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Transcript of Proceedings

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SIR LLEW EDWARDS, Deputy Commissioner

MS MARGARET VIDER, Deputy Commissioner

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IN THE MATTER OF THE COMMISSIONS OF INQUIRY ACT 1950

BUNDABERG HOSPITAL COMMISSION OF INQUIRY

COMMISSIONS OF INQUIRY (No. 1) 2005

BUNDABERG

..DATE 13/07/2005

..DAY 24

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THE COMMISSION RESUMED AT 8.34 A.M.

COMMISSIONER: Mr Andrews?

MR ANDREWS: Good morning, Commissioner. I call Linda Mary Mulligan.

LINDA MARY MULLIGAN, SWORN AND EXAMINED:

COMMISSIONER: Do you prefer Ms or Mrs Mulligan?-- Mrs, thank you.

Mrs. Mrs Mulligan, do you have any objection to your evidence being filmed or photographed?-- No.

Thank you.

MR ANDREWS: Mrs Mulligan?-- Good morning.

Good morning. You've prepared a statement of 70 pages-----?-- I have.

-----with annexures dated the 8th of July 2005?-- Yes.

Are all the facts within it true to the best of your knowledge?-- Yes.

And any of the opinions you express it in, are they your honest opinions?-- Yes.

Subject to certain matters that I'll take you to, Commissioners, I tender that statement. There are a number of editing requirements within it, not too many, but paragraph 197, I see that there's a need to delete the name and to insert "P26".

At Exhibit LMM20 there has been agreement between a couple of parties that several sentences of the e-mail are to be deleted so as to leave only the words, "Thank you for your kindness and sympathy and support. I'm a bit of a sook where my family is involved. We have not had an easy time, thanks, Linda. Toni."

COMMISSIONER: So everything else in that e-mail is to be deleted.

MR ANDREWS: Save for "Dear Linda".

COMMISSIONER: Yes. Yes.

MR ANDREWS: Within Exhibit LMM 32 there are a number of pages and on the fifth page and following are lists of the names of

nurses with their telephone numbers. I propose, Commissioners, that the lists of telephone numbers be deleted so that they'll not be published.

COMMISSIONER: Yes.

MR ANDREWS: And they are the changes that are proposed?

COMMISSIONER: Subject to those emendations, the statement of Mrs Mulligan together with all of the attachments will comprise Exhibit 180.

ADMITTED AND MARKED "EXHIBIT 180"

MR ANDREWS: Thank you, Commissioner. I'll make those corrections on my own copy and offer it for tendering.

COMMISSIONER: Thank you, Mr Andrews.

MR ANDREWS: I have no further questions for you, Mrs Mulligan?-- Thank you.

COMMISSIONER: Mr MacSporran.

MR MacSPORRAN: Thank you. Mr Commissioner, there is one further amendment required. We noticed it recently. It's at paragraph 125.

COMMISSIONER: You and Mr Andrews are just showing off how carefully you've prepared.

MR MacSPORRAN: He did the first half and I did the second half. The second sentence it reads, "Currently I believe that is an inaccurate statement." It should be, "I believe that is an accurate statement." A typographical error.

COMMISSIONER: Excellent.

MR MacSPORRAN: Is that right, Ms Mulligan?-- Yes, it is.

MR ALLEN: Commissioner, at the risk of being accused of showing off, LMM33 has two phone numbers which for the same reasons as LMM32 could perhaps be deleted.

COMMISSIONER: Yes. Mr Andrews, you'll attend to that.

MR ANDREWS: I will, Commissioner.

COMMISSIONER: Thank you.

MR ALLEN: Thank you, Commissioner.

COMMISSIONER: Now, I think you get the prize, Mr Allen.

EXAMINATION-IN-CHIEF:

MR MacSPORRAN: Mrs Mulligan, as we've seen, this is a very lengthy and detailed statement. Has it been made in response to evidence that has been given before this inquiry?-- Yes, it has.

And does it seek in general terms to address all of the issues that you are currently aware of?-- Yes.

Now, I don't want to take you through the statement in detail but I do want to take you to some parts of it to make sense and place in context your explanations for all of these things?-- Yes.

Could we start with paragraph 31, and that comes under the heading of "Nursing Management Structure". I would like you to tell us briefly, if you could, and in summary form the nature of the management structure and, in particular, who reported to you and what your workload therefore was like?-- Okay. A very flat management structure, meaning that there wasn't a lot of levels between the Level 3s and myself. Twenty-five people reported directly to me, including the Assistant Director of Nursing. The Assistant Director of Nursing did not have professional or operational line management to the other Level 3s and that was changed prior to my arrival. So on my arrival, basically, those people reported directly to me.

Now, did that, in turn, impact upon your workload?-- Yes. In light of the fact that I have a district Director of Nursing role, I have district responsibilities across all four of the health services plus I had 25 people reporting to me on the day-to-day operational issues, so, basically, in trying to do my job at a strategic level and an executive level, I also had to be involved in the day-to-day operations other than in the clinical areas because other staff reported to me.

COMMISSIONER: I wonder if we might have the microphone adjusted. Your voice is a little bit soft to carry throughout the room?-- Is that better?

That's much better, thank you?-- Okay.

D COMMISSIONER VIDER: Mrs Mulligan, could I just ask you for clarification, the management structure that is here in the Bundaberg district, is that a similar management structure in other districts of this size?-- I think it's fairly unique, Commissioner Vider. I haven't personally seen it. There isn't a lot of other District Director of Nursing Level 6 across the state. I'm not aware of it being such a flat structure in other - other districts.

MR MacSPORRAN: Could I take you then to paragraph 102, which is on page 25 of your statement, under the heading "Adverse

Event Training"?-- Yes.

Now, again, can you briefly give us an overview of what that was about?-- Just prior to my arrival - I arrived in March 2004 - a new adverse event system was implemented. Jenny Kirby and Dr Keating were doing the training in relationship to that and it was imperative that the nursing staff at Level 3 and the Assistant Director of Nursing attended that training. It had been flagged with me by Jenny Kirby that there wasn't as high attendance as could be, and particularly at Level 3 but all nursing staff, and so I sent out an e-mail on the 20th of April requesting that nursing staff attend that. There was poor attendance within the theatre area; however, it is difficult for them to get out of their area, so we had to look at opportunities for them to do that.

I suppose it's obvious but can you tell us why it was necessary to undertake this training in your view?-- Well, I believe it's imperative that things are documented and that we manage by fact. It's very difficult when I don't have information or anyone doesn't have information in systems, and so it was really imperative that if there were issues occurring with patients and/or staff, that we actually document them and that information come up, be able to be examined and then actioned.

Now, you've arrived and taken up your role in March 2004; is that so?-- Yes.

So this initiative and your e-mail to that effect was in April?-- Yes.

Soon after you arrived?-- Yes.

Commissioner, the e-mail referred to is not in fact an attachment to the statement but I'd seek to supplement the record with it because it's rather important in the context we're talking about. So if the witness could see this and perhaps it can be placed on the screen, might be the easiest way to deal with it.

COMMISSIONER: Thank you, Mr MacSporran.

MR MacSPORRAN: This is an e-mail, as you've told us, I think from you to, in this case, Di Jenkin and the date is 20 April 2004, and expresses the need to follow up and the importance of this training; is that so?-- Yes, it is.

Perhaps I'll tender that e-mail, if it pleases the Commission.

COMMISSIONER: Yes. The e-mail from Mrs Mulligan to Ms Jenkin dated the 20th of April 2004 will be Exhibit 181.

ADMITTED AND MARKED "EXHIBIT 181"

MR MacSPORRAN: Thank you. Mrs Mulligan, that e-mail addressed to Di Jenkin, did it in fact go to others?-- Yes. It went to-----

And who in particular?-- It went to all Level 3s and to the Assistant Director of Nursing.

And the Assistant Director of Nursing at that stage was-----?-- Carolyn.

-----Carolyn Kennedy?-- Yes.

Right. Can I take you, then, forward to paragraph 110, which is under the heading "Complaints to Management"?-- Yes.

Again, can you tell us generally the system that was in place for managing complaints that were received at the hospital?-- There is a system in place prior to my arrival which, basically, the complaints could come in from a variety of methods, so directly from patients or their family, through local members, through the Health Minister, et cetera. They basically went to the relevant director involved. So if it either would come in directly to the relevant director or perhaps someone might call in and the administrative assistant would either put the call through to us if we were available or if not so, then they would document the issue. Or if they went directly to Peter Leck, he would determine which area of responsibility it fell under. Obviously mine was nursing and the complaint would come to me at that stage. Within nursing services, having discussions with the Level 3 staff basically told me that previously the system was that if a complaint came in, the Director of Nursing would discuss the matter with the Level 3, some determination would be made and action taken. Often the staff members themselves never actually saw the complaint or had an opportunity to respond in writing. So I instituted a process which I had worked with previously where a staff member was always given an opportunity to view the complaint and to respond to it in writing, to get assistance from the relevant industrial group if required, and it was imperative to me through natural justice that staff were aware of any issues. On the flip side of that, it was really important to me that patients' rights were adhered to and I usually spoke to patients - most patients myself and clarified their issues and before I started the investigation, and they were always provided feedback. The relevant Level 2 would take the complaint. If the complaint was about a Level 3 and there were complaints about Level 3s, I dealt with them specifically as their immediate supervisor.

As part of that process, was there any protocol for discouraging staff members to discuss amongst themselves complaints that had been lodged?-- Yes, there was. Staff members would get a letter which I outlined the fact that they weren't to discuss that with other members of staff. There was a number of reasons for that. Firstly, sometimes the patient was still an inpatient or still accessing a service and it was important that the patient didn't feel that staff

were discussing the issue and perhaps being treated differently, so that there is no fear of reprisal on the part of the patient. Additionally, there appeared to be a number of issues where staff seemed to discuss things and I believed that staff needed to know things that was relevant to them and that it was important that confidentiality was adhered to. So there were systems in place for staff to get support but I didn't believe it was appropriate that a patient complaint be discussed at - you know, throughout the ward, throughout the hospital; that it was confidential to the people involved.

COMMISSIONER: Mrs Mulligan, was that simply your view or is there some Queensland Health policy that influenced you on that matter?-- There isn't a specific Queensland Health policy but I am a trained investigator under - Queensland Health have a system to train investigators, and throughout my nursing career with Queensland Health, strong sense of natural justice and the underlying principles of confidentiality be adhered to. So it was a system that I used previously in my previous position for nine and a half years.

Well, it's interesting you mention natural justice because that was actually my concern about this practice that you had. If I was working at Bundaberg Hospital and someone made an accusation against me, let's take an extreme one, an accusation of sexual misconduct-----?-- I'm sorry?

To take an extreme example, an accusation of sexual misconduct, I should have thought it was an essential element of natural justice that I have an opportunity to speak with my co-workers and be able to assemble the evidence to answer that accusation rather than being forbidden from discussing it with any of my co-workers?-- The intention was that I or the Level 3 would actually speak to all the co-workers and provide that information from them as investigators rather than the person who has actually had the allegations made against them going amongst their peers seeking that information.

But that's my point, Mrs Mulligan. You have spoken several times about natural justice?-- Mmm-hmm.

Natural justice includes the right of an individual who is the subject of an accusation to defend himself or herself-----?-- Yes.

-----not have an investigator, an official, taking over the defence and precluding that person from conducting their own defence of the allegations?-- Well, the intention was that the person who was actually investigating the matter was unbiased and they would gather all the information from all the parties and review the same. So, the intention was not to deny the rights of any person. And if there was information that was negative to that staff member, they would be availed of that information.

Mrs Mulligan, you've talked about this as a matter of natural justice?-- Yes.

How is it consistent with natural justice to deny a staff member the opportunity to mount his or her own defence of allegations rather than leaving it to an investigator to do that? How do you see that as being a matter of natural justice?-- I don't understand how it isn't natural justice.

Do you understand natural justice?-- Yes.

All right. And you understand that the most essential principle of natural justice is that a person against whom allegations are made has a right to defend himself or herself?-- Yes.

All right. But your memoranda that you sent out to staff said, "Once you've had an allegation made against you, you can't talk to anyone about it"?-- Yes.

How does a person defend themselves without being able to speak to others who can support their version of events?-- Well, they would have an opportunity, as I said, to have the information from other people but there is also a concern of collusion, that staff in some instances would talk to other staff and stories - or staff could feel pressured that they would have to say a certain thing because of those discussions.

MR MacSPORRAN: Mrs Mulligan, in any event, this procedure that you sought to promote was something you had been trained to do as part of your training as an investigator?-- Yes.

It wasn't an initiative that you thought up yourself?-- No.

No. Can I move then to-----

COMMISSIONER: I'm sorry, I thought I asked whether this was a Queensland Health policy and you said it wasn't?-- It wasn't specifically a policy but I said it had underlying principles related to investigations, natural justice.

And that's why I asked you I can't see how anyone could seriously suggest it gives effect to natural justice to deprive a person under investigation of the opportunity to explore for himself or herself the potential to bring forward other witnesses to support them. You say it's not a policy of Queensland Health; you say it's based on concepts of natural justice. I don't see how you get from point A to point B of saying, you know, "I've devised this policy based on natural justice." I just don't see how anyone can say that is a concept that arises from principles of natural justice?-- In the training I had as an investigator, Queensland Health investigator, those principles were in there and, certainly, when we did an investigation, that was the expectation.

Right.

MR MacSPORRAN: Now, can I move then to the actual contact you had with, in particular, Ms Hoffman, starting at the handover on the 17th of March last year?-- Yes, which point?

This is paragraph 20 of your statement on page 3. And in respect of these paragraphs, we're dealing with a question of what you were told at the handover and following-----?-- Yes.

-----about concerns about Dr Patel in particular?-- Yes. I received handover in March. Toni Hoffman was the acting Director of Nursing at the time. Basically, Ms Hoffman did not discuss Dr Patel specifically with me. She raised with me that she had some discussions about the doctor's communication and admission/transfer of patients with Mr Leck prior to my arrival and that she would fill me in at a later date but she did not raise issues specifically about Dr Patel.

Was Dr Patel mentioned by name at all?-- No.

Well, that was the 17th of March last year. Was there a further contact then in June 2004?-- Yes.

I'll take you, for that purpose, through to paragraph 136. You speak there of a meeting on the 25th of June 2004?-- Yes.

Tell us the circumstances of that meeting if you could?-- Some issues were raised in relationship to Ms Hoffman and concerns that she may have a health issue. They were raised directly with me and I requested to meet with Ms Hoffman and discuss that matter. We did discuss the issues at hand and basically talked about some strategies to assist her. She also indicated that she was under care.

On that occasion, which was the 25th of June, was there any mention by her of any concerns she then held in respect of Dr Patel in particular?-- No.

Well, we move then in paragraph 137 to the next meeting, which was the 8th of July 2004. What was that about?-- That was a performance and development meeting. There's a process to review the performance and look at development of staff. It happens yearly and then there's a six-monthly meeting mid-year. So in this instance, the performance and development plan of Ms Hoffman had been begun prior to my arrival and I was reviewing it with her. In that, we did discuss some issues she stated she had with the behaviour/communication with Dr Patel. She indicated that it did have some impact on admissions or transfers of patients and so we talked about strategies to deal with those behaviour/communication issues.

Well, would you tell us, as you set out in your statement, what she actually told you about the difficulties that she perceived in dealing with Dr Patel?-- She said he was full of himself, basically loud, he always was very verbose about how great his skills were and she indicated that he would make negative comments specifically about her within the hearing of other staff members, particularly nursing staff.

And what did you advise her about the options she had to deal with those difficulties?-- I advised her that we could have a

meeting with Dr Patel, Dr Keating, myself and her to discuss those issues. I advised her that she could lodge a grievance or a complaint against Dr Patel and all of those she declined. We then went on to discuss issues with dealing with that type of behaviour and I suggested she access Employees Assistance. We have psychologists there that help staff with dealing with issues in the workplace, because she indicated in discussion with me that confronting people - it was difficult for her to confront people and that wasn't unique to the work setting. I also had a book on dealing with difficult behaviour and I stated that I'd used it previously in a work environment and staff had found it helpful and told her that she could have borrowed it if we wished and she said, yes, she would like to.

Did you note, as you say in your statement, the option you offered her for additional training?-- Yes. I suggested that if she wished to have additional training in dealing with conflict or conflict resolution, that she could do so and I would support her in going to Brisbane to attend a course of the same, and on her performance plan we documented that under "conflict resolution".

And that's an attachment to your statement; is that so?-- Yes, it is.

So, was that the first occasion, that is the 8th of July 2004, that you were told anything by Ms Hoffman about difficulties she was experiencing with Dr Patel?-- Yes.

If we go forward then to August/September 2004, and this is at paragraph 149-----

D COMMISSIONER VIDER: Mr MacSporran, could I just ask a question of Mrs Mulligan?

MR MacSPORRAN: Certainly.

D COMMISSIONER VIDER: Following that meeting on the 8th of July, which you indicate is the first time that you knew there were difficulties, at that stage it was with the communication style of Dr Patel?-- Yes.

Did you decide to go to the Intensive Care Unit yourself informally just so that you may be able to get your own impression of the interaction Dr Patel had with staff?-- When Dr Patel was there or - I'm unsure of the question, Ms Vider.

Yes, when Dr Patel was there?-- I didn't go specifically when Dr Patel was there because that - I wouldn't be able to know when he was there-----

No, I know you wouldn't be able to know but he probably had some sort of a routine or you would have known when he had patients in the Intensive Care Unit. I'm talking about the informal drop-by observation?-- Yes, I wasn't aware of his actual routine in going to ICU at that stage and I did just drop by when I did my walkabouts. I didn't specifically go and attempt to see him talking to staff.

So you didn't actually make a focus of going to see Dr Patel in the Intensive Care Unit so you could observe yourself his interaction with staff?-- No, I didn't specifically do that, but my belief would be if he was behaving inappropriately I would have suspected he would have been behaving differently if I was in attendance.

Do you believe that that might have been an interesting observation that you would have been able to make for yourself though?-- Possibly with my contact. I did see him dealing with staff in other situations outside of the Intensive Care.

COMMISSIONER: Mrs Mulligan, you have used this morning the expression "management by fact" and we've heard some other people talk about that. You would agree, however, that the facts that are recorded on paper aren't the only facts that a manager needs to know to efficiently manage a business?-- Yes.

And in many instances the most official way for a manager to find out what is going on is to go to the operational part of the business and observe for himself or herself the issues?-- Yes, and I did that.

Well, you talk about management by fact as if the only facts that matter are the ones that are put in the official complaint forms and so on. What seems to be concerning us is that efficient management would require a regular presence in the operational parts of the hospital so that you could observe what's happening and form your own judgment rather than attempting to guide things second-hand by looking at what's been written on a piece of paper. Is that a fair comment?-- Yes, and I guess I would say to you that I was out and about the hospital as much as I could within my time constraints and certainly had a lot of contact with the Level 3s and staff where they could raise issues. I found - when I walked about the hospital most staff at that time didn't really raise issues of serious concern and if they did stop and talk to me they usually didn't want to have a discussion in the corridor. They preferred to have a discussion with me personally and I have had staff say that, you know, they didn't want the whole ward to be looking at them and wondering what they were talking to me about, so certainly I made every attempt for staff to have discussions with me.

I guess, Mrs Mulligan, what I'm getting at is this: we hear about you learning for the first time of these problems on the 8th of July 2004 and your reaction is one which it could be suggested is a totally hands-off approach. It's things like you describe, strategies to deal with behaviour and communication issues, lodging a complaint or grievance, skill development, additional training and conflict resolution. Could we be forgiven for thinking that the way to handle these problems is not these sort of textbook management concepts, but actually leaving your office and doing something about it, going and talking to Dr Patel, saying why does he have a problem with Miss Hoffman. What's going on here? Why can't

you two work together? Doing something pro-active rather than these sort of theoretical answers to the problem?-- Well, I suggested that we sit down, myself and Darren Keating, Dr Patel and Toni Hoffman. At that stage Toni Hoffman wasn't interested in doing that.

She didn't want a formal meeting like that and I think we've heard Mr Leck also offered her mediation?-- Yes, at a later stage.

People don't want this sort of thing. They just want it sorted out. Isn't that your function? As Director of Nursing aren't you there to, as a hands-on person, try and resolve these problems rather than putting all these formal processes in place?-- Yes, but I also have to adhere to the other person's wishes as well and certainly at that stage Toni Hoffman did not want me to intervene in doing anything, so basically-----

Did you say to her, "Look, I can go and have a word with Dr Patel and see what the problem is."?-- No, I didn't say that to her.

Why not? Wouldn't that be the obvious solution?-- Well, in my view the obvious solution was all of us sitting down together.

Okay.

MR MacSPORRAN: That is trying to get all of the parties together and ventilate what the concerns were?-- Yes.

D COMMISSIONER EDWARDS: Can I interrupt?

MR MacSPORRAN: Yes.

D COMMISSIONER EDWARDS: On the first meeting you had with Miss Hoffman on the 8th of July you said in your statement that the issues raised by Miss Hoffman were mainly about Dr Patel's communication, not about his performance?-- Yes.

So there was no mention to you at that stage one month before Mr Bramich was involved and so forth that there was any worry or concern about Dr Patel's clinical performance?-- There were no issues raised in relationship to his clinical competence.

You were not aware of any of those issues either?-- No, I was not.

Thank you.

MR MacSPORRAN: Thank you. Just returning then to the sequence of events, we move forward to paragraph 149 which deals with the period August/September 2004 and this is where the complaint in respect of Mr Bramich came in; is that so?-- Yes.

Again, could you just take us through the sequence of events in respect of that complaint coming to your attention?-- Yes. The first I received was a copy of an adverse event form and sentinel form about that patient and it had been sent to me by DQDSU and it noted on it that it had been sent to the Medical Director and the District Manager. At the time the District Manager was away from the health services and I proceeded to take action and discuss it with Dr Keating in relationship to an investigation in what was occurring and he indicated to me that an investigation has already begun.

Now, in respect of that that was a complaint clearly about what had happened to Mr Bramich?-- Yes.

Why did you go to Dr Keating about that?-- It was a medical issue. It related to the medical treatment and possible transfer of a patient. Within nursing services I'm responsible for investigating nursing issues, but I don't have any responsibilities in relationship to medical issues, nor do I have the ability to judge a medical person in their competence, so I went to Dr Keating immediately to discuss it.

Did you note that fact that you passed it on to Dr Keating and had discussed it with him? Did you note that in some documentation?-- I did.

And that documentation is annexed to your statement; is that so?-- It is.

D COMMISSIONER VIDER: Mrs Mulligan, I'm not sure, your After-hours Nurse Manager, Coordinator Hospital Supervisor?-- Yes.

That person gives you a report?-- They do.

Every morning?-- Yes, they do.

Is that on your desk when you arrive?-- It's on the computer and-----

So you have access to it-----?-- When I went-----

-----each morning? Do you read that when you come into the office?-- Yes, each morning.

The incident involving Mr Bramich was mentioned in that report?-- The only aspect - it didn't name the patient. What was in the report related to an ICC, yes, an incident relating to that.

You didn't go to the Intensive Care Unit yourself-----?-- No, I did not.

-----following that? Is it your practice to go to a unit where you pick something up in the morning report?-- It depends on what the issue is. In this - in relationship to that I knew an incident report was coming because - and they get registered as to what level they are and then it would be

sent to me if it was at a level that I needed to be involved in.

My question is coming from the point of view of you as the Director of Nursing?-- Yes.

The incident may not have actually involved nursing staff as the issue is reported, but it would have been going on clinically in a unit that involved nursing staff?-- Yes.

My question is would you go there to offer them support?-- If a Level 3 felt that my - basically I believed that Level 3s were responsible for their areas and if they needed my assistance and support they would identify it.

I understand fully the Level 3 is responsible for the area. My direction is coming from the support that they would expect to get from the Director of Nursing who is the leader enabling them to provide nursing service to care for their patients?-- Yes.

