes.

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And you are married and you have two sons?-- That's correct.

What kind of work do you do, Ms Parsons?-- I'm an AIN in aged care.

An AIN? Assistant in Nursing?-- Assistant in nursing, yes.

How long have you worked as an AIN for?-- Pretty much on and off since I was 19.

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I haven't done the maths, but that must be about 25 years?-- Mmm.

Now, can you tell us about going to the Bundaberg Hospital in the course of 2003 and just tell the story slowly and carefully, if you would?-- I had been suffering from pain on the right side of my stomach. I was referred to Dr Patel, who told me that I had a hernia, and that he would remove it. I was booked into day surgery on the 15th of March.

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Let's slow down a bit, if you would?-- Sorry.

When you say you were referred to Dr Patel, who did you go to see first?-- Dr Stumer.

And Dr Stumer is a gynaecologist?-- Yes, he is.

And you say that he referred you to Dr Patel?-- Yes.

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Did he say why you should see Dr Patel?-- Because I had already had a hysterectomy and I had no woman parts left.

Did he say why Dr Patel was the appropriate person?-- Because he was the surgeon.

Now, you were referred to Dr Patel. When did you first see him?-- I can't remember the exact date. I think it was around December.

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2003?-- Three, yes. No, sorry - yeah, 2003.

Tell us about that meeting?-- I went in, explained to him where I had pain.

Where did you go to?-- Sorry?

Where did you go to, the Bundaberg Base Hospital?-- Bundaberg

Base Hospital Specialist Centre.

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And you met there with him?-- Yes, I did.

You told him about your pains?-- Yes.

And then what happened?-- He felt my stomach and told me that I had a hernia and that he would remove it.

And did he tell you whether you needed to be admitted to the hospital or whether you could avail yourself of day surgery?-- He told me it would be day surgery.

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Did he tell you when it should happen?-- I - he told me to wait until I received a letter from the hospital, which I did, and that was dated for the 15th of March.

Now, you received a letter. Did you go to a Pre-admission Clinic?-- Yes, I did.

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Now, you've had previous operations. I understand that there was nothing extraordinary about the Pre-admission Clinic on this occasion?-- No.

It was much the same as Pre-admission Clinics you had attended on earlier occasions?-- Yes.

The day surgery itself, that occurred on 15th of March 2004?-- Yes.

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I think you mentioned earlier that - or I thought you said that you received the letter on the 15th of March 2004?-- No, I received a letter a couple of weeks before then telling me when I was going in.

All right. Well, tell us about the day surgery, if you would?-- It was pretty standard. I showed up at the time that I was supposed to. I was-----

That was the 15th of March?-- Yes.

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So you go to reception at the hospital?-- No, I went straight up to the first floor to Day Surgery.

Right. And there are eight beds, I think, in the Day Surgery Ward?-- Yes, I think that's right.

And when you come in there there's eight people in the eight beds?-- I think everyone was still waiting out the front being called in one by one.

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All right. And then they go through pre-operative procedures, I understand?-- Yes.

And all of that was quite routine?-- Yes, it was.

Now, did you see the people at the operation that you had seen at the Pre-admission Clinic?-- No.

Right?-- I had-----

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How were they different?-- There was a different anaesthetist upstairs.

All right. Now, you had the operation. Tell us what happens when you woke up?-- When I woke up I was in - back in the bed in Day Surgery. I was given something to eat and drink. Later on I was handed a form from one of the nurses up there who explained that Dr Patel didn't find a hernia and that I was to get the staples removed seven days later and to go to the Dressings Clinic.

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Did you speak to Dr Patel at all?-- No.

Right. Did you speak to Dr Patel at any time after the operation?-- I believe I spoke to him once after my wound dehiscd.

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So you got a notice saying when to attend and that the staples should be removed at the Dressings Clinic?-- Yes.

When did you leave the Day Surgery?-- Would have been just after lunch.

Now, did you go back to the Dressings Clinic seven days later?-- Yes, I did.

Now, over those seven days what kind of wound did you have?-- During those seven days it was naturally sore but there was no problem with it.

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Can I ask you this: did Dr Patel ever tell you after the surgery that they hadn't found a hernia but they had found some scar tissue?-- No, that was written in the notes.

You didn't hear that from Dr Patel?-- No.

Now, you go back and that would have been seven days later, 22 March?-- 22nd of March.

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2004?-- Yes.

Will you tell the Commission very slowly and carefully what happened when you returned?-- I think it was about seven or 8 o'clock in the morning we had to go back. My husband took me there. I had the staples removed. I was told everything was fine. I had one Steristrip put across the wound and I was sent home. It took about-----

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Let me slow you down there. Is there anything significant about having one Steristrip across the wound?-- Yeah, I thought I should have had a dressing actually.

Why do you say that?-- Well, it was still a fairly raw wound.

Right. So you had the Steristrip put across the wound and you

were sent home?-- Yes.

1

Then what happened?-- Well, I had felt that seven days was a bit early to have the staples removed but I didn't question it, went home. My husband-----

Can I stop you there. What made you think that seven days was a little early?-- Compared to the other abdominal operations that I've had before, that it was only every second or third staple that was removed after the first week and my own GP usually took the rest out the following week.

10

So you went home with your husband?-- Yes.

And what happened?-- I started bleeding. I felt blood running down my legs.

And did you ascertain where the blood was coming from?-- Yes, I went to the bathroom and found that the top of the wound had opened up.

20

And what did you do?-- Rang the hospital, told them what was happening and they asked me to come straight back.

And you did that?-- Yes, my husband took me straight back.

What did you do about the blood coming down from your wounds?-- I was holding a towel on my stomach.

When you got back to the hospital what happened?-- I sat in the waiting area for 20 to 25 minutes.

30

And then?-- And then I was called in to one of the cubicles.

While you were waiting, how was the wound managing itself?-- It wasn't. I went down to the toilet and I lost a small clot out of it.

Then you were called by the staff after 25 minutes?-- Yes.

40

And who did you meet with?-- I met with Janice Williams, who helped me up onto the bed.

And you say Janice Williams, she's a nurse, yes?-- Yes.

And how do you know her name?-- I worked with Janice in aged care a few years back.

So she helped you up on the bed. Did a doctor attend upon you?-- Dr Boyd came in.

50

Tell us what happened then?-- He said it just needed packing.

All right. And tell us briefly - I know probably it's hard - but tell the story in your own words. He said it needed packing, then what happened?-- I was left laying on the bed. Janice went outside to get all of the appropriate stuff to do what he asked. While she was out there I called out to her

because I felt a terrible sensation in my stomach and I felt my stomach tearing.

1

You looked at what was happening?-- Yeah, I did.

And what was happening?-- The wound had dehiscenced all of the way open.

There will be lots of discussions I expect in the course of the morning about what the word wound dehiscence means. Rather than getting bogged down in that term, can you tell the Commission what you saw when you looked down?-- When I looked down I saw that the wound had opened up totally.

10

So when you say "totally", there are layers, I understand, of fascia?-- Mmm.

Are you saying that you could see through there?-- I could see that the wound had opened up and then I stopped looking. I laid back down.

20

You laid back down. What happened next?-- I called Janice.

And tell the story, if you would?-- She then called Dr Boyd back in again. He still said the wound only needed packing, so they continued to pack it and then seal it.

Did that surprise you?-- Yes, it did actually.

And why was that?-- Well, I thought I would have been sent back upstairs to have it repaired.

30

Now, when you say that you had expectations about what might have happened, you are drawing on what kind of experience? Why did you think that?-- Well, I felt it needed to be put back together there and then.

Well, when you say Dr Boyd suggested packing and packing happened, what kind of packing did you have?-- I'm not exactly sure of the name of the stuff, but it was packed with - oh, I can't think of the word - just - it was packing and then it was sealed. It was sticking right out on the stomach. It was packed fairly well.

40

Now, you mentioned earlier that Nurse Williams had gone outside. What happened when she returned?-- She had brought all of the stuff back in to do the packing and the dressing.

Right, and did you talk to her when she returned?-- Yes.

What did you talk about?-- She jokingly said, "I hope you didn't look at that," and I said, "Yes, I did."

50

Did you have further discussions with Dr Boyd?-- I think at that stage my husband was still in the room, he had to leave.

Because he got a phone call or because-----?-- No, because he can't look at wounds.

So he leaves the room. Did Dr Boyd come back in?-- Yes, I think he was there. 1

This is prior to the packing?-- No, I think he was there while Janice was doing it.

Right. And when he saw that the wound had completely opened, how did he respond to that?-- That it still just needed packing. 10

And, in any event, that's what happened?-- Yes.

All right. Now, the packing was finished. Did you have further discussions about what was to happen with either Nurse Williams or Dr Boyd?-- Janice gave us a piece of paper stating to fast from midnight and come back to the hospital at 9 o'clock the next morning.

And you drove home with your husband then?-- Yes, I did. 20

Right. You were told to come back at 9 a.m.?-- When we got home there was a message that the hospital had called and not to come back until 1 o'clock.

All right. In the morning did you go back or did you fast overnight?-- I fasted overnight. When I woke up the next morning I had a migraine and I had assumed that I was going back to Day Surgery, so I contacted the hospital and asked them if I could take something for my headache. 30

And they told you that you could?-- Yes.

Right. Now, you came back to hospital after that?-- Yes, I did.

Did you meet anyone when you got there?-- Yes, I met Dr Boyd and-----

Did he say-----?-- Yeah, sorry, there was Dr Boyd, I think there was a trainee nurse in there, Janice was in there and a couple of other nurses, and I vaguely remember Dr Patel walking in very quickly and out. 40

All right. Well, when you get there you showed Dr Boyd and Dr Patel, is this right, your wound?-- Yes.

Tell us what happened?-- I'm pretty sure it was Dr Patel who told Dr Boyd to put some holding stitches in it. 50

And then did Dr Patel stay to see Dr Boyd-----?-- No.

What happened?-- Dr Boyd injected me with anaesthetic and started suturing it up and said he was going to put six large sutures in it and they were going to leave it for 10 days.

Did you go to the operating theatre?-- No, this was done in the cubicle down in the specialist centre.

It was a complete restitching of the wound?-- Yes, six large stitches.

1

Now, you said you received local anaesthetic, what happened - well, let me withdraw that. What was the period of lapse between the administering of the local anaesthetic and the stitching?-- It was quite a few minutes.

And what happened when the stitching started?-- I felt everything. I felt the needle going in. I felt thread going through me and I felt the needle coming out the other end.

10

Did you mention that to Dr Boyd?-- Yes, I did.

Can you tell us what he said? If you will, can you just paint the picture of what was happening?-- I was laying there crying. I still had a very bad headache. I had pain in my stomach. I told him I could feel everything he was doing and he told me that it would be over shortly.

20

And he continued?-- He continued to stitch me, yes.

Did you just grin and bear it, or what happened? What did you do?-- He wouldn't stop and I just ended up grinning and bearing it, yes.

And did you ask him to stop?-- Yes, I did.

Now, while this was happening, can you say whether or not you were trying to get up?-- Janice was holding my hand. She kept leaving the room to get a cold cloth to put on my head and she just kept squeezing my hand and telling me it would be all over very shortly and was trying to help me.

30

And was anyone else in the room?-- There was a couple of nurses down near my feet and there was someone behind me.

And what were those people doing?-- One had their arms on my shoulders and another one was holding my feet.

40

When you say they were holding your feet, was it in a reassuring way or was it to restrain you?-- I felt that I was being restrained.

I understand you don't say that Janice Williams was restraining you?-- No, she was standing beside me holding my hand.

And you can't identify the other people?-- No.

50

Now, you wanted to get up. Did you yell at Dr Boyd, or did you ask, or did you plead?-- I actually felt like I wanted to be sick.

And were you mentioning these feelings or were you making any complaints to Dr Boyd?-- Yes. Well, I told him I could still feel him. I could still feel what was happening to me.

He said, "You will just have to bear it."?-- No, he didn't say that. He said that it would be over very shortly.

1

Right. Now, was it over quickly?-- To me, no, it felt like hours.

Now, what happened when it was over?-- Janice asked if I could have pain relief and I was given Pethidine.

10

Do you know of any medical reason why you couldn't have received Pethidine earlier?-- No, I've got no idea.

Tell us about what Janice Williams said to Dr Boyd?-- She asked him if I could have pain relief now.

Right. And what was Dr Boyd's response?-- He said yes. They went and got the injection with the Pethidine in it.

Now, that finished. Did you have any discussions with Janice Williams in the course of that meeting?-- No, I don't think so. She let my husband back in when it was all over and told him that I'd been through hell and to be careful getting me home.

20

Now, tell us yourself. How traumatic was that episode?-- It was very traumatic.

In what sense?-- It was probably over in quite a few minutes but it felt endless.

30

Now, it's been suggested that maybe you have a low pain tolerance; is that true?-- I have no idea.

You have given birth twice?-- I have, but I had caesarean.

Can you say whether this was more painful than other things or less painful-----?-- It was definitely more painful than caesarean.

40

Okay. You mentioned that Nurse Williams helped you and told your husband what had happened?-- Yes.

She said you had been through hell?-- She offered to get a wheelchair to - for him to take me out to the car.

Right. And you were then wheeled out to your car?-- No, I think I wanted to walk.

And you did?-- Yes, the car was parked right at the front door.

50

Now, you go home to your house?-- I went home to my house and my husband helped me up the stairs and I laid down for a while. It was pretty much dusk by the time I woke up and I woke up in pain because I was - I had a terrible burning sensation.

Can you describe the pain you were going through?-- Felt like I was on fire.

1

And can you describe whereabouts on your body your pain was coming from?-- Yeah, from the wound.

So what did you do about that?-- The next morning my husband took me to my GP, who inspected the wound and told us that it was badly infected, and wrote out a prescription for some Keflex but told us not to fill it because she wanted us to go back to the hospital for intravenous antibiotics.

10

COMMISSIONER: Mr Atkinson, I'm sorry, and I apologise to the witness as well. This is entirely my fault. Is this evidence being filmed, video recorded?-- Yeah.

Do you have any objection?-- No, that's okay.

Are you sure? Are you comfortable with that?-- Yeah, they asked me before.

20

That's fine. I was also going to raise this. In your statement there are some photographs of your wounds. It's our usual practice for all exhibits to be placed on the Inquiry website. Would you prefer that those photographs not be?-- No, I've given permission for them to go up.

Thank you for that.

30

40

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MR ATKINSON: Now, the next day you went to see your general practitioner?-- Yes.

1

The infection, just to go over that again - let's use the word "infection" - you had a feeling of burning and it was coming from around the wound?-- Mmm-hmm.

The next day you go to see your general practitioner and you were saying that the doctor prescribed Keflex?-- Yes.

10

Right. And did you fill the Keflex prescription?-- No, she asked us not to fill it and sent us back to the hospital first.

What happened when you went back there?-- We went over to Casualty. I was taken inside and I would have stayed there for five hours.

What were you doing for five hours?-- Laying on a bed.

20

Just waiting?-- I saw one doctor who said that in his opinion that we should just fill the Keflex and go home. We explained that the GP wanted me to be admitted for intravenous antibiotics, and he didn't think it was necessary.

So what did he do?-- Told me that I could go home, and then as an afterthought turned around and said, "Before you go, I will do a swab."

And he did a swab?-- Yes, he did.

30

And did you go home and get the Keflex prescription filled?-- Yes, we did.

Now, did that work?-- No, it didn't. It was making me vomit.

So you went back to the hospital the next day?-- No, I went back to my GP.

And what happened?-- She sent us immediately back to the hospital again for intravenous antibiotics.

40

And did you get them?-- No, I did not. They changed the antibiotics and sent me home again.

So you weren't admitted on that occasion either?-- No.

All right. Tell me about the state of the wound at that stage?-- I had a green ooze coming out of it. I had two stitches that weren't tied off. The wound was gaping in the middle of the stitches, it was oozing green, and my stomach was swelling and the stitches were popping.

50

Now, if I can I will show you these photographs. Maybe I can put them on the overhead projector. That's a photo. Did you take that photo?-- My girlfriend did.

All right. And do you recall what day those photographs were

taken?-- Not without looking on the back of them, no.

1

Well-----

COMMISSIONER: Perhaps the Court attendant as we put up each photograph can tell us the date on the back.

CLERK: 28th of March 2004, 11 a.m.

MR ATKINSON: Does that accord with your recollection, Ms Parsons?-- Yes.

10

So what you have been telling us is that the operation's on the 15th, you come back on the 22nd and have the stitches removed. On the 23rd you have them restitched. So this is five days after the surgery?-- Yes.

How long did the wound stay in that condition?-- Couple of months.

20

A couple of months. All right. Well, in the meantime, did you return to see Dr Boyd?-- I went back for a check-up after I had these stitches out, but it wasn't Dr Boyd that removed them. By the time I went back there was only one and a half stitches left.

The stitches came out by themselves?-- Yeah, they just kept popping with the infection in the stomach.

Does that photo show one of the stitches having popped?-- Yes.

30

It's the second one from the left?-- It's actually showing two stitches that aren't tied off, and I'm not sure if the other one was there or not on that one, because I can't see the whole photo.

All right. Now, you went back and had the two and a half remaining stitches taken out?-- Yes.

40

That was by a doctor other than Boyd?-- Yes.

Did you see Dr Boyd again?-- I saw Dr Boyd a couple of weeks later for a check-up for him to tell me everything was okay.

When he said that, the wound was still in this condition?-- The top half had grown over a little bit and the bottom half was still oozing.

All right. Did you see Dr Boyd when there were still stitches in place?-- No.

50

When you saw Dr Boyd, was the wound still giving you - causing you distress?-- Yes.

In what sense?-- It was still oozing. I still had pain from the infection,. I couldn't use any more dressings because I was starting to itch from them. I had to use a net around the

stomach with a Modess pad inside it.

1

You spoke earlier about the pain you were receiving at night-time?-- Yeah, it was still burning.

Now, did you tell Mr Boyd all those things?-- I didn't see him again until the end when he gave me an all-clear. I continued to see my GP who continued to try different antibiotics.

10

Did they work?-- No.

All right. Now, you mentioned you had a review by Dr Boyd eventually?-- Yes.

And do you recall the date of that?-- No, I don't, sorry.

Now, the wound was still giving you trouble at that time?-- Yes.

20

Okay. And did Dr Boyd discuss the management of it?-- He told me that it would eventually grow over.

And did you speak to the nurses about the problems you were having?-- I spoke to - there was a an elderly nurse in there one day and I asked her what infection I had and she told me she couldn't discuss it with me and I asked her could I look at my file and she said I had no right to do that.

Did you ever receive the results of that swab that the doctor took when you came back to the hospital?-- Not until I demanded it, no.

30

So not to this stage of the chronology-----?-- No.

-----that's unfolded. All right. Now, what's happened to the wound since then?-- It's just got a dead piece of skin sitting over the top of it and it's still open inside.

How do you know that it's open inside?-- Because I have had a surgeon in Brisbane look at it.

40

You speak about the wound. Did you have any trouble with sores?-- Yes.

Tell us about the sores?-- I started breaking out in small - small sores that looked like boils and then they'd burst and I'd have a discharge from them and then they'd leave dark purple scarring.

50

Now, what part of your body did the sores start from?-- They started around the stomach. They would be under my arm, under my breast, on my legs and on my fingers.

And when you say they started from the stomach, are you saying that they started from the vicinity of the wound?-- They started on the left side of the wound, yes.

All right. And then they worked their way to other parts of your torso?-- Yes.

1

And did you have any problems with sores prior to the operation of-----?-- No, I did.

-----15 March? No. No problems at all?-- No.

And have those sores left you now?-- No, they have not.

10

How have all these problems with the wound and the sores affected your lifestyle?-- It's very embarrassing. I have to cover all my wounds when I go to work, which is embarrassing when people ask what's wrong with you all the time.

And the pain around the wound, has that gone away now?-- No, I still get pain down there, the pain I had before I saw Dr Patel.

The same pain that the operation was for?-- Yes.

20

The operation didn't ease that pain?-- No, it didn't.

So the operation didn't ease the pain but you have been left with the wound problems and the sores?-- Yes.

Did you make a decision at some stage to complain about the service you had received?-- Yes, I did.

Tell us about that?-- I think the first person I contacted was the Health Rights Commission and they suggested that I write a letter to the hospital. When I spoke to the Health Rights Commission I didn't quite understand how they worked and I didn't realise that if I didn't get very far with the hospital I was to go back to them. I didn't realise that. So I wrote a letter to the hospital and I was given an appointment to see a Dr Kees Nydam.

30

Let's slow down a bit. In terms of the meeting for or the conversation you had with the Health Rights Commission, you don't dispute they may have told you if you don't get any joy with the hospital you should return to us?-- Yes.

40

They may have said that to you?-- No, they did say that. They told me that they taped the conversation.

So-----?-- But I was still in pain and I was taking painkillers and I don't quite remember exactly what they had said.

50

So, they said you should approach the hospital?-- Yes.

And did you have any idea how to make a complaint to the Bundaberg Base Hospital?-- Not really. I just wrote a letter.

Had anyone told you when you were admitted how you might go about making a complaint?-- No.