Unfortunately sometimes in hospitals we have complications?-- Yes.

And staff are human beings and they are affected by it as well?-- Yes.

And they need support. I suppose I'm asking you forget about the bits of paper. When you get a report, an overnight report, the first thing you see in the morning, you must become aware they must have had a terrible night last night in whatever area, I'll go and see how they are?-- If - yes, I often will call them or go and see them, but in - in that specific report it mentioned that there is an incident, but there was nothing else in that report that indicated that the staff were in a situation that they needed my support.

No, I'm not looking for the staff indicating they need your support. I'm actually looking for you initiating the going?-- I guess what I'm trying to explain is I would assess what the report says and if I felt that the staff needed support, yes, I would do that, but in this instance it mentioned one incident and incidents occur frequently throughout the hospital. I didn't in that assessment, because of a limited detail, believe that this was an issue that I had to support them so I didn't go there at that time.

COMMISSIONER: Mrs Mulligan, at that time, the 25th of August, you were receiving a report from Toni Hoffman who was the nursing manager-----?-- Yes.

-----about staff stress over the medical incident and so on. Even when you got that report did you go down to ICU and see the staff and offer them your support as the leader of their profession in the hospital?-- In the first report that I got I wasn't aware that the staff were at the level of distress that they were, but I certainly walked through ICU and so on when I could, yes.

When you got the report from Toni Hoffman on the 25th of August specifically referring to staff stress did you go down and show them the support, the comfort to which they were entitled from the leader of their profession in the hospital?-- Can you tell me which report you are referring to?

It is referred to in paragraph 154 of your statement?-- Mmm.

25th of August Miss Hoffman raised staff stress over a medical incident?-- Yes, yes.

How did you respond to that?-- I spoke to Toni Hoffman. I followed up with her after the meeting because my concern was that the employees assistance needed to be activated if there were issues with it and to provide the issues to executive so that we could contact employees assistance so we could get trained psychologists to assist them if that was required.

Would it be unfair of me to suggest that that was a bureaucratic response rather than the sort of response that your staff needed from you as the leader of their profession within the hospital in circumstances of stress?-- Are you asking me if I think your comment's unfair?

Yes?-- I believe that you don't have the total picture of who I am as a manager, so in some respects I think that comment is unfair. In retrospect I can say if I was more aware of how much distress there was I would have spent more time in ICU so that aspect it's a fair comment.

Mrs Mulligan, perhaps I should say this to you: I've mentioned to your learned counsel, both Mr Morrison when he was here and Mr MacSporran, that from the evidence we have seen we candidly have no concern about the propriety or impropriety of your conduct. That's really not an issue. What we're hoping to achieve out of this inquiry more than anything else is changes within Queensland Health, not only here in Bundaberg but throughout the State, which will enable the system to deal with this sort of problem more efficiently than it did on this occasion?-- Yes.

One of the things I've mentioned on several occasions is that issue of management style strikes me as critically important to that and we have heard repeated complaints from all sorts of people at the clinical level of the hospital that there was this huge gulf between the executive and the clinical side of the hospital. Now, you say I don't have a full picture of what your position is, that may be true, but, on the other hand, it may be that that picture needs to be redrawn-----?-- Mmm.

-----and ultimately we need to have a system where, for example, the Director of Nursing who is the senior nurse, the leader of her profession within the hospital, is part of the nursing team and not separated from the nursing team and doesn't just have bureaucratic responses to problems, but has

personal, sympathetic, caring responses to support her team. What I read in your statement is that every time there's a problem you give the textbook bureaucratic answer, you need more training, you need mediation, you need skills development, you've got communications problems, all those textbook bureaucratic answers rather than the natural reaction from a senior nurse which is to go and support her staff, see what they're saying, provide them with the comfort they need, ascertain the facts for herself and deal with the problem in a hands-on way. Now, I don't expect you to respond to that immediately, but I would like you to think about it because I really would appreciate your reaction as to whether, with the benefit of hindsight and with all you've been through in relation to Dr Patel and so on, whether you see some merit in changing these management styles and going back to something a bit more traditional where the head of nursing within a hospital is actually one of the nursing team rather than one of the executive team. Mr MacSporran?

MR MacSPORRAN: Thank you. Perhaps we can deal with it this way, Mrs Mulligan. If I can just interrupt our sequence of events and go through with tracing your contact with Miss Hoffman and deal directly with the question of your accessibility-----?-- Yes.

-----which starts at paragraph 49 of your statement, page 11 and just tell us, if you would-----?-- Sorry, what page?

Page 11 paragraph 49. Tell us firstly when you were accessible and how?-- Yes. I believe I was very accessible. There was a number of committees and meetings that I attended regularly. There's an annexe that will show you a number of those where Level 3 staff and other staff had opportunities to have contact with me. In light of the fact that I had 25 people reporting to me it was very important that basically with my commitments with meetings, other executive members, other people in the hospital and patients my schedule was pretty full on a daily basis, so I did indicate very clearly to the staff that if they needed to see me urgently that I would make every attempt to do so on that same day and there isn't any instance that I believe that that did not happen, otherwise I requested that they make an appointment with the secretary and give an indication as to the importance of the matter and the time frames that they would like to see me in.

Now, was that just an obviously practical consideration to enable you to do your job?-- Yes.

I mean, was it possible with your workload to become part of the team, as it's called, on a regular basis?-- Not a part of the clinical team because that was really not what my role was, so it was, as I said, difficult to spend a great deal of time. If I had a choice I'd prefer not to do all the documentation I have to do and I would prefer to spend more time with patients and staff, but in the current role career structure and the environment we work in I had constraints as well as had to meet all my requirements.

Again, this may be obvious, but can you tell us briefly, if you would, why it is necessary in your view to document all of these things?-- To me it's really important, and I take on board that talking to staff and - often when things happened initially if they had concerns they would discuss them with me and I would listen and we would talk about how we were going to proceed and I would request that they put things in document - document it so then we could move forward with that information. In relation to patient information and that it was important to have the facts down rather than me guessing second or third hand what actually occurred and then I could discuss it with the people involved and move the issue forward and try to resolve it.

All right. Now, in terms of the committee meetings you've spoken of, were minutes kept of those meetings?-- Yes, they were and placed on G drive. You have a common drive at the hospital so the minutes of meetings were on G drive and people could access them off there. Nursing, specifically, meetings I asked that the Level 3s make sure that they were posted in the ward or attached to a communication book so that all nursing staff could access them.

Were you or your phone numbers published in the hospital directory?-- Yes, I had a free-set, is a phone that you can walk about the hospital with, and I had a desk phone and my secretary also. All the numbers were published in an internal telephone directory for the hospital and which staff do access either on a hard copy or on the Intranet on the hospital computer.

When your free-set was turned off, for instance, when you were attending a meeting what would happen to someone who rang that number?-- I only turned it off in some meetings depending on the meeting, but it actually switched through to my secretary so no calls went unanswered.

We have heard some, I suppose, criticism, is the right word to use, of your practice of not doing matron rounds as such?-- Yes.

Tell us about what you did with respect to that and why?-- When I first came I was told that there was a matron and assistant A/DON rounds and they happened - one went one day and one went the second - 8 o'clock in the morning and there was a roster. I didn't believe that that was appropriate in - for a number of reasons for myself. One, at 8 o'clock in the morning staff are pretty busy, they're handing out meals, doing showers, baths, doctors rounds, et cetera, and I didn't think it was an appropriate time for me to come in and talk to staff, and often the Nurse Unit Manager was busy at that time so that wasn't necessarily appropriate. I also felt it was more appropriate that to get a feel for the place that I went about and did spontaneous visits, and at different times of the day, and got a feel for the various areas and their activity. I did spend more time - and I guess that was the difficulty with so many people reporting to me - I did spend more time, and indicated I would, in areas where there were

some concerns and the staff needed support and I guess there were a number of areas. Initially that was the Department of Emergency because of the culture there and some serious issues over bullying and harassment, so the staff there needed support, and in trying to change some of the morale in that area.

D COMMISSIONER VIDER: Mr MacSporran, can I interrupt?

MR MacSPORRAN: Yes.

D COMMISSIONER VIDER: This business of accessible is not easy. You can only be in one place at one time and doing one thing?-- Yes.

I'm also mindful of the fact that you mentioned in Bundaberg in March 2004?-- Yes.

I'd like to take you now to your role as a member of the executive?-- Yes.

And you having said that there were a tremendous number of committee meetings that you go to?-- Yes.

You have indicated to us yourself that you are reliant on a paper trail. You like facts to be given to you in writing-----?-- Yes.

-----and those sorts of things and you like formal meetings. You like notes taken of meetings?-- Can I just indicate, it would be nice to be able to sit and just have a chat, but I can't rely specifically on my memory if I don't take notes. As I said, I would prefer not to have to sit and document everything, but that's the system I'm working in.

Okay. My question was going to be as a member of the executive are you then able as an executive team to evaluate the amount of time you spend at these meetings and be able to assess that, evaluate that and prioritise where you might want to make changes, eliminate meetings and put things at a different priority level? When I'm talking about matrons rounds with my clinical background - and I am quite familiar with the role of Director of Nursing - I'm not talking about a grand round that Hollywood likes, but I am talking about the ability to go out and make contact?-- Yes.

And that, in my mind, is not something that has to go on the set time every day. I think you go into those clinical areas and staff know what you're doing when you're there?-- Mmm.

Some days it may be that you go and speak to some patients?-- Yes.

And some days it may be that you're not waiting for staff to raise an issue with you. You've gathered information from a variety of sources and you may actually go and raise issues with them. Now, they may be a variety of issues. It may be that you know they've had a particularly tough trot with sick

leave in that area?-- Mmm.

And it may be that you go to a hand-over report in the afternoon and you raise an issue and say, "A lot of you here have worked a lot of double shifts. It's kept the show on the road. Thank you very much for your support. It's appreciated."?-- Yes.

That doesn't take long, but it means an awful lot to the staff?-- Yes, and where possible I did that. Certainly there wasn't always possibilities for me to attend personally and you did question me about the executive and our assessment of our committees and meetings. You wanted me to respond to that?

Yes?-- We did have discussions. I found that we had a lot of meetings and a lot of committees and very early on in the piece I actually had a discussion with the executive. The executive met every Monday morning at 9 o'clock and we met for two hours maximum and we actually - I actually at the time said - because a number of executive members chaired meetings and there were a number of people that had a number of committees, I actually volunteered to chair a committee which in retrospect, perhaps, I wouldn't have because of the time constraint, so we did look at our committees and assess our time. We were all very aware of that time commitment. Certainly there were a lot of meetings, but to do the business that we had to do that was required. I think I was very conscious as the new kid on the block to make sure that I didn't go in there and basically say, well, I think you meet too often and why do we do all these things. I felt it was fair for me to sit back and assess some of the issues. I had begun discussion with Mr Leck about my role and about the issues surrounding that which did preclude me from spending, say, perhaps more time out in the clinical areas, so that was inaction and we were actually looking at the structure in nursing.

COMMISSIONER: Mrs Mulligan, I'm afraid I'm going to have to ask you to step down from the witness box for probably an hour or so. We have got another witness-----?-- Yep.

-----who's due at 9.30. Because he's in a wheel chair he'll have to come round the back.

MR ANDREWS: Commissioner, may I update you? Mr Atkinson is preparing Mr Connelly at the moment and was going to alert me when Mr Connelly was ready. Apparently the 9.30 start may need to be pushed back for a short time. Mr Atkinson will alert us.

COMMISSIONER: Well, you will let us know then when we should rise to allow Mr Connelly to come through.

MR ANDREWS: Yes.

COMMISSIONER: All right. Did you want to follow anything else?

D COMMISSIONER VIDER: No.

COMMISSIONER: Mr MacSporran, keep going for the time being.

MR MacSPORRAN: Thank you. Just continuing on with that accessibility issue, you did do rounds but they weren't rostered?-- No.

And you prioritised where you went depending upon the need, as you saw it, for your attendance?-- Yes.

You have told us that ultimately involved, initially at least, regular or more regular attendance at the Emergency Department?-- Yes.

And paediatrics, I think was one other area?-- Paediatrics, rehab because they were going through a change process.

And then the family-----?-- Yes.

-----unit later?-- Yes.

Can you tell us approximately how often you would go on walkabout through the hospital?-- Usually every couple of days I would go to a couple of areas, so I would choose an area and go off and visit. They weren't all in the true sense of inpatient clinical areas. Because I had a professional line responsibility for every nurse in the district, I would also go to areas that their immediate line supervisor was not myself but might have been the Director of Community & Allied Health, so Alcohol and Drug Unit, Sexual Health, Mental Health, I would visit those areas as well. And I also would visit areas - because not everybody who reported to me was a specific clinician, I also had like nurse informatics, nurse educators, and there were a number of issues within the nurse education area and nurse informatics, because of people not being there, where I had to support those Level 3 staff.

Now, whilst your view was you didn't want to do it - the rounds on a rostered basis - did your Assistant Director of Nursing in fact continue, though, to do the rounds on that basis?-- Yes, she continued to do rounds on a rostered basis and she met with me weekly to discuss a number of matters, including if there were any issues raised with her on rounds.

So she was available on a regular basis at a certain time?-- Yes.

To be approached by staff who had any concerns, and then would be available to report to you as her superior?-- Yes.

Now, in addition to those matters, were you also available to go to ward staff meetings when requested?-- Yes, and I did attend ward staff meetings in a number of areas when required.

Now, how would that arise? Would you volunteer to go, or would someone ask you to go, or how would it work?-- Well, sometimes it was very spontaneous. For example, in the Renal Unit there was a requirement to have an evening shift due to the patient numbers and the whole matter happened fairly quickly. Robyn Pollock, the Nurse Unit Manager of that unit, met with me and we had a chat and we said - she basically said, "Well, we will meet with staff", and I said, "That's a good idea." And I rearranged my schedule - I think it actually happened on the same day, that afternoon. I went down and we had a staff meeting with the Renal Unit staff.

Was there also a nursing orientation meeting monthly for staff?-- Yes, nurse orientation every month. There was a - first day was a general orientation for all staff, and then the next couple of days were nursing, and I attended on the first nursing day specific and introduced myself. It was only a short 15 minute chat, introduced myself, basically told staff where the office was, they would sort of recognise me and have a contact with me on how to make an appointment if they needed to see me. I would have liked to have had longer with them but my nurse educators told me the day was full.

Okay. So these occasions we're now talking about were occasions when you would be there in the flesh?-- Yes.

You would be there available in the flesh to speak to these people if they had concerns?-- Yes. I also started on a twice a month for one hour, so two hours a month - two one-hour sessions, one in the morning and one in the afternoon, where staff were getting recertified in CPR, et cetera, they could spend an hour with me, and I did revalue clarification on Queensland Health's values, things such as professionalism, accountability, and then I talked about patient feedback and how important that was, and how - because some staff found it difficult when they got feedback that wasn't positive from a patient, and how the process was that we would look at that feedback and how we would deal with it. So they were very small groups, anywhere from four to 12 people. So it was very interactive. We just started to get in a circle and chatted about those things.

Was there also a - an on-call system for nursing administration?-- Yes. Basically it was one week on, one week off. So the Assistant Director of Nursing was on call one week and I was on call the other week, 24 hours a day seven. However, in my role as Director of Nursing, under the award, no limitation of hours. So even if I wasn't on call, I had a mobile with me 24 hours a day and staff could call me any time of the day and night, and switch as well if there was an issue. And they would certainly - that certainly did happen. Not - you know, they didn't always call me in the middle of the night, but it did happen.

But you were available when you were on call to be accessed?-- Yes. Even when I wasn't the rostered one week on call, I still was available if it was required. So if the ADON who was on call required me, or another executive member, or someone needed to speak to me through switch, I was available.

D COMMISSIONER VIDER: That's really normal, though, with the role?-- Yes, pretty normal with the role, yeah.

MR MacSPORRAN: You are not complaining; you are just outlining-----?-- No.

Not directly complaining, but you are saying these were occasions when you were accessible to staff?-- Yes.

You have gone on in paragraphs 68, 69 and 70 in your statement to summarise the amount of contact you had with staff?-- What page, sorry?

Page 16-----?-- Yes.

-----and 17. Paragraphs 68, 69 and 70. You have summarised the amount of contact you had with staff at meetings over the period we're talking about?-- Yes.

And also contact you had by email?-- Yes.

Now, in a perfect world, I suppose email is not the ideal way to communicate?-- No, and I have certainly said, you know, email isn't where someone just sends me an email to say, "Hello, Linda, how are you?" With every email comes work, if something has to be actioned, something has to be forwarded, something has to be implemented. So, yes, email is great in some ways. In other ways, I think probably dramatically affected managers' time because often people expect instantaneous response. I am not suggesting staff, I am suggesting both above - above, you know, at the corporate level up.

Yes, okay. Paragraph 70 you deal in particular with the email traffic?-- Yes.

Involving yourself and Ms Hoffman?-- Yes.

Just to make clear what you have got there, if we take the example the first line, which is March 2004, that's the month you took over from her as the Director?-- Yes, mid-month.

There are eight e-mails, you give the dates, two on the 25th and one each on the 26th, 29th, 30th - sorry, three on the 30th and one on the 31st?-- Yes.

That's how you read that table, is it?-- Yes.

All right. You have obviously consulted your records to give those sort of details?-- Yes, I have consulted my diary and my e-mails.

All right. Now, again, whilst it would be, I am sure you would agree, desirable to be able to immediately respond in person to any concern a staff member held, is the reality of your position that there just isn't enough time to accommodate that sort of style of management?-- Not to everything but certainly to urgent things. They had to be prioritised. And certainly, for example, sometimes I was late for meetings or we had to cancel a meeting and that related to the fact that an urgent issue had come up either with a patient or a staff member that I had to deal with urgently. So - and that was the expectation that I put upon myself, to try and deal with those things.

All right. Now-----

COMMISSIONER: We've heard evidence from Dr Thiele that when he was Director of Medical Services at this hospital he was able to perform the duties of that job and by all indications - no-one suggested to the contrary - he performed it very well and still spent something like 40 per cent of his time as a practising clinician. I just wonder whether your inability to have the time to deal with these things was a result of either inefficiencies as a time manager or giving greater priority to meetings and formalities and documentation, rather than to the interpersonal relationships within the hospital?-- Can you explain your question, Commissioner?

Yes. You keep saying that you were so busy you didn't have time to do these things. Was that just because you gave more priority to going to meetings and to dealing with documentation, of having things put down in complaint forms, and so on, than dealing with people on a person-to-person basis?-- I believe that certain expectations - as an executive member and certain expectations as my role as a Level 6 Director of Nursing within the career structure, set out for me some of my responsibilities. Some of them I didn't have a choice in. I do feel that I have had a lot of personal contact with a lot of staff and have supported a lot of staff through personal issues and work-related issues. So I don't believe I am a bad time manager. I think that, you know, I did a very good job trying to manage the responsibilities in the time-frames I had, and if I had to come in, and I did come in, on weekends or after hours to talk to a staff member about an issue, that's what I did.

COMMISSIONER: Sounds like the other witness is here, so we will stand down for five minutes. Mrs Mulligan, you are probably free to go for half an hour or three quarters of an hour, if you want to get a breath of fresh air.

WITNESS STOOD DOWN

THE COMMISSION ADJOURNED AT 9.40 A.M.

THE COMMISSION RESUMED AT 9.47 A.M.

COMMISSIONER: Mr Atkinson?

MR ATKINSON: Commissioners, if it please the Commission I call George Alexander Connelly.

GEORGE ALEXANDER CONNELLY, SWORN AND EXAMINED:

COMMISSIONER: Mr Connelly, please make yourself as comfortable as possible. Do you have any objection to your evidence being filmed or photographed?-- Speak up, please.

Do you have any objection if your evidence is filmed or photographed?-- No.

Thank you.

MR ATKINSON: Your name is George Alexander Connelly?-- That is correct.

Would you have a look at this statement? Mr Connelly, is that a statement that you provided to the Commission?-- That is correct.

And that's your signature that appears at the bottom?-- That is correct.

And the contents of that statement are true and correct to the best of your knowledge?-- It is exactly true.

Now, I have provided a copy of that statement to the different parties, but you have made, I think, one annotation? You have made one amendment?-- Yes, I did.

The change you made, was it one stage where the draft has you going and speaking - going and finding a nurse; in fact you just spoke to the nurse. She came to you?-- That is correct. I did not go and search for the nurse. My main worry was my wife. But when I went back to the ward, the nurse happened to be there.

Would you just mind-----?-- Being a male patient in a female ward, that's why I knew they were short of beds.

Would you mind just opening your statement and telling the Commission the paragraph where you made that change?-- It originally read "I went and found the nurse and asked her why she did not call." She said, "No, it is not my job, the doctor should have called."

What paragraph is that?-- That is paragraph 15.

Now, it reads, "I spoke"-----?-- I changed that as "I went to the ward. I spoke to the nurse, asked her why she didn't call. She said, 'It is not my job, the doctor should have called.'"

Mr Connelly, what I thought I would do - your statement sets out exactly what happened, to your recollection?-- That's correct.

What I thought I would do is summarise very quickly for the Commission what your case is all about and then give you an opportunity to say in your own words what you would like to say to the Commission. Does that suit you?-- That suits me. If I can speak exactly to the Commission and tell them exactly what happened.

Yes, I will let you do that. Your statement does that, to some extent - to a large extent. If I can just summarise your complaint, it is this: that your recollection is on the morning of the 2nd of December 2003, your wife, Doreen Connelly, had an attack. She is taken to the Bundaberg Base Hospital by ambulance. You followed in your car. The doctors there saw her. Later that morning she - and it was clear she was having heart problems. Later that morning she was already due, by previous arrangement, to go to the Mater Hospital for a sestamibi test. When the doctor came in to see Mrs Connelly that morning, around about 8, 8.30, the doctor said to your wife that she should have that test at the Mater Hospital, and your recollection is that the doctor turned to the nurse and said, "I want this test done straight away." Your recollection is that you spoke to the nurse and said, "Here is the card. You have to ring in advance of the appointment at 10.20 at the Mater, because if you don't do that they will give the appointment away to somebody else." And you think your recollection is that you said the phone call has to be made before 9.30. They didn't make the call, the staff at the hospital, until much later, and, as a result, the sestamibi test couldn't proceed that day. Later on, some hours later, Mrs Connelly was discharged and she died on the next morning. And I understand - I am sorry to summarise, Mr Connelly - I understand that you had two major complaints: one is that the nurse should have booked the sestamibi test earlier; the more important one, I understand, is that the staff there, they made a mistake. They didn't appreciate the significance of the enraged troponin levels in Mrs Connelly's radiology and if they had appreciated that they would have realised that she was suffering from acute coronary syndrome and she shouldn't have been discharged. Is that a fair summary?-- That is a fair summary. Of course, it is missing out little bits.

Yes. But those bits are in your statement?-- And I will fill those bits in when I can speak.

Just to carry on a little bit further, you raised your complaints with the hospital and with the Health Rights

Commission, and the hospital and the Health Rights Commission have both acknowledged that the hospital made a mistake; that, for one reason or another, the staff didn't pick up the enraged troponin levels, which very clearly showed that Mrs Connelly was suffering from acute coronary syndrome and was a danger of a heart attack. The doctor involved has been - has gone and done further study. He has taken advice from his peers. The systems within the hospital have been changed, but your concern is that when you made a complaint, there was no - the doctor wasn't sacked and the staff weren't disciplined further than that. Is that a fair summary?-- Yes, I say it is.

Right. With hospital records, what I intend to do, I should say, Commissioner, by agreement with the Health Rights Commission, is to tender the entirety of the Health Rights Commission file. That's not available in Bundaberg at the moment but I ask that you set aside an exhibit number. That's an agreement I reached with Mr Perrett.

COMMISSIONER: Yes. Well, exhibit 182 will be the statement of Mr Connelly.

ADMITTED AND MARKED "EXHIBIT 182"

COMMISSIONER: I will reserve exhibit 183 to be the Health Rights Commission file relating to Mr Connelly's complaint.

MR ATKINSON: Commissioner, the second agreement I reached, subject to your approval, of course, is that I would like to tender the entirety of the hospital record, which is relatively short, but my learned friend Mr Allen has a concern which I certainly appreciate. It is that Mr Connelly has been rather passionate in his complaints and Mr Allen is concerned that the hospital records not identify the nurse by name at any place because of the level of Mr Connelly's concern about what happened to his wife.

COMMISSIONER: What do you say about that, Mr Allen?

MR ALLEN: I can say this: that after these alleged events, because of certain actions taken by Mr Connelly, staff at the Health Rights Commission, of Queensland Health, in particular the nurse involved, formed serious concerns. As a result of that, those bodies determined that the name of the nurse not be communicated.

Because of the concerns held at that time, which remain to be held and which caused significant distress to the nurse and members of her family, it is my strong submission that there not be published in any manner at all anything which would identify the name of that nurse.

COMMISSIONER: Can you tell me in general terms what the

concerns are?

MR ALLEN: There were threats made by Mr Connelly to the Health Rights Commission and to employees of Queensland Health as to what might happen to that nurse, and he was most persistent in his demands that he be given the name of that nurse. She, as a result, in fact, took steps to alter the way she would travel to and from work, and she and members of her family suffered significant distress.

COMMISSIONER: Mr Connelly doesn't come across as a person who would be a threat to anyone.

MR ALLEN: Well, those communications engendered a fear and the stridency of his communications with persons in Queensland Health further grounded that fear, and there would seem - and further to that, there has been certain propositions put by Mr Atkinson to this witness in relation to this nurse which are not only denied, but it is important to note that all investigations by the Health Rights Commission and the hospital have determined that in fact there is no basis for criticism of the nurse involved.

COMMISSIONER: What I am inclined to do, Mr Allen - I will just say this aloud so you can tell me whether you have any difficulty with the proposal: it is still a matter of great importance that these proceedings take place in the full blaze of publicity, the press and media have the right to know what is going on. You have made very clear the reasons why you say that this name should not be disclosed. Therefore, what I am minded to do is to indicate that the name should be made available to all of the lawyers representing the parties in these proceedings but otherwise be covered up and not disclosed in any way to the public - to the general public, including the press and media. Would that satisfy your client's concerns?

MR ALLEN: Yes, it is implicit in that that, of course, the lawyers would be obliged to keep it confidential themselves.

COMMISSIONER: Yes, that goes without saying. All right, that's the direction I will make. Is that satisfactory, Mr Atkinson?

MR ATKINSON: It is, Commissioner. I didn't have any intention to elicit the name of the nurse in any case.

COMMISSIONER: And-----

MR ATKINSON: I guess Mr Connelly might be directed not to mention the name in evidence.

COMMISSIONER: Well, if he knows the name, then we're darting at shadows.

MR ALLEN: It is part of his complaint that he doesn't know.

COMMISSIONER: In any event, exhibit 184 will be the hospital

file relating to the late Mrs Connelly, which will be a photocopy with the name of the relevant nurse deleted.

ADMITTED AND MARKED "EXHIBIT 184."

COMMISSIONER: But I will indicate that any lawyer for any party who wishes, for proper forensic reasons, to know, that name can be provided with it on the basis that it not be further disclosed. Otherwise, the name is not to be mentioned.

MR ATKINSON: Thank you, Commissioner.

MR ALLEN: Obviously, that should apply to exhibit 183 as well, Commissioner.

COMMISSIONER: Yes, yes.

MR ALLEN: Thank you, Commissioner.

COMMISSIONER: Is that - Ms McMillan, in relation to 183, the file-----

MS McMILLAN: I don't act for Mr Perrett in that regard. The Medical Board doesn't have the file that was requested and, as Mr Atkinson is aware, what Gilshenan & Luton produced was in fact the HRC file, and there are certain matters I understand the HRC blacked out in that in any case. So the Board takes no action or any part in that. Thank you anyway.

MR ATKINSON: Yes, that's close enough to what I just said.

COMMISSIONER: Yes.

MR ATKINSON: Can I ask you, Mr Connelly, to look at this document? Do you have your glasses with you?-- I beg your pardon?

Do you have your glasses with you?-- Yes.

Now, if you can scroll down a little bit, please?-- You want me to start reading?

Well, you will see that paragraph there, it starts, "In reviewing this complaint, an internal review of the health care provided to Mrs Connelly"?-- Yeah, yeah, yeah.

Effectively, you'll understand that that paragraph acknowledges a mistake was made and then in the next paragraph, "Our profound apology is offered" and that was from Mr Leck and it's a letter dated 1 June 2004; you received that letter?-- No. I can't find the 2004?

No, the date's at the base of the letter, it doesn't appear right there.

COMMISSIONER: Do you recall receiving this letter?-- Oh yes, yes.

All right.

MR ATKINSON: Now, if you look at the paragraph above the one I've taken you to, the one that starts, "An interview was conducted with the nurse caring for Mrs Connelly."?-- Yeah.

You'll see that an investigation was carried out and the finding of the investigation isn't entirely inconsistent with what you say, but the finding was that the "BHSD believes that the nurse performed her duties correctly within her overall workload allocation and can find no fault with her actions."?-- Yes, I did receive that letter.

All right?-- I disagreed with the contents but I did receive that letter.

Well, Mr Connelly, would you tell the Commission then why you're still angry with the way this complaint was managed?-- Because of the fact the hospital to me has told me one lie after another lie. On arrival into the hospital in the early hours of the morning on the 2nd, they, in their statement they said my wife was feeling no pain. The nurse turned around and said to my wife, "Are you feeling any pain?", and she said, "It is easing", she didn't say she wasn't receiving any pain. She'd been hit with that many aspirin and that many sprays underneath her tongue and Dr - it was either Keating or Taylor, I'm not sure, one of the doctors said, "But your wife wasn't given any pain-relieving tablets or medication." This had me dumbfounded because every time I've got a headache, I take an aspirin, so she had been taking things and as we all know or all the medical side of it know is aspirin thins down the blood and thinning down the blood, it does allow the thinner blood to get past a minor blockage or muscular problem. I've read - I gone into this in a big way, so there's no-----

COMMISSIONER: Mr Connelly, you say there that there was one lie after another. Now, you've identified one and that was the letter that says that your wife was pain-free whereas in truth what she said was that the pain had reduced; what other lies do you complain about?-- The second one was they told me that the ECG not on one occasion but three occasions was absolutely clear with no problems at all. The third one was they told me that she - I've just got to get me breath back - the third one they told me that the level in her blood - now, don't quote me on figures, you doctors would know better than

me, but what I've been told that the total level was supposed to be 24 per cent, in eight hours was sitting at 8 per cent and 16 hours it was sitting at 16 per cent and with two heart specialists said this was a direct information to the hospital to say your wife had muscular problem in the heart and was heading for another major heart attack, so-----

But Mr Connelly, the hospital accepts that they made a mistake about that and they've apologised for that. You're telling us that they told you one lie after another; what lies are you complaining about?-- Well, that's the third lie.

Yes?-- The next lie was when I fronted up, they've quoted me here as saying 9.30.

Yes?-- At no time ever other than after I'd been to the Mater Hospital was the time of 9.30 mentioned. I went back to the - when I heard that it had been cancelled, like, my wife like the doctor, I thought the nurse had made the phone call because when the doctor was telling the nurse that he wanted this test done, she was nodding as much to say I understand, only slight nods, admittedly, but as much to say I understand. Now, to me, if a doctor's too busy doing rounds to make a phone call and it's an emergency, that she makes that, that she gets that test done, certainly a doctor or a nurse can say, "Well, someone's got to make this phone call" and make the phone call.

But what do you say the lie is?-- The lie is that they told me that they never - that they couldn't make a phone call. I say they could have made the phone call.

All right?-- All that they needed was communication between them for the nurse, you know, I'm not a nurse, but if I was there at the hospital, I could see the hospital was too busy, I'd be going to the doctor and say, "Look, we've got to make that phone call for Mrs Connelly", you know, and he would have said, "Go ahead and do it" because I've seen nurses do it there at the base hospital. I've seen nurses phone up various hospitals. I myself have spent a bit of time and I won't spend anymore time in there at the base hospital.

MR ATKINSON: Mr Connelly-----?-- If have to be - I have to get transferred to the Friendly Society, I've seen nurses just do it and yet I - out of the blue, a nurse isn't allowed to do it. So to me, this is lies.

Mr Connelly, you made clear what the two basic complaints are, the phone call not being made to the hospital to arrange the second ECG test and, second of all, people not picking up that Mrs Connelly was in danger of a very high risk of another heart attack; what are your complaints about how the complaint was managed afterwards?-- Well, the complaint wasn't managed, was it, at all, because after flying down to see the Mater Hospital, I saw the woman in charge, her name was Jodie, she's now in Canada worst luck, her name is Jodie and she said, "We would have done an emergency test straight away", she said and we waited until half past nine for the hospital to ring. Now,

I went straight back to the hospital and the doctor was up at the - talking to the receptionist, so I went straight up in front of the doctor, the doctor's answer to that was, "Who cares?"

COMMISSIONER: Mr Connelly, Mr Atkinson asked you about the complaint handling, you made a complaint to the Health Rights Commission?-- Yep.

And that was investigated by the Health Rights Commission?-- And it took them eight months to come up with a decision, a small decision.

And they agreed with you that a mistake had been made at the hospital?-- They did.

All right. What do you say was wrong about that process?-- What was wrong about that process was the Health Rights Commission is a tiger without teeth. What it did, it can only investigate a case and then once it investigates a case, it then takes it to the various associations such as the Nursing Association, Medical Association or so on. They suggested that the doctor who sent her home that action be taken against him. Something that took them eight months, it took the Medical Board a whole seven minutes to knock back.

Well-----?-- Since then, originally I was told that it was sent down the same day, it went down with Dr - with John Cake, that's what I was originally told, but then-----

Mr Connelly, I'm sorry, you're drifting on to different things. Let's deal with the investigation by the Health Rights Commission. You think it should have been done more quickly?-- Yes.

All right. But the outcome was that you say the Health Rights Commission criticised the doctor?-- Yes.

All right. Do you have any problem with that outcome?-- Yes.

And what's your problem with that outcome?-- My problem with that outcome is that although it says the nurse is completely blameless.

Yes?-- I still feel as a professional person who's been through university and everything should have had enough knowledge to go to the doctor and say, "We've got to ring up about Mrs Connelly, otherwise they're going to cancel that case."

All right, so you agree with the conclusion reached by the Health Rights Commission?-- Completely.

Yes. All right. Do you have any other complaints beyond that?-- Oh, the only other complaint about is the length of time that with the actual hospital.

Yes?-- I'm very annoyed with the - with the hospital itself.

They called me there, a Mr Martin, who was the Director of Nursing, he called me in - you've got copies of the letters - and he said - he turned around and said in one of the letters that the nurse wasn't at fault and she was good and she was a goody-goody and no problem at all. I wasn't happy with that hearing, so then I requested another one and it was heard by Mrs Callanan then or Nurse Callanan, Director of Nursing, and she again - oh, the nurse was Miss goody-goody, she did have everything right, she did everything right, all right, I go and visit her every morning for what she did right.

MR ATKINSON: Mr Connelly, can I just make clear: you mentioned the Medical Board earlier and just to be fair, I should explain just the involvement of the Medical Board, you made a complaint to the Health Rights Commission on 15 March 2004?-- What was that?

You made a complaint to the Health Rights Commission on about 15 March 2004?-- That's correct.

And what happened was that the Health Rights Commission consulted with the Medical Board and that happened on about 22 September 2004?-- That's correct, yeah.

And effectively, what happened was that the Health Rights Commission made a finding and they sought the approval, if you like, of the Medical Board; does that accord with your memory?-- Yes.

And I'll just read the last paragraph of the finding to see if it accords with your memory. "In view of the response from the hospital which detailed the further education the provider had undertaken and that he was seeking ongoing advice from cardiology peers, and in view of the fact that the hospital where the provider works is involved with the Collaborative for Health Care Programme, Acute Coronary Syndrome, and in view of the fact that three independent advisors, while they acknowledged an error had been made, were not critical of the specialist and felt the error was due to systemic issues, closure of this complaint is recommended pending further advice from the Board.", and the board agreed to that; is that's what you complain about?-- Yes.

All right?-- That's correct.

COMMISSIONER: Well, Mr Connelly, I think we understand those complaints. Does anyone else at the Bar table have any questions for Mr Connelly?

MR FITZPATRICK: Just a couple, Commissioner Morris.

COMMISSIONER: Yes.

MR ATKINSON: I guess I did make this one promise to Mr Perrett related to where there were differences between the hospital file and what Mr Connelly says, I might put them to him, but there only appears to be one significant one, otherwise they appear on the record. Mr Connelly, you

mentioned that your wife went into hospital on the 2nd of December 2003?-- That's correct.

The hospital records suggest that she went in on the 1st of December 2003?-- The dates, times and everything are all mixed up.

Where they disagree with your evidence, the hospital records, you say that they're right and you're wrong?-- What was that?

You're adamant that she went in on the 2nd of December?-- Oh, definitely.

And you've seen the hospital records but you still maintain your evidence is correct?-- Yeah.

That's all-----?-- And I've pointed this out to Mr Leck, I phoned him up myself and pointed this out to him thinking well, it's only I try to be as humane as I can, I said, "This is just human error" I said "but you've got it down as the 1st" - I think it was - "instead of the 2nd", and he apologised and changed it.

Thank you. That's the evidence-in-chief.

COMMISSIONER: Thank you. Mr Fitzpatrick?

MR FITZPATRICK: Yes, thank you Commissioner Morris.

CROSS-EXAMINATION:

MR FITZPATRICK: Mr Connelly, I'm Chris Fitzpatrick, and I act for the Health Department. Can you hear me?-- Only just.

Are you able to hear me? Only just?-- Yeah.

Is that better?-- That's better.

All right. Mr Connelly, one of the things that you say in your statement to the Commission is that you can't believe that so little happened after the death of your wife; do you remember saying that in paragraph 31? In the last attachment to your statement, I think it's number GAC34, and it's the letter from Mr Leck to the Health Rights Commission?-- Yeah.

Which I think you were given at the meeting with Mr Leck and the two doctors-----

COMMISSIONER: Mr Fitzpatrick, I'm not going to stop you if you think there's an important reason to follow this up, but the correspondence is here, we can see in fact what was done, I think you're really only debating this witness' belief that it wasn't enough.

MR FITZPATRICK: No, no, Commissioner. In fact, I was wanting to assure the witness that the matters which are canvassed in the letter as then in progress have in fact been done.

COMMISSIONER: Thank you. Yes, certainly.

MR FITZPATRICK: Thank you, Commissioner.

Mr Connelly, if we turn to page 2 of the letter, of Mr Leck's letter to the Health Rights Commission, you'll see at the very - in the very last paragraph?-- Yeah.

These words appear: "As a health service, we wish to reduce these circumstances to a minimum."; do you have that sentence?-- No, I'm looking at the wrong statement.

COMMISSIONER: I wonder if the Court officer could assist by turning up the second page of the last attachment? It's on the witness table?-- I've got page 24.

The second page of the last attachment. And perhaps you can point to the last paragraph that commences, "As a health service."?-- Yeah, I see it.

MR FITZPATRICK: Thank you, Commissioner.

Mr Connelly, you'll see in the next sentence it says that, Mr Leck has - "directed Dr Keating and Dr Miach to review the care provided to all patients presenting with acute coronary syndrome to ensure these patients are managed appropriately." Mr Connelly, can I assure you on behalf of my client that that review by those two doctors did occur?-- Oh, you can assure me, I've got to believe you though.

COMMISSIONER: Well, do you have any reason to doubt that?-- I've got no reason to disbelieve them.

Thank you.

MR FITZPATRICK: Yes, thank you Mr Connelly. It is further said that the "Bundaberg Base Hospital has begun involvement with the Collaborative for Healthcare Improvement - Acute Coronary Syndrome", which will provide evidence based guidelines and systematic evaluation of the treatment of this condition in the Bundaberg Hospital with comparison on a statewide basis." Now, Mr Connelly, can I assure you on behalf of my client that not only has the Bundaberg Base Hospital had - it begun involvement to ensure that the hospital was brought up to standard, brought up to statewide best practice in relation to the management of these cases, but that that involvement continues and will continue to ensure that the system is best practiced; do you have anything you wish to say about that?-- Well, sorry, but the way I look at it is the date I've been given could be wrong but I believe that this system was offered to the hospital in 1994 and the hospital refused it and knocked it back cold. Now, for a hospital that is paying for over 14,000 odd people, including surrounding district travellers and all the rest, not to be

right up-to-date with heart problems, to me it's a-----

All right, I understand that, Mr Connelly, but can I assure you that irrespective of whether the hospital may at some earlier time have rejected involvement, it now has embraced it and continues its involvement to ensure that it remains up-to-date. The third thing that's said in Mr Leck's letter is that an education session has been conducted at the hospital for all medical staff involved in the care of heart patients with senior staff attending continuing education sessions on the specific topic of acute coronary syndrome and the management of patients with raised troponin measurements as was the case with your wife. Do those matters - are those matters of some comfort to you in so far as they go?-- Where you say was it a comfort to me, nothing on this earth will be a comfort for me to bring back my wife, nothing on this earth.

Yes. That's accepted by my client, Mr Connelly?-- And to me, for them to be coming up now, I feel happy for the other residents of Bundaberg that they may now be getting some type of correct medical procedures.

Thank you Mr Connelly. Thank you Commissioners, I have nothing further.

COMMISSIONER: Thank you, Mr Fitzpatrick.

MR ALLEN: Commissioner, I don't have any questions. There is something I'd like to briefly place on the record either now or after Mr Connelly's been excused.

COMMISSIONER: I think we can do it later if that suits you?

MR ALLEN: Thank you.

COMMISSIONER: Any re-examination?

MR ATKINSON: No, but may the statement be tendered?

COMMISSIONER: Yes, the statement of Mr Connelly will be - I've already indicated Exhibit 182.

MR ATKINSON: Sorry.

COMMISSIONER: The HRC file when it's been appropriately adjusted will be Exhibit 183, and the hospital file, Exhibit 184.

MR ATKINSON: Thank you, Commissioners.

COMMISSIONER: Thank you. Mr Connelly, I think you said something very important just a moment ago. Nothing can bring back your wife and everyone in this room I'm sure feels sympathy for what you've been through and have-----?-- No-one more than me, I can tell you, no-one more than me.

Indeed. Anyway, if it's possible for any good to come out of this tragedy, it's the fact that steps have been put in place

so that other people don't have to go through what you and your wife have done, and we agree with you that it's pleasing to know that other people in Bundaberg are now going to have the best possible coronary health care, and I particularly appreciate Mr Fitzpatrick explaining that to you with such care. Thank you so much for coming in to give your evidence and you're free to go?-- May I say one thing before I'm - you're going to close now, are you?

Yes?-- I'd like to stand up to say this.

Don't feel the need to stand up?-- I am - I need to stand up for respects. Today and over the last weeks we have heard a man carry out an inquiry under enormous strain. He's been pushed by the government, he's been pushed by everyone under the sun, the hospital's taken him to Court and everything. I have nothing but more appreciation for that man, Mr Morris, of standing up and showing guts and standing up and fighting our health system. And I'd like everyone - and I believe you now, if this goes to Court, Mr Morris, you will have at least 152 character references there for you.

Thank you?-- And I'd like everyone now to stand up, put their hands together for Mr Morris. And that's not doing any crawling either because you've made your decision to come here.

COMMISSIONER: Thank you Mr Connelly.

WITNESS EXCUSED

COMMISSIONER: We will take a 10 minute break.

THE COMMISSION ADJOURNED AT 10.28 A.M.

THE COMMISSION RESUMED AT 10.53 A.M.

COMMISSIONER: May I mention two matters before we resume. One is a message we've received from the TAFE administration that there's a car parked illegally that's blocking an entry. I think it's a Holden Commodore 867-DQU. So if anyone here owns that car, can they please move it.

The other thing - I will come to that later. Let's get on with the evidence for the time being.

MR ANDREWS: Would Ms Mulligan please return to the stand.

LINDA MARY MULLIGAN, CONTINUING EXAMINATION-IN-CHEIF:

MR MacSPORRAN: Mr Commissioner, just before we recommence, there is another letter or reference which really should form part of LMM1.

COMMISSIONER: Yes.

MR MacSPORRAN: That's the documents you would have seen attached to Mrs Mulligan's statement which are a form of references from work colleagues and others.

COMMISSIONER: Yes.

MR MacSPORRAN: So could I tender as part of that attachment a further letter.

COMMISSIONER: Yes.

MR MacSPORRAN: Dated 12 July this year from Dr Phillips.

COMMISSIONER: I will accept that and that will be added as part of attachment LMM1 to the statement of Mrs Mulligan, which is Exhibit 180.

MR MacSPORRAN: Thank you. When Mrs Mulligan, when we adjourned last you were dealing with a proposition that you may have been in some way inefficient with your time or a bad time manager. Do you wish to anything further in respect to that?-- Well, I disagree with that comment. I believe I was an excellent time manager considering the requirements I had under my responsibilities.

In terms of managing your time, did you factor in to that equation others who you expected to manage their affairs as well?-- Yes. I guess it's important to understand with the current nursing career structure there's a number of levels of staff and certainly at Level 3, 4 and the Assistant Director of Nursing level, there's an expectation of devolution of

authority and accountability, decision making. Queensland Health has run a lot of courses, Clinicians Taking the Lead and a devolution course. So these people are actually middle managers in their own right and I really depended on them to manage their areas and feed information to me. So that's really part of their role, which then allowed me to continue in my District Director of Nursing role.

All right. Can we return then to the chronology we were dealing with earlier in respect to your contact with Miss Hoffman in particular. We'd reached the stage I think where you dealt with the receipt of the adverse event report forms in respect of Mr Bramich?-- And which page?

That was at page 38, paragraph 149 and following?-- Yes.

We dealt with that and if you move forward and look at paragraph 153 on the next page, page 39?-- Yes.

You speak there of e-mailing Miss Hoffman on the 13th of August-----?-- Yes.

-----of last year. Tell us about that if you would?-- Basically, Ms Hoffman had had some time away, plus she had worked later into a shift, I think she did a night shift, so in between those two I wasn't able to speak to her individually, and so I e-mailed her and let her know that the case of that patient was being investigated.

In doing that, was that a routine action you took? That is, to provide some form of feedback as to what status the complaint had?-- Yes, yes. Obviously I'd like to try to do that in person but that wasn't always possible.

So that particular e-mail is already in evidence as Exhibit 86 you see there?-- Yes.

Now, then we move forward to the date that Commissioner Morris was talking to you about earlier, the 25th of August 2004?-- Yes.

Ms Hoffman raised some issues about difficulty accessing the employment assistance service?-- Yes.

What did you do about that?-- I followed that up with her between then and the 30th of August and requested that we get specific details so we could address those issues with Employees Assistance.

Did it concern you that there were some difficulties in accessing that service?-- Yes. I believe it's imperative that that service is available. We put it in place - it was in place before I arrived but it's in place, basically, within most districts as a system to support staff and there's trained psychologists who provide that support who would know how to best deal with the issues for those staff members.

Now, you go on to say the following day, the 26th of August

2004, you received some further information from Miss Hoffman about the Bramich case?-- Yes, I did.

What did you do about that?-- I immediately forwarded it on to Dr Keating to be used in connection with the investigation that was going to occur and had started.

Did you document that action?-- Yes, I did.

And does that form, as you say in your statement, attachment 15 to your statement?-- Let me get to it. Yes.

Now, just quickly if you could, could you refer to that attachment and tell us the message you passed on to Mr Keating?-- Basically said that there was additional information in relationship to the case that Toni Hoffman has raised and then I knew he was reviewing the same. There was also some clarification in relationship to a proposed surgical case that I clarified.