Had you ever been informed of the complaint's process at the hospital?-- No.

1

So, you decided to write a letter. How did you know who to address the letter to?-- I didn't.

Right. Can I show you this letter? Is that the letter that you wrote?-- Yes.

Now, it's not addressed to anyone?-- No, I addressed the envelope to the manager of the Bundaberg Base Hospital.

10

And the things that are written in that letter, they effectively set out a history of what had happened?-- Yes.

Are those things still true and correct to the best of your knowledge?-- Yes.

Now, it's not dated, that letter?-- No. I forgot that.

20

Right. I see that it was received on the 4th of October?-- Mmm-hmm.

Can you say whether you sent it in September?-- I would say I would have sent it in September, yes, because I spoke to the Health Rights Commission in late August.

Right. And in the meantime I understand your general practitioner had obtained a copy of your records?-- Yes.

30

Now, did you receive a response from the hospital?-- Yes, I did. I was given a meeting with Dr Kees Nydam.

When you say you were given one, who told you that there was to be a meeting?-- A receptionist rang me at home and told me.

And did she tell you who Kees Nydam or Kees Nydam was?-- No.

40

Were you told whether or not he was the manager of the hospital?-- He introduced himself as Dr Kees Nydam and said he was Acting Director on that particular day.

Right. But I want to keep you back to the conversation with the receptionist?-- Well, she rung me and told me. I did receive a letter stating what day the appointment would be.

You did?-- Yes.

50

All right. So you received a letter stating what day the appointment will be and you also received a phone call from the receptionist?-- Yes.

You were told to come in and meet Dr Nydam?-- Yes.

And did you meet him?-- Yes, I did.

Right. Where did you go to meet him?-- Upstairs to the executive offices.

1

And can you recall the date of that meeting?-- Can I look at this?

Yes. Sorry, I know you have prepared a statement and I haven't shown it to you yet, but if you need to look at the statement, say so?-- Yea, I will. It's not in this one.

10

And you say it was soon after you received-----?-- I had a meeting with Dr Kees Nydam on the 4th of October 2004.

All right. How do you know that?-- Because when the meeting didn't go real well with him I wrote to Nita Cunningham.

You say the meeting didn't go real well. Tell us about the meeting? Who did you go with?-- I took a friend of mine, Vicky Hall, with me.

20

And who was there for the hospital, just Dr Nydam to start?-- Yes.

So at the outset of the meeting it was yourself, Vicky Hall, and Dr Nydam?-- Yes.

Paint a picture of what happened at the meeting?-- He introduced himself, told us that he was Acting Director for that day, Acting Director of Medical Services, said that he'd received my letter. He was - he spoke to us very condescendingly. He was patronising. He really just wanted us out of his office as quick as possible.

30

What made you think that?-- Just the way he spoke to us.

He was brusque?-- Yes, very sarcastic.

When you say sarcastic, can you remember any conversation?-- When he asked us what the problem was and I spoke to him about Dr Boyd, he just shrugged it off and told us that Dr Boyd was a trainee working under Dr Patel, that he was no longer with the hospital, he'd only be there for six months, and he'd gone back to Brisbane and what did we want him to do about it.

40

Okay. Can you recall any other aspects of the conversation that seemed condescending or sarcastic?-- I asked him whether or not he could hold Dr Patel responsible seeing as the doctor was training under him and he said no. I asked him for a copy of the swab that was taken back in casualty when the GP sent me over there, I said - because my GP had my file and it wasn't in there, and he said, "Oh, yes it is.", and he left the room and went and brought it back. But my file was sitting on his desk.

50

So he didn't pull the swab results from the file?-- No, he did not.

And you were informed by your general practitioner that she

couldn't find the swab results?-- She said she went through the file for nearly three weeks. She could not find certain things in it, yes.

1

Have you looked at your records yourself?-- Yes, I have.

And did you find the swab results in there?-- A copy of the one he gave me, yes.

When did you find that?-- When I requested my file from the hospital.

10

And that's recently?-- Yes.

COMMISSIONER: I think we can clarify the date. I see attachment LAP5 is a letter signed by Dr Kees Nydam dated the 8th of October saying, "Thank you for attending the meeting today." So it's clear that the meeting occurred on the 8th of October.

20

MR ATKINSON: Thank you, Commissioner?-- Sorry.

COMMISSIONER: Not at all. Since I have interrupted, I was going to ask something else. I have read - I can't say I have read every word of it but I have been through your letter of complaint and apart from your exceptionally good handwriting I think it's fair to say that you set out your story in a very clear and detailed way, and I suppose that you were assisted in that by the fact you do have nursing experience yourself, so you understand how to set things out in an accurate, clinical sort of way?-- Mmm-hmm.

30

Are you able to offer any comment on how much more difficult it would have been for you to make any sort of complaint if you didn't have yourself a background in nursing?-- I think it would have been just as difficult. I wasn't getting very far this way myself anyway.

No-one told you who to write to or how to set it out or anything?-- No.

40

What about when you rang the Health Rights Commission, did they give you any guidance as to how to make a complaint to the hospital?-- They just told me to write to the hospital. When they came up here to Bundaberg a few months back I contacted them again and I asked them when I rang them, what they told me, because I said I didn't understand the whole idea was that if I didn't get very far with the hospital, I was to go back to the Health Rights Commission, but I didn't go back to them because I didn't understand that part.

50

Yes. Thank you.

D COMMISSIONER VIDER: Mr Atkinson, seeing as the Commissioner interrupted-----

MR ATKINSON: Sure.

D COMMISSIONER VIDER:-----can I just ask Ms Parsons a couple of points for clarification? When the staples were initially removed, did the wound appear healed then?-- No. It was quite red then.

1

But?-- But then the staples had-----

It was still together?-- Yes, it was still together.

So at the time that the original sutures were out, there had been some coming together of the wound?-- Yes.

10

It came apart after you went home?-- Yes.

When you were being resutured by Dr Boyd, you talked about only being given a local anaesthetic?-- Yes.

No more anaesthetic when you indicated that what you'd been given-----?-- No.

20

-----hadn't deadened the area?-- No.

You were then given Pethidine?-- When it was all over.

When it was old over. Did the Pethidine take the pain away? Did you get relief from the pain with the Pethidine?-- Yes. It also took the migraine away.

That was a bonus. What were you then given subsequently for pain relief?-- I think I still had the Panadeine Forte.

30

I would just like to move on to the stage the wound was at when you saw the photograph. You were dressing that at home yourself?-- No, my girlfriend used to come over every day and do the dressing.

How?-- Because my stomach was swelling from infection and I couldn't see right down there. So my girlfriend did - used to come over after work every morning and do it.

40

And was that done using an aseptic technique?-- Yes.

Thank you. I am sure you have probably written that here in the statement but I just haven't read it yet. Thank you.

MR ATKINSON: Ms Parsons, when you went go see-----

COMMISSIONER: Sorry, Mr Atkinson.

D COMMISSIONER EDWARDS: Can I just follow up a little? When you received a letter from the infection control on the 16th of December they mentioned about taking a swab and so forth, but had you had swabs taken before?-- Only the one in casualty.

50

Did you get the result of that swab?-- That was the one that Dr Nydam went to another room and got and brought out to me.

COMMISSIONER: The one that hadn't been supplied to your GP?--
That's right.

1

D COMMISSIONER EDWARDS: Thank you.

MR ATKINSON: I'm good? Ms Parsons, when you go to see Dr Nydam with your friend, what were you there to achieve? What were you hoping as an outcome? Were you there for compensation or for more surgery, or what brought you there?-- I was hoping to have the wound fixed in some way. I was hoping to find out what the infection really was and I was sort of hoping that maybe the doctor might have been disciplined in some shape or form.

10

And can you say whether or not you said those things to Dr Nydam?-- Yes, he asked me what I wanted and I started off by stating that - you know - an apology wouldn't go astray for starters.

Right. And you mention that you asked him about the infection?-- Yes. That's when he called Gail Aylmer up to the office.

20

And you spoke to him also about Dr Boyd, as you said earlier?-- Yes, but he told me he had already left the hospital at that stage and couldn't be held responsible.

Did you speak to him - I think you said to you spoke to him about Dr Patel?-- Yes.

30

And did he give any response to that suggestion that Dr Patel as a senior-----?-- No. No response to that.

Did you speak to Dr Nydam about changing the system generally or about making the service better generally for other people?-- No, I didn't.

Now, in the letter of complaint, I distilled seven individual complaints. Just tell me if you agree with this. The first complaint or the first issue you were raising is whether or not the staples should have been removed only seven days after abdominal surgery?-- Yes.

40

The second complaint was when you were - when you came back on the 22nd of March they might have taken you back to surgery rather than packing the wound?-- Yes.

The Third complaint was that on the 23rd of March when it became apparent that the local anaesthetic wasn't working the doctor might have desisted?-- Yes.

50

He might have stopped?-- Well, he might have, yes, he could have.

D COMMISSIONER VIDER: Mr Atkinson, can I interrupt there for a moment?

MR ATKINSON: Yes.

D COMMISSIONER VIDER: You would agree, though, if I suggested to you that today with surgical techniques as we now know them, whilst your experience and observation might have been staples were removed and you thought seven days was a little bit soon-----?-- Mmm.

You would be able to accept that for some surgeons they might decide to take them all out-----?-- Oh, yes.

-----at a sooner time-----?-- Mmm.

-----and that there are have techniques today that would let him do that, and the cardinal-----?-- Yes.

-----thing for removing them would be the healing?-- Mmm.

Thank you.

MR ATKINSON: And on that issue - I mean, the nurse who removed the stitches, she didn't think that there was anything wrong? I mean, at that stage at least that nurse obviously had grounds to think that the wound had healed?-- Yeah. She said it looked fine, put a Steri Strip across ,and it was all done, go home.

I was just going through those complaints you can distil from your statement. The first one was about removal of the sutures. The second one was about taking you back to surgery when it came undone. The third one is about stopping when it became apparent that the painkillers weren't working. The fourth one seems to be that over those three days after the stitches had been removed you were coming back to the hospital on the advice of your GP for intravenous antibiotics but you seemed to be getting fobbed off?-- Yeah, I was just turned away all the time.

All right. The fifth one was that over the days following the surgery - sorry, the restitching, many of the surgeons - the stitches came undone?-- Yes.

And the sixth one was that you had some trouble finding out what the nature of the infection was?-- Yes.

And the last one was that you still have problems with the wound and, indeed, with sores around the wound?-- Yes, I do.

When you get there, Dr Nydam has got your file in front of him?-- Yes, he has.

And he's got your letter of complaint?-- Yes.

When you are discussing these issues with him, which you did, I understand-----?-- Mmm-hmm.

-----did he go through your file to understand the history of the matter?-- No. He just read from the letter of complaint.

Did he ever suggest that he might make inquiries about the substance to these complaints?-- No.

1

Did he want to talk to you about whether or not there was wound dehiscence?-- No. He just - well, actually he turned around and said that if it was him, he wouldn't have bothered stitching it at all. He said he would have just let the infection come out.

Did you mention the name of the nurses involved or even Nurse Williams?-- Yes.

10

And you mentioned Boyd and Keating, of course?-- Yes.

Did he ever suggest that he had made any inquiries of those people?-- No.

Now, you mentioned that at one stage you were talking about - he got the swab results?-- Yes, but he left the room to get them.

20

And then he called up Gail Aylmer?-- Yes, and the microbiologist by the name of Peter.

Now, Gail Aylmer came to-----?-- Yes, she did.

You had a discussion with her?-- Yes.

Did you show her your sores?-- Not until she took me downstairs to a cubicle in Casualty.

30

Can you say whether or not Dr Nydam told Ms Aylmer about the history of your condition?-- I had assumed that he did but I have been led to believe he didn't.

Well, did you see that happen?-- No.

You are in a room, I understand, with Nurse Aylmer and also with?-- He just discussed with her that I was getting sores.

40

He didn't discuss the source of the sores?-- No.

Did he discuss the timing of the sores and the operation?-- No.

And had you told him about that?-- Yes.

So, you mention that you went away to another place with Ms Aylmer?-- Yes, I did.

50

All right. And what happened?-- I removed some clothing to show her the sores but at that stage they were still dry and they hadn't burst, so she couldn't take a swab of them at that time.

Did she do anything about that?-- She wrote a letter stating that I was to take - she gave me the swabs and everything to take home and wrote a letter stating I was to bring it

straight back to casualty and it was to go immediately to her when I did, when I was able to swab one of the sores.

1

And what became of that process? Did you do the swab at home?-- Yeah, it was a couple of weeks later, about eight weeks later, and I took it straight to the hospital and then it was quite a while. I didn't hear from her at all. I'd since moved home, moved houses, and I'd rung the hospital and she said that she did send me a letter and that now that she knew where I was she'd resend it to me.

10

Did you find out the nature of the infection that you had?-- Not really, no.

How did that happen?-- Well, I was led the believe that I had Golden Staph.

Who told you that?-- Kees Nydam had mentioned that up in his office, but they also stated that it was technically my own fault because I'm tired and run down and I work night-duty.

20

Well, let's break that down a bit. You were told, you think, by Dr Nydam that you had Golden Staph?-- Mmm.

You are aware of MRSA? There are different types of staphylococcus and Golden Staph, I think, is one they call MRSA?-- Mmm.

But you think that Dr Nydam told you that's the kind of germ that you had?-- Well, he said there was a small bit in the - that's what had come back on the swab.

30

Now, was it at the meeting or later on that you were told that perhaps you were to blame for the virus?-- It was in the - it was the way I read the letter that came from Gail Aylmer.

40

50

That was a letter dated 16 December 2004?-- Yes.

1

Can I put this letter up on the screen, perhaps? You say you weren't happy with that letter?-- No, I wasn't.

What makes you unhappy about that letter?-- Well, the fact that, yes, I was physically exhausted on the day I did see her and Dr Keys Needham - because I had come to the meeting straight from night duty, and I had never at any stage said that I had a recent history of boils. I told her that the sores that were coming out on my body looked like boils.

10

In terms of being physically exhausted, I understand that's your normal state after night duty?-- Yes, of course it is.

And you had been doing night duty presumably for many years?-- Yes, I had.

And you hadn't had any sores, as you said, before 15 March 2004?-- No.

20

And you hadn't had any boils prior to 15 March 2004?-- No.

To be fair to Ms Aylmer, she uses the words "recent history of boils"?-- Mmm.

If she was to say "a history of sores that post-dates the operation", that would be accurate?-- Yes.

30

But if that infers that there were boils before the operation-----?-- That's the way I inferred that to say, yes.

COMMISSIONER: In any event, in your statement, paragraph 26, you suggest that Gail Aylmer was twisting what you had said?-- Yes.

Are you complaining that she deliberately twisted your words or that she simply - whether deliberately or through misunderstanding - misstated what you said?-- I'm led to believe now that it was through misunderstanding because I believe she was never given my file.

40

Right. So, you make no accusation against her of deliberately misstating the facts?-- No. I just took offence to the way the letter was written.

Yes.

MR ATKINSON: Can I take you back then to 8 October 2004 with Dr Nydam? You mentioned that he said that he couldn't discipline Dr Boyd because he was there on six months secondment, if you like?-- Yes.

50

You also mentioned that when he asked you what you wanted, you said, "An apology would be good."?-- Yes.

Did you ever get an apology?-- Yes, I did.

Can you have a look at this? I might tender that letter, if I could?

1

COMMISSIONER: It is part of the statement, I think. It can all go in together.

MR ATKINSON: Now, you asked for an apology and you got one?-- Mmm.

Can you explain - I mean, it is fairly terse, but can you explain why that apology didn't make everything all right for you?-- To me, it just looked like something standard he was going to throw out to me because I asked for one.

10

"As discussed, I'm happy to give you a personal apology for what would appear to be suboptimal care."?-- If it was suboptimal care, then why didn't he follow it through?

In terms of changing the system? Do you mean in terms of disciplining staff, or-----?-- Yes, the lot.

20

You didn't have any follow-up after that with Dr Nydam?-- No, I did not.

You didn't let matters lie, did you?-- No.

Were you about to let matters lie?-- When I received the apology letter, I wasn't overly impressed with it, but it was sort of like, "I'll just chalk it up to experience.", but I couldn't let it go.

30

Right. Well, 8 October is the same day as the meeting, so you are not aware that he made any further inquiries after that meeting?-- No.

You have got no reason to think that he had any discussions with Dr Boyd or Janice Williams?-- Well, he told me that Dr Boyd was no longer at the hospital.

40

Right. Did you go to the hospital subsequently?-- I took my son to the hospital in December.

Now, I understand you take your son to the hospital regularly to see a paediatrician?-- Have done for years, yes.

And in December - so this is some eight weeks after the meeting, perhaps?-- Yes.

You were there to see your son's paediatrician?-- Yes.

50

What happens whilst you are at the hospital?-- Walked in to Dr Boyd.

All right. Tell me about that?-- I thought I was actually seeing things. My husband was with me at the time and I asked him to have a look and see if it was definitely him.

And it was?-- And it was, yes.

1

I should interpolate here, Commissioners, that Dr Boyd has given a statement and said that he was on leave for some - with an injury in late - in the latter part of 2004, but certainly his term of employment with the hospital went from January 2004 to January 2005. He was employed at the time and he did return. So, you saw Dr Boyd. Are you absolutely certain it was him?-- Yes.

10

And I gather that made you angry?-- I was very angry.

And what made you angry about that?-- That Kees Nydam had lied.

After that, you wrote a rather more strident letter?-- I wrote a letter to Nita Cunningham.

I'll show you that letter. Is it right to say this letter you didn't send to the hospital?-- No, I didn't, I sent it to Nita Cunningham.

20

All right. Ms Cunningham has told you that she doesn't have a record of receiving it?-- That's correct.

So, in a sense, if she's right, it sounds like no-one would have received the letter?-- She showed up at the first victims meeting and that's when I put it to her that I sent her a letter. She said she didn't receive it and had asked me to come down the next day and bring her a copy of it.

30

My point is this: if that's right, then, effectively, no-one has seen the letter?-- So she says.

And certainly you didn't give it to the hospital?-- No, I did not.

I guess it is mostly relevant as a record of how you were feeling at the time?-- Mmm, yes.

40

And, in a word, angry?-- Mmm.

All right.

COMMISSIONER: Just to explore that a little further, you understand I don't want to be heading down sidetracks that may turn out to be irrelevant - we would all understand that Members of Parliament have staff to assist them with their electoral duties and so on - was Ms Cunningham saying that the letter had never arrived at her office or was she merely saying-----?-- No, she was saying it never arrived in her office.

50

Is that right?-- She says that they mark every letter that comes in.

D COMMISSIONER EDWARDS: And you sent it to her Bundaberg office?-- Yes, I did.

MR ATKINSON: Now, at that time, and we are talking about late 2004, were you aware that other people had had problems with the Bundaberg Hospital?-- Not at that precise time, no.

1

And are you any the wiser now on how you would lodge a complaint with the hospital?-- Actually, no. Not fully, no. During this time, before I actually wrote the letter to the hospital, I had actually contacted Rob Messenger as well to find out what I could do and where I stood before all this started as well.

10

Why did you choose Mr Messenger as an avenue for your complaint?-- Because he was the MP and I lived at Burnett Heads at the time.

That's the evidence-in-chief, Commissioners.

COMMISSIONER: Thank you. The statement of Linda Ann Parsons will be Exhibit 106. That's including the attachments.

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ADMITTED AND MARKED "EXHIBIT 106"

MR ATKINSON: Perhaps there is one thing I should address: there are a couple of places where you depart just slightly from your statement?-- Sorry?

30

Where you do that, is that because you have thought about things clearer - more fully, and the evidence you give here should be understood in preference to your statement?-- No, I'm sorry, I don't understand.

COMMISSIONER: I don't think it matters, Mr Atkinson.

MR ATKINSON: Thank you.

40

COMMISSIONER: I was going to suggest we give a separate exhibit number to the original photographs, because the statement only has some photocopy reproductions, so if you could make those available to the secretary, they will be Exhibit 107.

MR ATKINSON: I will.

ADMITTED AND MARKED "EXHIBIT 107"

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MR ATKINSON: Can I include in that exhibit there were a couple of photos I didn't show-----

COMMISSIONER: But they are the ones referred to in the

statement.

1

MR ATKINSON: They are.

COMMISSIONER: Thank you, Mr Atkinson. Mr Harper, are you representing the witness?

MR HARPER: Yes, I act for Ms Parsons.

10

EXAMINATION-IN-CHIEF:

MR HARPER: Ms Parsons, I would like to take you firstly to your dealings with Dr Patel. I would like to get you to talk specifically about those. Can I ask when you first spoke to Dr Patel, how was he introduced to you?-- He introduced himself.

20

Did he indicate what position he held?-- No, he just told me he was the surgeon.

Okay. You quite clearly recollect that he did indicate he was a surgeon?-- Yes.

Did anyone else at the hospital also indicate to you anything about Dr Patel's position?-- No, I don't think so.

30

You spoke about that on this occasion he originally diagnosed you as having a hernia?-- Yes.

And that was part of the purpose of the operation?-- Mmm.