Now, did that relate to Ms Hoffman's concerns about Dr Patel continuing to operate?-- It related to a specific case that - yes, that was going to occur and Ms Hoffman raised some issues with it.

You immediately, it seems, passed those concerns on to Mr Keating?-- I did.

Dr Keating?-- I asked him could he please give his advice ASAP about the proposed surgery in light of the fact there was some contention about it.

Now, the e-mail from you to Dr Keating forwards, doesn't it, the e-mail from Ms Hoffman to you?-- Yes, it does.

And the documentation that accompanied that e-mail?-- Yes.

So that when Dr Keating saw your e-mail, he would have had a full history of what Ms Hoffman had given to you and you'd passed on?-- Yes, that's correct.

Was that standard procedure?-- Yes. Again, it was important to me - when you're relaying things second and third-hand, you might not get all the facts straight or have a different perception, so I would usually forward the original e-mail and just ask for comment.

All right. In respect of that surgical issue you spoke about a moment ago, did you forward another e-mail to Dr Keating in respect of that incident itself?-- Which-----

Which you look at - attachment 16 I think-----?-- Yes.

-----we referred?-- Yes, he responded to me and I responded back to him, yes.

So there is no sitting back and letting these issues pass you by. You've dealt with them immediately?-- Yes, and I

requested that we look at some further action surrounding the communication aspects.

D COMMISSIONER VIDER: But you didn't go to Dr Keating and say, "I think we need to go to the unit straightaway and be there ourselves"?-- No.

MR MacSPORRAN: Why would you go to the unit straightaway and be there?-- Well, at this stage it was probably - I think it was evening, Toni wasn't actually there at the time, she had left for the day, and I communicated and spoke also to the after-hours nurse managers I believe that the matter was resolved and could go ahead, so I didn't feel a requirement to go personally there.

So you'd forwarded it on and understood that it was being appropriately addressed?-- Yes. And Dr Keating stated that he had spoke to Dr Carter himself, who is the director of the Intensive Care Unit.

From what you say in your statement, you seem to have provided feedback to Ms Hoffman about those facts?-- Yes.

That it was being dealt with?-- I actually called the unit. She was gone for the day, so I sent her an e-mail so she'd have that first-up in the morning, but Dr Carter was aware of what was occurring.

D COMMISSIONER VIDER: My comment about going to the unit would not depend on whether or not Toni Hoffman might be in the unit. My comment was more from the point of view as that is an approach, one should have been alerted that something specific had happened in the unit?-- It actually hadn't happened. I believe that patient was in the ward, Ms Vider.

MR MacSPORRAN: So you actually found out the actual facts to deal with it?-- Yes.

We'll go forward then to 158, which is on page 40 of your statement. You talk about the 3rd of September you received some further data from Ms Hoffman?-- Yes.

And I take it you'd acknowledge that Ms Hoffman's pursuit of this incident was appropriate. She was forwarding the data to you it seems?-- Absolutely, yes.

On this date, the 3rd of September, she forwarded a further e-mail to you with a statement relating to the Bramich case from Registered Nurse Fox?-- Yes.

What did you do with that?-- I immediately forwarded it on to Dr Keating and made a note of the same.

Now, that, it seems, is attachment 17 to your statement?-- Yes.

And you have there the e-mail from Ms Hoffman to you?-- Yes.

With your handwritten notes of your action and on forwarding it to Dr Keating?-- Yes.

Again, these are the sort of records that you kept to document how you dealt with each of these matters?-- Yes.

Now, can I take you to the next paragraph, 159. You deal there with a complaint that Ms Hoffman has made in her statement, and possibly evidence, that she tried to make an appointment to see you on the 28th of July 2004 about the Bramich case?-- Yes.

Now, you've set out in para 159 in some detail your view that had she tried to see you, you would have been available?-- Yes.

Can you just summarise that for us briefly if you would?-- Well, the first thing was that Ms Hoffman could have called and asked to see me urgently, which I would have made sure happened. On that day we had a district managers forum and the executives go. It is a monthly forum and the executives take turn talking to the staff about latest matters and then the executive also stay and have a barbecue lunch with the staff. So it's an all staff forum. So Ms Hoffman would have been able to pull me aside there and tell me she needed to speak to me.

That's on that very day, is it, the 28th of July?-- On that same day, correct. Following that we have a regular meeting, it's called Nursing 356, which changed later to be 3456 because we had a level 4 at the hospital, and that's a monthly meeting with all levels, 3s, the 4 and the A/DON and myself, and that went from 1 o'clock to 3.30 that day. It's usually about two hours but it sometimes goes over.

Could I just ask you to slow down just a fraction so the shorthand writer can get you down?-- Sorry. At that - Ms Hoffman attended that meeting. It was my practice that if anybody wanted to talk to me afterwards about anything, they could say that - alert me to the fact that they needed to speak to me or could have just caught me going in or going out and say, "I need to speak to you on an urgent matter." That didn't occur. As well, I did indeed meet with Ms Hoffman the following week on the 5th of August and that was at my request in relationship to the matter with another staff member and I met with her and she didn't raise any issues at that time.

All right. And in particular, so far as that statement is concerned, she didn't raise with you anything about the Bramich case?-- No, she didn't.

On the 5th of August?-- No.

Can I take you forward then to October 2004 and you deal with that at page 44, starting at paragraph 167?-- Yes.

You talk there about the 18th of October you went on what you

term a walkabout in the service?-- Yes.

What did that involve?-- Basically me walking about to different areas and on that particular day I went to ICU.

Now, this is one occasion where on your rounds you actually went to ICU personally and spoke with staff there?-- Yes, I did.

And, in particular, you spoke with Ms Hoffman, did you?-- Yes, I spoke to Ms Hoffman first.

She was able to raise with you and did in fact raise some concern she had about what she understood you'd told a meeting of a nursing union?-- Correct.

About her, that is Hoffman's concerns, about Dr Patel?-- Yes.

And you seem to have been at pains to explain to her what the actual situation was?-- Yes.

That was face-to-face?-- Yes, it was, in her office.

Did she appear to be satisfied with your explanation?-- She did at the time.

What else did you discuss with her on that occasion in ICU?-- We talked about the number of ventilated patients and the capacity to deal with the number of ventilated patients and the issues about transferring patients to other facilities, which I requested that we get some further data on.

Did you remind her about the importance of encouraging staff to raise any concerns directly with you and document them?-- Yes, I did.

Did she have any response to that?-- Yes, she actually said that in light of the fact that I was there, there was some staff that could possibly - could I talk to them and I said, "Yes, as long as it's not going to impact on patient care", obviously taking the nursing away from the patients in ICU, and she said that could be managed so I stayed with the staff that were working or on.

Now, you talk about I think in paragraph 170 of the statement?-- Yes.

There's three staff you met with, two female registered nurses and one male?-- Yes.

Their names you're not able to tell us about at this stage?-- No, I could guess but it would be better if I actually knew them. I'd have to go and check my records of who worked that day.

When you talk - well, you talked to them, did you?-- Yes, I did.

Did that concern discussing with them anything about the Bramich matter?-- Yes, they talked to me about the Bramich matter. They specifically talked about their concerns about the behaviour and communication of Dr Patel, particularly in relationship to Mr Bramich's family.

I'm sorry, carry on?-- And they talked about some of his other behaviour and, specifically, they raised the issue of his derogatory comments in relationship to nursing and his derogatory comments specifically about Ms Hoffman.

All right. Did it relate particularly to the matters involving Mr Bramich?-- Yes, yes.

What did you do after you'd been told those things?-- I left and went back to the executive area and I requested an urgent meeting that day with Dr Keating and Mr Leck and I met with them at 2 o'clock.

Why did you do it that day?-- I was very concerned because at that stage it was a matter of a fact that obviously the communication issues were impacting the smooth running of ICU and the staff were distressed and I felt that we had to address the communication issues as a matter of urgency, and I also felt that we needed to get more data in relationship to the ventilation aspect and transfers of clients going to Brisbane.

So this was an occasion when you actually dealt face to face with the staff who expressed their concerns?-- Yes.

Then you went to your superiors and addressed the staff concerns with them?-- Yes. I also asked the staff to document their concerns to me.

Now, on that occasion-----

COMMISSIONER: As I read your statement, the only outcome you sought was, as you put it, "I felt we needed to progress the option of mediation between Ms Hoffman and Dr Patel in order to resolve the issue of behaviour/communication as I was concerned the matter was not resolved and impacting the smooth operation of the ICU"?-- Yes.

How long was it going to take have a mediation?-- Well, at that - up to that stage, Ms Hoffman hadn't agreed to a mediation. So at that stage we - when I requested that, it was suggested perhaps if Dr Keating went and spoke to Dr Patel and he agreed to mediation from his aspect, then I could go back to Ms Hoffman and try to request her to be involved in that.

Doesn't anywhere in your Queensland Health training or systems, or something, suggest that managers should have the capacity to use their own initiative instead of putting in place formal mediations to sort things out? Of just going down there and finding Dr Patel and finding Toni Hoffman and saying, "Look, there seems to be a problem here, we're all

adults. Let's try and sort it out"?-- Well, that's-----

Why do we need mediations?-- That's what I suggested in July and Ms Hoffman wasn't agreeing-----

No, you suggested a formal meeting in July. You wanted them all to come up to the executive boardroom and sit around the table and so on. I'm talking about a practical solution?-- Well, actually, Commissioner, I didn't write anything that I expected them to come up and sit around the boardroom, and if there was a more convenient spot, I'm sure Dr Keating and I would have been happy to go and have that chat anywhere.

You don't get it, do you? You don't get what I'm suggesting to you?-- I don't agree with what you're suggesting with me.

But do you accept that it would have been possible for an efficient manager in a managerial position to sort this out in five minutes by going and seeing the people concerned instead of going through all these routines about meetings and memos and mediations and bla, bla, bla?-- I guess you have to remember that the people involved actually have to be willing to do that and at that stage, certainly Ms Hoffman wasn't willing, I wasn't aware of whether Dr Patel was, and I think in light of the issues that Ms Hoffman described, I doubt that a five-minute chat would have solved the issues.

No, but what they were unwilling about was to go down all your bureaucratic procedures of having meetings and mediations and so on. I mean, effective management doesn't run by consensus. It doesn't mean asking people how they'd like to handle things and exhausting all possible avenues. It actually involves doing something. It actually involves leaving your office and going and meeting someone and saying, "Look, Dr Patel, what's going on here? Why won't you talk to the Nurse Unit Manager? What's the problem"?-- Well, I did leave my office and I did talk to people and, as I said, if the parties involved weren't willing to sit around the table - I disagree in that I believe the parties have to be willing and also have to have some input into the strategies, how they wish to deal with the issue. It's not my role as a leader to tell them that, "This is how this will be managed."

Isn't that exactly what leadership means, telling people how to resolve things? Isn't that the definition of leadership?-- I believe it's enabling them and assisting them to solve problems.

MR MacSPORRAN: Can I just ask you, Mrs Mulligan: would you have considered it appropriate as the Director of Nursing to approach Dr Patel directly with Miss Hoffman's concerns?-- No, I would have spoken to Dr Keating first, Dr Patel-----

Why is that?-- Dr Patel didn't report to me and-----

COMMISSIONER: Does that matter? Why can't you have a word with the man? Why can't you meet him in the corridor and say, "Look, you've got a problem with some of my nurses. Can we sort it out?"?-- Again, I would say to you I would meet with Dr Keating and have a chat and request from him what he thought was the best way to address the issue. There is a long-standing culture that is not unique to Bundaberg about doctors and nurses and I would not have taken it upon myself to believe that I had the authority to go to Dr Patel, the discussion with Dr Keating as my peer, about the issues and how to approach it.

D COMMISSIONER VIDER: But the common element for the doctors and the nurses surely is the patient?-- Absolutely.

And somewhere in all of this doctors and nurses are there to care for the sick?-- Absolutely.

And when doctors and nurses are in conflict, disagreement or disharmony of whatever level-----?-- Yes.

-----that flows on to the care of the patient?-- Yes.

If we haven't got the patient as the central focus of why we come to work we have lost it?-- Exactly, hence why I went straight to Dr Keating and Mr Leck and talked about how we were going to face this.

I understand from the bureaucratic organisational structure you have gone to Dr Keating?-- Mmm.

I understand that it is true that Dr Patel reported to Dr Keating?-- Yes.

But my concern is that nowhere is the human connection bringing this together that says to these people, "You will have to come together and get on with this because the patients are suffering if you don't."?-- Well, that was the intention with the mediation, that we would request that they attend mediation to move the problem forward.

And I'm suggesting that there are other things, faster ways, more effective ways to care for these patients than waiting for formal approaches like mediation.

COMMISSIONER: You've been a nurse for 26 years?-- I have.

Why do you need some mediator to sit in the room so that you can talk to a doctor?-- I don't.

Well, what's the problem? Why go to Dr Keating and say, "We need to progress the option of mediation.", rather than saying, "We need to have a talk to these people and sort it out."?-- Because we felt that it was important that someone independent dealt with the issues that they had, and I recognise you disagree with me, but that's what the view was

at the time and the route we took.

Is this right through Queensland Health or is this just something that happens at Bundaberg?-- I can't comment what happens in other places outside of what is happening on with me currently.

D COMMISSIONER EDWARDS: But in Dalby you would?-- Yeah, I would go to the medical director if I had issues. My role is a bit different than Dalby because I did have some wider responsibilities. There were three full-time doctors there and if I had an issue with a doctor there I would certainly have approached the medical superintendent and had a discussion and we would make a decision which way to go.

COMMISSIONER: Do you imagine - let's take a business outside Queensland Health. Do you imagine that at the local McDonald's store the person who fries the hamburgers isn't getting on with the person who takes the orders at the counter. The manager showing leadership, to use your expression, says, "We need to have a mediation between these people.", while the manager just goes and talks to them and says, "Look, you two have to work together and sort it out."?-- Yes, I would suspect that at McDonald's though they would probably be about 15, 16 or 17 and I don't know that they would have had the skills to do that on their own.

Here you are dealing with mature adults and you still think you need a mediator to go and talk to them to resolve the issue?-- If the two of them were able to sort out their problem they would have done so, but that hadn't happened for a number of months so it obviously needed assistance and they needed someone trained and independent to do that.

MR MacSPORRAN: Mrs Mulligan, did Miss Hoffman have any suggestions about how this matter might be progressed if she was not willing to partake in mediation or not meeting with Dr Patel formally?-- Initially in the July meetings she suggested that the best way to deal with the issue at that stage was to - because a lot of the issues she told me surrounded admission and transfer of patients so she suggested to me updating that policy with Dr Carter and having it signed off and clear directions as to what was to occur would stop some of those issues with Dr Patel.

So that was her personal suggestion as to how that whole issue might be progressed?-- Yes.

Did you take on board her suggestions and try and facilitate that process?-- Yes. I agreed that that was probably a reasonable approach when she didn't wish to take any of the alternatives and believed that having the endorsement of Dr Carter and have policy signed off would probably assist her in the issues of Dr Patel and she said that, you know, her relationship with Dr Carter was one that she could do, that she felt.

Just give us a brief history of how that policy formulation

was carried through?-- Basically I talked to her about that in July. I actually e-mailed her after this meeting on that day and requested data in relationship to transfers and ventilation hours which I then followed up - continued to follow up with her.

And over what period - well, firstly, did you have any difficulty getting that completed?-- Yes.

Tell us about that briefly if you would?-- Well, we talked about it in July. I asked for the information to - when I sent information on that day I requested that I have information on policy and it's being updated. It actually-----

I should say, just while we're adjusting your microphone, this is dealt with in your statement at page 59?-- Mmm.

Paragraphs 218 through to paragraph 224; is that so?-- Yes.

That's the issue we're now talking about?-- Yes.

This is what Miss Hoffman had suggested as the way to resolve these difficulties that she was having with Dr Patel?-- Yes.

Your attempt to have that progress started as early as the meeting she discussed in 8 July 2004?-- Yes.

What happened then?-- I basically, you know, chatted to her over time and asked her how she was going and she said it had been difficult for her and Dr Carter to get together and address the matter. Then November came along and we had the tilt train disaster and I believe Dr Carter was also away for personal reasons and had to travel overseas and Toni Hoffman also had some leave in November as well and was away to have a conference. So basically January came along, 2005, policies still hadn't been completed. It got discussed at leadership management at that stage which is the executive and there were some concerns expressed about the inordinate length of time that it was taking to get an existing policy revised and so that it actually discussed ventilation capacity. So basically it was agreed that we would give a deadline and that deadline was the 14th of February 2005.

Was that deadline met?-- No, the deadline wasn't met and I actually e-mailed Miss Hoffman following that and asked how - how it was going and basically she indicated they were doing policies independently, but it was difficult for them to collaborate on policy.

So when was it finally completed?-- The actual final completion was March and that result - what happened then is we ended up getting two policies, one for Dr Carter and one for Toni Hoffman, and there were two separate policies so I requested to have a chat to Darren and raise my concern over that and we agreed that we best stand to meet with them and have a talk about it because it was taking an inordinate amount of time. It didn't have the ventilation capacity in it

and they were still two separate policies so Darren and I met with them.

All right. Was that finally resolved in March?-- Yes.

This year?-- Yes.

All right. Can I take you back then to the meeting in October - October 20 with Miss Hoffman?-- What page.

You will find it at page 46 at paragraph 174?-- Yes.

Now, that meeting you say there is or occurred at your request?-- Yes.

As opposed to Miss Hoffman's request?-- Yes.

What was that about? Just very generally what did you request the meeting for?-- Dr - Peter Leck had told me through Darren that Dr Patel had agreed to mediation so I requested Toni Hoffman to come up and see me and try to convince her to move ahead with mediation with Dr Patel.

COMMISSIONER: You'd first raised mediation on the 8th of July?-- I didn't actually raise mediation. I raised the four of us sitting down and having a chat.

I thought you also raised mediation on the 8th of July. Am I wrong about that?

MR MacSPORRAN: If you go to paragraph 139, Commissioner, page 36 Mrs Mulligan talks about arranging a meeting.

COMMISSIONER: Oh, that's right, and raised additional training and conflict resolution and skill development and so on. Anyway, you'd been wrestling with this problem of what you like to call communication and behavioural issues for over three months at this stage?-- I wasn't wrestling with it. At that stage, as I said, he agreed with Toni Hoffman in updating the policy with the assistance to her and she felt-----

No, this is the behavioural communication issue as you called them?-- Yes.

You had them brought to your attention on the 8th of July?-- Yes.

They were still unresolved on the 20th of October?-- Yes.

Where do we see the leadership in that?-- In what respect are you asking me?

In what respect? In the respect that you are supposed to be the Director of Nursing in ensuring that nurses are a functional part of the provision of care to patients so that people don't die?-- Yes.

MR MacSPORRAN: Mr Commissioner, can I interrupt for a moment?

In my respectful submission, you're questioning boarders on being unfair.

COMMISSIONER: In what respect?

MR MacSPORRAN: She has given the explanation. This was reported to her on 8 July. She said she offered the woman, Miss Hoffman, solutions which were rejected by Miss Hoffman. She then has told this inquiry immediately that the solution that Miss Hoffman suggested was to update the ICU policy. That progressed, but because of Miss Hoffman's inability to act fast, quickly enough, it wasn't resolved until March 2005. Now, in that context to suggest that this woman has lacked leadership in progressing it in any other way in the meantime is, in my submission, respectfully unfair.

COMMISSIONER: Let me make my position very clear. It strikes me as outrageous that someone in a managerial position allows a situation like that to drag on for three months and 12 days looking for a consensual solution rather than exercising leadership and bringing the problem to an end. I'm giving the witness an opportunity to defend that concern so that she does have, in her own words, natural justice, the opportunity to answer that issue before we arrive at final conclusions. If Mr MacSporran, you don't want your client to have the opportunity to answer that concern then I won't press the matter.

MR MacSPORRAN: Commissioner, she is more than happy, as you are well aware, to have the opportunity. That's the whole purpose for her being here. It is the whole purpose for me taking her through the statement which is, as you said correctly, very comprehensive and deals exhaustively with all of these matters, but to suggest that she has lacked leadership in particular on this issue is, in my submission, a little wide over the mark.

COMMISSIONER: Mr MacSporran, you and I probably have different dictionaries then. I regard leadership as the quality of leading, of addressing problems in a direct managerial way, not sitting in your office waiting for consensus to develop over a period of three months and a bit. I am wondering what actual leadership took place here rather than following the bureaucratic manual of having skills training and reading books about dealing with difficult people and having mediations and having round table conferences and actually doing something which demonstrates some leadership.

MR MacSPORRAN: You see, Commissioner, it is unhelpful in the extreme to be using a motive incorrectly to describe her response to these complaints as sitting in her office and showing no leadership. She's explained exactly what she did. Now, in my submission, any fair observer would understand that she did all that she could, but that's possibly a matter for another day and that's something you are going to have to, of course, report on in due course.

COMMISSIONER: I've given your client every opportunity to

answer my concerns. It's up to you now, Mr MacSporran. If you don't wish your client to answer those concerns then that's the end of the matter.

MR MacSPORRAN: No, as I said, my client is more than happy to continue to answer any concern that this inquiry has of her, but I only ask that queries of her be done in a balanced and appropriate manner not using motive and, with respect, unfair language.

COMMISSIONER: You put it to your client however you like. What I want to be satisfied of is that there is some actual leadership shown here rather than simply going through a bureaucratic checklist of ways to find some sort of consensus rather than being pro-active and actually setting out to resolve the issue.

MR MacSPORRAN: Mrs Mulligan, perhaps the simplest way to deal with this issue is for you to tell us how in your view - your humble view you showed leadership on this issue?-- All right. Once it was identified and I discussed the options with the staff member in question and she didn't agree to those options and she suggested an alternative we discussed why that would be appropriate. I agreed to the same. I continued, you know, over months chatting to her. She was progressing that matter. When I went to ICU it was evident, and the issue over that patient's surgery, what it actually was that the issues weren't resolving. I met with the District Manager and Director of Medical Services and suggested that we try and attempt to have some formal mediation because at this stage it was obvious that these two staff members were not able to sort the problem out themselves and Miss Hoffman had not agreed to sitting down the four of us and having a chat about it. I then basically continued along that. There was discussion obviously with Dr Keating and Dr Patel and we had a plan to go back to Toni Hoffman and offer her again an opportunity to sit down and try and sort these issues out and I believe that that was appropriate and I believe it showed leadership. Obviously, some people have a different view, but I cannot make staff sit down and talk to another staff member if they disagree and if anyone suggests that I do that that can be considered intimidation, I believe.

Can I take you then, once again, back to the 20th of October 2004. That's the occasion that Miss Hoffman came back to you at your request and in the course of that meeting she seems to have raised with you concerns about the clinical competence of Dr Patel; is that so?-- Yes, that's correct.

Was that the first occasion she had done so?-- Other than the Mr Bramich case that I was aware of that was being investigated.

What was your reaction to receiving that information on the 20th of October?-- I was shocked and horrified.

Why?-- Because it was the first I'd heard about it. We had had, you know, many meetings over months and she hadn't

indicated that and I was bringing her up to try to address an ongoing communication problem and this was really very surprising to me.

What was Miss Hoffman's demeanour at that meeting when you expressed your surprise that the information hadn't been provided to you?-- She was upset. She was teary and she repeated more than once that she's sorry she hadn't told me sooner.

What did you do with the information once you received it on the 20th?-- I requested - the fact that I believed it was of a very serious nature, it related to the clinical competence of a surgeon and possibly-----

COMMISSIONER: I think Mr MacSporran's question is what did you do.

MR MacSPORRAN: Carry on if you would?-- So basically I requested that I would - I told her I would have - try to request an urgent meeting with Peter Leck and I asked her to go back to the ICU and I would try to see him immediately, which I did. I spoke to his AO and I said I need to speak to him urgently and I basically got him within five minutes. I replied to the District Manager the concerns that I had been told by Toni Hoffman and he said, "Well, I believe I need to speak to her immediately.", and he requested I stay for that meeting. He asked his secretary to call and have her come up and she did so and we met with her.

All right. So that all occurred within minutes, did it, of the information being relayed to you by Miss Hoffman?-- Yes.

Did she repeat the information she'd given you to Mr Leck?-- Yes. She provided more details to him.

What was done to assist Miss Hoffman with dealing with the trauma of having this information, being concerned about it and coming to you with it?-- Well, we obviously chatted to her and we suggested that, again, she may when she gets some employer's assistance, because she was upset, and we also suggested that she document the issues and that she could have input from her industrial group if we wished.

All right. Now, you apparently went on leave between the 22nd of October and the 31st?-- Correct.

Was there a person acting in your role whilst you were on leave?-- Yes, Mr Patrick Martin.

Did you pass on to him what had occurred when you went on leave?-- Yes.

Now, if I take you forward then to November/December 2004 - this is paragraph 186 at page 49 - what did you do to follow up the progress of this complaint to Miss Hoffman that had gone to Mr Leck?-- Well in, light of the fact I wasn't personally involved because it was a medical issue I had

conversations with him from time to time to evaluate progress.

Did you relay any of that fact to Miss Hoffman?-- In general terms I did. I didn't actually give specifics of exactly what was occurring, but that Mr Leck was doing a variety of things. I believe I specifically told her that he had met with the doctors, but I didn't specifically go into details about the referral to the Audit Department.

All right. Well then, you were on leave again from the 21st of December until the 3rd of January this year?-- Yes.

Now, was there an acting DON in place during your absence during that period?-- When we're on a Christmas closure non-essential clinical staff don't actually get replaced, but people are on call at both an executive and a nursing level.

I'll just remind you to slow down slightly, if you wouldn't mind. Prior to going on leave you'd spoken to Miss Hoffman about some personal matters?-- I did.

Did you receive an e-mail back from her in respect of that conversation with her?-- Yes. I actually had called her at home and when she returned to her work she sent me an e-mail.

Okay. Now, that's attachment 20 to your statement; is that so?-- Just let me check. Yes.

Now, is this perhaps an example of some feedback to you about support and kindness you'd shown to staff?-- Yes.

There, it seems, Miss Hoffman says to you, "Thank you for your kindness and sympathy and support. Thanks, Linda. Toni."?-- Yes.

That was entirely appropriate in the circumstances?-- I believe so. I thought it was nice that she had sent something back from the follow-up of my call to her home.

Then you came back from leave. If we go forward to page 50 paragraph 190 you came back from leave. Your first day back was 4 January this year; is that so?-- Correct.

Tell us what you did on your first day back?-- I went and did a walkabout to all - through the whole health service. The only place I wasn't able to speak to staff was palliative care because they weren't there.

Again, it's probably been obvious, but I want you to tell us for the record why you did that. Why did you go around on walkabout?-- When I was away for any length of time I usually would try and do a walkabout of the whole health service on my return.

Did you in the course of that visit the ICU?-- Yes.

Did you there speak with Miss Hoffman?-- Yes, I did.

And what was that about?-- I asked, in light of the fact that there had been some ongoing issues, were there any issues over Christmas/New Year break and she told me there weren't issues in ICU specifically, but that she was aware that there were some issues in surgical and theatre with surgical and theatre staff in relation to Dr Patel.

And what did you say, if anything, in response to Miss Hoffman answer to that?-- I said that this was one of the first areas I'd come to so in light of that I would go to a walkabout to those areas next and ask for those details.

Did you do that?-- Yes.

Did you go firstly to the surgical unit and speak to Di Jenkin, the Nurse Unit Manager Surgical?-- Yes, I did.

Tell us about that contact?-- I asked Di if there had been any issues over the break and she indicated that there hadn't been and I said, well, I've just been to ICU and Toni Hoffman indicated there's been some concerns about staff with Dr Patel and was she aware and she said, oh, she was aware that there were some issues but didn't have the details.

And what was your response?-- I asked her who the staff were. She said it was one staff member and she named them. I requested that she contact them immediately and ask for either them to come and have a chat with me or document their concerns.

So you were pro-active on this occasion to actually ascertain the name of the nurse who had the concerns?-- Yes.

Did you ever receive anything from that nurse?-- I did.

When?-- I received it the same day.

And what form did that take?-- In a letter.

Addressed to?-- Myself.

So you assume that your instruction had been passed on to her at least to get her to document her concerns?-- Yes.

But equally clearly it hadn't been done until you made that request?-- Yes.

Well, did you then go to the theatre area?-- I did.

Did you there speak to Gail Doherty who was the Acting Nurse Unit Manager Theatre?-- I did.

Tell us about that?-- Again, the same question asked, "Were there any issues over Christmas?", and Gail said that she didn't really have any details because David Levings was acting as unit manager in December and I indicated what Toni Hoffman had told me and she said she was aware that some issues had been raised with David Levings, but she didn't have

all the details. I requested again that she discuss that matter with the three staff involved and asked them to either come and see me or document their concerns. She indicated that staff were loath to document their concerns and I said, "Well then, please ask them to come and see me."

All right. So again you were concerned to get something from these people who had concerns about what had been going on-----?-- Yes.

-----in your absence?-- Yes.

But equally clearly nothing had been documented until you made these requests?-- Yes.

Well, ultimately did you meet with the staff who had concerns?-- Yes. I hadn't heard anything for a day or so, so I followed up with the Nurse Unit Manager and three staff came and saw me.

Now, before you get to the meeting itself you detail at paragraph 196 that immediately after you've done this walkabout and spoken to the staff, as you've told us, you then sent e-mails to the three of them, that's Miss Hoffman, Miss Jenkin and Miss Doherty, the three you'd spoken to-----?-- Yes.

-----confirming the conversation and indicating that you would address their concerns?-- Yes.

And that is attachment 21 to your statement?-- Yes.

Again, all fully documented?-- Yes.

You then, as you say in paragraph 197, received a letter from the nurse who'd had the concerns from the surgical areas spoken of by Di Jenkin?-- Yes.

And then you referred that, did you, to Mr Leck the next day, the 5th of January?-- Yes.

That's in evidence as Exhibit 152, and you sent a memorandum to miss - to the nurse thanking her for her letter?-- Yes.

And informing her that you'd referred her complaint to the District Manager?-- Yes.

Now, what else, if anything, could you have done about all this?-- Well, I believed I gave her the feedback and followed up the issue immediately and referred it on to Dr - sorry, Mr Leck who was responsible for managing this matter.

D COMMISSIONER VIDER: Can I just clarify, you talked about Christmas leave and who relieves the DON on occasions such as that. You went on leave on the 21st of December?-- Yes.

That's the day that Mr Kemps underwent surgery?-- I would have to check, but I take your word on it, yes.

And who was the Acting Director of Nursing then, or are you on call at those times?-- No, the Assistant Director of Nursing was there, and any issues would have been referred to her. I would have had my mobile as well, so if the Assistant Director of Nursing or any other executive members, you know, needed to contact me, they could, but I wasn't physically there.

Would they normally contact you after an event such as the death of Mr Kemps?-- No.

Would you encourage staff to contact you when such a clinical event occurs?-- I guess it is probably reasonable if there was something very unusual and they had major concerns, but, again, the expectation at that stage would have been that the A/DON was managing the matter as a Level 5 in the hospital, and if she had any concerns and needed to contact me, she could do so.

So when you come back from leave, do you go through the forms, the adverse event forms?-- No - well, when I came back from leave, actually, due to the - I would go through those reports, you know, the shift-by-shift report, but due to the fact there was obviously many, I decided to go on walkabout first and talk to the staff personally. And then what happens with incident reports is, as Jenny Kirby referred to, they go to DQDSU, they get assessed and I only get the very high and extreme level incident reports sent to me and I reviewed those.

I would have thought, from the accounts we have been given of what happened to Mr Kemps in theatre that night, that seemed to be very distressing for all those concerned, but it was the Acting Director of Nursing who is - Deputy Director of Nursing or the Assistant Director of Nursing who would have been dealing with that?-- Yes, yes.

MR MacSPORRAN: Thank you. Mrs Mulligan, you have told us about the walkabout and being told about three staff from theatre who had concerns?-- Yes.

You have asked for them to document their concerns, you dealt with the concerns arising out of the surgical area. Did you then discover that nothing came from the theatre area?-- Yes.

What did you do about that?-- I called Gail Doherty, the

Acting Nurse Unit Manager, and she again said they were not really happy to put something in writing at that stage and so I asked her could she encourage them to come and see me.

Okay. So the fact they weren't prepared to document it at that stage didn't deter you from seeing them?-- No.

When did that - or those events take place?-- That-----

You have done your rounds on the 4th?-- Yes.

When was this we were talking about?-- I spoke to them between - would have been the 5th or the 6th I called her - probably the 6th - and the staff came and saw me on the 7th.

So the meeting - that was Mr Gaddes and Ms Zolak and Ms Law?-- Yes.

The three of them came to see you on the 7th, did they?-- Yes.

And how long did you spend with them?-- I believe it was about an hour or more. One hour, mmm.

All right. Again, just briefly, if you could, could you tell us what the conversation at that meeting concerned?-- They basically were discussing Dr Patel's clinical competency, they raised some issues of patient care in theatre and concerns about the fact that Dr Patel might be doing surgery that was outside the capacity for us to cope with at Bundaberg Hospital.

Were there some fears expressed to you by those staff members about retribution if they made formal complaints about this conduct?-- Yes.

Did you take those seriously?-- Yes, I did. They were concerned, and particularly one person was of the belief that Dr Patel - perhaps was a situation that he could fire them, and I indicated that wasn't the case and reassured them about any fear of reprisal and basically talked about the process.

All right. Now, the filenote you made after that meeting is in evidence here as exhibit 147?-- It is.

Do you recall setting it out fully as to the terms of the discussion?-- Yes.

In dealing with all of those matters you have indicated in your statement-----?-- Yes.

-----did you also go further and inform Mr Leck of that issue at the same time?-- Yes.

And did you express to him your concerns about the retribution issue?-- Yes.

And that correspondence seems to be in evidence as exhibit

148. Now, on the 12th of January - and I am referring here to paragraph 203?-- Uh-huh.

That's your meeting with Mr Leck. Did he give you some information about whether Dr Patel was going to be continuing to do certain surgery?-- Yes, he indicated that he would no longer be doing the oesophagectomies at Bundaberg.

Did he ask you to do something with that information?-- He did.

What was that?-- To inform her of that case, which I did so the next day.

So that was the 13th of January?-- Yes.

And the - you did that by email, did you?-- No, I don't believe I did that by email.

I am sorry?-- I believe I did that on the phone.

And that was to Ms Hoffman, was it?-- Yes, but I also subsequently met with Ms Hoffman and two other nurse unit managers that same day.

Okay. You made, have you, a note about that activity on the notes of the district manager meeting of 12 January this year?-- In-----

Attachment 23?-- Yes.

You have made a sidenote, have you, as to-----?-- That I notified Toni Hoffman, yes.

Yes, all right. Again, you have documented this each step of the way?-- Yes.

Now, then on the same day, the 13th of January, did you meet with three Nurse Unit Managers, Ms Doherty, Ms Jenkin and Ms Hoffman?-- Yes.

Why did you meet with them?-- I met with them to tell them that the investigation obviously was continuing and that to talk to them about the process, and I was concerned that the staff had such a fear of reprisal, so I wanted to talk to them about that issue and also provide support to the individuals involved and ask them to make sure that they went and discussed, as the managers of their units with the staff involved, the process and not to have fear of reprisal and what to do if Dr Patel or anyone came to them and said anything or behaved inappropriately that they might be concerned of reprisals.

Now, this was you as the Director of Nursing going face-to-face with the NUMs?-- Yes.

To give them support and to reassure them that you were behind them?-- Yes.

Did you see it as being necessary for you personally then to go to the individual staff members who you had met on the 7th of January to convey those same thoughts?-- No, I - I discussed with the Level 3s and they were going to provide that information to them.

Now, what steps, if any, did you take to make sure that those NUMs had in fact passed on your support?-- I asked that they email me back confirming those conversations, because if there was any staff member they couldn't have chatted to, I would have looked at alternatives, and just to confirm that in email that they had been able to talk to all the staff involved.

Now, you deal with that issue in paragraph 207. You say you received confirmation from Ms Doherty on the 14th of January?-- Yes.

And from Ms Jenkin on the 18th of January by email?-- Yes.

So they contacted you and told you they passed on your remarks of support for the staff?-- And the staff understood basically the issue of reprisal.

Did that satisfy you that it had been done properly?-- Yes.

You were happy to rely upon your Nurse Unit Managers of those units?-- Absolutely.

Okay. On the 2nd of February, however, you followed up Ms Hoffman because you had received nothing from her?-- Correct.

That was just a routine follow-up, I take it, was it?-- Yes.

You were concerned that there needed to be confirmation that she had passed on your remarks to the ICU staff?-- Yes, and that they were comfortable with what was occurring.

And did she respond to that?-- She did.

And that's attachment 24 to your statement?-- Yes.

And she was reassuring to you in that email - sorry, in that email she came back to you that she had in fact talked with the staff involved and passed on your message but hadn't gotten back to you with confirmation of that fact?-- Yes.

So, again, you were happy with that, were you?-- Yes.

But you needed to know it had been done?-- Yes.

And, again, as cumbersome as these documents are, they are clear proof that the process was followed appropriately?-- Yes.

All right. Now, on the 14th of January, the next day, did you ultimately receive statements from the theatre staff, the

three you had met with on the 7th?-- Yes, I did.

That was Mr Gaddes, Ms Law and Ms Zolak?-- Yes.

Having received that what did you do?-- I immediately forwarded the originals on to Mr Leck.

And did you provide feedback to those staff members that you had done that?-- Not personally I didn't.

Did you seek to do it indirectly?-- Yes, through the Nurse Unit Manager.

And in respect of Mr Gaddes, I think you recall the evidence he gave that he received no feedback personally from you?-- Yes.

That is correct?-- Yes.

Why was that?-- Because the Nurse Unit Manager was providing that feedback to him.

And that's his line manager, the NUM, Ms Doherty?-- Yes.

And you had received the email from her confirming she had spoken to staff, including him?-- Yes.

The other point I am helpfully reminded of is that the statements you received on the 14th in fact came via the NUM herself, Gail Doherty, didn't they?-- Yes, yes.

They didn't come directly to you from the staff members who you had met with on the 7th?-- No, they came via Gail Doherty.

Can I take you forward then to the paragraph 211 on page 56? You talk about another meeting with Ms Hoffman on the 2nd of February?-- Yes.

Did you at that meeting update her as to the progress of the investigation?-- Yes.

Was there any indication from her that she was dissatisfied with the process at that stage?-- No.

All right. Now, you deal then in paragraphs 217 - or in paragraph 217, I should say, with subsequent complaints received by you and what was done?-- Yes.

COMMISSIONER: Before you come to that, Mr MacSporran.

MR MacSPORRAN: Yes.

COMMISSIONER: Paragraph 214 I was interested in.

MR MacSPORRAN: Certainly.

COMMISSIONER: What is a strategy map?-- Queensland Health

has - had a program the last - oh, 18 months, and it was rolled out through different districts at different times. It was rolled out in Bundaberg after my arrival and the intention was - and I am speaking secondhand knowledge; that's always involved with corporately - that every district have a - that we either strategic - looked at the health needs in the future, moving towards Health 2020 and all the issues in our communities, and that we develop strategies in relationship to that. So, basically, it was a group of clinicians and managers and middle managers meeting with executive - Jenny Kirby alluded to it - and basically looked at where we were headed in the future and the issues for our community by the Bundaberg Health Services, and they call it a strategy map, a document that comes from that.

Mr Boddice, do we have a copy of this so-called strategy map?

MR BODDICE: I think we haven't provided it. We shall.

MR MacSPORRAN: I think it may have been tendered. I can't direct you to the number.

WITNESS: I believe-----

MR MacSPORRAN: Ms Kirby?-- Mr Morrison, I think - did he tender them?

It might have been tendered during the-----

COMMISSIONER: I don't recall the name, that's all.

WITNESS: I know he had it in his hand but I don't know whether he tendered it.

MR MacSPORRAN: I don't think he did.

D COMMISSIONER VIDER: In relationship to that gathering?-- Yeah.

Where you would develop your strategic directions, map, whatever name it is given?-- Yes.

In this district when you meet and discuss that, would things like overseas-trained doctors, Area of Need classification, and those sorts of things, be discussed as an issue that needs to be addressed and strategies that you might be able - I don't mean you personally, but the group might put in place?-- It didn't get down specifically to that, but it did talk about workforce issues and issues with shortages of nurses, doctors, generally, yes.

Did you come up with any strategies?-- We looked at trying to skill our workforce that we currently had - and I am thinking more nursing now - and look at alternative staffing type arrangements and where we could move to in the future, knowing that we had - our average age of nursing staff is well into their 40s, and some of the issues we were going to have in the future. And they were sort of broad - strategy map is a very

broad statement, and then we basically - there is groups that deal with those, and we had just begun working on that prior to my going on annual leave.

And in part of that view for this particular - I mean, you're talking there about the strategies for the Bundaberg Health Service District?-- Yes.

Is that the place where you also discuss whether the classification, for example, of an ICU unit is adequate to meet the needs of the district? Would that be the forum where you would consider what the needs of the district are in terms of its Base Hospital?-- Yes. Some of the things we're looking at is more ambulatory care and looking at chronic disease management, which Health 2020 indicates we're going to have major issues with. So there was some - but we hadn't specifically gone into ICU, although I wasn't working in that group, there were different groups.

COMMISSIONER: Then it goes on and says, "The executive, as part of the strategy map, was looking at developing middle managers." What does that actually mean? How do you develop a middle manager?-- It was obvious at the executive level that there was some issues between medical and nursing, and that we needed to have strong teams and that those people needed to work together well. And, so, we looked at skills in developing team work, so they had good patient outcomes, and we also were looking at developing middle managers in managing change projects themselves, knowing that in the future we had to look at providing health care in a different manner, that we couldn't just keep doing the same thing we were doing to meet the needs of people as we move towards Health 2020.

Look, is there some difficulty in telling me actually what developing middle managers means? Do you train them, do you send them to courses?-- Yes.

Who was running those courses?-- We did. Two external consultants came in, Dr Mark O'Brien was one that's referred to there, and he did a workshop with nurse - with NUMs, Level 3s and Directors, medical directors on team work, and we had an external consultant come in and do workshops on change management.

And what was this training supposed to achieve with these middle managers?-- Which one?

Any of the strain?-- To develop their skills further and look at having better skills to deal with the changes in the future.

Look, I am sorry, that just doesn't mean anything to me. What were they actually being trained to do?-- Well, in the communication one, Dr O'Brien talked about the fact that the culture of health care was very different and that the patient expectations were very different, and he actually went into the fact of how doctors perceive themselves now versus 20, 30 years ago, and that - his words were "gone were the days where

doctors would be considered Gods", and that nurses expect to be treated more equally and patients also have different expectations of doctors. So he talked about the cultural changes of health care 20 to 30 years ago to now and he talked about skills in dealing with those changes.

Then there is this talk here in your statement about a workshop on team work?-- Yes, that's it.

That was just for the clinicians, was it?-- It involved Level 3s, so Nurse Unit Managers.

Clinicians?-- Yes - well, some - a lot of Level 3s don't actually do clinical work, they have mostly administrative role, but some of them do clinical work, but they are people in charge of clinical areas.

It didn't occur to anyone that maybe the executive would benefit from participating in a workshop on team work?-- Dr Keating and I both attended.

What, as observers or participants?-- Participants.

And the middle managers that you are talking about here, they are people at the top level within each operative unit within the hospital?-- Yes, that would include nursing, allied Health, medical, yes. They are middle managers.

How long was it expected that this strategy would take to come into operation?-- Well, the strategy map goes for a few years but it is constantly evaluated and we report on it. But, as I said, we were just starting.

D COMMISSIONER EDWARDS: Did this strategy map include any improvement in patient care?-- Yes.

Where?-- I don't actually have a copy of it but it goes across, and there is different realms, and there is workforce, so that was our own staff and internal processes, and then there was one specifically for patient outcomes, for example, as I said, chronic disease management was one specifically. So there are different groups that looked at different areas.

COMMISSIONER: Yes.

MR MacSPORRAN: Commissioners, we have located a copy of it, if you want to see it or pursue it. I think it is actually attached to one of the statements of either Kirby or Ms Raven. But we pulled this out from somewhere else. I think that's the one - that's got October 2004 on it?-- They are Bundaberg's. There is a State, there is a corporate one, and then there is one specific for Bundaberg.

COMMISSIONER: Yes, we have seen that before. Not in such pretty colours, but, yes. Thank you.

MR MacSPORRAN: I wasn't going to follow it up any further. Unless you wish to-----

COMMISSIONER: No, that's all right.

MR MacSPORRAN: Thank you. Mrs Mulligan, paragraph 217, you deal with subsequent complaints?-- Yes.

That is complaints received after March 2005. You actually summarise them from January, I think 2005, through to March-----?-- Yes.

-----2005. I won't take you to those, but you've tabulated there in your statement the date of the complaint, what it concerned, and the action taken, is that so?-- Yes.

And that tabulation can be read by anyone who so desires?-- Yes.

Can I finally take you to paragraph 253 of your statement? It deals with the question of feedback and support. Page 68?-- Yes.

You talk there about telling nursing officers 3, 4 and 5 that patient care is the first priority. Tell us a bit about that, if you would, what you say there in 253?-- There were some issues surrounding, for example, staffing and staffing - staff leave at peak activity periods. Issues with staff, if there was low occupancy in one area, assisting in another area. So I said clearly to them that patient interest and safety is the first priority and a close second is staff. However, I wasn't in a position - for example, when our peak activity is winter, and particularly school holidays are difficult in September because our part-time staff casual staff want to stay home with their children, that we couldn't just allow X number of staff to take leave at that time and then have no-one available for patient care - not no-one, but not the proper staffing levels for patient care. So it was a matter of putting in some direction around certain things and some staff obviously didn't agree with that because it affected them personally.

All right. Did you take the time and trouble to, as best you could explain, what the rationale for it was?-- Yes, yes.

Did you believe that feedback to patients and staff was important?-- Yes, absolutely.

What did you do in respect of that?-- Well, the patient complaints - as I said, I talked a lot to the patients personally, and additionally they always got a letter, and I gave them my number to call me if they had any concerns, and I did get feedback from some patients on that that wanted further things done or further items. If it meant that I had to - for example, some patients were obviously at work and weren't comfortable talking to me at work, so I stayed back a few nights to call Sydney, sort of 7 in the evening to talk to a client. We had a client who worked in a snack bar type situation and wanted me to call at a certain time, so I made every effort to do that, or see patients in person as well.

We have touched generally on feedback to staff, going through the chronology of your dealings with Ms Hoffman in particular, but you had a belief and a practice that the feedback to individual staff would go through their line manager, is that correct?-- Yes.

And that was a practice you followed where you could?-- Yes, and I set out our career structure. With being competent managers, I would have expected they would be able to do those things.

Were there occasions when there was some positive feedback about congratulating staff or passing on letters or comments of support for the work they had done?-- Yes. I mean where possible - and there is an example in my documentation here, I actually went to ICU and congratulated staff during a particularly busy weekend. We tried to do things in person, however we would also do it on email. My normal practice was "with compliments" - and we did receive a lot of compliments, with letters to nursing staff - was to actually photocopy the compliment, and in my own handwriting put a note on them congratulating staff, and the NUMs would put that up in the ward. The difficulty with going to the ward and saying "well done" is you have only got, for example, three staff in an area such as ICU, so if it was posted, everybody could read it. As well, as I would send e-mails because they would post the email.

D COMMISSIONER VIDER: You are commenting now about feedback to staff?-- Yes.

Would you comment on how you get feedback from staff about your performance as their Director of Nursing? I am asking probably for you to draw on your experience in the role as a Director of Nursing and what process you used to gather information and for feedback for yourself?-- Okay.