After the operation, you then had a subsequent follow-up with him immediately after. Can I ask you what did he say to you in that particular meeting straight after the surgery?-- The follow-up wasn't with him, I always saw Dr Boyd.

40

Okay. So, you didn't straight after have any discussion with Dr Patel?-- No.

So, you-----?-- I saw Dr Patel very vaguely when I was having those other sutures put back in and that's the only time I saw him again.

Okay. So, that was the further occasion when you again were being restitched and you saw him in the room, but he didn't come and examine you; is that right?-- No.

50

Okay. Can I take you to your statement now, and you at paragraph 16 of that statement, you make a comment about Janice Williams and you mention that, "She is from the old school like me. You don't question a registered nurse, let alone a doctor, but she was very clear and pointed with Dr Boyd." What did you mean by that statement that she was from the old school?-- When I was 18, 19 years of age and I

started out in aged care, we had matrons, not RNs, and you definitely didn't question them or a surgeon.

1

Right.

COMMISSIONER: I interpret what's here as simply meaning that Janice must have been pretty disturbed by what she saw if she went so far as to question a doctor's clinical decision?-- She just demanded at the end, you know, "Could she have some pain relief now?"

10

Yes.

MR HARPER: Could I go then to the meeting with Dr Nydam? In the letter that he sent to you, he says - just excuse me for a moment - says in the second paragraph, "As discussed, I'm happy to give you a personal apology.", and I emphasise the words there "as discussed"?-- Mmm.

In the meeting you had with him, did he then say at that stage that he was willing to offer you a personal apology?-- He asked me what I wanted, and I said, "An apology wouldn't go astray.", and he said, "Oh, well, you can have one of them."

20

Did he indicate anything about what an apology would involve?-- No.

Did he use in that discussion the term "suboptimal care"?-- No.

30

What did you think of the use of that term "suboptimal care" in the-----?-- I thought he was making himself very liable by using the word.

Now, as I would say, "suboptimal" means less than best practice?-- Mmm.

In your view, was your treatment even somewhat less than that?-- Absolutely.

40

COMMISSIONER: "Suboptimal" can mean anything from zero to 99 out of 100, I suppose.

MR HARPER: It could. An equally appropriate term, can I suggest to you, in your view, might have been less than professional care?-- Definitely less than professional.

Can I then ask you about the evidence you gave earlier where you said you had been told as to the current state of your wound, you are still open inside, I think, was the term?-- Yes.

50

Who told you this?-- Dr Michael Rudd.

Right. How did you come to see Dr Rudd?-- We were informed that we could see a surgeon of our choice. The one that was recommended for me by my GP will have nothing to do with public health, so Gerry Fitzgerald recommended Dr Rudd.

All right. Where does Dr Rudd operate from?-- Royal
Brisbane.

1

And what has he indicated to you about your current condition
and what he proposes for your treatment for the future?-- He
says that he is going to cut this wound right out, he is going
to remove scar tissue. He said that the severed nerves and
stomach muscles can't be repaired because it has been left too
long. I think it was they burn the end of the nerves off so
they don't cause any trouble. He said that he will put the
wound back together, do some skin grafting and I will have a
lovely white line.

10

Nothing further, Commissioner.

COMMISSIONER: Thank you. Mr Allen, have you got any
questions?

MR ALLEN: I do, but I'm not yet in a position to be able to
commence cross-examination.

20

COMMISSIONER: I understand entirely. Is anyone, as it were,
keen to go ahead now, or should we have an early lunch and
give people an opportunity to catch up on the files? I didn't
see anyone looking really enthusiastic.

MR FITZPATRICK: Commissioner, I could perhaps start, although
I'm still waiting on a statement from Dr Nydam in relation to
the meeting.

30

COMMISSIONER: I don't see much point in starting if you are
going to have to interrupt anyway.

MR FITZPATRICK: Thank you, Commissioner.

COMMISSIONER: I don't see any disadvantage in having an early
lunch. It is quarter past 12. Shall we resume, say, at 1.30?
Does that suit? Is that convenient for you?-- Yes.

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THE COMMISSION ADJOURNED AT 12.17 P.M. TILL 1.30 P.M.

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THE COMMISSION RESUMED AT 1.35 P.M.

1

LINDA ANN PARSONS, CONTINUING:

COMMISSIONER: Just a couple of things before the evidence resumes. The first is that Counsel Assisting were handed a letter addressed to me from a gentleman who wanted to ensure that it comes personally to my attention. I just want to confirm that I've received that letter. What becomes of it, we'll see in due course, but I do want to emphasise again, as I've done previously in Brisbane, that Counsel Assisting and the entire legal and investigative team of the Inquiry have been handpicked. They are not here as representatives of the government or of any other interest group in this matter. They are entirely independent, and I can assure any member of the public that anything which is given to the Inquiry team will come to our attention.

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Obviously we don't have the time to deal with everything individually, and it may be that things are reviewed and investigated by one of the staff rather than myself or the two Deputy Commissioners personally, but you can have full confidence that things brought to the attention of the Inquiry team do come to our attention.

The second thing I wanted to say-----

30

UNIDENTIFIED SPEAKER: Thank you for confirming that. That means a lot to me.

COMMISSIONER: Thank you. The other thing I wanted to mention concerns one of the four patients in respect of whom evidence has been given, specifically patient number P26. I earlier rescinded the suppression order in relation to his name and the names of the other three indicated, and I've done that for a very deliberate reason. We can't have people giving evidence anonymously. If people do come here to give evidence then there has to be a degree of public scrutiny, but Mr Atkinson has helpfully reminded me, and Mr Scott with him, that we're talking here about a young man who has suffered a severe injury, and I would urge everyone concerned, particularly in the press and media, to bear in mind that this young man has suffered enough, and if I can ask you to exercise your discretion in not highlighting his name or causing him any unnecessary embarrassment, I think that would be an appropriate act of generosity on the part of the media. I won't say more than that. I think it is important that discretion be exercised in using that name or discussing it.

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Now, who do we have next? Mr Allen?

MR ALLEN: Yes, thank you, Commissioner.

CROSS-EXAMINATION:

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MR ALLEN: Ms Parsons, my name is John Allen and I'm going to be asking you some questions on behalf of Janice Williams and Gail Aylmer. Now, you've explained that you underwent surgery on 15 March 2004 and that was performed by Dr Patel?-- That's correct.

10

And I don't need you to look at this document, but a surgeon's report of that date confirms your evidence and your understanding that there was no hernia found, apparently some excision of scar tissue, and the plan, as stated at that time, was for the removal of staples in one week?-- Mmm hmm.

I'll tender the copy of that surgeon's report.

COMMISSIONER: The surgeon's report will be Exhibit 108.

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ADMITTED AND MARKED "EXHIBIT 108"

MR ALLEN: Pursuant to that plan, as I understand it, seven days later, on the 22nd of March 2004, you went back to the hospital for removal of the staples?-- Correct.

30

And the staples were removed by a nurse. Is that correct?-- Yes, I think so, yes.

And that occurred in the dressing clinic?-- Yes.

Are you familiar with that term?-- Yes.

I'll ask if this copy of the medical record could be placed on the visualiser, the one flagged "1". You will see at the top of the page there there's an entry for the 22nd of March 2004. There's a note there "wound union good" and a tick. At the time the staples were removed it appeared that the wound had in fact united. You wouldn't disagree with the observation made by the nurse at that time of the removal of the staples?-- No, I've already stated that it was together when I left there.

40

There's a note there "Steristrips applied". Are you certain as to your recollection that there was only one Steristrip-----?-- Yes.

50

-----applied?-- One. One long one.

You couldn't be at all mistaken about that?-- Not unless it fell off on the way home.

I see. You went home?-- Yes.

And you said that you felt blood, that you rang up the hospital and you returned there that day?-- Yes.

1

You met up with Janice Williams?-- Janice was in the clinic when I went in there, yes.

Okay. And then you recall a doctor coming in?-- Yes.

And that was Dr Boyd?-- That was Dr Boyd.

10

Do you recall if there was any other doctor around at that time?-- No, I don't think so.

A registrar or a junior doctor working under his direction? You don't recall?-- I don't recall any other doctor there.

Okay. In any event, if we could just look at the page that's flagged "2", perhaps if we could head down the page, further down, because I think we're looking there at an entry in relation to - which was pre-operative. Now, if we could just see the date on the left of that entry that's on the screen now, 22 March 2004. Now, as I understand it that may have been written by a Dr Townsey, but in any event-----?-- Sorry, I don't know the name.

20

But in any event, it was Dr Boyd, as you recall, who was dealing with you?-- Mmm hmm.

There's a note there, as far as we can interpret it, of reference to a wound dehiscence with a small opening in the upper wound. "No infection". There's reference to a plan being "pack with gauze", and it may be "Steristrips". I can't actually read that?-- Sorry, I can't read any of it.

30

No. But the final line seems to be "Review Dr Patel" - or "Dr Patel's team tomorrow". What occurred, as you recall it, is that the wound was in fact packed?-- Yes.

And that was by Janice Williams?-- Mmm hmm.

40

Could we just go further down the page then. Once again it's an entry on the 22nd of March 2004, and it seems to indicate that "abdominal wound dehiscence, right side. Normal saline. Pack. Review surgical ward. 23 March 2004"?-- Mmm hmm.

Now, do you recall that there were arrangements made on the 22nd of March 2004 for you to be reviewed the following day by Dr Patel or his team?-- Yes, I was asked to come back at 9 o'clock the next morning and fast from midnight.

50

I see. Okay. Before we leave the 22nd of March 2004, do you agree with the description which is apparently noted by the doctor at that time, that there seemed to be a small opening in the upper part of the wound?-- Yes.

And do you agree that the doctor, be it Dr Boyd or anyone else, directed Nurse Williams to pack the wound?-- Sorry? A doctor directed her to do it?

A doctor directed Janice Williams to pack the wound?-- Yes. 1

And she did so?-- Yes.

Okay. And on that occasion do you recall whether you were upset to the extent of requiring your hand being held by Ms Williams or otherwise being consoled?-- Not at this stage. When I was having the stitches put in the next day, yes. 10

Okay. That was the next day, was it?-- Mmm.

All right. You have some recollection of Ms Williams saying, "I hope you didn't look at that."?-- Yes.

Are you certain about that?-- Yes.

See, if I could suggest to you that that wasn't said, and in fact there was nothing unusual about the wound that day which would have prompted such a remark, you'd disagree with that?-- Yes. It was just - it wasn't a derogatory remark. It was just a - you know, a friendly remark just said. 20

Okay. Now, I'll suggest to you also that you weren't given any advice by Ms Williams, and certainly no piece of paper to the effect that you should be fasting the next day?-- It was handed to my husband, and then when we got home there was a message left with my son to tell us not to come at 9 o'clock, to come at 1 o'clock. 30

See, there wasn't any surgery booked for the next day?-- No, we just assumed I was having surgery, that's why I was asked to fast.

By whom?-- By whom what?

Who asked you to fast?-- That was the paper we were given by Janice when we left.

All right?-- Fast by midnight and come back at 9 o'clock, but by the time we drove home, a message had been left with my son not to come at 9 o'clock, to come at 1 o'clock. 40

Well look, I'll suggest to you that you're mistaken about that?-- Well, I don't think so, I'm sorry.

Now, the next day you did attend the hospital again?-- Yes, I did.

And if we could look at those part of the medical records flagged "3" for the 23rd of March 2004. Perhaps if we go higher up the page. There's an entry there for that date, "Surgical Ward Review", reference to staples being "removed yesterday. Wound opened up after above", it would seem, and there's reference to the procedure that was undertaken by way of suturing. You agree - and you've given evidence that there was a local anaesthetic applied?-- I was given an injection, yes. 50

You were given pethidine after the procedure?-- Yes. 1

And was the plan then that you'd be reviewed in two weeks' time?-- I'm sorry?

There's a note there "review in two weeks' time"-----?-- Yes.

-----"at outpatients. Earlier if problems." That was the plan, that the stitches would be left in for two weeks?-- Yeah, 10 days. 10

Your recollection is 10 days, is it?-- Yes.

Are you certain about that?-- Yes.

Couldn't have been 14 days?-- No.

All right. This procedure on that day, you tell us that during it you felt the sensation of the stitching?-- Yes. 20

And you've worked in aged care?-- Yes.

Have you ever worked in any sort of surgical position?-- No.

Okay. You've undergone surgery yourself, of course?-- Yes.

Has that, on previous occasions, been under local anaesthetic?-- Yes. 30

Okay. Have you ever experienced a situation where you can feel sensation, and a very upsetting and uncomfortable sensation, without any degree of pain accompanying it?-- I have felt a tugging feeling during having a procedure done, but I have not felt pain like this before, no.

Okay. So you'd say it was different from that which you'd experienced earlier?-- Totally different.

All right. Now, you indicate that there were a number of nurses present apart from Dr Boyd?-- Yes. 40

There was Janice Williams?-- Yes.

And she wasn't in the room during the whole procedure because she, you say, kept going out to get cold cloths?-- She was going out to get cold cloths to put on my forehead, yes.

She, at times, was holding your hand?-- Yes. 50

In a comforting way?-- Yes.

In fact you specifically said she wasn't holding any part of you to hold you down or restrain you?-- No, I think I was squeezing her hand more.

Okay. So she wasn't holding you down at all?-- No, she wasn't, no.

All right. Now, you don't suggest, do you, that you were screaming out for the procedure to stop?-- I was crying and I asked him to stop because I could feel everything he was doing to me.

1

I see. It wasn't simply a case of telling Dr Boyd that you could feel what was happening?-- I'm sorry?

Could you have simply been saying to Dr Boyd, "I can feel what's going on."?-- If I say, "I can feel what's going on", with no expression, then it wouldn't mean anything. I was crying and I raised my voice at him.

10

Saying that you could feel what was going on?-- Yes.

You may not necessarily have said, "Stop."?-- Well, I think I did.

Do you say that you were screaming or yelling?-- I was very distressed.

20

Right. But that might not have involved you yelling or screaming?-- Well, I don't think I was yelling so people outside could hear me, no.

During this whole distressing procedure you've described, could you be mistaken as to whether or not any persons in that room were in fact holding you down?-- I remember someone having their arm on my shoulders, and I remember someone having their hands on my ankles. Whether that was meant to be in a comforting way or not, I don't know, but I don't like being held.

30

Well, were these holds that you describe in fact stopping your body from moving in that you were struggling-----?-- If I had a sufficient amount of anaesthetic I wouldn't have had to move, would I.

No, were you attempting to move but finding that you could not because you were restrained?-- Yes, I tried moving. It was hurting.

40

But you were unable, because of the pressure being applied by these-----?-- Well, I couldn't move too far from the table, could I?

You were asked to look at the written complaint undated, but received by the hospital, it seems, in early October?-- Mine?

Yes?-- Yes.

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You looked at that earlier?-- Yes.

Okay. Now, that was the first time you actually put pen to paper to record the events that had occurred back in March, some seven months earlier?-- Yes.

And as well as having neat handwriting, you set out, as has been noted in a very comprehensive and logical way, everything that you recall occurring?-- Yes. 1

And you tried to be as thorough as possible and accurate as possible?-- Well, I tried to be, yes.

Okay. Well, you describe the procedure then as - this is the bottom of page 2 of the document - that you were injected with anaesthetic, the doctor then proceeded. You say that as your head was still thumping - and that, I take it, was the migraine?-- Yes. 10

You felt sick?-- Yes.

"Then I informed the doctor that I could feel everything he was doing"?-- Yes.

"I actually told him a few times."?-- Mmm hmm. 20

"Each time he told me not to worry, it would be over soon."?-- Yes.

Okay. You don't suggest, do you, in that, that you were yelling out or screaming?-- I raised my voice, I think.

You don't suggest in that that you yelled out that he should stop?-- Well, I wanted him to stop, yes.

But you may not have said that. It may be, as you describe in the letter, that you told him a few times that you could feel everything he was doing?-- I think as a patient that was laying on the table stating that they could feel everything that a surgeon was doing to them - I think if the surgeon did the right thing by that person they would have stopped. 30

I understand your evidence, yes.

COMMISSIONER: Mr Allen, I wonder if you're starting at shadows here. There are only two nurses mentioned in this evidence, aren't there? Ms Williams, who is praised for her concern, and Nurse Aylmer, who has written a letter which speaks for itself and on its face might be thought not to state this witness's concerns accurately, but she's already told us she accepts that if that's so, it's an innocent misunderstanding. What other interest do your clients have in pursuing this matter? 40

MR ALLEN: Well, my client, Ms Williams, for example, emphatically denies that she was present during a situation when this witness was held down by nursing staff as she yelled and struggled against that. In fact she says if that had occurred she would have acted immediately to stop it. I'm asking this witness - I'm testing this witness's recollection as to exactly what occurred. 50

WITNESS: Can I say something?

COMMISSIONER: Yes, of course.

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WITNESS: Sorry, I forgot your name.

MR ALLEN: John Allen?-- Sorry, Mr Allen. With all due respect, my wound dehiscd, I was the patient laying on that table, I was the one who felt everything that was being done to me. When I wanted that doctor to stop, he should have stopped there and then. He should not have continued. He should not have put me through the hell I felt.

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I'm not here to defend Dr Boyd, but I am here to investigate your evidence and, Commissioner, in so far as-----?-- My evidence is written in this statement as I recall it happening, right, and the fact remains that (1) Dr Patel operated, (2) the wound dehiscd, (3) I was on that table with my stomach open. I should have been sent back to surgery. I should not have been left on that table getting stitched by a doctor where I could feel everything that was going on.

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COMMISSIONER: Do you have any criticism at all of Nurse Janice Williams?-- No, I have not criticised her one bit.

All right. Mr Allen, you can take it as far as you like, but your clients aren't being criticised. If you want to re-open these issues, that's a matter for you, but I frankly don't see the point.

MR ALLEN: The evidence has been led-----

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COMMISSIONER: You go ahead. You make your decision. If you want to re-open these matters, that's a matter for you. At the moment the evidence stands that your clients haven't been criticised. If you want to change that, go for your life.

MR ALLEN: You still have the document in front of you?-- Yes.

Dr Boyd, according to your report, told you not to worry, it would be over soon?-- Yes.

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"The nurse who was assisting was very caring and went out for a cool cloth for my head."?-- Yes.

That's obviously Janice Williams. You refer then to still feeling everything that was happening?-- Yes.

The needle and stitching. Okay. Now look, one thing you don't mention in there at all is that anyone was holding you down and restraining you?-- No, but I told Dr Nydam this.

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Yes, and that was in October.

COMMISSIONER: That was four days later, yes.

MR ALLEN: Yes. Now, could it be that there's no mention of that in your written document because you in fact are mistaken about whether you were being held down and restrained?-- I

didn't exactly say I was restrained. I said they had their hands on my shoulders and my ankles. I did not say anyone was pushing me down. I do not like being held that way.

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Okay. I'll put it quite simply. You weren't being held down by any nursing staff. That's the suggestion I put to you?-- But you are entitled to your opinion too.

All right. Thank you.

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COMMISSIONER: You disagree with that suggestion?-- I didn't say they were pushing me.

No?-- I said they had their hands on me, which is quite different to being forcibly pushed. I just don't think that any nurse should be standing there with their hands on somebody's shoulders and legs while there's a procedure going on, because it can be misinterpreted.

MR ALLEN: Now, in your statement for the Commission which was given recently, and in your evidence today, you feel that Janice Williams was rather pointed in her indication to Dr Boyd that you should be given pain relief?-- Yes.

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That's obviously a matter of impression that you formed after thinking about this?-- It sounded to be the tone of her voice.

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All right. You may - you're not suggesting necessarily that Ms Williams had formed any opinion that Dr Boyd's clinical behaviour was inappropriate?-- Well, that was between her and the doctor.

Right. And you're not suggesting that you were able to reliably form an opinion that she was in any way critical of the doctor?-- No, that's between her and the doctor as well.

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Thank you. If you could just - so that we have the full sequence of events-----

COMMISSIONER: We have got the full sequence of events. If something's missing you can put it in.

MR ALLEN: Could we look at the Outpatients' notes of 30th March 2004, which are also flagged number 3. Perhaps before that, the page flagged 4 is apparently notes of the Department of Emergency Medicine for the 25th of March 2004. You attended the Emergency Department because of the problems you were having with the wound-----?-- Yes.

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-----soon after the resuturing. And it was noted at that time that there was a post-operative wound infection and you have indicated that you felt you had an infection at that time?-- Yes.

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We will just go down the page, please?-- That was the day the GP sent me back over there.

Right. Okay. Did you follow that advice and you went to the Emergency Department?-- Yes.

And could we just go down the bottom of the page, please, and then over to the top of the next page where the entry continues. There was a seven centimetre long wound and it seems that it's noted at that time that there's an obvious infection, and that would accord with your recollection?-- Yes.

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COMMISSIONER: Mr Allen, we have heard that already. Is there something new that you are coming to?