On your-----?-- Basically in meetings, and so on, it would be a matter - and I was only there the 12 months, so specifically to Bundaberg, the intention is and was, as I started through, is meeting with those staff in those meetings and talk about, you know, "Is this meeting relevant? Do I need to be there? Do we need it more often?" Basically evaluation of that. Individually, going through and - I hadn't actually started that process, because this is the PAD process - I started it in reviewing their existing performance and development plans, but my normal practice is meeting with Level 3s when we developed the new performance plan and indicating to them, after we finish theirs, having discussion about myself, and what support I have given them, and do they need more, do they need less; do they need mentoring; what is it they need from me; are they happy with the support they are given.

Do you get feedback in a structured way? I am looking at using some of the ACHS guidelines that are particularly helpful, like leadership and management, but structuring it so you get particular - you get some worthwhile feedback?-- I

hadn't actually done it in that manner in Dalby but we didn't have ACHS there. We used a different process but certainly is a good suggestion.

Yes.

MR MacSPORRAN: Thank you. Just to round that off, Mrs Mulligan, the examples of some positive feedback to staff and the way it was done are included as attachments 39 and 40 to your statement, is that so?-- Yes.

Is 39 - can you turn that up for a moment, if you would?-- Yes.

Is that the occasion of both yourself and Mr Leck visiting the unit on that occasion?-- That's Peter Leck and I visiting the ICU unit and Toni Hoffman has put a note in the communication book.

And that's Ms Hoffman's writing, is it?-- Yes, it is.

Where is the communication book kept at the ward?-- I haven't actually seen the communication book in the ward but I have read it. So I assume it would be at the nurses' station or at a relevant spot-----

It is designed to be a way of communicating between the staff members?-- It is.

All right. And the next attachment 40 is an example of something similar, is it?-- Yes, that's an email to Toni Hoffman saying "well done" to all the staff. It related to some feedback that we had got from Brisbane on a patient, and I basically said it was lovely to have this feedback and this level of the same is fantastic.

D COMMISSIONER VIDER: Just something else that I meant to ask you about the clarification, when you were talking about the meetings of the 13th of January, you talked about the fear of reprisal?-- Yes.

Tell us a little more about that?-- With those individual staff members?

Well, who was fearful of what?-- Well, particularly an enrolled nurse was fearful. She was of the belief that Dr Patel had been critical of her for when - she could lose her job because he was a person in a powerful position.

How did you receive that message?-- I was pretty stunned. I basically explained that that was not the case and I explained about - with complaints there is no fear of reprisal and that she had rights and that they had to be adhered to, and I reassured her that if Dr Patel contacted her or made any comment to her at all, that she was to call either myself or Peter Leck immediately and we would deal with it.

It sounds like bullying?-- Mmm, on Dr Patel's part, Mmm.

MR MACSPORRAN: And you obviously deal with it very seriously?-- Yes, absolutely. People should absolutely be able to raise a concern and not feel that they're going to have reprisal as a result.

D COMMISSIONER VIDER: Absolutely.

COMMISSIONER: It must have been apparent to you though that when three separate nurses expressed to you the same concern, that there was a perception amongst the nursing staff that if they were to make complaints, they were at risk of being bullied or facing reprisals?-- Yeah, actually on the two of the three mentioned, a third had a bit of a different view but yes, they had the perception that if they had a complaint against Dr Patel, that there would be ramifications for them personally, and I had to re-assure them that that was not the case.

And I take it from the way you express that, that they needed quite strong reassurance?-- Yes.

Because it was a well held perception?-- From two of the them it was, yes.

MR MACSPORRAN: And, in fact, I think in the attachments that accompany your statement that deal with that issue, you remark upon the seriousness of it because they were distressed?-- Yes.

Two of the three were distressed and visibly distressed when they spoke to you?-- Yes, they were.

And you took it seriously and sought to deal with it?-- Yes, and I indicated, as I said, personally that they could call me any time and we would take action.

Yes, thank you. That's all I have.

MR HARPER: Should I go first?

COMMISSIONER: Thank you, Mr Harper

CROSS-EXAMINATION:

MR HARPER: Miss Mulligan, my name's Justin Harper, and I appear on behalf of the patients?-- Hello.

And I'd like to take you first through some general issues about the process of adverse incident reporting and sentinel event reporting?-- Yes.

Now, I know you've sat here during the evidence so I'll just

take you through what my understanding is of the purpose of that policy. Can I ask firstly when you commenced in March 2004, there was a policy already in place, was there not, for adverse incident reporting?-- Yes.

The primary purposes of that were as follows, and I'll ask you to comment on each of them-----

COMMISSIONER: Mr Harper, we do already have extensive matters on that evidence; are you happy to gain some more?

MR HARPER: No, I can proceed.

COMMISSIONER: Thank you.

MR HARPER: Can I take you to paragraph 102 and 103?-- Is this my second? Yes.

In paragraph 102, you talk towards the end of that paragraph about some areas had poor compliance, for example, theatre staff?-- Yes.

I think from a question from Mr MacSporran, that that poor compliance was about the attendance at training?-- Yes.

It wasn't in relation to poor compliance about filling out adverse incident reports?-- I - at that stage I'd only been there a short time and I wouldn't have had any idea about their - how many incident reports they had done or not done, so it would refer to their attendance at the actual training which, as I said, was difficult for them because of theatre.

Can I take you then to paragraph 103 over the page?-- Yes.

Where you say when you arrived at Bundaberg, "there was no consistent practice amongst nursing staff of documenting issues, including adverse events"?-- Yes.

"Rather, that it appeared to be common practice for such matters to be recorded sporadically and only verbally"?-- Yes.

In your view then, was that at the time that there were adverse events which were not being appropriately recorded?-- It was my view, and it didn't relate to just patient adverse events, it was also staff adverse events, that I often got told things verbally and I would request the documentation and it hadn't been documented.

Mmm-hmm?-- So the issues that raised with me were verbally only.

Was one of the reasons why that may occur, the cultural issues to which you referred just shortly earlier about concerns about making complaints?-- Possibly, at that stage I didn't really have any firm ideas as to why they weren't doing it, except within nursing services I certainly did not see a practice to document concerns on a regular basis.

But that may have been one of the reasons why people weren't willing or nurses, your staff, weren't willing to record adverse events? Those cultural concerns about reprisals were there was a complaint?-- Possibly, I don't know.

Can I take you to this document, which for the information of the Commission, is attachment LTR6 to the statement of Leonie Raven? Now, this is the policy relating to the reporting of sentinel events and root cause analysis?-- Yes.

And you'll see, I think, its effective date "1 June 2004"; could I just get that to go down the page a little please? Sorry, to the highlighted part? Do you accept, do you, the statement in there about the process for reporting of sentinel events should go to each of the district manager, the director; do you accept that statement there about who those should be reported to?-- When an incident occurs for sentinel level.

Yes?-- Yes, that's reported to those people, yes.

Okay. The purpose for doing that, is it not, is that a sentinel event is regarded as a very serious issue?-- Yes.

Which needs to be actioned quickly?-- Yes.

And formally?-- Yes.

And recorded appropriately?-- Yes.

You're aware, aren't you, that there was a change in the policy relating to sentinel events and their recording in November 2004?-- I'm aware there was a change, I couldn't tell you the exact date.

You're aware there was a change around that time?-- Yes.

Could I get this document put up on the screen please? Could I get the attendant to please go to the third page of that? The reporting Centre in the section "Reporting Sentinel Events" it's said that "The line manager must report sentinel events to the District Manager, State Manager, relevant corporate office" et cetera?-- Yes.

"The line manager there, where that is a nurse who is filling out the sentinel event form"; you would be the line manager in that circumstance?-- Yes.

Then you'll see in the second paragraph there's a process by which it is then referred to the Director-General?-- Yes.

Are you aware that that was an addition to the policy that came in place in November 2004?-- Which aspect?

The reporting, the immediate reporting to the Director-General?-- I believe that there was always supposed to be immediate reporting.

There was?-- That was my understanding, although it might not have been necessarily to them but to the zone - zonal areas.

So any sentinel event, on your understanding, right from when they were first reported, should have been reported to the Director-General?-- As I said, not necessarily to the Director-General but on through to the zonal manager so that it was going on outside of the health service.

Okay, but you would accept that this new policy from November 2004 required the reporting to the Director-General?-- Yes.

Now, can I just ask the Risk Management Advisory Group that that's referred to there, can you explain what that group is and who it is?-- I assume that is a corporate group but I don't have first-hand knowledge.

And just to confirm there, the District Manager there, that's Peter Leck?-- Yes.

Can I take you then back to your statement? In paragraph 109 to 123 where you talk about complaints mechanisms?-- Yes.

Am I right in concluding that the complaints mechanisms at the Bundaberg Hospital did not have a similar formal reporting process as did the sentinel event process and the adverse event incident process?-- The complaints were captured internally and training reports were made and I do know because I personally received a phone call that was put to me that because I was available that corporate office had asked for details on complaints and numbers.

What about where there was a serious complaint which could perhaps have constituted a sentinel event?-- I'm sorry, I don't understand the question?

Okay. Where there was a complaint from a patient-----?-- Yes.

-----about something which on its face would meet the definition of a sentinel event?-- Yes.

Was there a requirement to report that to anyone at a higher level?-- If it's a nursing specific complaint, if it related to anything criminal or professionals, well, there was certain requirements they had to be reported from a nursing perspective, more generally, you would have to ask that question of District Manager because I wouldn't be the person reporting it on.

Okay. Can I take you to - I'd like to take you through, and my apologies, Commissioner, some of this has been gone through, but I'd like quickly to take you to the circumstances of the death of Mr Bramich and I will do it quickly?-- What page, sorry?

Sorry, it's commencing on page 38, paragraph 149. And I might

just run you through it and please tell me if there's anything wrong. Mr Bramich died, we've heard, on the 28th of July 2004. On the 2nd of August 2004, Toni Hoffman filled out an adverse event and sentinel event form which you've referred to and is attached to your statement that is attachment LMM12; is that right?-- Just let me check. Yes.

You received that on the 3rd of August 2004?-- Yes.

And you refer to that in paragraph 149 and Dr Keating and Mr Leck also received those at that time?-- I'm not aware of when they received them, I'm just aware of when I received mine.

Thank you. On the 5th of August 2004 you discussed the matter with Dr Keating; you refer to that at paragraph 150?-- Yes.

Three weeks later, you e-mailed - you received an e-mail from Toni Hoffman on the 26th of August 2004?-- Yes.

And you e-mailed that on to Dr Keating and that's at paragraph 155 of your statement?-- Yes.

At paragraph 157 you say that you spoke to Mr Leck intermittently in that time, during that period in between then and the 3rd of September 2004?-- I'm sorry, what was the question?

Sorry, at paragraph - I'm basically just repeating your evidence?-- You're reading through my statement, yes.

Yes, paragraph 157?-- Yes.

On the 3rd of September 2004 you received a further statement from Miss Hoffman?-- Yes.

Which you immediately forwarded to Dr Keating?-- Yes.

Then as I read it, there is no further development on the matter between then and the 18th of October 2004?-- I wouldn't have been personally involved in any development with it in light of the fact it was a medical matter.

But we've just seen policies which had a joint responsibility between you, the District Manager and the Director of Medical Services?-- It said that the information came to the three of us, yes.

Right. The sentinel event form was filled out by one of your staff?-- Yes.

And taken direct to you?-- It wasn't taken - I don't know how it got to me but it came to my in-tray, yes.

It came to you but you had no further involvement in it in that time and no further discussions about it?-- Except what's in my statement here. I'm not sure what you're asking me?

No, I'm asking to confirm that you had no further involvement in it?-- In what? When are you talking about?

In that complaint that the period in that three week period?-- From when to when?

Sorry, from 3 September 2004 to the 18th of October 2004?

COMMISSIONER: It was a bit more than three weeks.

MR HARPER: Sorry, seven week period?-- I wasn't personally involved in investigating the complaint, no.

You're aware that during that time a complaint was made to the Minister by the Member for Burnett in relation to that matter?-- In relation to?

In relation to the Bramich matter?-- I was aware at some point but I can't recall when.

Can you correct me if I am wrong, but I assume you'd be familiar with preparing responses on behalf of the Minister to correspondence?-- If it related to nursing issues, yes.

Would it have been normal practice then for any correspondence to the Minister to have come down to the hospital to have a draft response to be prepared?-- To the District Manager-----

Yes?-- -----that information goes.

But you - there was no discussion with you about how that correspondence was referred to?-- No, not that I can recall.

Are you aware that in that period of time, that seven week period, there was some contemplated legal action proposed by the family of Mr Bramich?-- No, I wasn't aware of that at that time.

Okay.

COMMISSIONER: Mr Harper, it has been a long morning. I thought we might take the lunch break shorter, I think through to 2 o'clock if that suits everyone?

Just before we rise though, I did indicate earlier there's something I wanted to mention and I do so in the context of continuing talk about bias and that sort of thing: this is a case of Hamer nodded, as they say, of an indication that even the most reliable oracle can sometimes make a mistake. I refer to the story under the bi-line of Hedley Thomas in this morning's Courier-Mail, referring to my father and suggesting that my father had a working relationship for many years with Mr Ron Ashton.

It's an understandable matter of confusion. Mr Ashton was himself for many years a solicitor with the firm of Morris Fletcher & Cross which later became Minter Ellison and my

father was also for many years a solicitor. But they were never in partnership together, they never worked together, and I'm not even sure if they know one another, certainly I am and my family have no connection with the Morris who founded Morris Fletcher & Cross, so if anyone thought there was some sinister connection there, there isn't. We'll resume at-----

MR ALLEN: Commissioner, I'm wondering, given Mr MacSporran's situation, whether we'd perhaps have a little shorter lunch break?

COMMISSIONER: Yes, that does make sense, doesn't it? Is 1.30 too soon?

MR MACSPORRAN: No, that's fine.

COMMISSIONER: Gives everyone an hour.

MR ALLEN: Thank you.

COMMISSIONER: Thank you.

THE COMMISSION ADJOURNED AT 12.31 P.M. TILL 1.30 P.M.

THE COMMISSION RESUMED AT 1.33 P.M.

LINDA MARY MULLIGAN, CONTINUING CROSS-EXAMINATION:

COMMISSIONER: Mr Harper.

MR HARPER: Thank you, Commissioner.

Miss Mulligan, I'd like to talk to you now about the meeting you had with Miss Hoffman on the 22nd of October 2004; paragraph 176 of your statement?-- Just one sec. Yes.

That was the first occasion on which you were aware of the depth of Miss Hoffman's concerns about Dr Patel?-- Other than the Bramich case.

You then went immediately and discussed the matter with Mr Leck?-- Yes.

Can I ask in that meeting with Mr Leck, did you have any discussion about the progress of the investigation in relation to the death of Mr Bramich?-- No.

No?-- No.

It didn't occur to either of you that that may have been

dragging on a little bit?-- I didn't have the details of that investigation.

Right, but between you and Mr Leck, surely one of you would have been interested in those matters?-- I didn't have those details and at that meeting I was focussing on being there and listening to Toni Hoffman's concerns and supporting her through that.

Right. But you had some more serious concerns, very serious concerns raised about Dr Patel; did it not set alarm bells ringing to you about the need to investigate that matter related to Mr Bramich quickly?-- I wasn't responsible for that investigation and I was of the belief it was being investigated.

In the sections where you deal with your meeting with Mr Leck, there's no reference to you discussing those matters with Dr Keating?-- Which are you referring to?

Sorry, paragraphs 176 through to - sorry 179 through to 183. You didn't discuss the matter with Dr Keating?-- I didn't personally at that time. Mr Leck is my line manager and I went straight to him and it was a medical issue.

There was no discussion about Dr Keating at that meeting?-- Toni Hoffman raised the issue with me that she had gone to Dr Keating in 2003 and Glennis Goodman, as in my statement, so she repeated that again.

Okay. In the meeting with Mr Leck though, was there any discussion about Dr Keating?-- That's what I'm saying, she repeated that information again to Mr Leck.

Okay. Can I take you then, to November 2004, we discussed earlier this, that there was a change in the sentinel event policy and that change then required the sentinel events to be reported to the Director-General?-- Can we put that back on the screen please if you'd like to talk about that?

From November 2004, there was a requirement that all sentinel events be reported to the Director-General?-- Yes, point 2?

Yes?-- Yes.

To your knowledge, was there any attempts to report this matter, the matter of Mr Bramich, the sentinel event in relation to Mr Bramich, to report that to the Director-General?-- I was of the belief that that was occurring but that wasn't my responsibility, so-----

Okay. Can I take you next to paragraph 203 of your statement?-- Yes.

Where you talk about a discussion with Mr Leck where he indicated that Dr Patel would no longer be doing oesophagectomies at the Bundaberg Hospital?-- Yes.

Could you explain for us what the context of that discussion was?-- I met with Peter Leck at that time fortnightly and we went through a number of items, him and myself, and at that stage he indicated to me that Dr Patel would no longer be doing oesophagectomies and asked me to please inform Toni Hoffman as soon as possible about that information.

Did he give a reason why?-- He said to me that there's a suggestion that that was possibly outside the scope of practice at Bundaberg Hospital.

Was there any discussion at that stage about the progress of the investigation about the death of Mr Bramich?-- Just that he indicated an investigation would be occurring and no more.

Was it indicated at that meeting that it was still occurring?-- Yes, no other details.

Was there any discussion at that meeting that it perhaps had dragged on a little too long?-- I didn't raise that as my supervisor, no, and in light of him being responsible for it, that wasn't something I raised.

Was there any discussion with Dr Keating about his involvement with the investigation of the death of Mr Bramich?-- Not to my recollection.

Could I take you then finally to paragraph 217 of your statement?-- Yes.

And you detail there a number of matters which were raised with you in relation to Dr Patel by nursing staff?-- Yes, and I actually raised a couple of them myself.

Can I just confirm that those range from 20 January through to the 8th of March?-- As per my statement, yes.

Is it fair for me to assume, for the Commission to assume that by that stage, it was pretty much an open secret about the concerns about the clinical competence of Dr Patel?-- How? I'm not sure what you mean by "open secret"?

COMMISSIONER: Was it well known within the hospital?-- I can't answer that question because I'm not into corridor gossip, but certainly I was aware and my senior nursing staff was aware.

MR HARPER: Would the fact that a number of nursing staff were now willing to come forward to you with complaints about Dr Patel indicate to you that it was well known around the hospital about Dr Patel?-- I wouldn't say that they were necessarily willing to come forward, I would say that they had to have encouragement to come forward and I can't guess on that.

But given that in the past - you gave evidence that in the past no-one had raised any concerns about Dr Patel?-- Yep.

That there was a culture of being reluctant to make complaints about Dr Patel?-- Yes.

Is it reasonable to assume that-----

COMMISSIONER: Sorry, if I can interrupt. And there was, as you yourself experienced, a fear amongst staff, particularly nursing staff, that if they did make complaints, they might be exposed to retribution or some sort of adverse event?-- Certainly two staff did relate that to me.

And you wouldn't expect were the only two?-- No, I don't know, those were the two that were related to me.

MR HARPER: So again, just finally, is it fair to assume then that by that stage, it was relatively well-known that Dr Patel's clinical competence was in question?-- I can't comment on that, except to say that as the Director of Nursing from October onwards, I actively encouraged nursing staff to come forward, so I would hope that my influence on that also assisted in those people coming forward, and I can't really comment about the rest of the hospital and what they knew and didn't know, it certainly wasn't discussed with me on my rounds except people that were specifically involved.

D COMMISSIONER VIDER: You would have been aware, were you, of the unplanned return to the operating theatre?-- I - in which one?

Any one of them?-- They never gave a lot of details, they told you numbers on the monthly report.

You didn't dig into that yourself?-- Well, over the monthly reports over the 12 months, there was between zero a month to a maximum of two and the nurse unit manager never highlighted that as an issue or said that it increased from previous years.

No, but putting aside the nurse unit manager raising it as an issue, you didn't initiate any discussion or further investigation yourself about that?-- No, because I didn't - we were looking at those figures because it wasn't flagged as an issue, but they did on the monthly reports didn't see it as a concern.

What about unplanned return or unplanned admission to ICU?-- They didn't actually, if I can recollect, put that information in the monthly report.

D COMMISSIONER EDWARDS: Did you get daily theatre lists?-- Did I? No, I did not.

MR HARPER: I have nothing further, Commissioner.

COMMISSIONER: Thank you, Mr Harper. Mr Allen, is it convenient for you to go next?

MR ALLEN: Yes, thank you, Commissioner.

CROSS-EXAMINATION:

MR ALLEN: Commissioners, there's obviously quite a lot of issues where there's some conflict between Miss Mulligan and members of my client. I'm not proposing to go to all of those matters. That's not some type of concession that this witness is to be preferred, but I'm going to concentrate on matters which will hopefully assist the Commission.

COMMISSIONER: Well, Mr Allen, let me make two points about that: one is that where members of your client organisation have already given evidence and it conflicts with something Miss Mulligan has said in her statement, and she acknowledges that there's a difference, there's little point in your pursuing those matters.

MR ALLEN: Yes.

COMMISSIONER: Your clients have had their say and Mrs Mulligan has had hers.

MR ALLEN: That was the approach I prefer to take, Commissioner.

COMMISSIONER: The other is, as I've indicated a number of times, many of these things are matters of perception, whether someone was angry or short at a meeting or wasn't encouraging input or whatever, it's very much a matter of how people feel rather than what actually happened, and I don't think it assists us to spend a lot of time taxing witnesses on those sorts of issues of perception.

MR ALLEN: Yes. No, I hope I've taken those matters on board.

COMMISSIONER: Thank you.

MR ALLEN: I'm sure you'll point out if I haven't.

Miss Mulligan, look, could I go to the matter that you've dealt with in your statement and your evidence concerning the meeting with Toni Hoffman on the 8th of July 2004?-- Which - yes, what page?

Well, in your statement, firstly, at paragraph 144?-- Yes.

COMMISSIONER: Mrs Mulligan, I should mention that Mr Allen is representing the Queensland Nursing Union?-- Yes, I'm aware of that. Thank you.

MR ALLEN: Perhaps if you go to page 35 just to put it into context?-- Mmm-hmm.

Do you see there the subheading "Meeting with Miss Hoffman, 8

July 2004"?-- Yes.

And then you deal with that on the following page?-- Yes.

And then we come to paragraph 144?-- Yes.

Well, perhaps, to put it in context further, paragraph 143?-- Yes.

Miss Hoffman raised concerns, you say, in relation to this conflict between the surgical staff and other staff in relation to having more than two ventilated patients in the ICU at any one time?-- Yes.

And arrangements for transfer?-- Yes.

Now, in paragraph 144 you say that Ms Hoffman had been unable to locate a copy of the existing policy?-- Yes, she was unable to provide a copy of a policy that actually outlined the capacity for ventilation, as in two beds and up to 48 hours.

Weren't all the existing policies held on the G drive of the computer system?-- Yes.

Okay. So it would be possible to find any existing policy by reference to that?-- Hopefully.

Did you ever attempt to do so?-- No.

But you claim that Ms Hoffman was unable to locate one?-- She was unable to locate a policy that had that information in it. There was a policy on G drive that had relationship to technicians and transfers but it didn't go into the details, that policy, of how long a patient could stay ventilated and how many maximum they would have.

But you say she was eventually able to locate in March 2005 an ICU policy regarding ventilation?-- Yes.

So there was an existing policy?-- It wasn't admission transfer policy. It was a protocol specifically for ICU about ventilation and I believe there's a copy of it in my attachments.

Right. That would have been on the G drive back in July 2004?-- I don't know. I didn't go on and look.

In any event, paragraph 145, with reference to the communication problems between Dr Patel and Dr Miach and the difficulties as reported with Dr Patel wanting to keep ventilated patients longer than 48 hours, in paragraph 146 you say that, "Ms Hoffman expressed the view that having a clear and concise updated policy would assist in resolving any communication issues"?-- Yes.