MR ALLEN: I thought perhaps the Commission might be assisted by documentation in relation to the relevant events referred to by the witness. But if that's not the case-----

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COMMISSIONER: See, there are gentlemen sitting over there. They're counsel assisting. If it's a matter of assisting the Commission, you can leave it to them. You are here to represent your client. If there's something that your client or any of your clients needs to bring out, this is your opportunity to do so, not to waste our time going through things that we have already heard.

MR ALLEN: If we could go then to the entry for the 30th of March 2004, which I believe is flagged 3. Would you agree that your stitches were in tact - those stitches that had been put in by Dr Boyd were still in tact on 30th of March 2004?-- No, I do not.

So that entry's incorrect-----?-- Exactly.

-----"stitches in tact", all right. And there's apparently a plan for sutures to be removed next week?-- Yes.

That was the plan then?-- On the - two weeks later, yes.

Okay. And we go to the 5th of April 2004, dressing reviewed, flag 1. Now, you were referred from the Surgical Ward. Sutures were removed and a dressing applied. Do you recall there being some agreement that rather than returning to the hospital for reviews and dressing, you would attend to your own dressing?-- Yes, I had a girlfriend who is an AIN, she was doing it.

Okay. And essentially that's the procedure you followed after that?-- Yeah, she used to come around every day and do it.

But you did end up coming back to see Dr Boyd. And if we could go to that page flagged 3 for the 21st of April 2004 when you were reviewed by Dr Boyd. Would you agree with the description he gives then that the wound was much improved, very little ooze from the wound?-- Is that what that says?

Yes, apparently. Do you feel there had been an improvement by the 21st of April?-- By this stage it was only oozing from the bottom half of the wound.

I see. Okay. And you were advised that there was no further review required unless there were problems?-- That's right.

All right. And was there, in fact, any subsequent reviews? Did you go back to the hospital to have the wound reviewed because of problems?-- I saw Dr Boyd on - I'm pretty sure it was after April I saw Dr Boyd for one more visit.

Would you agree with the description given on the 21st of April 2004 by Dr Boyd that your wound was nicely healed, apart from a small area which had very little ooze?-- No, I don't agree with that.

You don't?-- No, I don't.

All right. I will tender a letter from Dr Boyd on 21st of April 2004 to Dr Ramnanan.

COMMISSIONER: The letter of the 21st of April 2004 from Dr Boyd to Dr Ramnanan will be Exhibit 109.

MR ALLEN: Dr Ramnanan was your GP?-- Yes.

Just finally, in relation to this meeting you had at the hospital on the 8th of October 2004, there was a conversation with Dr Nydam during which Gail Aylmer was then present?-- Yes.

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He arranged for Gail Aylmer to come along?-- Yes, at the end of the meeting.

And basically handed you over to her?-- Yes.

You don't know what he told her about your case before he did so?-- No, because I left with her.

Okay. And she was accompanied by the hospital's microbiologist, first name Peter?-- Yes.

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And you expressed to Ms Aylmer and Peter your concerns about the recurrence of sores you had since your surgery?-- Yes.

And Ms Aylmer discussed with you that surgery is one of a number of factors that can knock a person's immune system around?-- Yes, and also stated that I was extremely tired and run-down from night duty.

30

Yes. And she spoke about how people will develop sores and infections if their immune system is run-down?-- Yes.

And you indicated that you were working a lot of night duty?-- Well, as I have already stated, I went to that meeting straight from night duty.

And, in fact, she commented upon the fact that you looked physically exhausted?-- Yes.

40

And did she - did you discuss any difficulties that your medical condition might present in relation to carrying out your work duties?-- I asked her about whether the sores - well, I knew that the sores needed to be covered to go to work, whether they were contagious in any way and should I still cover them being at work and she agreed, yes.

Yes. She said you would be able to carry out your work?-- Yeah.

50

As long as the sores were covered?-- Yes.

And-----?-- Oh, and was I obligated to tell anybody at work.

Okay. Do you recall the microbiologist asking whether you had had any history of diabetes?-- Yes.

And you discussed with Ms Aylmer and the microbiologist the

importance of getting a swab of the sores so that it could be analysed?-- Yes. 1

And do you recall whether Ms Aylmer or the microbiologist raised the possibility, depending on the results, there could be a referral to an infectious disease consultant?-- Yes.

And, of course, you've described how you went to a stall to see if you could obtain a swab but because the sores were dry it was decided that you should take away the swab?-- Yes. 10

That was supplied to you by Ms Aylmer?-- Yes.

Along with a pathology form?-- Yes, and a letter for Casualty for them to send it straight to her when I went in.

Okay. And it was about eight weeks later that you were able to do that?-- Yes.

And you did return it to the hospital?-- Yes. 20

Okay. And you moved home around that time?-- Yes.

And you may not have taken steps to let the hospital know about the change of address?-- Well, I think I would have. As I said, my son goes there quite regularly.

But, in any event, when you spoke to Ms Aylmer later, she indicated that she had posted you-----?-- Yes, she is said she posted me a letter and it went back to her. 30

-----a letter with the results? When she got the new address, she sent you a copy of that?-- She sent it to me. Yep.

Your unhappiness about the terms of the letter was that you understood it as indicating that Ms Aylmer had a misapprehension that you had had a history of boils before-----?-- Yes.

-----the operation?-- Yes, that's the way I took the letter, yes. 40

That's how you interpreted it?-- Yes.

But that interpretation wasn't from anything extra Ms Aylmer said, it was simply the terms of the letter that all of us can read?-- She just - it was - the way the letter came out, it was more or less, you know, you're tired, you are run-down, you work nights. This is more or less your own fault, sort of thing. That's the way we took it. 50

But what you based that interpretation on was, what, the letter itself?-- Oh, what she had said, you know, upstairs in the office.

Oh, back in October?-- Yes.

I see. Which was really her asking you about whether or not

you were working late and-----?-- Yes.

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And whether you were exhausted, things like that?-- But as I've already stated, I've been since informed that she was not told that I was operated on and she hadn't been given my file.

Right. Okay. All right. Thank you.

COMMISSIONER: Anyone else have any questions? Mr Diehm?

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MR DIEHM: I don't, Commissioner.

COMMISSIONER: Ms Feeney?

MS FEENEY: No, thank you, Commissioner.

COMMISSIONER: Mr Macsporrán?

MR MACSPORRAN: No, thank you, Commissioner.

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COMMISSIONER: Mr Fitzpatrick?

MR FITZPATRICK: Yes, I do, thank you, Commissioner.

CROSS-EXAMINATION:

MR FITZPATRICK: Ms Parsons, you tell us in your statement that you've had 20 years' experience as an Assistant in Nursing; is that so?-- In aged care nursing.

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In aged care. So you have been working exclusively in aged care over that period?-- Yes.

Is that so?-- Yes.

COMMISSIONER: Ms Parsons, I should mention, Mr Fitzpatrick's representing Queensland Health in these proceedings.

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MR FITZPATRICK: Thank you, Commissioner.

WITNESS: Thank you.

COMMISSIONER: Can I ask, there was going to be a list of individuals whom you represent. Is Dr Nydam one of them?

MR FITZPATRICK: Dr Nydam is, Commissioner.

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COMMISSIONER: And Dr Boyd?

MR FITZPATRICK: Dr Boyd as well. Commissioner, if there is a letter, if we ought to provide a letter about that, I undertake to see that that's done.

COMMISSIONER: I'm just asking because I don't know.

MR FITZPATRICK: Yes, thank you, Commissioner. 1

COMMISSIONER: So Mr Fitzpatrick is also representing Dr Nydam and Dr Boyd?-- Okay.

MR FITZPATRICK: You have never worked in a hospital, Ms Parsons?-- No.

No. But presumably you do know who the Director of Medical Services of a hospital is?-- Well, I believe he's the one that's in charge. 10

Yes, I see. And that it would seem, at least from the time that you received his letter of apology, you knew that Dr Nydam was the Acting Director of Medical Services of the Bundaberg Base Hospital; is that so?-- Yes, that's how he introduced himself.

I see. So from the October 2004 meeting, you knew that he occupied that role and also his name?-- Yes. 20

Right. Why then, Ms Parsons, do we read in paragraph 24 of your statement, which I think - I don't have the date of it, but I assume it was signed recently?-- Sorry, which one?

Your statement that's been handed before the Commission by Mr Atkinson?-- Yeah, what about it?

Why do we find in paragraph 24 of that document this passage, "It was never explained to me who", that is Dr Nydam, was in the sense of why it was any of his business to see you, to ask you to come in?-- Because I've already stated that you've got Dr Keating was supposed to be in charge of Medical Services. If I didn't see him I had assumed I would see Mr Leck. Then I see somebody else who says he's Acting Director. I didn't know who I was supposed to be seeing. Everyone seems to be an Acting Director up there at the hospital. 30

I see. Well, you go on and say, "I still don't know the answer to that."?-- Well, I don't. Is he an Acting Director? He told us at the meeting that he had a lot to do with Mental Health. 40

I see. Well, his letter of apology received by you in October last year said he was the Acting Director of Medical Services; is that so?-- His letter states that.

Yes?-- The apology letter says that. 50

Yes. So does that not in your mind explain who he was and why he was dealing with your complaint?-- Well, as he was Acting Director then, yes.

I see. Could you explain to me, please, Ms Parsons, what actual complaint do you make concerning Dr Patel in respect of your surgery in March of last year or the events following that surgery?-- My complaint was with, as I stated, Dr Boyd

and if he was training under Dr Patel then Dr Patel should have been held responsible.

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I see. So your complaint is that Dr Patel inadequately supervised Dr Boyd?-- Well, there didn't seem to be any supervision there.

I see.

COMMISSIONER: Mr Fitzpatrick, Mr Atkinson identified, I think, seven different points of complaint in the correspondence. I think you can proceed on the assumption that that's a comprehensive list of complaint.

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MR FITZPATRICK: Yes, thank you, Commissioner. I wasn't able to pick up with any of them that directly concerned Dr Patel.

COMMISSIONER: It's not up to the patient to say whose fault it is. She has raised complaints.

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MR FITZPATRICK: No, Commissioner, but I was merely asking her what was her complaint against Dr Patel.

COMMISSIONER: It appears it has been made abundantly clear.

MR FITZPATRICK: Thank you. Now, in paragraph 11 of your statement you express surprise at Dr Boyd's suggestion that your wound might be able to be packed?-- Yes.

Do you remember that? You say your expectation was that you would be returned to theatre?-- Yes.

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Why did you think so?-- Well, if a wound that's already been stapled in theatre the next day has come apart, or seven days later has come apart, I would expect it would be put back together the same way.

Perhaps I'm mistaken, but I understood that at that stage of affairs your wound was presenting with an opening at the right-hand side; is that so?-- When I came back it had torn open at the top on the right-hand side.

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Yes?-- By the time I got back up on the bed the whole thing had torn open.

Oh, I see. Right. Now, Dr Boyd has provided a statement. I think, in fact, two statements. One is a statement of his signed on the 29th of June 2005. I don't know if you have seen that at all?-- No, I haven't.

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In paragraph 3 of his statement, he refers to your own statement where you were surprised at him saying that the wound could be packed. And he says that that refers to a method of dressing the wound, that your wound, as it then presented, was small and superficial and that it was best dealt with in Outpatients and that it did not require a general anaesthetic. Are you in a position to agree or disagree with any of those comments by Dr Boyd?-- I don't

believe you need a general anaesthetic to have packing done. 1

Yes. But what I'm putting to you is that Dr Boyd is saying that it was in effect entirely appropriate treatment that the wound be packed; do you agree with that?-- No, I don't.

Well, I suggest to you that it was entirely appropriate that your wound-----

COMMISSIONER: You've suggested that. It's been disagreed with. Let's move on. 10

MR FITZPATRICK: All right, Commissioner. Now, in paragraph 12 of your statement you say that you looked down - this is when you're on the table - and you saw that there was complete dehiscence around the wound. It had completely reopened. It was a horrible sight?-- Yes.

Nurse Williams, I think, has provided a statement. Is Nurse Williams someone in whose nursing ability you have confidence?-- Yes. 20

She's worked for 25 years as a nurse, including for the last three at least in the Outpatients Department of the Bundaberg Hospital?-- Yes.

What she says is that she doesn't recall your dehiscence as being a deep wound dehiscence and that she wasn't required to document a full assessment and fill out appropriate wound care charts. Do you understand the difference between a complete wound dehiscence and some other sort?-- I understand that if a wound opens right up than it is open. 30

COMMISSIONER: Can you give us an indication of how deep the opening was?-- Well, I didn't look too close down that area. I just know that it was open and I felt it opening.

MR FITZPATRICK: All right.

COMMISSIONER: Was that along the entire length, the seven or eight centimetres?-- Yes. 40

MR FITZPATRICK: Now, in paragraph 13 of your statement you described how Dr Boyd returned and by this stage the wound had opened as you describe?-- Yes.

And he said, "We can still pack that."?-- Yes.

And when it was packed you say the bandaging protruded way out like a belly?-- Yes. 50

You thought that that was unusual; is that the case?-- Not thought it was unusual, it felt totally unusual.

Well, Dr Boyd in his supplementary statement says that he did, indeed, ask Janice Williams or one of the other nurses to pack the wound and that the dressing would necessarily have been bulky because it has to absorb fluid coming from the wound.

Do you disagree with that or can you-----?-- No, I don't disagree with that.

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In other words, Dr Boyd is saying that it necessarily was a bulky dressing?-- You're stating that Dr Boyd is saying that the wound wasn't much of a problem, that it could survive with just packing.

Yes?-- If it could just survive with just packing why did I have staples in the first place.

10

Yes, I see. Now, in paragraph 13 of your statement you say that at the end of this packing, you assume that you would have had further surgery on the next day, that is the 22nd of March?-- Yes, 23rd.

What caused you to think that?-- Being asked to fast at midnight and coming back the next day.

Now, you then describe events of that next day when you turned up, having awakened with a migraine and so on?-- Mmm.

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Do you remember that? You then in your statement at paragraph 15 describe Dr Boyd's process in resuturing the wound; do you recall that?-- I'm sorry?

You in paragraph 15 of your statement describe Dr Boyd's process in restitching the wound?-- As in me feeling it?

Well, you describe all of the events that occur?-- Yes.

30

Him stitching it?-- Yes.

You say in paragraph 15 that you begged Dr Boyd to stop but he wouldn't?-- No, I'd asked him to stop and I told him I could feel it and he still continued to stitch me.

You say you begged him in your statement?-- Well, if I'm raising my voice and I'm saying "stop", I believe someone should stop.

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All right. Well, Dr Boyd in his supplementary statement says that he doesn't recall you begging him to stop, as if you did this wouldn't be accepted in any way; in other words, he would have stopped?-- When a patient tells a doctor they can feel them being sutured up, I believe a doctor should stop then.

The question, Ms Parsons, is whether you did or did not beg Dr Boyd-----?-- Yes, I asked him to stop.

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-----to stop. I put it to you that you did not?-- Well, I put it to you I did.

Thank you.

COMMISSIONER: The witness has told us five times that happened.

MR FITZPATRICK: Yes, thank you, Commissioner. Now, in that same paragraph of your statement, paragraph 15, you describe how Dr Boyd oversaw a process whereby people were holding you down by the shoulders and the ankle; do you remember saying that?-- As I have stated before lunch, if someone has their hands on my shoulders or on my feet, I did not say they were putting pressure there, I said I was being held. I didn't say there was pressure and I said I do not like being held in that way, as I stated before lunch.

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Well, in paragraph 15 of your statement you say that you were being restrained by these persons?-- It feels like restraining, yes.

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Now, in paragraph 16 of your statement you say that when the suturing was over, Janice Williams was very firm and pointed with Dr Boyd. Do you remember saying that?-- As I stated also before lunch, I said it was her tone of voice.

In her statement Nurse Williams says that regarding that allegation, that is that she was very firm and pointed with Dr Boyd, she denied that she was firm and pointed with Dr Boyd, and that it's quite usual for her to ask a doctor to order pain relief?-- As I just stated before, it was her tone of voice.

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In paragraph 17 of your statement and onwards you describe the onset of infection in your wound, how you first experienced it when you were awakened during the night?-- Yes.

20

You then returned to the hospital where you were told that they wouldn't put you on a drip because you didn't have a temperature, which in your view was entirely due to the fact that it was very cold that day?-- It was freezing in Casualty that day.

It was to do with the air-conditioning?-- Yes.

I see. You say that a swab was taken from you as you were about to leave the hospital-----?-- Yes.

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-----on that day, and that this swab then subsequently analysed revealed that you had Golden Staph.

COMMISSIONER: I think it is Staph, isn't it?

MR FITZPATRICK: Mine says Golden Staph.

COMMISSIONER: There was an earlier version that said Golden Staph. That was adopted by the witness as Staph.

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MR FITZPATRICK: Thank you.

COMMISSIONER: We do have, in any event, the pathology report which confirms that, but it's not Golden Staph, but another staphylococcus.

WITNESS: Apparently the first one came out as Golden Staph.

COMMISSIONER: Yes.

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MR FITZPATRICK: Thank you, Commissioner. Can we move, please, to your meeting with Dr Nydam in October 2004?-- Mmm-hmm.

How long was your meeting with the doctor on that date?-- Probably about 40, 45 minutes.

40, 45 minutes with the doctor?-- Dr Nydam?

1

Yes?-- Yes.

And then you were transferred to?-- I went downstairs with Gail Aylmer.

Now, you describe in your statement at paragraph 25 how Dr Nydam's manner during that meeting was abrasive?-- Yes.

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Can you expand on that?-- He just sounded rude and condescending and really didn't want to listen to what we had to say.

Yet the meeting lasted 45 minutes?-- Well, I was asking questions and so was my friend.

What was he doing?-- Answering.

Yes. Responding?-- Yes, but not in very civilised manner.

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I see. And in what way was he uncivil?-- He just more or less told us what he thought we wanted to hear and then in the end just turned around and said, "Well", you know, "what do you want me to do?" He told us that Dr Boyd was no longer employed at that hospital, and that was a lie. He told us he couldn't hold Dr Patel responsible when he was supposed to be working under Patel. He didn't explain why he couldn't hold him responsible.

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I see?-- And I since found out that at that meeting he lied because Dr Boyd was still employed at that hospital at that time. So, he should have followed through on a complaint and had something said to Dr Boyd.

I see. Well, Dr Nydam too has provided a supplementary statement. It was signed, I think, today. It's dated the 30th of June 2005. Have you had the opportunity to look at it?-- No.

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All right. In it he says that he remembers your case well, has a good recollection of your case. He says that he did arrange for you to attend a meeting with him to discuss the matters raised in your letter. He says that it's his usual practice to invite patients to do that who have complaints regarding the provision of clinical care at the hospital. He says that it's not his recollection that his manner was abrasive or that he just wanted you out of the room as soon as possible?-- I'm sorry, I don't agree with that.

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Well, can I suggest to you the fact that he took 45 minutes with you is hardly suggestive of the fact that he wanted to eject you from the room as soon as possible?-- Can I say that he took 10 minutes out of the room just to find the swab report that was meant to be in my file.

Can I suggest that he then having spoken to you and listened to you for that time placed you in the hands of the hospital's

Infection Control Department, Nurse Aylmer?-- Yes, I have said he brought her into the room.

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Yes. With a scientist of some sort, called Peter, then attempted to take a swab from you?-- Yes, we have already said yes to this.

That was unsuccessful?-- Yes. We have already said that too.

That you were then asked to provide a swab at a subsequent time?-- Yes, we have already said that too.

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Which you did?-- Yes.

There's a document which says that it was analysed by the hospital?-- Yes.

And that the results were unfavourable in the sense that there was no link that could be established between-----?-- That's right. There was no link established.

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COMMISSIONER: Mr Fitzpatrick, you have just put in several questions in a row to the witness things that are consistent between this statement and Dr Nydam's. There's not any point in doing that. We have heard her evidence. You don't have to confirm it.

MR FITZPATRICK: All right. Thank you.

COMMISSIONER: But if there are inconsistencies, if, for example, you have instructions from Mr Nydam refuting the assertion that he lied about Dr Boyd's presence at Bundaberg, then that's something I'd expect you to put.

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MR FITZPATRICK: I will do that immediately, Commissioner, because in paragraph 10 of his supplementary statement Dr Nydam says that Dr Boyd was not at the Bundaberg Hospital at the time of your interview with Nydam in October?-- No. That's not what he said. He said he no longer works at the hospital. He said he was there for six months training under Dr Patel and he was back in Brisbane.

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All right. Well, perhaps we should start with Dr Boyd because what Dr Boyd has said is that-----

COMMISSIONER: No, no, no, no, no. You put your case to the extent it contradicts this witness's evidence. If Dr Nydam denies that version of the conversation, then you put the alternative that Dr Nydam's going to testify to.

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MR FITZPATRICK: Dr Nydam says that at paragraph 10 of his statement that he made inquiries and was informed that Dr Boyd was on extended leave of absence for an indefinite period and had returned to his home in Brisbane. He says he was not aware as to whether Dr Boyd was returning to the hospital?-- No. He stated Dr Boyd was no longer employed at the hospital.

I see. He says that usually a Principal House Officer, as

Dr Boyd apparently was, will only complete a six month rotation at the hospital?-- Yeah. He said he was there on a six month contract and he'd finished and he'd gone.