And you agreed with that?-- Yes. And I would like to add what you've just said, the policy that she found, as I said was a unit protocol and I'm not sure that the unit protocols for all the areas were up on the G drive because Leonie Raven had told me that was an issue.

In any event, you say that on this date, Ms Hoffman agreed that she would work with Dr Carter to update the admission

transfer policy?-- Yes.

And you say that you asked Ms Hoffman to keep you informed as to how things were going?-- Yes.

And does that then take us over to that part of your statement at paragraph 172, and you will note from page 44 that you're now dealing with a meeting on the 18th of October 2004?-- Sorry, paragraph 172?

Go to page 44 and you will see that you're dealing with the 18th of October 2004?-- Yes.

Go over the next page?-- Yes.

Paragraph 171, you say that you had a meeting with Mr Leck and Dr Keating?-- Yes.

And paragraph 172: "It was agreed that data needed to be provided to us from Ms Hoffman and Dr Carter"?-- Yes, I needed more data, yes.

And you then go and say, "I had not received anything from Ms Hoffman about the proposed new policy since the 8th July 2004"?-- I have no recollection of receiving an updated policy, no.

All right. And then you deal with this in more detail from page 59 of this statement?-- Yes.

Where at paragraph 218 you say, "During the period from 8 July 2004 onwards, work on formulation of the new admission/transfer policy for ICU had proceeded very slowly"?-- Yes.

And you again state that you had inquired with Ms Hoffman from time to time and Ms Hoffman had said she hadn't had time to get together with Dr Carter?-- I detailed there is a number of issues that delayed them at that stage I believe, yes.

All right. And, indeed, in your evidence today, the tenor of questions asked and the answers given seemed to be carrying with it some criticism that despite Ms Hoffman being asked become back on the 8th of July 2004 to progress matters to address concerns in that fashion, she hadn't done so by February 2005?-- There was - yes, Dr Keating and I met with Dr Carter and Ms Hoffman at that date.

The words used were an inordinate delay?-- Yes.

You say that in a leadership and management meeting in early January 2005 - I refer here to paragraph 222?-- Yes.

That the inordinate delay led to a deadline being imposed?-- Yes.

For the next month?-- Yes, there was a combined policy that actually discussed the number of ventilated patients they

could deal with and the length of time and-----

All right?-- -----details around transfer, around that.

Look, could you be mistaken about this topic to the extent that, in fact, the discussion with Ms Hoffman about updating the policy with the assistance of Dr Carter did not in fact occur until either very late in 2004 or, indeed, in January 2005?-- No.

Can't be mistaken about that?-- No.

That would carry with it the suggestion that you were mistaken about whether in fact you'd spoken to Ms Hoffman during the second half of 2004 to see how that process was coming along?-- I'm sorry, I don't understand the question.

Could you be mistaken about speaking to Ms Hoffman in the second half of 2004 about what was happening with the updating of this policy?-- No.

All right. Now, paragraph 172, which we'd just gone to, included reference to an e-mail of yours dated the 18th of October 2004?-- Yes.

LMM19?-- Yes.

So if we go to it?-- Yes.

Now, first of all, there's a request in the first paragraph to, "Provide data in relation to ICU matters"?-- Further data, yes.

And then you refer to the types of further data that you would like?-- Yes.

Okay. If we go to the fifth-last line after "NFRs"?-- What's the first word of the line?

COMMISSIONER: "View"?-- "View", yes.

MR ALLEN: Do you see "NFRs"?-- Yes, I do.

One of the things you're requesting is, "The admission criteria for the unit"?-- Yes.

"The last time it was reviewed and by whom"?-- Yes.

"And the others where there are issues with adherence from your perspective"?-- Yes.

All right. There's certainly no suggestion in there that you're still waiting on some type of updated policy in relation to admissions or transfers from ICU?-- I was concerned that it hadn't actually come but I thought perhaps it - she's done it but it hasn't come to me and so that's how I requested for it, instead of being critical.

But there is no reference whatsoever to the fact that there has been some earlier request that Ms Hoffman and Dr Carter update that policy?-- Well, if you actually go to minutes that I had with the QNU, there is actually reference in documents here where I discussed that with them prior to November.

Let's take this step by step?-- Yep.

There is no reference whatsoever in that e-mail to the fact that you've requested any updated policy?-- That I had spoken in July and requested it?

COMMISSIONER: No-----?-- There is no reference to that.

-----there is no reference in the e-mail to requesting an updated policy, is there?-- No, there is not.

MR ALLEN: In fact, what you're after is the current policy and you're wanting to know when it was last reviewed and by whom?-- Yes.

All right. Then further - oh, the next page then of that exhibit, Ms Hoffman responds with some questions to the answers - sorry, answers to the questions you've asked?-- Mmm-hmm.

Referring to attachments, and she says she shall "send the ICU admission and discharge policy tomorrow"?-- Yes.

Okay. Likewise, no suggestion from Ms Hoffman that she's in fact - has been charged with updating that policy?-- She hasn't stated that there, no.

And then, if we go further in towards the last page of that exhibit, this is an attachment she sent at that time?-- Yes.

Can you look at the fourth-last paragraph?-- "Bed blockage", starting there?

"Admission and discharge policy"?-- Yes.

"Last reviewed by Dr Martin Carter and myself last year. Shall send a copy. Otherwise should be on G drive"?-- Yes.

So in response to your query she has said, "Well, the policy will be sent to you. It was last reviewed by Dr Martin Carter and myself last year"?-- Yes.

Once again, no suggestion at all that she's been charged with updating the policy?-- She hasn't suggested that; is that what you're asking me?

All right?-- No, she hasn't.

COMMISSIONER: And you haven't responded back to her and said, "Well, why are you telling me about the old policy when you're supposed to be drafting a new one"?-- Well, we did have verbal

conversations and this - this happened just prior to our tilt train disaster, so it wasn't our first priority for me, nor did I believe - well, actually, Toni Hoffman was on leave at the tilt train, it wasn't our first priority, no.

MR ALLEN: But you've asked about it, according to your evidence, on the 8th of July?-- Yes.

There is still no response, apparently, at the time of this correspondence, which is in November, and yet you don't figure that that will feature in an e-mail?-- To call her and ask her for a response?

Yes, to follow it up?-- I did, I did have conversations with her.

Any e-mail correspondence?-- No.

Well, let's go to the first thing we can see in writing about this updated policy. We'd have to go, would we not, to LMM28, and that's two pages?-- Sorry, I'm on the wrong one.

It's in fact more than that, sorry. Can you go to the second page of LMM28?-- Yes.

This is the first message in a series of e-mail correspondence between yourself and Toni Hoffman?-- Yes.

Now, your e-mail of the 16th of February 2005 says, "Hi Toni, just following up on this as discussed on 7 January. The revised policy to be done in liaison with M Carter was due on 14 February"?-- Yes.

"and I have not received the same. Please advise ASAP. Ta, Linda"?-- Yes.

Okay. So, Ms Hoffman has failed to meet a deadline of 14 February. That's so?-- Yes.

And you're following up with an e-mail within two days?-- Yes.

Saying, "Where is it"?-- Because it had been going on for months and months and months, yes.

COMMISSIONER: You didn't say that. You didn't say, "You were supposed to have it to me months ago." You said, "You're two days late"?-- For that deadline, yes, because in January we gave them a specific deadline.

Where do we see that?-- We spoke to them on January 7th. I spoke to Toni Hoffman.

MR ALLEN: Yes?-- I don't know where I spoke to her, but I did.

It's true, isn't it that the first correspondence, the first thing in writing, we have about Toni Hoffman having to produce

an updated policy is this e-mail in the middle of February 2005?-- Referring to the updated policy?

Yes?-- The first note in writing would be my notes of - with my QNU meeting, but the first thing in writing to her, Toni Hoffman, is this.

The first correspondence with Toni Hoffman?-- On e-mail?

Mmm?-- Yes.

COMMISSIONER: Or, in any form, memorandum, letter, anything in writing?-- I don't normally send a memo to my Level 3s. I talk to them personally.

Mr Allen said, "Is this the first thing in writing?" You said, "You mean in e-mail?" It's not confined to e-mail. It's the first thing in writing, isn't it?-- To Toni Hoffman?

Yes?-- Yes.

MR ALLEN: This leadership management meeting, which you say included discussion about the inordinate delay in Ms Hoffman and Dr Carter producing that updated policy?-- Yes.

You say in paragraph 222 that that occurred in early January 2005?-- That's my belief, yes.

You got back to work on the 4th of January 2005?-- Yes.

How often were leadership and management meetings held?-- Every week.

Every week?-- Every week.

So do you know when the first one was held then?-- No, but I could look in my diary, but I don't have the information here.

You don't have it here. All right. Well, there was a leadership and management meeting held on the 10th of January 2005?-- Yes.

And you attended?-- Yes.

And took the minutes it seems. Is confirmation-----?-- I don't take minutes for that.

What's "confirmation of minutes" mean?-- That means that we get together and say, "Is that a true record?"

I see. So you confirm the minutes for the meeting where on the minutes you appear as confirmation of minutes?-- If you could put it on the screen, I'll have a look at it.

All right. Perhaps you could just look at the document. It's probably just as easy. It's a minutes for a leadership and management meeting of the 10th of January 2005?-- Yes.

And where your name is next to "confirmation of minutes", does that mean that you confirmed the minutes for that meeting?-- Yes, and seconded by Judith McDonald.

Do you suggest that there would have been any leadership and management meeting earlier in January than the one of the 10th?-- I don't know, I'd have to check my diary where there was an extra ordinary meeting. I don't know when the first one was.

Okay. Well, have a look through this document and see if you could see anything minuted whatsoever regarding a discussion in relation to an updated ICU policy?-- Thank you. No.

There's nothing, is there?-- Nothing documented.

All right. I'll tender the leadership and management meeting minutes of the 10th of January 20055.

COMMISSIONER: Exhibit 185 will be the minutes of the leader ship and management meeting of 10th January 2005.

ADMITTED AND MARKED "EXHIBIT 185"

MR ALLEN: Thank you, Commissioner. Now, what I suggest to you is that the first time you spoke to Toni Hoffman and requested her to update the ICU policy was in either late 2004 or January 2005?-- No.

I put it to you that you didn't speak to her about that on the 8th of July 2005?-- No, that's incorrect.

And it's absolutely ludicrous to suggest that Toni Hoffman and Dr Carter would not have been able to get together an updated policy within the time frame you're describing?-- Well, that's what occurred.

I'm suggesting that you're inaccurate in that respect and that's to perhaps make Toni Hoffman look like she was perhaps lax in carrying out her duties?-- I disagree.

Was Dr Carter informed by you in July 2004 that he'd be participating in this process?-- No, Toni Hoffman said that she would go away and discuss it with him.

I see. So you never spoke to Dr Carter about it?-- I personally didn't, no.

When did you first communicate with Dr Carter at all about the updating of the policy?-- When we met in - I don't know the exact date but it's in here. It's the date that Darren Keating, myself and Toni Hoffman and Dr Carter met.

Did you say to Dr Carter at that time or to Toni Hoffman in

Dr Carter's presence that, "This has been requested some six months before"?-- I said-----

Seven months before?-- I don't know if I actually said "seven months" but there is a note of what I said. I did say - Dr Darren Keating and I said we thought it was an inordinate amount of time.

Can you take us to a note?-- Yes. I'll just find it. What were those other ones - what number were they listed under you gave me before?

I had taken you to LMM19 but I believe you must have been referring to something else. You're talking about communications in the early part of 2005, are you?-- Yes, I am. Let me find it. You'll have to bear with me since it's such a long statement.

Could you try LMM28 firstly. I took you to that before to the second page?-- Mmm-hmm.

I took you to the e-mail of yours dated the 16th of February 2005?-- Yes. It's on the second-last page of 29 and there's a note at the bottom dated 01/03/05 and Darren had sent a further e-mail to Dr Carter and I wrote the notes on here from the previous day.

COMMISSIONER: Sorry, what page are we looking at?-- We're looking at the second-last page of Exhibit 29.

MR ALLEN: And which part are we looking at on that page?-- That I wrote.

01/03/5, "Met with Toni Hoffman and Dr Carter"?-- Yes.

Can you translate it for us?-- Yes, "Both were completely separate on policy. Had six weeks to complete. Suggest they cut and paste policies and blend into one. Clearly explained by myself and Dr Keating must be a joint effort and due consultation. Note Toni Hoffman has done no consultation with after-hours nurse manager and I also stated this must occur. Request final draft for completion by 4/03/05."

COMMISSIONER: What does that mean in the second line of that note, "Had six weeks to complete"?-- From the time we actually gave them a specific guideline. In July, I didn't actually give any deadline and I'm sure unsure whether Dr Keating gave Dr Carter-----

It wasn't an error for six months to complete?-- We didn't actually give them a deadline. When I spoke to Toni Hoffman in July, she was going away to progress it and I didn't actually give her a deadline.

MR ALLEN: You wrote, "Had six weeks to complete"?-- Yes.

The reason being that they'd been tasked with that in late 2004 or early 2005?-- I can't comment on Dr Carter, only with

Toni Hoffman, and it was discussed in July '04.

No, she was tasked with that by you for the first time in late 2004 early 2005?-- I disagree.

All the communications in writing are consistent with that proposition, including that in your own handwriting?-- I disagree. I was at the meeting in July and I know what was said.

COMMISSIONER: No, that wasn't the question. Please answer counsel's question?-- What-----

The suggestion is that all of the communications in writing, including this one, and in your own handwriting, are consistent with what he's putting to you?-- No, I disagree.

Well, where is there something in writing that is consistent with your version?-- There was nothing put in writing.

Well, then you would agree with counsel that everything in writing supports his version?-- From what I put in writing, but he wasn't there for my conversations, yes.

Precisely. So the answer-----?-- Yes.

-----to his question - see, your function here is to answer questions. The question put to you was, "Everything that's in writing is consistent with his client's version." That's true, isn't it?-- In writing?

Yes?-- Yes.

Thank you.

MR ALLEN: But you'd have us believe that there's nothing put in writing on the 8th of July 2004, then there's no - nothing in writing by way of e-mail chasing it up throughout the following six months, but then, once a deadline is set in January, there's this extensive flurry of correspondence referring to the urgency of the matter and that they've had six weeks to do it and isn't yet done?-- Yes, because there was a belief that they had been given significant time and it was time to put some strategies in place to make sure it occurred, which I didn't expect to do in July 2004.

Well, perhaps we should examine, then, your recollection as to what was discussed in that meeting on the 8th of July 2004. We could go back to where you deal with that at page 36 of your affidavit?-- Yes.

You reject the proposition that at this time, by this time, Toni Hoffman had expressed any concerns regarding Dr Patel's clinical competence?-- She'd discussed with me what is written. She did not discuss clinical competence issues.

It's the fact, isn't it, that even during the orientation period you made a comment to Toni Hoffman about having heard

that Dr Patel's skills were very good?-- No.

And she said that that wasn't her understanding?-- I wouldn't have a clue what his skills were there. I was there for two days. No, I did not make that comment.

So she didn't raise with you any issues about Dr Patel and her feelings about him?-- She didn't raise them specifically with me, no.

But you claim in your affidavit that she made gossiping comments about the District Manager and the Director of Medical Services and other people?-- No, she made comments about two people: Peter Leck and the Assistant Director of Nursing, Carolyn Kennedy.

Yes. I suggest she didn't?-- I disagree.

And I also suggest to you that she did speak to you about Dr Patel?-- No, she did not.

Let's go to this meeting of the 8th of July 2004. You claim a reliable recollection of what happened on that date?-- Yes.

Is that so?-- Yes.

And you maintain that the only comments made about Dr Patel were those set out in subparagraphs (a), (b), (c) and (d) of paragraph 137?-- Yes.

All right. Well, firstly, he was always loud and full of himself?-- Yes.

What did she say about that? In what context did she say he was full of himself?-- That he always thought his skills were great, he was full of himself.

Oh, so it was in relation to his skills, okay. "He'd make negative comments to his junior doctors about the nursing staff and also about Ms Hoffman's disagreeing with him in hearing distance of nursing staff"?-- Yes.

Now, what's that mean, about Ms Hoffman's disagreeing with him?-- She told me that she had had disagreements with him and that he would criticise her, but she didn't give me the details of them.

What, were they disagreements about who'd win the footy next week? What were they about?-- I just told you she didn't me the details of them.

COMMISSIONER: None at all? And you didn't ask?-- Not specifically, no.

Why not?-- Because I felt that she would discuss what she needed to tell me, so she said she didn't always agree with him, other than she talked about the transfers and discharges.

MR ALLEN: Did you think she might have been referring to disagreements about clinical matters?-- Not at that stage.

Well, given that he was the Director of Surgery and she was the Nursing Unit Manager of ICU?-- She didn't raise it with me.

Well, what did you think she was talking about when he said she'd have disagreements with him-----?-- His attitude-----

And that he'd go and then run her down with the nurses?-- His attitude.

COMMISSIONER: You dealt with the attitude in (a), (b), (c) and (d). What's (b) all about, having disagreements?-- His attitude, the way she spoke to him.

What, she had a disagreement with him about his attitude?-- She said he was condescending to her and full of himself.

Look at your paragraph (b)?-- Yes.

"And also Ms Hoffman disagreeing with him in hearing distance of nursing staff"?-- Yes.

He wouldn't be commenting about his own attitude in the hearing of nursing staff?-- No, he was commenting about Ms Hoffman's attitude.

Ms Hoffman disagreeing with his attitude?-- I don't know what it was in relationship to her attitude. She said that he would make comments in a negative nature about her in hearing distance of her staff.

MR ALLEN: (c): "He was always saying how great his skills were"?-- Yes.

Can you remember what Toni Hoffman told you about that?-- Basically that, that he was always saying how great he was.

His skills were?-- Yeah.

What, his surgical skills?-- I assume so being the Director of Surgery, but I didn't go into details and nor did she.

It didn't ring a warning bell to the extent she'd say, "Right, sorry, what's your concern about that?"?-- No, because she was talking about his behaviour.

How good are his skills?-- I don't know. I'm not in any position to evaluate them clinically.

Did you consider Toni Hoffman wasn't in a position to express any useful opinion on this so you didn't ask?-- No, it wasn't an issue at the time so I wouldn't ask.

But she's saying one of her concerns is that he's professing to have this great skill level?-- Yes, that's what she said.

And that didn't raise any concerns on your part?-- No, because she said that he was loud and full of himself and she did talk about him being American.

So you simply - what, you assume, well, she might be worried that he's a great surgeon and he's prepared to say something. Did you think that was the nature of the complaint?-- I don't understand your question.

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

Did you assume that that meant that he was a good surgeon and was prepared to say so and Toni Hoffman was worried about that?-- No, I made an assumption that that was probably a characteristic because of his cultural background.

Did you? You didn't in your position perhaps think, "Oh, well, hold on, what is it about his skills and what he says about them that worries you?"?-- No, you've got to remember this is a senior nursing manager who if she has an issue should be able to tell me. She didn't raise issues about his clinical competence.

Well, I suggest to you that she did?-- Well, I disagree.

I suggest that you haven't presented a full picture of any discussion you had with Toni Hoffman on that matter?-- No.

But even on the matter that you have presented it screams out a question about his skills?-- No.

No. Subparagraph (d): "Miss Hoffman did not agree with him at times and he would then ignore her and not talk to her."?-- Yes.

You didn't ask her about what sort of matters they had disagreements upon?-- She related it to-----

MR MacSPORRAN: Commissioner, can I just ask out of fairness

that Mr Allen puts the evidence from Toni Hoffman when this was raised exactly, what is supposed to have been said to this witness to raise issues of clinical competence on this occasion because he's putting generalities, so in fairness to the witness she should know exactly what he is suggesting the conversation was.

COMMISSIONER: Not at all. She denies that such a conversation occurred at all. There is no reason for Mr Allen to put chapter and verse to a witness that says nothing of that nature at all.

MR MacSPORRAN: In my submission, in fairness, he should. If that is supposedly the evidence of his client he should put it, identify it with particularity because, in my submission, that is not the evidence.

COMMISSIONER: Mr MacSporran, your client has provided a telephone book full of responses to the allegations. We're not going to waste time going through chapter and verse. I've indicated to Mr Allen that we don't need all the issues or require every detail of issue to be put to your client.

MR MacSPORRAN: No, but, with respect, those that are being put should be put fairly and on the evidence.

COMMISSIONER: Mr Allen, Mr MacSporran wants you to put chapter and verse.

MR ALLEN: The evidence-----

COMMISSIONER: No, that's what he wants. You are going to have to do that, but we're not going to sit past 4.30 and take as long as you need. If Mr MacSporran wants you to do that then we're going to do it.

MR MacSPORRAN: Commissioner, can I just be heard?

COMMISSIONER: No, Mr MacSporran.

MR MacSPORRAN: Can I please just be heard for one moment if you don't mind?

COMMISSIONER: I have acceded to your request.

MR MacSPORRAN: You have deliberately, with respect, misinterpreted what I am saying. If I can be heard I'd be grateful and my submission is that if Mr Allen is going to put a contrary version to this witness - and her telephone book of responses are in response to evidence given here earlier - if he is going to put that he should put it with particularity. I'm not suggesting he should put all of the material before this witness. If he is pursuing this one point he should do it properly. That's my simple request and, in fairness to the witness, it should be done as you well know, with respect.

COMMISSIONER: Well, that will be complied with. Mr Allen, put your entire case to the witness.

MR MacSPORRAN: Well, again, I suggest you have, it seems, deliberately chosen to ignore the submission I've just made and it's regrettable, with respect.

COMMISSIONER: I will see to it that your submission is acceded to and every bit of evidence will be put to your client so there will be no suggestion that she has not had a complete opportunity to respond to every allegation. You can't complain about that, can you, Mr MacSporran?

MR MacSPORRAN: Well, I can. I have and I'll do so again if you wish to hear me because I haven't suggested that for a moment. I have suggested for the third time that what should happen is if Mr Allen wants to put something to my witness he should do so with particularity. He has fairly and kindly suggested that he's not required to go through chapter and verse through the whole case and I'm not suggesting he should do so. For the third time I'm suggesting that if he pursues this point he should do so fairly and put what the evidence is on this point-----

COMMISSIONER: Well, Mr MacSporran-----

MR MacSPORRAN: -----because, in my submission, the evidence doesn't bear out the general suggestion he is making.

COMMISSIONER: Mr MacSporran, I'm not going to let you pick and choose the bits you dictate to Mr Allen with specificity. You can either have the whole lot or let Mr Allen do it the way he wants.

MR MacSPORRAN: I'm not seeking to pick and choose what parts of this case Mr Allen puts. He is choosing to put the parts he sees as being relevant. I don't dispute for a moment his right to do that. I'm simply saying those parts he's chosen to do that, he should do properly. I'm simply asking in fairness to my witness that she be given a chance to understand what the evidence in respect of that was, not some general suggestion to her, just the evidence on that particular point. Now, in my submission, that's a completely reasonable request and if you choose to ignore it, so be it, but that's my submission about it.

COMMISSIONER: Well, what are you suggesting Mr Allen should do?

MR MacSPORRAN: I am suggesting he should simply put the evidence in respect of this conversation; what Miss Hoffman has said in evidence that contradicts this witness. That's my suggestion.

COMMISSIONER: She's answered that in her statement, hasn't she?

MR MacSPORRAN: No, no, I'm asking him to put what Miss Hoffman said if contrary to this witness, what the evidence was.

COMMISSIONER: Hasn't your client already answered that in her statement?

MR MacSPORRAN: I would have thought so until the questioning from yourself and Mr Allen proceeded and if it's to proceed further I'm simply asking that the evidence on the record be put to her, what it's alleged she was told by Miss Hoffman about clinical incompetence of Dr Patel as at 8 July 2004.

COMMISSIONER: Look, Mr MacSporran, Mr Allen is entitled to pursue his cross-examination how he likes. At the moment your client has denied that anything was said about clinical competence. That's the position, isn't it?

MR MacSPORRAN: And his suggestion that Miss Hoffman said something to the contrary.