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Yes. And Dr Boyd in his evidence says that, in fact, unusually he completed a 12 month term at the Bundaberg Hospital?-- Well, I was under the impression - told by Dr Nydam that he was no longer working at the hospital when I had my meeting with him. But when I went back in November - in December, Dr Boyd was there.

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Yes?-- Now, if he was no longer employed at the hospital, which is what Dr Nydam stated, what was he doing there in December?

Well, what you say in your letter is that you regard Dr Nydam as acting. That's what you say in your written statement to the - I think it's the Health Rights Commission?-- No, it was to Nita Cunningham.

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To Nita Cunningham. Thank you. You regarded Dr Nydam's statement to you as one made fraudulently, dishonestly?-- Yes, sincerely dishonestly and fraudulently. He shouldn't have said it if the man was still employed at the hospital. He should have stated so.

All right. Well, the doctor says in his statement that he made inquiries and had been informed that Boyd was on extended leave from absence and had returned to his home in Brisbane.

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COMMISSIONER: You say that's not what you were told?-- No. It's not.

MR FITZPATRICK: All right. You're not suggesting that Dr Boyd was present in the hospital on the day when you-----?-- I wouldn't have a clue if he was present in the hospital on the day.

It wasn't until November of last year-----?-- No, it wasn't until December.

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Until December?-- That I saw him there, yes.

All right. You mention in your statement that it was the fact that as at October last year there was material missing from your file at the hospital?-- When my GP pulled my file after the operation and - she went through it for nearly three weeks and told me there was a lot of stuff missing out of it.

Did she elaborate at all?-- She said there was no swab report, which we found rather unusual when Dr Nydam left the room to go and get it.

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Yes?-- Why would he leave the room? It should have been in my file and my file was sitting on the table in front of him.

I see. Was there anything else that was missing?-- She didn't have a letter about the operation. That hadn't come

across to her. That wasn't in the file.

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Which operation?-- The one Dr Patel had performed.

I see?-- And they normally write to your GP, and she had no information that the wound had come apart and that it had been restitched.

COMMISSIONER: There's a possible explanation for that, that you were actually referred by your gynaecologist rather than your GP?-- Yeah, but he also told me that he couldn't deal with me, so wouldn't they write to the GP after she'd been referring me back?

10

In fact, we see - I think it's the first exhibit to your statement - the letter from your gynaecologist Dr Malcolm Stumer writing to Dr Patel asking him to perform surgery. So, as far as hospital records are concerned, the referring doctor may have been your gynaecologist rather than your GP, and that may explain why your GP didn't get feedback?-- It could be then, yes.

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MR FITZPATRICK: Thank you, Commissioner. You say in your statement at paragraph 27 that in response to Dr Nydam's question about what you wanted him to do, that the first thing you said was that you wanted an apology?-- I told him an apology wouldn't go astray, yes.

And you subsequently received an unreserved written apology from the doctor, did you not?-- I received an apology of sorts, yes.

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Well, of what sorts? Of brief sorts?-- Of brief sorts, yes. It doesn't explain that - that they have looked into anything, that they have spoken to any of the doctors, it was just - you know, "You have asked for an apology. I will give you one."

Yes. And after that you received a letter from Aylmer in relation to-----?-- Well, yeah, when I caught up with her, yes.

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And you say that what then motivated you to take the matter further, or the catalyst, if I can use it for that, that way, for your taking the matter further, was your observation of Dr Boyd in the ward in December, I think, last year. Is that so?-- Yes.

You say in - that at the time of your receipt of Dr Nydam's apology letter that your condition hadn't healed?-- No. What - to what?

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COMMISSIONER: Has it healed yet?-- It's got a piece of dead skin sitting over the top of it.

Yes. But you have told us already you have to go back to surgery, for some further surgery in Brisbane?-- Yep. You showed me a document in the file that said - what was it, on the 24th of April that the wound - as stated on there, that

the wound healed.

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I think it might be Mr Allen that showed you that, actually?-- Yeah. Well, there's a photo in that file over there on the 30th that shows the wound right open with discharge coming out of it.

MR FITZPATRICK: Yes. So, as at October last year, you - your infection hadn't healed; is that so?-- No.

10

And-----

COMMISSIONER: The record will show the witness shook her head to that.

MR FITZPATRICK: And what about the boils and so on?-- No, I still have them today.

You still have them. And you have told, I think, the Commissioner, Commissioner Morris, that you are to be seen or you had some advice from Dr Rudd-----?-- Yes.

20

-----in Brisbane, and that was as a result of an arrangement made by Queensland Health-----?-- Yes.

-----for you to see him. Is that so?-- Yes.

You say in your statement that you were going to see Dr Gaffield. In paragraph 34 of your statement you say, "I am going to see Dr Gaffield in Bundaberg."?-- No. I believe I was supposed to see Dr Gaffield for the results of a colonoscopy that the hospital arranged a few weeks ago and he was supposed to give me the results.

30

The results of the colonoscopy?-- Yes.

Or the results of your investigations in Brisbane with Dr Rudd?-- No, I - Dr Rudd came up here.

I see?-- I spoke with Dr Rudd. They told me Dr Gaffield would be giving me the pathology results from the colonoscopy that I had a few weeks back.

40

I see. And Dr Rudd has advised you to have some revision surgery on the scar; is that so?-- Yes, he's going to repair it all.

And you intend to do so?-- Yes, I do.

And will he be the surgeon?-- Yes, he will.

50

And is that to be attended to by my client, Queensland Health, the payment for it and so on?-- Yes. I go down to Royal Brisbane to have it done.

And has anything been done in relation to your boils?-- No.

Has any - have you taken any advice about them?-- Yeah, I

keep trying different antibiotics from my GP.

1

And has Dr Rudd not been able to help you in relation to it?-- Not yet he hasn't, no.

Does he say that it will?-- Well, I don't think we have really gone into that much discussion. I have only seen him due to the operation and then he had to fly back to Brisbane.

COMMISSIONER: Dr Rudd's a surgeon, isn't he not, a-----?-- Yes. He's the head of the Burns Unit at Royal Brisbane.

10

Right.

MR FITZPATRICK: All right.

COMMISSIONER: Would you consider, if Queensland Health were to offer it, seeing an infectious disease specialist at their expense?-- Yes. That's what they told me they were going to do in the first place.

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Yes. It still hasn't happened?-- No. Gail Aylmer's letter said to take that to my GP now.

MR FITZPATRICK: I'm sorry, are you suggesting that as at December last year you have been waiting on Queensland Health to do something in relation to the boils?-- Well, Gale's letter stated that these were the swab - these were the results - here's the pathology results that I should take that to the GP, is what the letter states.

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Yes. And how is that - how does that affect the Health Department?-- Sorry?

How does that involve the Health Department?

COMMISSIONER: Gail Aylmer works for the Health Department.

MR FITZPATRICK: I'm sorry?

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COMMISSIONER: Gail Aylmer works for Queensland Health.

MR FITZPATRICK: Presumably not the GP, Commissioner.

COMMISSIONER: No. Look, the point-----?-- The point is she wrote a letter and she said, "Here are the results of your test and have a Merry Christmas", and she suggested I take the pathology results and her letter to my GP.

MR FITZPATRICK: I see. And you have done that and you have-----?-- Constantly.

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-----been treated with a series of antibiotics?-- Yes.

I understand. Thank you.

COMMISSIONER: What started all of this was my question that if Queensland Health offered to put up the expense of

referring you to an infectious diseases specialist, would that be something that you'd appreciate?-- Yes, I would.

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MR FITZPATRICK: Do you accept that there has been established a Patient Liaison Officer at the Bundaberg Base Hospital?-- Yes.

And that you have - as a result of the so-called Dr Death scenario that there has been established by Queensland Health at the Bundaberg Base Hospital a Patient Liaison-----?-- There are liaison officers and counsellors, yes.

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And that you had-----?-- I have seen both.

-----regular contact with them-----?-- Yes, I have.

-----on a number of occasions this year?-- We have got to go through the Liaison Officer to see the counsellor, yes.

Have you spoken to those persons concerning your desire to be referred in relation to your boils?-- No.

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Why not?-- They are more or less talking to you actually in the start of it about how you are actually feeling in yourself first of all. In the beginning, there was - in the beginning it was how we were feeling. Now it's about us getting re-operated on or fixed up in some state or form, and I'm still continuing to see my GP about the sores.

I see. Was it as a result of your speaking to the Patient Liaison Personnel that you were referred to Dr Rudd?-- No, Gerry Fitzgerald recommended him.

30

I understand. Having heard that Dr Nydam made some inquiries concerning the whereabouts of Dr Boyd, would you concede that the possibility that Dr Nydam's mistaken when he told you that Boyd no longer worked at the hospital?-- No. If Dr Nydam had made some inquiries about Dr Boyd after our meeting, then I think he should have forwarded me a letter and explained.

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Hurt. Yes, thank you, Commissioner. I have nothing further.

COMMISSIONER: Yes?

MR HARPER: Two matters.

MS McMILLAN: I have one question, please, Commissioner.

COMMISSIONER: Sorry.

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CROSS-EXAMINATION:

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MS McMILLAN: My learned friends have already covered other issues I want to raise. Ms Pearson, I appear for the Medical Board. I just have one issue. Would you have a look at this document, please? That document there, that's a Pre-anaesthetic Questionnaire, is it? Could you pull that - move that up?-- Yes

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And that was filled in by yourself, was it not, prior to this procedure that you originally had done?-- Yes.

Is that correct?-- Yes.

Keep moving it down, please. Is that right? And is that your signature?-- Yes.

Yes, thank you. I tender that.

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COMMISSIONER: Why?

MS McMILLAN: Why? Well, it may be relevant in terms of one of the matters we are seeking is that some - an expert look at a number of files. That would seem to contain some relevant preliminary information that I wish to place in the hands of an expert and I just want to confirm this was this witness's material.

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COMMISSIONER: But why do you want to tender it here?

MS McMILLAN: Very well, Commissioner. I withdraw the tender. I have had the witness confirm it. Perhaps I can just flag that page. I withdraw the tender. Thank you. I have nothing further.

MR ALLEN: Commissioner, I failed to tender those pages that I took the witness to. They are the ones-----

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COMMISSIONER: As proof of what?

MR ALLEN: -----flagged, 1 through 4.

COMMISSIONER: As proof of what?

MR ALLEN: As proof of the matters contained in those documents.

COMMISSIONER: Is there anything emerging from that that's different from the evidence we have heard already?

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MR ALLEN: Well, yes. There's, for example, the observations of Dr Boyd, which are different, as I understand it, from the evidence of the witness.

COMMISSIONER: Give me the time. The file relating to volume 1 of the - where's the rest of it - two volume medical

file relating to Ms Parsons is Exhibit 110.

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ADMITTED AND MARKED "EXHIBIT 110"

COMMISSIONER: I will make a nonpublication order in relation to that file, subject, of course, to any application for anyone to have access to it. It's the health matters which are confidential to that. So that's Exhibit 110. Anything else, Mr Allen?

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MR ALLEN: No, thank you, Commissioner.

RE-EXAMINATION:

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MR HARPER: Just two short matters, Commissioner. Ms Parsons, Mr Fitzpatrick asked you earlier about the Queensland Health agreement to pay for the treatment by Dr Rudd. Can I ask you when did they agree to do that? When was that process put in train?-- Probably just over a month ago when they put the air tickets and the motel-----

So prior t-----o?-- The day Dr - the day actually Dr Rudd came up here. He actually filled the paperwork in while he was up here.

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So, prior to what Mr Fitzpatrick described as the Dr Death scandal, did Medical Health-----?-- Sorry?

Prior to what Mr Fitzpatrick described as the Dr Death scandal, did Queensland Health-----

MR FITZPATRICK: Well, with respect, Commissioner.

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COMMISSIONER: I don't think he used the words "scandal".

MR HARPER: Sorry. No, the Dr Death scenario, perhaps. Scenario. The Dr Death scenario, did Queensland Health make any attempts to provide you with any corrective action for the problems which had occurred in your original surgery?-- Not for the surgery.

Thank you. You have been asked a number of questions and some of those related to the statement from Dr Nydam. You haven't seen the statement of Dr Nydam, have you?-- No.

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Indeed, I can - I can inform you I was only provided with a copy of it only this morning so it hasn't been - hasn't been on the pass long.

COMMISSIONER: You are ahead of me.

MR HARPER: Is a copy of the statement available? I would like the witness-----

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COMMISSIONER: I don't think it's desirable she be asked to comment on someone's else statement. Counsel for Mr Nydam has chosen to put various things to the witness from the statement. That's the end of the matter.

MR HARPER: I am not a position - okay. Very well. I have nothing further then, Commissioner.

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COMMISSIONER: Mr Allen?

CROSS-EXAMINATION:

MR ALLEN: A couple of questions, Commissioner. Ms Parsons, perhaps there's a little bit of confusion when you were answering questions from the Commissioner about the file that your GP was looking at?-- Yeah.

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The file that she was looking at, that was the hospital's file; is that correct?-- Yes, but that was asked for back a couple of weeks after the operation.

But that's why you and your doctor expected referring letters or letters back - at least copies of those letters to be contained on file?-- Yeah.

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You were asked questions by my learned friend over there, Mr Fitzpatrick for Queensland Health, and one of the questions he put to you was that it has now been established - and perhaps my learned friend can correct me if I am wrong - it has now been established that the infection doesn't flow from the operation, something to that effect?-----

COMMISSIONER: I don't think that was put.

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MR ATKINSON: It was that series of questions - I think it was the penultimate question - words to that effect. You had infection results from the swab which showed you the Staphylococcus aureus in March?-- Yes.

And a similar result came back when Ms Aylmer arranged that swab. Ms Aylmer, of course, has told you that it is not directly caused by the operation?-- Yes.

20
Has it ever been suggested to you that it doesn't flow as a result of your time in hospital?-- No, it has never been suggested.

Are you aware whether or not Dr Nydam took any steps about infection subsequent to those results being obtained?-- No, I only know when he called Gail up to the office, that's the only time I knew about any infection.

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You were asked some questions by Mr Allen over there, the barrister for your union, and one of the questions was, you will recall, about the 21st of April 2004, a note suggesting that the wound had improved, and you were taken through those notes and you didn't think that they entirely reflected your state of health at that time?-- No.

And you were also asked a question about a note on 30 March which said the stitches were intact?-- Yes, that's right.

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I'm just trying to distil something you said in evidence. The reason you say, amongst other things, that note is incorrect is because your photographs two days earlier show the stitches unravelling?-- That's right.

Nothing further, except to tender the statement, of course. I think you were giving it a number.

COMMISSIONER: That is Exhibit 106.

MR ATKINSON: Thank you, Commissioner.

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COMMISSIONER: Thank you very much for coming along to give evidence. We appreciate your time. I'm sorry it has probably been a bit longer than may have been necessary, but we do appreciate you coming to give your evidence and the forthright way in which you have given it?-- Thank you.

Thank you again.

WITNESS EXCUSED

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COMMISSIONER: Mr Atkinson? Do you have someone else?

MR ATKINSON: We do. I had planned to call Vicky Hall. The Commissioners will appreciate that she is a close friend of Ms Parsons who attends the meeting with Dr Nydam. I didn't plan to do any more than put her in the box, put her statement to her, see if she agrees with it and leave her to be cross-examined.

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COMMISSIONER: Does Ms Hall have any objection to her evidence being photographed or filmed?

MR ATKINSON: No, she doesn't.

COMMISSIONER: We will do that after the break then. We will have a 15 minute break.

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THE COMMISSION ADJOURNED AT 3.02 P.M.

THE COMMISSION RESUMED AT 3.20 P.M.

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COMMISSIONER: Mr Atkinson?

MR ATKINSON: Commissioners, I was going to call Ms Vicky Hall, next, but if I can have your indulgence, I would like to call Janice Williams next because she has some commitments.

COMMISSIONER: Certainly, yes.

MS McMILLAN: Commissioner, could I mention a matter briefly before that, or would you prefer me to wait?

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COMMISSIONER: Yes, go ahead.

MS McMILLAN: This is about the Area of Need. Is it convenient to raise it now?

COMMISSIONER: Certainly.

MS McMILLAN: I have instructions from the Medical Board in relation to the Area of Need situation. I'm instructed that the Area of Need certified previously under Queensland Health is being transferred, as you know, to the Office of the Health Practitioners' Registration Board. In the interim, the Chief Health Officer will be the Minister's delegate. The Chief Health Officer and Mr O'Dempsey, as you know, has appeared before this Commission, are developing a set of guidelines for

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Area of Need, subject to the Premier and the Health Minister's approval on 15 July. For all current registrants, the Board is using section 74(1)(B), which is a notice requiring them to provide a copy of their Area of Need and Board certification within three months, so it effectively allows them three months to provide that detail. The act provides under section 73 that the registration continues under those circumstances until the Board makes a decision. So, anyone renewing will, after that, receive a notice and allow them to continue and retain their registration. Only fresh applications will be delayed until the 15th of July, and a letter to this effect has been sent to all relevant stakeholders, and I'm conscious of not cluttering your record, but this may be of utility if I tender a copy of the draft letter to the relevant stakeholders.

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COMMISSIONER: I think that's very useful, and very important, and I think the significant outcome is that anyone who currently holds an Area of Need position either in the public or the private sector, their position is secure for at least three months whilst the new guidelines are worked out.

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MS McMILLAN: Yes, and those seeking registration, you will see there is a recommendation that they may seek it under a traineeship. It is set out fairly clearly in the letter and they can seek further guidances and telephone contact details, et cetera. So, I tender that proforma that will be sent to relevant stakeholders.

COMMISSIONER: The proforma letter concerning Area of Need will be Exhibit 111.

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ADMITTED AND MARKED "EXHIBIT 111"

COMMISSIONER: Thank you for raising that.

MS McMILLAN: Thank you, Commissioner.

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MR ATKINSON: I call Janice Williams to the stand.

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JANICE JOYCE WILLIAMS, SWORN AND EXAMINED:

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MR ATKINSON: Witness, would you tell the Commission your full name?-- Janice Joyce Williams.

And you are a nurse, Ms Williams, at the Bundaberg Base Hospital?-- That's correct.

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Have you prepared and provided a statement through your lawyers dated 22 June 2005?-- I have.

Can I show you a copy of the statement?-- Yes.

COMMISSIONER: Just whilst that's coming, do you have any objection if your evidence is photographed or video recorded?-- No.

Thank you.

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MR ATKINSON: Ms Williams, can you say whether or not that's your signature at the bottom of that statement?-- Yes, it is.

And are the contents of that statement still true and correct to the best of your knowledge?-- To the best of my knowledge.

I just have a couple of questions for you, Ms Williams; the first one is this: were you ever approached by Dr Nydam to tell him the events or circumstances surrounding Ms Parsons' complaint?-- No, never.

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Were you ever shown her complaint?-- No, never.

Was there any discussion with you about Ms Parsons around about October 2004?-- No.

The second issue I wanted to cover is this: you speak in your statement about wound dehiscence and, to be fair to you, I notice you preface your comments by saying in paragraph 3 that you only have a vague recollection of P99 attending the clinic - that's Ms Parsons, of course?-- Yes.

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You then speak about the dehiscence in paragraph 7, and you say that you don't recall it being a deep wound dehiscence and, "I was not required to document a full assessment." Can I take those things in turn. Do you have a recollection of the dehiscence at all?-- No, I don't.

It may be as Ms Parsons suggested, that the dehiscence was along the full line of the wound?-- I don't recall a full wound dehiscence.

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You don't recall the extent of the dehiscence?-- No, not the extent of it.

And then the second aspect, you say, "I was not required to document a full assessment and fill out appropriate wound care

charts before starting the dressing." When would you have to document a full assessment? What's the benchmark? What's required?-- In the first case where the staples or sutures were removed and the wound dehiscenced slightly at one end, she would be brought back the next day to a dressing clinic, which would do a full history of her wound, it would be probed, measured. There would be a lot of information taken about it.

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In this case, you have that, don't you? On the 22nd of March, there's a slight-----?-- I have got recollection of packing - putting a normal saline packing in a slight part of a wound dehiscence.

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And she says that there's a full dehiscence on that day. You don't have a recollection-----?-- I don't have a recollection of it being on that day.

On the following day, the 23rd, it is resutured. You agree with that?-- Yes.

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And really my question is you speak about doing a full assessment and filling out appropriate wound care charts?-- Yes.

I understand what you are saying is that this dehiscence wasn't substantial enough that you were required to do the assessment or to fill out the wound care charts?-- Mmm.

The question I'm trying to get through is what level of dehiscence is required before you have to fill out the wound care chart?-- Mrs Parsons would have been in the surgical clinic that day. She would have been booked in there to have her sutures removed. The procedure was done. She would have had the wound dehiscence and we would have handed her over to the dressing clinic the following day for a full assessment of it to be done.

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Right. But you will be aware, of course-----?-- I obviously didn't think it was necessary to do a full wound assessment of it on that particular day.

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Right. And certainly on the 22nd of March, you will have seen the records where it makes reference to "abdo wound dehiscence"?-- Mmm.

And then it is signed by "J Williams"?-- Yes.

That's you?-- Yes.

You didn't think the wound dehiscence was substantial enough-----?-- Obviously not.

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You can't tell us under what circumstances you would take further action?-- If it was a lot worse than obviously what I thought it was.

So, your understanding in terms of policy was that you didn't need to do anything more about this level of dehiscence?--

No.

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That's the evidence-in-chief, Commissioners.

COMMISSIONER: Any cross-examination? Yes, Mr Allen?

CROSS-EXAMINATION:

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MR ALLEN: You have said you are a nurse at the Bundaberg Base Hospital. You are an Enrolled Nurse?-- Yes.

You have been since 2000?-- Yes.

And prior to that you worked as an assistant in nursing for some 25 years?-- Yes.

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And you are currently an Advanced Practice Enrolled Nurse-----?-- Yes.

-----in the Out-patients Department at the Bundaberg Base Hospital?-- Yes.

And you have been in that position for three years?-- I have been there for two years as an EN and one year as an Advanced Practice EN.

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And in relation to the questions you have just been asked about as to the extent of wound dehiscence that would require you to fill out a full assessment, that's a matter of clinical judgment, is it?-- Yes. In the surgical clinic that the patient attended, we have a large number of patients that come through of a day. If there is a problem with a wound or a wound breakdown or something that needs ongoing care, we refer them to the dressing clinic, and the patient would have been referred there the next day.

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And in relation to that occasion of Ms Parsons visiting the hospital, she was seen by a doctor before you took any action to pack her wound?-- Yes, she would have been.

It was the doctor's assessment that the wound should be packed?-- Yes.

And you undertook that procedure at the direction of the appropriate medical doctor?-- Yes.

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Okay. And you certainly don't have any recollection that the circumstances of Ms Parsons, as you observed them, indicated that was inappropriate treatment?-- No.

In relation to the occasion that she reattended and had her wound resutured, you don't have any specific recollection of that occasion?-- I do recall holding her hand at one stage.

Okay. I take it that was to reassure her?-- Yes, it would have been.

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Because she appeared to be upset?-- More than likely.

And do you think you would recall if she was screaming?-- Absolutely.

Do you think you would recall if she was being held down by nursing staff?-- Absolutely.

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In fact, was she at any time screaming?-- Not to my knowledge.

Was she being held down by any nursing staff?-- Not to my knowledge.

Now, what would you do if those circumstances had occurred?-- I would stop the procedure straightaway. I would follow my line manager. I would ring my Nurse Unit Manager straightaway.

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There has been a suggestion made that you may have been - and it is no more than a suggestion - that you may have been, by your manner, apparently critical of the approach of Dr Boyd during the resuturing in that you were very pointed in asking him at some stage whether the patient needed pain relief. Do you have any comment as to that?-- I don't believe I was.

Do you think you would recall that if, in fact, it had occurred?-- I would.

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Thank you.

COMMISSIONER: Anyone else?

MR HARPER: I have a couple of questions, Commissioner.

CROSS-EXAMINATION:

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MR HARPER: My name is Harper and I act for the patients, including Ms Parsons. You have indicated that you only have a vague recollection of the incident, so I'll bear that in mind. Can I ask you, were there other staff in attendance at the time the resuturing occurred?-- I cannot recall any other staff being in attendance.

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Is it possible that there were other staff in attendance?-- Yes.

Is it possible that those staff had their hands on Ms Parsons whilst a procedure was being performed?-- No, I don't believe so.

Is it possible that there would have been a requirement for her to be stopped from moving during that procedure?-- No, I don't think so.

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COMMISSIONER: Why don't you think so?-- The doctor wouldn't have been able to put the sutures in. If she wasn't laying still, he wouldn't have been able to suture her. If she was moving around and trying to get up, it wouldn't have been possible-----

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Her evidence is quite clear that she complained she could feel everything that was happening, the needle going in, the thread going through, and so on?-- Mmm.

If that were the case, then she would need restraining to stay still, wouldn't she?-- Well, yes.

Mmm.

MR HARPER: Were you present when the local anaesthetic was-----?-- I can't recall that.

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So, you can't recall then whether the local anaesthetic would have been inserted into the infected or inflamed tissue?-- No, I can't.

Can you - and please answer if this isn't within an area of your expertise - please say so - are you aware that if a local anaesthetic is put into infected or inflamed tissue, that it won't be effective in stopping the pain?-- I can't answer that question.

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All right. I will put a number of suggestions to you. Firstly, I will put to you that, in fact, Ms Parsons did complain about that the anaesthetic was not working?-- She may well have, but not in my presence.

Were you present for the whole of the-----?-- No.

You were present, though, when the sutures were being put in?-- I can't remember the suturing process going on. I can remember holding her hand at one stage.

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Why were you holding her hand?-- Probably to comfort her. I knew the lady.

Why did she need comforting?-- She was probably upset. A lot of patients that go through procedures, whether they be minor or not - everyone takes it different.

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But could I suggest that someone having stitches when there is an appropriate anaesthetic having occurred would be unlikely to be overly traumatised by the incident?-- They may be.

But you can't recall specifically seeing any of the suturing?-- No, I can't. I can't recall being in there all the time.

COMMISSIONER: In fact, you don't really recall who the doctor was, do you?-- No. I was not the only nurse present there that day.

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Would it be fair to say that most of the evidence that you can give about this matter is reconstruction?-- Mmm.

In the sense that you can't remember it as an actual vivid memory in your mind at the moment what happened. You are simply going back thinking, "If someone had have screamed, I would have stopped the operation."?-- Yes.

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MR HARPER: Thank you, Commissioner. I have nothing further.

COMMISSIONER: Thank you. Mr Atkinson?

MR ATKINSON: Nothing further.

COMMISSIONER: Thank you, Ms Williams-----

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MR FITZPATRICK: Sorry, I've been tardy in getting up, Commissioner.

COMMISSIONER: I beg your pardon, Mr Fitzpatrick.

MR ATKINSON: Perhaps, Commissioner, can I hand up the statement of Ms Williams?

COMMISSIONER: Yes, the statement of Ms Williams will be Exhibit 112.

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ADMITTED AND MARKED "EXHIBIT 112"

COMMISSIONER: Sorry, Mr Fitzpatrick.

MR FITZPATRICK: That's all right, Commissioner. I was deep in the statement.

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CROSS-EXAMINATION:

MR FITZPATRICK: Ms Williams, I'm Chris Fitzpatrick. I'm one of those who represent Queensland Health. I have a couple of questions for you. In preparation for your statement, did you review the charts pertaining to Ms Parsons?-- No.

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You were asked by my learned friend Mr Atkinson about what you say or said in paragraph 7 of your statement, and you have the advantage of a copy of your statement?-- Mmm.

Is that what you are looking at?-- Mmm.

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You say that paragraph 7 you don't recall the dehiscence as being a deep wound dehiscence, and you weren't required to document a full assessment?-- Mmm.

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Could you tell us, please, what's entailed in doing and documenting a full assessment?-- The wound is measured - the length, width of opening, depth of the opening, any odour or any discharge that is present, the colour of the surrounding tissue, the pain level of the patient at that stage, that's-----

All of those indicators are looked for and then documented; is that so?-- Yes.

20
Is a deep wound dehiscence to be contrasted with what you refer to at paragraph 4 of your statement with - it is about the middle of paragraph 4 - a superficial wound dehiscence?-- Sorry, can you repeat that?

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Yes. Is a deep wound dehiscence the sort of thing that entails a full assessment and so on, to be contrasted with what you describe at paragraph 4 of your statement as a "superficial wound dehiscence"? Do you see in paragraph 4 of your statement you used the words "superficial wound dehiscence"?-- Mmm.

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And you say in paragraph 4 that you recall that - and I think we are speaking about the 21st of March 2004 - that is, the date on which Ms Parsons first presented to your clinic, although the second time on that day when she presented there; is that so?-- I'm sorry, you have lost me.

In paragraph 4 of your statement, you say that you recall Ms Parsons calling out to you to go into a room?-- Yes, that's correct.

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And when you went in, the sutures on her wound had been taken out and she had a superficial wound dehiscence?-- Yes.

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Now, what are we to understand by your use of those words?-- Of "superficial"?

Yes?-- Superficial is - it is above the peritoneal cavity. It is her - the muscles - the suturing hadn't come apart, the peritoneum wasn't opened exposing the bowel. Anything above that is classed as a superficial-----

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I see. It was a dehiscence, a separation-----?-- It was a separation-----

Near the surface?-- Yes, the tissue.

Thank you. Thank you, Commissioner. That's all I have.

COMMISSIONER: Thank you. Mr Atkinson?

MR ATKINSON: Nothing further.

COMMISSIONER: Thank you very much for your time. You are
excused from further attendance?-- Thank you.

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WITNESS EXCUSED

MR ATKINSON: Commissioners, if I may, I propose to call Vicky
Narelle Hall.

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VICKY NARELLE HALL, SWORN AND EXAMINED:

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COMMISSIONER: Ms Hall, do you have any objection to your evidence being filmed or photographed? -- No.

MR ATKINSON: Would you tell the Commission your full name? -- Vicky Narelle Hall.

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What do you do for a living, Ms Hall? -- I am an AIN.

You are a friend of Linda Parsons? -- Yes, I am.

Would you have a look at this statement? Ms Hall, is that your signature at the bottom of that statement? -- Yes, it is.

Are the contents of that statement still true and correct to the best of your knowledge? -- Yes, it is.

20

If I can take you through the statement just quickly? You mentioned that you had been working as an AIN since you were 17 years old? -- Yep.

And you explain that you have been a friend of Ms Parsons for about five years? -- Yes.

You explain that in the course of 2004, after her operation, you regularly dressed the wound? -- Yes.

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And you explain that there was oozing and a smell associated with the wound infection? -- Yes.

When you say that there was a wound infection, what did you see or hear that made you think that it was infected? -- There was a discharge - a green discharge. It was red around the wound and extending - there was a lot of exudation, a lot of pus, a lot of soreness, and she also had the inability to get up like a normal person would. She did need help to get up because the wound was sore. She actually needed someone to sort of press on it so she could get up with assistance. It was sore and it was easy to see.

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In terms of the oozing, that's the reason for changing the dressings? -- That's right.

You were getting fluid? -- That's right.

Do you recall when that first started - the practice of you going to the house to provide dressings? -- Yes, when the infection started, after it popped open, yes.

50

And you continued to do that for several months? -- Yes, until the infection sort of settled down.

Eventually you accompanied Ms Parsons to the hospital? -- Yes.

Just use your own words and have reference to the statement if you need to. Use your own words to describe what happened at the meeting?-- At the meeting with Dr Kees Nydam, he invited both Linda and I - Linda invited me to go in and sit with her. She explained to him what happened, her concerns, her dissatisfaction. He asked her what she wanted him to do about it. She stated that an apology would be, you know, a start. He went on to say - she went on to mention Dr Boyd and Dr Boyd not being there, or being treated by Dr Boyd. He went on to say that Dr Boyd was no longer there, that he was only there for six months and that he had returned to Brisbane and could not be prosecuted because he no longer worked at the hospital. Following that, Linda went on to explain about having constant sores. He went and got Gail. Gail came in and had a look, and from there she made arrangements with Linda, as Linda has described previously, to have swabs and stuff taken.

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How did you find Dr Nydam in terms of receptiveness and responsiveness at the meeting?-- Very condescending. He really, as Linda has already explained, just wanted to tell us what we wanted to hear. Yeah, he - it wasn't a very - he wasn't very approachable at all.

1

Do you recollect whether he offered to make any inquiries to ascertain whether the complaints were well-founded?-- Nope.

You don't recall or he didn't?-- No, I don't recall him saying that. Linda did question him about the doctor that attended her, and that was the only part that I remember him saying was that no, he no longer lived - no longer worked there and - yeah, there was nothing that he could do. He could not prosecute that doctor who worked in another hospital.

10

Do you recall whether there was discussion about Dr Patel?-- Yes. Well, she said - she stated that well, seeing as Dr Boyd was under Dr Patel, how come he couldn't be, you know, made - held accountable because he was actually under Dr Patel, and that was - and he just said, well, there is nothing - there was nothing to say. He just couldn't do nothing about it.

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That's the evidence-in-chief, Commissioners.

COMMISSIONER: Thank you, Mr Atkinson. Mr Harper?

MR HARPER: Yes, thank you, Commissioner.

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EXAMINATION-IN-CHIEF:

MR HARPER: During the meeting with Dr Nydam was there any discussion by Dr Nydam about - sorry, just one moment. That discussion included, did it, Ms Parsons' concerns about the process of resuturing her wound?-- She made - yes, she did. She asked why wasn't - you know, why couldn't it be done - redone, and, you know, whatever was written in the file - because he actually wasn't there, so therefore he could not actually turn around and say what should have or could have been done. He just said what was done - all that was done could be done.

40

She discussed, didn't she, her concerns that the suturing had been done without an effective local anaesthetic?-- Yes, she did.

50

Did Dr Nydam discuss anything based upon his experience about the effectiveness of a local anaesthetic in circumstances where it was injected into inflamed or infected tissue?-- He said there are possibilities that that could happen.

Right?-- But that was all he did say, that it could happen. He did not say it did happen, but he said it could happen.

And did he then say that that would have resulted in her suffering and complaining of pain during that process?-- It could have, yes.

1

Did he make any reference to the fact that this is a common mistake for junior doctors to make?-- I'm sorry, I don't recollect that, but he could have.

I have nothing further, Commissioner.

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COMMISSIONER: Thank you, Mr Harper. Mr Allen?

MR ALLEN: No, thank you, Commissioner.

COMMISSIONER: Anyone else?

MR DIEHM: No, I have nothing.

COMMISSIONER: Thank you, Mr Diehm. Mr Fitzpatrick?

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MR FITZPATRICK: I do, Commissioner, thank you.

CROSS-EXAMINATION:

MR FITZPATRICK: Ms Hall, I'm Chris Fitzpatrick. I represent Queensland Health - or I am one of those who do. Can I just ask you, in paragraph 12 of your statement you said that none of the officers - and by that I assume you mean Dr Nydam and also Gail Aylmer, is that so?-- What was-----

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Do you include Gail Aylmer with Dr Nydam?-- No, Dr Nydam's attitude alone.

COMMISSIONER: If you look at paragraph 12 of your statement - do you have it there?-- Yes.

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It begins, "None of the officers seemed to have any interest in what we were saying."?-- Yes. Sorry, yes, that's correct.

Do you include Dr Nydam in that?-- Yes.

Is there anyone else when you say "none of the officers", anyone else that-----?-- No, that was just me saying that - no, Dr Nydam was the only - he didn't seem to have any interest. Gail did. She came up and she did what she could. Whether Gail was aware of the whole situation, I do not know, and whether that was explained to her, I don't know. But I know Mr Nydam, no, he was not interested.

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MR FITZPATRICK: Could you tell me, please, on what basis you formed the view that he wasn't interested in what you or Ms Parsons were saying?-- You can tell a lot by a person's attitude, the way a person looks at you. So by that his

attitude was condescending. He wanted us out of his office and - yeah, he did listen and he did explain a few things, but they were not relevant to what we wanted to hear. He told us basically that, you know, it would heal up by itself and that - yeah, that was it. He - he just was not approachable.

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I see. Well, he spent 45 minutes with the two of you. Is that so?-- Yes, he spent 45 minutes with us. I agree with that.

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Was that an inadequate period of time in your assessment?-- No, it was not an inadequate period of time, but as I've already stated, a person's attitude when you're listening to someone who has a complaint, the way they conduct themselves goes a long way. Yes, he might not have - he might have been interested, he might have - that might be him. I don't know. That was the first time I ever met the man. But the fact is that's not how a person who is interested would act, should act, listen to another person's complaint if that person was in pain, no matter what he or she may think.

20

I see. You've said in your evidence - you've used the word "condescending" in your evidence today?-- Mmm hmm.

What do you mean by that as it applied to Dr Nydam?-- We did not get the impression that he was really interested. Yes, it was a problem, yes, we did bring it to his attention, yes, Linda was seeking treatment. What more we felt could he do - or he felt could he do?

30

And in the course of the meeting he offered an apology, or at least agreed to provide one?-- He agreed to provide one. He did not offer one.

No, but he said, I think you say at paragraph 7 of your statement, that he agreed-----?-- Yes.

-----that it was not good enough?-- No, he agreed it wasn't good enough, and after asking Linda what she wanted - or what did she want him to do, she stated, "An apology would be a start." I felt he should have taken that first move rather than, you know - it's not hard to say, "Well look, I'm sorry this has happened to you, and maybe we can fix it." That's all he had to say.

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But you agree that that may be a matter of personality, how one approaches-----?-- If I went through what Linda went through or I was in pain myself, no, that would not be acceptable to me. I'm sorry.

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Now, there was nothing, I take it, unpleasant about Dr Nydam's manner on that day?-- He just was very abrupt. His manner gave the appearance of being a very abrupt.

That may have been just Dr Nydam?-- That may have been him, I don't know, but when you're dealing with a member of the public, then as far as I'm concerned your attitude and your manner means a lot to other people because these people may

not understand a lot of legal terminology. To them it may have been the worst they could have encountered. That's not the point. It's how you conduct yourself that gives people the impression that you carry through, which is exactly what we got from him.

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I see. Now, you're aware that Gail Aylmer tried to obtain a swab?-- Yes, she did.

And she wasn't able to?-- That's right.

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Are you aware that one subsequently was-----?-- Yes, I am.

-----obtained?-- Yes.

And there was an assessment made of that by the hospital?-- Yes.

Which was unfavourable. Yes, thank you, Commissioner. That's all I have.

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COMMISSIONER: Thank you, Mr Fitzpatrick. Any further questions? Mr Atkinson?

MR ATKINSON: Nothing. May the witness be excused?

COMMISSIONER: Yes. Thank you for coming in. You're excused from attending further?-- Thank you.

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WITNESS EXCUSED

COMMISSIONER: I'm not sure whether we gave the statement an exhibit number, did we?

MR ATKINSON: I thought we might have.

COMMISSIONER: Yes, I've written it down. Exhibit 113.

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ADMITTED AND MARKED "EXHIBIT 113"

MR ATKINSON: Thank you, Commissioner. Commissioner, before I move on from the matter of Parsons, there are just a few housekeeping matters I would mention. The first is that the matter of Parsons is referred to in the Bundaberg Review Team's report at page 129.

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COMMISSIONER: Right.

MR ATKINSON: The second is that you have heard evidence about the involvement of Gail Aylmer. She, of course, gave a

supplementary statement in her evidence. She didn't speak to it, but it constitutes Exhibit 62.

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The third is that there's been evidence about the involvement of Drs Boyd and Nydam. They have an involvement with a number of patients and it's proposed that they be called later in the proceedings-----

COMMISSIONER: Certainly.

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MR ATKINSON: -----to avoid inconvenience. The last thing is that to be fair to Dr Nydam, perhaps I should say at this stage that in his statement he says a number of things that are favourable to him. One is that, interestingly, he says it is likely that the local anaesthetic didn't work because in his experience infection and anaesthetic, when they combine, they neutralise each other so that - at least the infection neutralises the anaesthetic so that it doesn't have its beneficial effects.

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He says that after this he did speak to some other medical officers and give them that information, because he says it's a trap for junior doctors.

Interestingly, he doesn't suggest that he ever said that to Dr Boyd, but of course, as my learned friend has suggested, he says that routinely doctors are on six month rotations, and it seems that given that Dr Boyd was on some kind of leave, he rather assumed that Dr Boyd was actually on a six month rotation. That's as far as the statement goes.

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D COMMISSIONER VIDER: Which learned friend was telling you that, Mr Atkinson?

COMMISSIONER: No, there were questions, I think, he was referring to.

MR ATKINSON: I'm effectively paraphrasing comments from Dr Nydam's statement which will be tendered in due course.

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COMMISSIONER: I think Mr Fitzpatrick, in his questions, put certain things to the witness. That's what Mr Atkinson is referring to. That's right, is it?

MR ATKINSON: That's right, Commissioner.

COMMISSIONER: I should also say in this context, everyone is aware that last night the three of us were invited to attend a meeting of the local AMA. One of the people at that meeting was Dr Nydam. He came up to Deputy Commissioner Vider and myself after the meeting and had a conversation that didn't relate to any matters that are arising in the evidence here. He expressed some general views about how things could be improved in the medical system, but nothing that relates to any of the controversial issues in evidence.

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MR ATKINSON: Thank you. Commissioner, if I may, I propose to call the next patient, and his name is P126, or Ian Grant

Fleming.

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MR FITZPATRICK: Commissioner, just before we leave the Parsons housekeeping, could I just raise that the original Parsons file was made available by us to the Commission over the lunch, and now I understand a full copy has been tendered. So at some convenient time could the original file come back?

COMMISSIONER: I didn't want it in, but people kept pushing it at me as if I had to have it, so you can have it back whenever you like.

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MR FITZPATRICK: The original-----

MR ATKINSON: I think my friend is saying, Commissioner, you have a copy, but we have the original over here and we'll get the original back to my friend.

MR FITZPATRICK: Thank you.

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COMMISSIONER: Thank you.

IAN GRANT FLEMING, SWORN AND EXAMINED:

MR ATKINSON: Witness, would you tell the Commission your full name?-- Ian Grant Fleming.

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Mr Fleming, have you prepared a statement for the Commission of Inquiry?-- Yes, I have.

Would you have a look at this statement, please?-- Yes, that is my signed and sworn statement.

Are the contents of that statement still true and correct to the best of your knowledge?-- Yes, they are.

40

Can we just go through the statement, Mr Fleming?-- Please.

And of course when I say "Mr Fleming", you're also P126 to some people?-- Correct, and I'd like to just address the issue of filming and exhibits, that I'm - have no problem with being filmed and photographed, and indeed any exhibits that I present are - I agree to their publication.

COMMISSIONER: Thank you?-- With the simple proviso that any documents that contain my personal street address be blacked out.

50

Yes, that's very fair. Normally we have statements prepared - and I see your statement is in the same form, that it doesn't set out your home address.

MR ATKINSON: Now, you were born on 12 January 1955 in Victoria?-- That's correct.

You're married and you're a stay-at-home dad with four children living at home?-- That's correct.

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And you reside in Bundaberg?-- Bundaberg district.

Sorry, the Bundaberg district. You previously worked for the Victorian Police Force as an enlisted officer?-- As a constable, yes.

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And you worked there from 1978 to 1983?-- Correct.

And you were discharged with post-traumatic stress disorder?-- That's correct.

Now, you go through some of your qualifications in paragraph 3. You mention at the end of paragraph 3 that you had a relapse of post-traumatic stress disorder and you received some counselling, and you consider that you only fully recovered in 2003?-- Late 2003, yes.

20

Now, can I take you to April 2001 when you developed lower left abdominal pain. You mention that you were admitted to the Bundaberg Hospital, the base hospital?-- Yes, on referral from my GP.

You had a barium enema and a CT of the abdomen?-- Correct.

And you say that you were diagnosed with diverticulitis?-- Yes, and diverticular disease.

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And the staff at the Bundaberg Hospital explained to you that that's a disease where you have pockets of sediment forming in the colon, and then you get infection as a result of that?-- That's correct.

You go on in paragraph 5 to explain that you started to receive attacks from this disease?-- Correct.

Tell us about the attacks, if you would?-- Well, the first one occurred in April 2001 and it's severe lower left abdominal pain, very, very painful, and it requires admission to the hospital, nil by mouth and massive infusions of antibiotics to treat.

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Don't tell me what the doctors think. Just tell me what happened to you. You felt the pain?-- Yes.

All right. When you went to the hospital in April 2001, were you admitted?-- Yes.

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Sorry, you had nil by mouth then and you had antibiotics?-- Correct.

Now, did you have another attack after that?-- Yes, several. Numerous, in fact. The next most severe attack was September 2002. Again I was re-admitted to the hospital.

And you describe in your statement the pain as excruciating?--
Correct.

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Then you say that you were re-admitted in February 2003?--
Yes, into Outpatients. So I was treated in Outpatients and
released again.

And at that stage the hospital notes that you've seen diagnose
diverticular disease in the sigmoid colon?-- Yes, that
followed a colonoscopy done by Dr Faint on the 25th of March
2003.

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Now, is this the case: that by March 2003 the attacks were
not only becoming more severe, but they were becoming more
frequent?-- Increasingly debilitating.

In terms of abdominal pain?-- Yes, just continuous, ongoing
abdominal pain.

But tell us about your meeting with Dr Patel?-- Well, I first
met with Dr Patel in the Outpatients clinic. I again think I
was referred by my GP, but I'm not 100 per cent certain. I
basically begged him to help me, and I knew that medical
opinion, speaking to other doctors, was that after three
serious attacks they would perform the necessary surgery. I
found Dr Patel initially to be extremely charming-----

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Can I ask you, how was Dr Patel introduced to you?-- As
Director of Surgery.

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And who introduced you to him?-- He told me he was the
Director of Surgery.

And can you tell us a bit about him as a personality?--
Initially we developed a very good relationship. We talked
about various things. For example, at that time the Indian
cricket team were touring Australia and there was a junior
wicket keeper named Patel, so I asked him was he related, and
he said it was his nephew. We talked about cricket, we talked
about a lot of things.

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COMMISSIONER: That was a joke, I take it, was it?-- Well, he
said - no, no, we were talking about cricket and I asked him
was this - if you remember, the wicket keeper at the time was
an 18 year old by the name of Patel, so I inquired was he
related, and he said it was his nephew. So I took that at
face value.

MR ATKINSON: When you spoke to him you say that you observed
he was quite a confident and powerful personality?--
Absolutely.

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In what sense?-- Just extremely confident and charming. He
made you feel as though you could trust him totally, with
complete confidence.

Now, you spoke to him about your diverticulitis and
diverticular disease?-- Correct.

You have here a comment that he said he would do a sigmoid colectomy?-- Yes. He actually - for the record, he actually showed me a copy of the medical chart of the colonoscopy done by Dr Faint, and he showed me this and he showed me that he would be resecting the area from approximately 30 centimetres from the first diverticula to the last one. He indicated on the drawing on the chart. And he also told me that when the colonoscopy had been done, the guiding wire in the scope fractured or malfunctioned and the colonoscopy was only done to the top of the ascending colon.

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That was a colonoscopy done by Dr Faint?-- Correct.

And that meant, I guess, that he couldn't be as confident in the result?-- No, he assured me that, you know, it was obvious that I had this diverticular disease and that was the problem, and not to be concerned that the colonoscopy scope had not gone all the way to the caecum.

20

Now, the surgery was scheduled for 19 May 2003?-- Correct.

You attended the hospital on that day as planned?-- Yes, I did.

You met with Dr Patel?-- Yes, I did.

And you saw him before and after surgery, did you?-- Yes, I did.

30

Now, what happened after the surgery?-- While I was discharged from the surgical ward and taken back to the medical ward, the first thing they look for is bowel movements after surgery to see if there's any problem. So I think it was the second day I had a bowel movement and-----

When you say it's the thing they look for, were people asking after your bowel movements?-- Well, quite often you'll find that you won't be discharged unless you have a satisfactory bowel movement.

40

Right?-- As a pre-condition of discharge.

I'm more interested in your experience. People were asking you?-- Yes. I mean, you're questioned constantly, you know, in relation to bowel movements and their composition and so on.

All right?-- The first bowel movement that I had I noticed that there was a fair quantity of bright red blood discharged. I had never noticed that type of bleeding before the surgery, and this blood being bright red and, you know, obviously I'm bleeding internally, and in fact I still bleed internally up to this day.

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Your understanding, from speaking to other doctors, is the fact that it's bright red and not discoloured suggests that the bleeding is coming from a place close to the colon?-- Correct.

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Now, you saw Dr Patel after the bowel movement?-- Yes.

And did you have a discussion with him about the colour?-- Yes, I told him that I was bleeding post-rectally - or that's the medical term. I should use the normal term which is bleeding internally with a bowel movement. He told me not to worry because that was just - to expect some bleeding for a little while as the - where the resection occurred - just to expect a little bit of bleeding and that would clear up in a few weeks.

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Now, that conversation was on the 21st of May?-- Yes.

2003?-- Yes.

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You were discharged the next day?-- Yes.

Can I ask you, Mr Fleming, you spoke about the surgery. What kind of wound did you have? Was there an incision made in you?-- Yes, there was a longitudinal incision from the navel - just below the navel to just above the scrotum.

Now, you are discharged on 22 May, the hospital tells you to come back on Wednesday, 28 May?-- Correct.

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Tell me about what happens when you come back?-- Well-----

In fact, tell me what happens in the interim?-- Well, for a few days before that booking my stomach was turning a bright, dark, deep, angry red colour and swelling, and I was becoming more and more - I was experiencing increasing pain, and it was getting so bad that by the time I went back to see him I could barely eat or sleep or walk. In fact my wife had to help support me to go into the Outpatient room.

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How about the bowel movements?-- Well, they were still continuously bleeding.

What you were noticing was a red colour - a bright red colour?-- Bright red blood.

I won't ask you to go to the photographs just yet, but you do return to have the staples removed?-- Yes, and they were removed that day, on 28 May. He laid me up on the examination table - do you want me to address the issue of the photographs and when they were taken?

50

Well, tell me what the doctor said first?-- Okay. Well, my wife was with me as well.

Yes?-- And there were two other nurses who came in and looked at it and went out again. I told Dr Patel, as was the case, that I was in agony and that I couldn't eat or sleep or walk properly, and it was obvious that the wound was a deep, dark red colour and surrounding - the surrounding abdominal area was visibly affected. It was swollen and sore, and very painful.

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Right. And you had to be assisted, I understand, in walking in the room by Mrs Fleming?-- Yes, physically assisted, yes.

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Dr Patel examined the wound?-- Very closely.

And the things that you're talking about in terms of the angry red colour-----?-- Yes.

-----they were self-evident even to a layperson?-- Yes.

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What did he tell you about the state of your wound?-- He told me it was all in my head and that I was only bunging - that I was bunging on an act and he also said to me and the wife, you know, "Go home, give the wife and kids a kiss and have a great life."

You might show the photos now, if you don't mind. Perhaps if you could give them to Carl to your left. Now, these photographs were taken by your wife?-- Yes, the morning before I went in to have the staples removed.

20

All right. There's two photographs there, are there?-- Yes.

So one can see a red mark across your belly there?-- It's in both of them. On my screen it's not looking too clear, but if you look at the physical photographs you will see it's very evident.

Right. That's that red mark going from your belly button there down?-- And across the abdomen too.

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Right?-- The physical photographs are much clearer. This isn't that clear.

And the state of your - the state of your body when you saw Dr Patel had it changed at all?-- No, it was - that was taken the morning and I went in and saw him early afternoon. If anything, it was worse.

So he basically just discharged you from the hospital and says you don't need to be seen again?-- Absolutely.

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You go home with your wife?-- Yes.

Tell us what happens next?-- Well, I went home and I thought it must have been post-abdominal bruising, or something like that, you know. I just couldn't understand a top surgeon sending me home if I had an infection. And sitting on the couch - and I still couldn't barely eat or sleep - and sitting on the couch Friday night, it was about 9 o'clock, 9.30, when a hole about one or one and a half centimetres in length, top section of the surgery wound blew out is my description. It just blew a hole and puss and blood started pouring out. My wife had to get me a sanitary napkin to put over it and she took me into the Emergency Department.

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So if we look at that photo, it's the top section that blew out?-- The very top.

Closest to the navel?-- The very top section, about one, one and a half centimetres in length. 1

And at the time you were just sitting on the couch?-- Just sitting on the couch.

And I know in the statement it says 29 June, but that should be 29 May 2003; is that right?-- That's correct. Typo. It was the following night. 10

Okay. Now, you are saying, I think, that your wife took you to the Emergency Department-----?-- Correct.

-----of the hospital. What happened?-- Well, the staff immediately knew that I was an emergency case and I went straight into the Emergency Ward, was given a bed and was immediately given an injection of morphine, and from memory they opened up the incision about another one centimetre. It ended up about two and a half to three centimetres in length, about one inch at the very top. 20

Right. So they followed the line of the wound further down?-- Sorry? Yes. Yes.

The scarring?-- The initial blow-out was at the very top and then they just lengthened it to about two and a half to three centimetres downwards.

Now, what was happening with the wound? Was it smelling or making noises or anything?-- Yeah. Well, it's even described in my medical records, the nurses described the wound as sucking and blowing bubbles. Purulent discharge I think is another term they used. There was a lot of puss coming out, a lot. 30

And was this - the sucking and blowing of bubbles, was that both before and after the staff made their incision?-- Yes, and it would depend - as part of the examination they would push on it, so that might blow bubbles or it might suck, make a sucking sound, or whatever. But the puss was just pouring out. 40

So you were admitted to the hospital that night?-- I was admitted to the ward that night.

And you stayed there for about a week?-- For about a week, yes.

That was the Thursday night, Mr Fleming?-- Correct. 50

Do you have any association with Mr Patel - Dr Patel after that? Do you see him?-- Well, yes, he came and saw me the next morning doing ward rounds, and when he came in he seemed extremely agitated and cross is the word I would use. Basically his whole attitude had completely changed, and he would see me every morning, except one I think, a Sunday, he had the day off. But he would always come and see me every

morning until I was discharged at the early morning ward rounds.

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Tell me, in paragraph 12 you talk about one of the nurses approaching Dr Patel?-- Yes. Over - during the course of Friday and Saturday I remember a number of nurses coming to me and talking about the need to use a suction pump and during one of these days, it was either on Friday or Saturday when Dr Patel was doing the ward round, they raised this in his presence and he became very cross and very angry with the nurse and basically told them to butt out and it was up to him, he was the surgeon, he was the doctor and he would treat me the way he felt was in my best interests.

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You mentioned the suction pump. Do you know whether the nurses spoke to the doctor about wound dressing?-- Yes, they also disagreed over the wound dressing that was being used. They felt that there was a more effective dressing that could have been used to drain the infection.

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And when you say that Dr Patel declined the request, did you witness that conversation between Dr Patel and the nurse?-- Absolutely.

Now, on Sunday, as you say, that was the one day when you didn't see Dr Patel?-- Yes, I believe he had the day off. I'm not - I don't know for sure but I don't believe I saw him that day at all.

Now, if I can take you to Monday, 2nd of June 2003. You explain in your statement that Dr Patel came around doing a ward round?-- Yes.

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And he seems to be pretty old fashion. When he did a ward round he would have a small entourage with him?-- Yes, he would usually have at least two or three junior doctors and head nurse with him.

Well, tell us what happens that day?-- He came around and he seemed to be in a very bad mood and get very agitated. The wound was not improving and I'd been on massive anti - infusion of antibiotics for over three days now and basically just said to me, "We're going to have to fix this up," and stormed out of the room. A short time later one of the junior doctors that had been in company with Dr Patel came into the room, it was a private single bedroom, and he just said to me - he was carrying a tray which had a cloth covering it and he said to me, "Dr Patel sent me in to fix this up. Just lean back on your bed and close your eyes." Now, I thought they were going to do a swab to do a culture and - anyway, he told me to lean back, close my eyes and hold onto the sides of the hospital bed, and it was only he that was in the room with myself, there was no-one else. I started squirming from the pain. I - at first I went into shock because I started to feel a scalpel cutting through my skin and I went basically rigid on the bed as the scalpel cut right down the wound through the healed skin or partially healed skin. And then when he started to pull my abdominal flesh apart, I started

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squirming and he told me to - he kept telling me, you know, keep still and stop moving around.

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If you hadn't seen what he was doing, how do you know that the abdominal was being pulled apart?-- No, I felt the scalpel cutting through my flesh and then I felt him - I still had my eyes closed and I was in a state of shock and then I felt him pulling the flesh apart and then I was squirming around and then the procedure probably took a minute and a half, maybe two minutes, and finally when I looked up he was holding some sort of surgical Q tip and he was separating the flesh from the abdominal right down to the stomach muscles.

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What do you mean a "Q tip"?-- Well, it looked to me like a Q tip, like a cotton bud thing that you use to clean your ears. That's the only way I can explain it, but a slightly larger version.

Now, he opened up the wound?-- Yes.

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And what did he do with it?-- What did he do with it?

Once it was opened, did he suture it or-----?-- No, he just said, "A nurse will be in shortly to pack the wound."

Now, can you tell me what kind of pain you felt?-- Excruciating agony. But physical pain I can handle, it was the complete dehumanisation that I felt. I just felt like they were treating me as a piece of meat.

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Right. Now, tell me, did you have a local anaesthetic?-- There was no anaesthetic.

You've heard evidence today that sometimes what can happen that if a wound's infected the local anaesthetic doesn't work. Is there some chance you had a local anaesthetic but you didn't notice it?-- No, absolutely not. There was no anaesthetic. No pain relief given at all either before or after that procedure.

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And this procedure was carried out in the bed that you had been lying in?-- Correct.

D COMMISSIONER VIDER: Mr Fleming, those pictures have shown us the extent of the suture line?-- Yes.

Is it the extent of the suture line that was reopened?-- Exactly, and I have a photograph which - I don't know if it's now the right time-----

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MR ATKINSON: If the Commissioner wants to see it?

WITNESS: -----to go up, and I'm quite willing for this to go up as an exhibit on the website. I have no problem. The entire incision was reopened from top to bottom and you can see that by the staple - staple lines.

MR ATKINSON: This is some time afterwards, is it?-- Sorry?

When was this photo taken?-- This photo was taken by my wife the day after I was discharged from the hospital. This procedure took place on the 2nd of June and I was discharged on the 4th of June and my wife took the photograph either the 4th or 5th of June.

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And the red marking there?-- That's what - that's my abdominal flesh.

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All right?-- Down to the stomach muscles.

Right.

COMMISSIONER: Just for the record. So from the top to the bottom of that is about five inches or so?-- I measured it as 18 centimetres by five centimetres.

So six inches and about two inches?-- No, seven inches by two inches and also very deep.

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MR ATKINSON: Now, the doctor who carried out the procedure-----?-- Yes.

-----you can recall that he was one of the people in that entourage that Dr Patel had in tow?-- Yes, exactly.

And you give a description of him in paragraph 16. You can't be more specific at this stage or on the information that you have about the name of that doctor?-- No.

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I don't ask you to guess?-- And I'm not going to. But I'm perfectly willing to attempt to identify him if given the opportunity.

Right. Now, you've studied your medical notes?-- Yes.

And some of them, of course, constitute Exhibit 66. And you make the point here that you can't see from the medical notes who carried out that procedure?-- No.

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Right?-- In fact, the medical notes state that they are written by Dr Patel in his own handwriting.

COMMISSIONER: Mr Atkinson, just to keep the record straight, I think we should start giving numbers to some of these exhibits. 114 will be Mr Fleming's statement.

MR ATKINSON: Thank you.

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ADMITTED AND MARKED "EXHIBIT 114"

COMMISSIONER: The two photographs showing Mr Fleming's post-operatively will be 115.

ADMITTED AND MARKED "EXHIBIT 115"

COMMISSIONER: And then the one photograph of Mr Fleming after the further incision will be Exhibit 116.

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ADMITTED AND MARKED "EXHIBIT 116"

WITNESS: Excuse me, Commissioner, could I also ask that the colonoscopy done by Dr Faint be admitted as a separate exhibit?

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COMMISSIONER: We will do that, but one thing at a time. Yes, that's fine?-- Thank you.

Do you want to attend to that?

MR ATKINSON: I can.

WITNESS: I was on the understanding that all of my medical records are going to be tendered as exhibits.

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COMMISSIONER: I think that's right. That's why I wasn't going to mark each document or photo separately?-- Particularly with note to this because it bears relevance to later evidence.

Well, the colonoscopy report of Dr Faint-----?-- It's recorded as Day Surgery Record Part B dated 25th of March 2003.

25th of March 2003 will be Exhibit 117.

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ADMITTED AND MARKED "EXHIBIT 117"

COMMISSIONER: And Carl might arrange for a copy of that at some convenient time. Mr Fleming, at this stage can I ask you, normally we rise between 4.30 and 5 o'clock, thereabouts. I realise giving evidence is in one sense something you have been looking forward to, but-----?-- Absolutely.

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But also something else that's quite painful for you. Do you prefer to continue for a while this evening or prefer to come back tomorrow?-- I would prefer to get this over with today if I could, Commissioner.

All right. We have had so far three - a couple of late nights in a row anyway. Does anyone have any difficulty if we go until say six o'clock or 6.30? Mr Diehm?

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MR DIEHM: Commissioner, I'm very sympathetic to Mr Fleming, and please don't take any of this the wrong way - and Mr Fleming please don't take any of this the wrong way - but my concern though is, yes, we have had a couple of long days and as you know, Commissioner, a lot of extra hours outside sitting hours too, and we've been provided today with a lot of statements for witnesses, some of which we presume will be giving evidence tomorrow.

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COMMISSIONER: Before you go any further, Mr Diehm, what I was going to suggest is that we continue only to the end of his evidence-in-chief. I wouldn't expect anyone to be in a position to cross-examine this evening. Does that allay your concern?

MR DIEHM: That does to an extent and I'm happy to go for some time yet. My concern is that if we go until 6.30, say if that's how long it takes to complete the evidence-in-chief, that impinges on the time we have got to prepare tomorrow.

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COMMISSIONER: I understand that. I understand that entirely. Look, we will try and aim towards about 6 o'clock.

MR ATKINSON: I think I can do better than that, Commissioner.

COMMISSIONER: If we finish the evidence-in-chief before that so much the better, but we might take a short comfort stop now anyway, and perhaps for 10 minutes or so. Thank you, Mr Fleming.

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THE COMMISSION ADJOURNED AT 4.33 P.M.

THE COMMISSION RESUMED AT 4.46 P.M.

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IAN GRANT FLEMING, CONTINUING EXAMINATION-IN-CHIEF:

COMMISSIONER: Yes, Mr Atkinson?

MR ATKINSON: Mr Fleming, I was taking you through that procedure on 2 June 2003?-- Yes.

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And you mentioned that after the doctor finished opening you up, he didn't do anything more effectively?-- No, he left the room and said a nurse would come in and dress me.

And did a nurse come in and dress the wound?-- Yes, she did

and she took my daily observations, blood pressure, temperature.

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How were you for the rest of that day?-- After she left I got up and left the room and for the rest of the day there are no daily observations recorded in my medical chart. Basically I wouldn't let anyone come near me. I just sobbing, crying, just moaning. I rang a friend of mine and asked him to bring me a packet of cigarettes. I had quit smoking and had to start smoking. I just felt meself in a very traumatic state.

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Right.

COMMISSIONER: Did you get any pain relief at all?-- None. I did get two Valium tablets later that night, one at about 8 o'clock and one at about 10 o'clock to help me go to sleep.

MR ATKINSON: Now, do did you see Dr Patel subsequently?-- Yes, the next morning.

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And did you raise the procedure with him?-- I certainly did.

Tell us about that conversation?-- I asked him - I asked him, first of all, "Why didn't you tell me what they were going to do?" and he just gave no reply. Then I asked him, "Well, why didn't they give me some kind of anaesthetic?" and he said to me - and I have reason to also know - "That local anaesthetic in a wound infection is basically ineffective." But then I said to him, "Well, why didn't you just have me given a morphine injection?" and he just scoffed and he said morphine's expensive and he didn't want me to become addicted. And I said to him, you know, "They just couldn't have put the morphine - I had the cannula in my arm, they could have given me a shot through the cannula, and I said to him that I had only had the one shot of morphine when I was admitted to emergency, that I hated the stuff, I hate all drugs of any sort, but would have welcomed it before the procedure if I had known what they were going to do. I certainly wouldn't have sat around. But anyway he just seemed to scoff my comments and left.

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Now, you were released from the hospital on 4 June 2003 as you said earlier?-- Yes.

And you went to Outpatients subsequently?-- Yes.

You mentioned in your statement that you saw one or two nurses in Outpatients who had treated you in the Surgical Ward?-- Yes, there were two nurses who had come in during the - when Dr Patel was inspecting my abdomen, two nurses came in and also looked at my abdomen and said nothing and walked away. Later, during - initially it was daily dressing reviews and then it becomes every two days and so on. They both privately said to me that they knew I had a wound infection, blind Freddy could see I had a wound infection, but they just couldn't say anything, they couldn't contradict the doctor.

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Were they the same nurses who you had seen discussing the

suction pump and the-----?-- No, no, this is in the dressing clinic. The nurses in the Medical Ward were different nurses.

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D COMMISSIONER VIDER: You went back to the clinic daily to have the dressings done?-- Initially daily. I think - well, it's all in the records and the days and dates and the frequency that I attended. Initially it was daily and then it lengthened and then eventually - I'm getting ahead of myself there, sorry.

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MR ATKINSON: All right. Now, in the Surgical Ward Review Notes it says a comment on 16 July 2003 which says, "Wound healed, completely discharged" - sorry, "Wound healed completely, discharge from clinic." Can you say whether or not that comment is accurate?-- No, it's completely untrue. In fact, as recorded in paragraph 19, my last visit to the dressing clinic was on the 7th of July. After this I dressed and cared for the wound myself because I was quite competent and capable of changing the dressing at home and I was given a large package of dressings to take home and the wound didn't finally heal until late in August.

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Now, if I take you back to what started all this back in April 2001, which was the Diverticulitis and Diverticular Disease?-- Yes.

Did they stop after that operation in May?-- No.

Your problems continued just as they had before?-- Yes. I will say that the attacks have been less severe, so I self-treat at home. By that I mean, I fast, I drink water only and I take - I used to take - which is the wrong thing to have taken it now appears - I used to take prescription doses of Brufen as an anti-inflammatory.

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You did gain some relief from Dr Patel's operation on 19 May 2002?-- Yes. In all fairness I did gain some, but-----

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All right. Now, you made a decision some time later to complain?-- Yes. Well, I put that in the context because, as I said in paragraph 21, the problems never stopped, and from August through till October 2003 I attended at the Emergency Department at least four times and by ambulance on at least one of those occasions, and I was suffering from constant abdominal pain, now in the right central abdominal area, plus vomiting, nausea, dry-retching, headaches, and also the ongoing internal bleeding. Every time I was - I was seen in Emergency I was simply sent home straight away. Nothing was ever done.

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All right. Well, what made you decide you wanted to complain?-- I just felt nothing was getting done, and I had a letter written from the GP to the doctor - to the hospital and nothing was being done.

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So, how did you decide you should raise your complaint?-- Well, I had no knowledge of any other complaint process. I simply rang and was put through to the Executive offices of the hospital, and I spoke to a lady in the Executive office. She identified herself as Joan, but I don't know her last name, and I said to her that I wanted to make a formal complaint about my treatment, my treatment by Dr Patel. I asked her, "How do I do that, in writing?", and she said that the complaint did not need to be in writing and that she could take it over the telephone and it would carry the same weight as if I myself had written it.

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She was in the Executive office?-- Yes.

She didn't refer you to the Complaints Coordinator at any stage?-- Didn't know there was such a thing.

All right. So, she said you could give your complaint over the telephone?-- Yes.

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And you say that you then told her your four main areas of complaint?-- Yes.

Now, they are all fully well structured there. Do you think you said them in that level of structure?-- Absolutely, and that's why I - I have a transcription of those notes prepared by Queensland Health, and I've even then clearly spoken about the problems with the earlier colonoscopy in relation - and her notes say that - was told later problems, that the camera didn't get to see where - all the large/small intestine.

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Can I stop you there? What you are referring to is that second last attachment, second last page to your statement, and that's headed, "Notes Taken October 2003"?-- Correct.

Now, they are not your notes, of course. What they are is a transcription of notes taken by the receptionist, Joan?--

Secretary. I understood her to be the secretary to the Director of Medical Services.

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All right. Now, I'm not interested in what she said for her own sake or its own sake?-- Yes.

I'm interested in whether you say this jogs your memory and you recall that you said these things. So looking at that last page, you think these were comments you made in the course of that phone call?-- Well, I would submit that they are not full and complete records of our entire conversation, but I would-----

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Never mind that. Never mind that, Mr Fleming. Just answer my questions?-- Yes.

Did you raise these issue?-- Yes, I did. The issues are the four specific issues.

No, I'm asking you all the comments that she makes in - that you see in those transcribed notes. They are all matters that you raised?-- Yes.

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All right. But your recollection is that you raised other matters as well?-- Well, what I'm saying is that in this very - I don't know how to explain it. I can clearly identify where all four of the items that I complained about - I can point to and say, "Excruciating agony, couldn't stand up, Dr Patel removed staple". That refers to complaint number 1. I would submit that-----

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Don't bother, Mr Fleming, submitting things?-- Okay. Certainly.

All I want you to do is - you explain that the points that she's made, they accord with your memory, that you made them, that they were points you made, and your recollection is that you made other points and that you made, in particular, these four main points?-- Yes, all four points are contained in that transcript.

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And then this lady, Joan, told you that the Director of Medical Services would return your call?-- Yes.

Now, you got a call from Dr Keating on 30 October 2003?-- Correct.

Did he introduce himself?-- Yes, he did. He said - he asked to speak to Mr Ian Fleming. I said, "That's myself." He said, "I'm Dr Darren Keating. I'm the Director of Medical Services at Bundaberg Base Hospital.", and we had a very lengthy conversation, but he began the conversation by saying, "I hear - I hear you have lodged a complaint against Dr Patel. I must tell you that he is a fine surgeon with impeccable credentials and we are lucky to have him here in Bundaberg. I understand you are bleeding internally since the operation but this can be caused by many factors." That's how the conversation began.

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That's before you raised any of the issues or explained the circumstances to him?-- Absolutely.

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Now, do you go through your full complaints?-- Yes, each individually and at great length.

All right. So first of all you told him that your stomach was red and swollen around the wound and you were in extreme pain?-- Yes, and I had photographs.

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And that the incision had blown out the night after the staples were removed?-- Yes.

And in a nutshell your complaint was that Dr Patel when you saw him just before discharge, I think, on the 22nd of May 2003, he failed to diagnose the wound infection?-- No, no, he failed to diagnose the wound infection when I went back to have the staples removed.

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That's right. On the 28th of May?-- 28th of May.

All right. Now, what was Dr Keating's response to that complaint?-- He said that wound infections are - he said that abdominal redness and swelling is normal after major surgery and it is often difficult to diagnose.

You mentioned that you told Dr Keating that you had photographs?-- Yes.

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Did he ask to see the photographs?-- No.

Now, you told Dr Keating, I understand, that your second complaint was that when you were rushed to hospital on the 29th of May when the wound blew out, the nurses wanted to use the suction pumps and a certain wound dressing but Dr Patel refused?-- That's correct.

And what did Dr Keating say in response to that complaint?-- Dr Keating told me that it was up to the surgeon to decide the best course of treatment for my infection, not the nurses.

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Did he show any interest in ascertaining the nature of the infection or who the nurses were?-- No.

Now, your third complaint was that the wound was being reopened and the doctor didn't use any anaesthetic?-- Yes.

What was Dr Keating's response to that?-- It stuck in my mind because it was almost exactly the same response as Dr Patel's, that morphine is expensive and you can become addicted to it. He said first that local anaesthetic wouldn't work, and then when I stated, "Why didn't they use some morphine?", he then said that - those words, that - basically the same thing that Patel had said, and it stuck in my mind because it was almost the same phrase.

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It was almost as if he was repeating Dr Patel's version of

events to you?-- Yes.

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All right. Now, you then mentioned to Dr Keating as your fourth complaint that you had been bleeding internally since that operation way back on 19 May 2003?-- Yes.

And nothing had been done about it?-- Yes.

What did Dr Keating say about that?-- He said that he scheduled me for follow-up procedures, a barium swallow and colonoscopy.

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And did he do that?-- Yes.

Now, what did he say was to become of the complaint?-- Well, he told me that he made a full investigation into the complaint and that there was no basis for any action and that the complaint would not go any further.

Did you receive anything in writing?-- Nothing.

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And did he explain at any stage that he would be making any inquiries of other people or that he had made inquiries of other people?-- No.

Did he indicate whether or not he had your records to assist him in his investigation?-- No.

COMMISSIONER: Mr Fleming, I have in front of me here attachment IGF3 to your statement, which is the Complaint Registration Form. It's not clear who filled this in, but it at least purports to be a record of the way in which Dr Keating dealt with your complaint. Do you have that attachment, number 3?-- Yes, Complaint Registration Form, yes.

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And based on what you have told us, Dr Keating must have been on different planet from you, because what he's recorded as the nature of the complaint is nothing to do with what you have been telling us about?-- Well, when I got a copy of the complaint just recently that became very obvious to me. But that - the initial handwritten notes were then transcribed into this Notification of Complaint and from there they even deviate again to the Complaint Registration Form.

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Well, the only explanation given on the Complaint Registration Form of "Action Taken" says, "No action taken", and then it says, "Please Provide Details: Darren rang Mr Fleming and explained that he needed a referral by specialist. He needs to come to OPD 11 November. Patient noted that he needed medical attention but was semi-urgent and must wait."?-- Yes, and I did have the appointment on the 11th of November, but I certainly didn't tell him I was semi-urgent. I felt I was in urgent need of medical assistance.

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The complaint was submitted the 28th of October. That date's right, isn't it?-- Yes.

Complaint was registered actually after it was determined, according to this. So it was acknowledged on the 29th of October, resolved and closed on the 30th of October, and registered three days later on the 3rd of November?-- Yes.

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And according to this the complaint was about access to services. Are you sure you offered to show them the photographs and-----?-- Absolutely. I would sit at home just some days just - when - when the kids had gone do school, I'd just say there and ball my eyes out looking at these photos. I mean, I just - I had them - I don't know why I took them. I certainly didn't expect to be sitting in a Royal Commission talking about them.

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Yes. Yes, Mr Atkinson?

MR ATKINSON: Thank you. It's one thing to have the photos. Your recollection is you told Dr Keating the photos were available?-- Absolutely.

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Now, how did the conversation conclude with Dr Keating?-- Well, he told me that I was scheduled to have the - I was booked to come into outpatients on 11 November, and then he finished with - with basically telling me that Bundaberg and I personally were very lucky to have such a fine competent surgeon as Dr Patel working there and that I should be grateful that he operated on me. He said that Dr Patel's a surgeon of very highest calibre, and I was just - yeah.

Now, you subsequently had to go back for a colonoscopy?-- Yes.

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And you made it clear that you didn't want the colonoscopy to be done by Dr Patel?-- At no time after my discharge from the ward on the 4th of June did I ever see or meet or talk to Dr Patel or the doctor that performed the procedure on me and I believe if I had have it would have been rather ugly.

COMMISSIONER: That's not what Mr Atkinson asked you. Did you actually say you didn't want Dr Patel doing the colonoscopy?-- Absolutely, and-----

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Who did you say that to?-- Dr Keating, and it was my impression because-----

No. Sorry. Stop there. Your impressions may be quite useful to us but just focus on the questions for the moment. You told Dr Keating you didn't want Dr Patel touching you?-- Absolutely.

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When did you tell Dr Keating that?-- In that telephone conversation when he rang me.

All right. When you had the colonoscopy, when you were at the colonoscopy, were you given any indication or warning that Dr Patel was to have anything to do with it?-- Absolutely not.

Right. Did you sign any consent form?-- Yes.

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Did the consent form have any doctors' names on it?-- No. All I signed was blank consent forms that were presented to me by junior doctors and the details were filled in later, not in my presence. I simply signed them.

All right.

MR ATKINSON: Now, we might skip ahead a bit, Mr Fleming, but effectively you had a colonoscopy on 20 January 2004. Yes?-- Yes. The colonoscopy and endoscopy, yes.

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And the surgeon's report shows that it was carried out by Dr Patel assisted by Dr Boyd?-- I found that out from my medical records, yes.

And the colonoscopy itself discloses that unfortunately during the earlier operation only about 70 millimetres of the colon had been removed?-- Correct.

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And there was still an area of colon that was affected by diverticulosis?-- Yes. The exact words used in the written report to my GP signed by Dr Boyd was that there were multiple and fairly large diverticula remaining in the colon approximately 30 centimetres from the anal verge.

You are still seeking medical treatment to have that fixed up?-- Absolutely.

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Now, can I take you to the issue of these complaint documents that the Commissioner asked questions about?-- Yes.

How did you get hold of them?-- Sorry?

How did you get hold of the complaint documents?-- The first thing I did was about - okay. But the day - I can't remember the exact day, but it was early in April, might have been about the 10th or the 12th, and I went in and filled out the forms to get a complete copy of all my hospital records. Then I went home and thought about it and went back - no, and the next day then I rang Gail Chandler, who I'd actually talked to on several occasions before, and I asked her about how to get a copy of my complaint file. She said that I would have to ring Joan, so I then rang Joan up.

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That's the same lady you'd spoken to?-- Same lady that took the-----

On the 28th of October?-- Yes. I spoke to Joan and asked if I could get a copy of my complaint file. She went away and after some time, a short time, she came back and she said that she had my original complaint file in her hands, it was several pages, and that I would need to make a formal application under the FOI, Freedom of Information Act, for its release, and that that release would need to be approved by Dr Keating. I said to her that that seemed like a bizarre system and-----

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And-----?-- Sorry.

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Sorry, go on?-- I just can't - then Gail Chandler again spoke to me a short time later, and it was seven days later actually, and she said that my file had been sent to Brisbane, so it would take a while to retrieve it.

COMMISSIONER: Sorry, when you spoke to Joan she said she had your file in her hand?-- Correct.

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You said you wanted it?-- Yes.

You were given the run-around, being told you had to go through FIO applications and so on to get it?-- Yes, yes.

Then four days later, whatever it is-----?-- It was longer than that, Commissioner.

I see. How long?-- It may have been two to three weeks later.

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All right?-- Because I had been asking Dr Gerry Fitzgerald during our daily meetings to get me a copy of the complaint file, and I asked him several times, and then after that Gail Chandler called me and said, "Your file has been sent to Brisbane and it will take some more time."

MR ATKINSON: And eventually you received these copies - these file notes that comprise IGF3?-- Yes.

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They are not notes that were sent to you immediately following your discussions with Dr Keating?-- I have never seen them before.

They are internal documents from Queensland Health?-- I have never seen them before.

Can I just, to finish your evidence, talk to you for a little bit about the Patients' Group?-- Yes.

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There's two cofounders of the Patients' Group?-- Yes.

That's you and Beryl Crosby?-- Correct.

And you got together because you called Rob Messenger with the complaint you had about Dr Patel?-- Yes, after he spoke to Parliament.

Yes. And Ms Crosby did the same thing and Mr Messenger got you in touch with each other?-- Yes. I rang Mr Messenger.

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I don't need a blow by blow detail but that's effectively how it happened?-- Well, just to add that Beryl had made it known to Rob Messenger's office that if anyone wanted to talk to her about the Patel issue, they were welcome to telephone her, and when I contacted Mr Messenger's office I said the same thing. So, from that day on I started to receive phone calls and

Beryl had been receiving phone calls, I believe, for a couple of weeks before that.

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And since the 14th of April you have been having regular meetings at Brothers Sports Club?-- That's correct.

And sometimes there can be as many as 300 people there?-- That's correct.

And in terms of people on your books, if you like, you have something in the order of 500 patients?-- Patients, relatives or friends of deceased relatives - deceased patients or relatives of deceased patients.

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People affected to varying degrees?-- Exactly, people that may need counselling or support, or whatever, or operations or surgery or whatever.

And to be fair some of them may not have adverse outcomes entirely due to Dr Patel?-- No, that's correct.

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That's the evidence-in-chief, Commissioner.

COMMISSIONER: Mr Atkinson. Mr Fleming, there is one thing that I wanted to raise with you. On I think it was Monday of this week when I was still in Brisbane, I got a message through Mr Atkinson that you wanted to speak privately with me and the two Deputy Commissioners?-- Yes, Commissioner.

And I asked Mr Atkinson to convey back to you that that wasn't appropriate. Is there something you now want to raise or mention or disclose that was the subject of that message?-- Well, what I would like to show the Commissioners - a couple of things. Mr Atkinson had asked me to make recommendations as part of my evidence-in-chief and we felt that was inappropriate and my legal counsel would be making written submissions. The second thing is that - what I wanted to show the Commissioners is an eight to 10 minute video clip that I feel may be very useful in particular with the Terms of Reference number 3, I believe.

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What's it from?-- It is a segment from A Current Affair, Ray Martin.

Right?-- Regarding hospital deaths in Australia and a best practice pilot study that has been undertaken in Geelong, Geelong Hospital.

All right. It involves?-- It involves the use of palm pilots to record adverse events and they are all carried around by staff.

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But why are those matters that you wanted to raise behind closed doors rather than in public?-- I'm quite happy to raise it in public, to show it publically.

I'm not trying to make things difficult, Mr Fleming, I just want to know whether there's something that you feel that

you'd like to tell us about but you prefer not to tell us in public. We can have a closed session of the Inquiry if you need to or something like that?-- Oh, no, no, nothing like that.

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I just want to make sure that you have had the opportunity to pass on any information that you feel is relevant that you can provide to us?-- I would be happy to just supply a copy of the video to Mr Atkinson and you can look at it at your pleasure.

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All right?-- If you so choose.

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That's fine, and we will look at it, but I just want to make sure that there isn't something in the background that you felt that you didn't want to discuss in public that you-----?-- No, sir. No, there is no hidden agenda here whatsoever.

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I'm not accusing you of a hidden agenda, but I realise that a lot of medical issues can be personal, private, embarrassing, and you have given your evidence, if you will permit me to say so, in a very courageous way discussing things that most of us wouldn't like to discuss in public?-- Yes.

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So, if there was something else that you needed to raise, we could make some arrangements if necessary, but have you now covered all the things that you wanted to say in your evidence?-- Absolutely.

Thank you. Mr Atkinson, we might make arrangements to get a copy of that video tape as it may be useful for us to see.

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MR ATKINSON: I will get that, Commissioner.

COMMISSIONER: We might adjourn until 9.30. Before we rise, we might mention one other thing: Mr Andrews mentioned to me you were planning to call Dr Thiele this week.

MR ANDREWS: Yes, Commissioner.

COMMISSIONER: I think he's only available in the morning tomorrow.

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MR ANDREWS: So I'm instructed, Commissioner.

COMMISSIONER: Would it cause you, Mr Fleming, any great inconvenience if we put Dr Thiele in in the morning and then you can continue your evidence when he's finish?-- Not at all, Commissioner.

Does that inconvenience anyone at the Bar table?

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MR BODDICE: No, Commissioner.

MR DIEHM: No, Commissioner.

COMMISSIONER: We will do it that way. We will resume at 9.30 in the morning. You don't have to be here then, although I notice you have been here every day?-- I will submit to the Commissioners that I will be attending every day even in Brisbane.

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Okay.

THE COMMISSION ADJOURNED AT 5.17 P.M. TILL 9.30 A.M. THE FOLLOWING DAY