COMMISSIONER: And that Mr Allen is entitled to explore the fact that in his view there is an inconsistency between your client's denial that anything was said about clinical competence and the fact that in paragraph 137 subparagraph (b) she refers to matters which suggests that there wasn't such a discussion. Isn't he entitled to pursue that in cross-examination?

MR MacSPORRAN: He is entitled to pursue that, but in doing so in fairness he is obliged, in my submission, in fairness, to put to this witness the actual conversation. Now, choosing to do that, that's a matter for him. I've made my submission about it and it's on the record.

COMMISSIONER: Mr Allen?

MR ALLEN: I've heard the submission and I propose to proceed as I was.

COMMISSIONER: Well, Mr Allen, let me say I don't think any of your questions have been unfair, but I would ask you to accommodate Mr MacSporran's concerns so far as you can to ensure that he doesn't have a basis for any future grievance.

MR ALLEN: I probably need to refer to the transcript of Miss Hoffman's evidence if I was to do that.

COMMISSIONER: We might give you a 10 minute break then so you can find that transcript reference.

MR ALLEN: Yes.

THE COMMISSION ADJOURNED AT 2.23 P.M.

THE COMMISSION RESUMED AT 2.35 P.M.

LINDA MARY MULLIGAN, CONTINUING CROSS-EXAMINATION:

COMMISSIONER: Yes, Mr Allen?

MR ALLEN: Miss Mulligan, I can't put to you any specifics of conversation on the 8th of July 2004, but what I do suggest to you is that it's clear from the type of matters you've recorded as being discussed that Miss Hoffman was complaining about matters regarding Dr Patel which went beyond any mere personality conflict?-- No.

And it's quite clear from the matters which you've recorded in relation to her comments regarding him making negative comments to doctors about her and having disagreements with Miss Hoffman that they must have been matters pertaining to the way Dr Patel behaved as a clinician?-- She did not raise clinical competence with me.

And you didn't ask her anything about the matters that she would have disagreements with Dr Patel about?-- She went on further as I've put in 143. She talked about admission transfer issues and capacity for ventilated beds.

What did you understand that to mean then, her concerns about Dr Patel in that context?-- Well, she talked about the difference between internal medicine and surgical and she said that there were issues, as I've said, surrounding the beds and how long they kept patients and the capacity to keep ventilated patients.

Did you ask her, "Well, how does Dr Patel impact upon that?"?-- Well, she said internal medicine and surgical so he's part of the surgical team.

Did you ask her, "Well, how does Dr Patel's behaviour impact upon that matter?"?-- She said that there were disagreements between the two teams over the beds and keeping ventilated patients, the availability of beds in ICU.

Okay.

COMMISSIONER: What did she say was the issue about transfers?-- She said that there was issue in that there is the competing teams of medical and surgical teams in relationship to beds.

What was the issue in relation to transfers?-- That's what I am telling you. She said in relationship to that if there was full capacity from a ventilation perspective and there was another patient that had to come in and there were two opposing teams, one surgical, one medical, there was an issue over whether someone should be transferred to Brisbane and which patient it should be.

She didn't mention to you about patients being kept too long before being transferred to Brisbane?-- She mentioned, as I said, the amount of ventilation time, 24 to 48 hours, and the issues surrounding that.

You were aware, of course, of the status of this ICU?-- In what respect?

That it was a Category 1 ICU?-- Yes.

And you knew what the standards were for a Category 1 ICU?-- There was the issue Toni described to me.

You were aware of that, were you?-- I wasn't aware of the issue that Toni specifically put. I looked at the service's capable framework which was the Queensland Health framework. I didn't actually look at the one Tony referred to.

MR ALLEN: Did you investigate further how these conflicts would arise in relation to Dr Patel not wanting to transfer patients?-- She didn't go into that specifically. She talked about the medical team and the surgical team and the two directors and in relationship to the bed availability and the ventilated patients and who would be transferred and how that would be.

You didn't see it as part of your role to inquire further into the nature of that?-- I trusted her to have given me adequate details and she had a solution as to how she felt she could address the problem so I trusted her judgment, yes.

On that solution was this updating of policy referred to?-- With specific mention about ventilated patients, the length of stay and the bed transfer capacity.

So what you did was adopt what you say was the proposition that the policy would be updated from that date?-- That she would go away, discuss it with Dr Carter and the two of them would update that policy and would make that clearly spelt out.

You don't suggest you did anything other than that, to address that issue she'd raised?-- I didn't do anything.

No?-- No, I trusted her. That was her choice. She didn't wish to take it - any other options up and so I trusted her to have an opportunity to do that.

Just before we leave this question of updating policies, paragraph 228 of your affidavit you say that in a handover after you were going on leave you requested Deanne Walls who would be relieving you to follow up with Miss Hoffman the finalisation of an ICU submission?-- Yes.

And that you e-mailed Miss Hoffman regarding the same?-- Yes.

And you say, as it turned out, the submission was not prepared in time for it to be considered and so no additional funding

was obtained?-- That was my understanding, yes.

That's in there as some type of further criticism of Miss Hoffman for dilatory conduct, is it?-- No, that's in there to say that it appears that that didn't occur and there wasn't funding.

And that assists how?-- Because that was one of the issues they were talking about if you read further. Before that about the ICU submission.

See, what I suggest is that whilst you were on leave Toni Hoffman and Deanne Walls both agreed that in light of the departure of Dr Patel and also because of the opening by the Friendly's Hospital of a coronary care high dependence unit it would be impossible to reach any firm projection as to the future staffing requirements of the ICU?-- I'm not aware of any conversations between those two people. I wasn't there.

Okay. So, you were not meaning to suggest that in this paragraph that either Deanne Walls or Miss Hoffman were remiss in any way?-- No, I'm just saying that the submission I was told wasn't prepared in time and then no additional funding was obtained.

What I suggest is it wasn't prepared at all and Deanne Walls agreed that it was appropriate?-- Well, the person who told me that was Deanne Walls.

If I can move on to a topic which concerns your requests of Miss Hoffman of further data regarding the Intensive Care Unit?-- Yeah.

And you've dealt with that in several respects in your statement in your evidence. Now, paragraph 143, this is back at that meeting of 8 July 2004?-- Yes.

You were talking about that topic of the issue of transfer and admission to the ICU?-- Yes.

And do you suggest that at that time there were any requests for further data?-- On when?

On admissions to ICU, transfers, ventilated hours, matters such as that?-- In July?

In July?-- No, I didn't request for the information then.

Okay. So then we go to paragraph 167 of your affidavit?-- Yes.

And dealing with the 18th of October 2004?-- Yes.

And paragraph 168, Ms Hoffman's talking again about issues with the available number of ventilated patients and the ability to transfer to other facilities?-- Yes.

And this is a concern that she had raised back in July?-- Yes.

What had you done about it between July and October?-- I didn't do anything about it. I was waiting for them to clarify the policy which she suggested would assist in the problem.

Oh, I see. So did you speak to her on the 18th of October 2004?-- Toni Hoffman?

To the effect that, "Well, hold on, you said you were going to get on to that in July and that was going to fix up the problem"?-- I did talk to her about the fact it needed to be updated but we talked - she was talking about NFRs and patients that needed to be transferred to Brisbane, and that when they tried to do that there was no beds available, so that's why I asked further data relationship to that as well.

So you told her it was imperative that she provide detailed information to you and to the executives so the matter could be addressed?-- Yes, because she raised the issue of NFRs and she raised the issue of trying to get patients into Brisbane and that they weren't able to do that because of bed blockages in Brisbane.

Okay. So paragraph 172 you say, "It was agreed that data needed to be provided by Ms Hoffman and Dr Carter"-----?-- Yes.

-----"in order to address the issues related to transfers, ventilated capacity"-----?-- Yes.

-----"which Ms Hoffman had raised?-- Yes.

And you say no - in addition to saying you hadn't received anything about this proposed new policy since 8 July?-- Yes.

You say nor any data about ventilation hours in order to progress the matter?-- No, I hadn't received anything - any comparative data at that stage.

"I had to request the data from Ms Hoffman"?-- That related to - as I said she raised with me NFRs and raised with me patients with bed blockages in Brisbane, so I asked her for that further data, which is in that email.

There is nothing in the - those parts of your affidavit which talk about NFRs being raised as a new issue, is there?-- It is in my email.

And we have already gone to that. That's LLM19 where you request certain data?-- Yes.

And then Ms Hoffman responds quite promptly, I suggest, given the extent of your request in providing you with certain information?-- Yes.

Including information in the table form?-- I didn't ask for the information in table form, I asked for some comparative data in a comparative manner, and information around NFR and around bed blockages where they hadn't actually been able to transfer patients to Brisbane.

These tables would give you comparative data, wouldn't they?-- Yes, they give certain comparative data not all the information. As Toni responded, some of it needed to come from elsewhere and some of it they didn't actually keep and she said they would start keeping that information.

Why were you asking Toni Hoffman for these details at that time?-- Because Toni Hoffman is the Nurse Unit Manager of the ICU and raised the issue with me.

We have seen these brochures from the DQDSU which say that staff were the number crunchers, "Anything you want, any reports you want, you give us the specifics and we will just press the buttons and have it to you."?-- Yes.

Why didn't you go to Jenny Kirby and say, "Look, I want this data."?-- Because Toni Hoffman would know what information she already had and what information she needed to collect from DQDSU because she had the best knowledge of the intensive care unit from a nursing perspective. So, as I said, with devolution, you expect your Level 3s - they know their areas the best, so that's the best person to get the nursing information I needed.

It wasn't because of a general perception that the data which would come from DQDSU is in fact unreliable?-- That wasn't my perception, no.

But it is apparent that Toni Hoffman has gone about an exercise collecting the information herself?-- She had some information, as I said, available and some she didn't.

But the information she's given to you is what she's been able to collect in the unit herself?-- I am not sure whether she collected all herself or whether she got some from DQDSU.

And on this topic, paragraph 184, you say you'd spoken to Dr Keating about this issue and he'd requested information?-- We had discussed it in that meeting, Peter Leck and I and Darren Keating.

And that there was some - Ms Hoffman had some difficulty meeting the deadline and did not provide validated information in relation to some of the issues she'd raised?-- Where are you referring me to? Which paragraph?

That's the top of page 49?-- Yes.

Look, by this time - that's November 2004?-- Yes.

You also have that document which Ms Hoffman has supplied to management which is headed "Issues regarding ventilated patients - ICU"?-- Yes.

And concluding with the description of events regarding Mr Bramich?-- Yes.

So she's given a quite detailed account of the difficulties in relation to this issue of the ICU?-- Yes, but there were other issues, as I said, she raised in October around NFRs and around other transfers, so we wanted the total picture.

But you have already got a wealth of information there?-- Well, obviously there was more information required because she did raise those issues.

But the information you already had pointed out a serious problem in relation to the ICU activity in relation to ventilated patients?-- Yes, and there were other issues, as I said, with transfers. She said there was difficulty at times getting patients to Brisbane because they didn't accept them, and I wanted the data for that - Peter Leck and Darren and I to get all the information and get the total picture.

Right. Well-----

COMMISSIONER: Mrs Mulligan, I think I should interrupt at this stage. This is one of those issues in which we've heard quite diametrically opposed versions from different witnesses, and we may have to satisfy ourselves who is telling the truth and who isn't. I would just like to put it to you in a way that simplifies matters so you have every opportunity to respond. If you go to paragraph 137, and following, you deal with your meeting of the 8th of July and that's the time at which you assert that Ms Hoffman was going to give you an updated policy?-- Yes.

Right. For the sake of a metaphor I am going to refer to that as "the promise" and I am going to say it was a promise that she would give you a bag of apples, so that we can all understand in very simplistic terms what the promise supposedly was. When we come to your discussion of the meeting on the 18th of October in paragraph 172, the second sentence we have "I had not received anything from Ms Hoffman about the proposed new policy since the 8 July meeting, nor any data about ventilation hours. So in order to progress the matter I had to request the data from Ms Hoffman." Now, using the metaphor I mentioned earlier, that strikes me as a bit like saying, "As I hadn't received the apples that had been promised to me and also because I hadn't received the oranges, I had to ask her for the oranges." You didn't say a thing about the apples?-- You have lost me. I guess I am not good with metaphors.

I see. Well, your sentence says, "I had not received anything from Ms Hoffman about the proposed new policy."?-- Correct.

That's one issue?-- Correct.

"Nor any data about ventilation evidence." That's another issue?-- Yes.

"So in order to progress the matter I requested the data."?-- Yes.

Not the new policy that you say you had been waiting for since the 8th of July?-- If you go back to my email, it is actually in my email.

It is not in there - okay, take us to your email and show us where it is in your email. This is your email of 18th of October?-- What number is it, Mr Allen?

MR ALLEN: LLM19?-- Yes.

COMMISSIONER: Nothing in there about a new policy, is there?-- I asked about the last time it was reviewed - "The admission criteria for the unit, the last time it was reviewed and by whom, and the areas where there are issues with adherence from your perspective. Any other issues for areas for improvement." That's the policy. When I say data-----

No, no, no. You say, "What's the old policy, when was it last reviewed"?-- Yes.

"Admission criteria for the unit", but there is not a word of evidence about new policy that was going to be developed?-- No, I haven't put it there. We have already established that.

Yes, why not? So let's go back then to your paragraph 172. "I had not received the new policy. I had not received the ventilation data. So I asked only about the ventilation data"?-- Where does it say I asked only about the ventilation-----

"I had to request the data from Ms Hoffman." That's all you asked for?-- It doesn't say ventilation data. And when I use the term "data", I meant all the information that I requested in that email.

Well, if - and that's everything apart from the proposed new policy. As you say, we have already established that?-- And I have said the term "data" refers to all the data that I requested in that email.

Yes, which doesn't include the new policy?-- It says the policy. I did use-----

Where does it say that?-- I did use the terms "policy".

I thought you agreed with me that we have already established it is not in your email?-- I didn't ask for the new policy, no.

Why not?-- I have told you.

Tell me again?-- I - what I suggested to you was the fact, with respect, that I requested the data from her. I wasn't going to get on her case because it hadn't actually come. I realised there was some difficulties and I just said, "Could I please have the policy and the update?", and she may have already done it.

Where does it say, "Can I please have the update?"?-- It doesn't say that. You asked me why I asked in that manner and that's why I did.

And your response was to say, "Yes, can I please have the policies and the update?", but you didn't say that?-- No, I didn't say update, I asked for the policy and when last updated.

Yes, keep going, Mr Allen.

MR ALLEN: Look, you asked for the existing policy and when it had last been updated. The reason why you didn't ask for the new policy is that you hadn't even raised that with Ms Hoffman by this time?-- No.

All right. Well, look, can we go to paragraph 80 of your affidavit where you refer to monthly reports from each Costs Centre Manager?-- Yes.

Now, Commissioner Vider touched upon this earlier with you?-- Yes.

And you agreed that in fact you would get monthly reports?-- Yes.

And what was the purpose of those?-- To update me with matters in relationship to those areas within the units.

Well, what about the report from the ICU? What would that tell you?-- It would address all those matters.

Which ones?-- Performance indicators, finance activity, staffing, clinical indicators, performing, monitoring audits, quality activities and improvements, complaints and compliments.

Any matters which would in fact constitute data regarding the issues that Ms Hoffman was raising with you during the year?-- In what respect?

Well, ventilated hours?-- Yes.

Transfers?-- She talked about ventilated hours for that month.

Why didn't you go to those monthly reports?-- I did but they didn't give me a comparative data from years before and I wasn't there years before.

Well, did they give you some type of trend within the year itself when you were there?-- Well, obviously July's will give me what's happening in July, because they start in the financial year and then they - August will do comparative, and September, et cetera, within that time period, yes.

All right. Look, I will ask you to have a look at some of these monthly reports for the period March through October 2004. I have got three copies for the Commissioners.

COMMISSIONER: Mr Allen, only if you think there is a point.

MR ALLEN: Excuse me?

COMMISSIONER: Only if you think there is a point. I suspect you made the point anyway.

MR ALLEN: I think that I should.

COMMISSIONER: Up to you.

MR ALLEN: One for counsel assisting and one for my learned friend. I will try to be as quick as I can about it.

COMMISSIONER: Yes.

MR ALLEN: Can we just start March?-- Yes.

The information you are receiving shows that the unit's over budget due to long-term ventilated patients, well over 24 to 48 hours?-- I didn't actually get March. Let me think - oh, no, I did, sorry.

Yes?-- I would have got March, yes.

Issue of surgical patients not being transferred in acceptable time-frame, needs resolution?-- Yes.

Two to three vents being run at the same time?-- Yes.

You were given data including ventilated hours?-- Yes, I said that.

Twice as much as the upper limit of normal. That's so?-- Yes.

You are given clinical indicator admission, including readmission within 72 hours?-- Yes.

If you flick over to April-----?-- Yes.

-----and go to the budget analysis, you are given information such as ventilated patients for the long periods?-- Yes.

One patient ventilated for nine days?-- Yes.

Returned to theatre for leaking anastomosis?-- Yes.

You are given 384 ventilated hours?-- Yes.

Over the page, if you need some further analysis you have been assisted by the fact that 384 invasive vent hours is well above the average of around 200?-- Yes.

If we go through the rest of the months, the picture, generally speaking, is much the same?-- Yes.

There is reference to the ventilated hours being well over the average of 200?-- Yes.

Sometimes going up towards 600. And if we go to July, for instance, budget analysis, many ventilated patients, 732 vent hours?-- Yes.

Around 500 hours more than normal?-- Yes.

COMMISSIONER: What did you do when you discovered - when this came on your desk and you found out that the ventilated hours were something like three and a half times over what they should be?-- We discussed this as a group and-----

Who is "we"?-- The executive.

Oh, I see, yes. You didn't actually speak to anyone in ICU?-- Toni Hoffman.

And what was the outcome of your discussion?-- In what respect? To ventilated hours?

What was the outcome of your discussion?-- She was going to go away and do the policy and update - there would be clear guidelines on the number of ventilated hours and when patients should be transferred.

When did you have this discussion?-- We had the discussion in July.

After you got these figures?-- Yes. ICU had an overtime nursing budget, specifically-----

The July figures wouldn't be available till August, would they?-- Please let me finish.

The July figures wouldn't be available till August, would they?-- Sorry?

The July figures would not be available until August, would they?-- Correct, but Toni Hoffman-----

All right. Did you have a discussion in August?-- Toni Hoffman talked to me about the issues of ventilated patients and there was a budget for overtime for nursing, and this was a practice that had been going on prior to my arrival.

When did you have a discussion in August about the ventilated

hours?-- We had a discussion in July.

I am sorry, let's start this again. Mr Allen has put to you the figures for July showing that the ventilator hours were three and a half times over what the standard is?-- Yes.

I asked you what you did when you got those figures. You would have got them in August, wouldn't you?-- We discussed these reports every single month. August-----

You got them in August, didn't you?-- August figures would have been discussed in September; July's figures would have been discussed in August.

All right. What discussion did you have in August when you got these figures showing that following the discussion you say you had with Toni Hoffman back in July-----?-- Yes.

-----the figures come out and it is three and a half times over standard. What did you do about it?-- I told you we discussed it at executive and we were hoping that the new policy would make that clear.

When did you discuss it in executive?-- I can't recollect the specific dates and I don't have the minutes in front of me.

Who was present during that discussion?-- The executive members.

Yes, who?-- Over a number of months.

No, no, at this discussion that you swear on your oath took place in August 2004 when you got these figures?-- I can't - I just told you I couldn't recollect the dates so I can't swear it happened in August but we discussed the financial report-----

Stop there?-- -----each month.

Stop there. Let's start again. I will keep going until I get a straight answer?-- That's fine. I am giving you a straight answer.

You get these figures for July and they come to you in August, is that right?-- Yes, yes.

Your evidence so far is that you had a discussion of those July figures at an executive meeting in August?-- We would have - can I answer the question now?

Yes?-- These reports get discussed at the finance meeting at the end of the month every month and the executive all attend this meeting.

Is it your evidence that the July figures just put to you by Mr Allen were discussed at an executive meeting in August?-- At a finance meeting with the executive there, I believe so, but I told you I can't recollect the exact dates of those.

Can you actually recall doing anything in relation to the July figures?-- I can recall that my normal practice is that-----

No, no, no-----?-- -----at the finance meeting-----

Stop there. Can you recall doing anything in relation to the July figures when you saw that they were three and a half times over what they should have been?-- I recall having a discussion with the executive members.

Which executive members?-- Peter Leck, Darren Keating and, I believe, Director of Corporate Services was there, Tina Wallace, and Judith McDonald, but it was probably in a finance meeting.

And what did you say to them about these figures being three and a half times over the standard?-- We discussed the issues around admissions and transfers.

What did you say to them about that?-- We need to address the issue.

And how did you propose to address the issue?-- It was agreed that they were updating the policy. I don't know if Dr Keating spoke to Dr Carter but I believe he was going to as Director of ICU.

And you say you have got a recollection this occurred during a meeting at which the other members of executive were present during August?-- I believe we would have discussed it in our finance meeting or at an executive meeting but I can't recollect which, but the routine was to discuss these reports at the finance meeting.

Do you in fact have a recollection of discussing them with anyone in August?-- I have a recollection of discussing them. I can't tell you whether it was exactly August.

Well, these are the figures you would get in August, aren't they?-- July figures I have in August.

Yes?-- Yes.

So if you didn't discuss them in August, you didn't discuss them at all. That would be right, wouldn't it?-- No, I disagree.

Because by September you would have the August figures?-- I don't even know if I was at the August meeting because I don't have the records of the meeting here.

In fact, you don't know whether you discussed them with anyone?-- I recollect discussing them with executive members.

You say you don't even recall if you were at the August meeting?-- I have told you I can't recollect the date.

No, no, no, I am not asking about the date. Your evidence under oath was-----?-- Yes.

-----that you can't recall if you were even at the August meeting?-- I can't recall whether they were discussed at the finance meeting or the executive meeting but I had a discussion with executive members.

Did you not say less than a minute ago that you cannot recall being at the August meeting?-- I said I don't have evidence before me that I was at the August meeting. I would have to look at the minutes.

Mr MacSporran, do we need to have the transcript read back so that the witness can respond to what she actually said instead of what she is now pretending she said?

MR MacSPORRAN: Well, I don't think it is appropriate for those sort of comments to be made either, Mr Commissioner.

COMMISSIONER: Why not?

MR MacSPORRAN: Because they are emotive, they are unfair, and we've been on this issue for about the last 10 minutes.

COMMISSIONER: Yes.

MR MacSPORRAN: I mean, the witness is doing her level best, and has been ever since she has been on this topic, to answer the question. Her answer is she doesn't recall where the meeting was held, what date, but she had a discussion. She has told you three or four times she doesn't recall the dates.

COMMISSIONER: Then she said she couldn't even recall if she was at the August meeting.

MR MacSPORRAN: The transcript will reveal what she actually said.

COMMISSIONER: We're going to have to stop and have the transcript read back, that answer.

MR MacSPORRAN: Mr Commissioner, you have commented - at various stages through this Commission been critical of various counsel for badgering witnesses. With respect, your questioning of this witness in the last 10 minutes borders on the same sort of conduct and is, in my submission, quite objectionable. You have entered the arena, taken an active role to denigrate this witness and, in my submission, quite unfairly.

COMMISSIONER: Mr MacSporran, my function is simply to get at the truth.

MR MacSPORRAN: Well-----

COMMISSIONER: Is there any reason why I can't use appropriate forensic resources to get at the truth?

MR MacSPORRAN: Well, no-one is objecting to you conducting yourself and conducting the Inquiry appropriately.

COMMISSIONER: Well, Mr Leck is. He is taking me to the Supreme Court.

MR MacSPORRAN: When you use the tone of voice you are using, when you are being discourteous to the witness, you are being rude to the witness and you are, as I say, doing exactly what you have been critical of other counsel throughout the course of this inquiry, you are badgering the witness, and it is, in my submission, unfair.

COMMISSIONER: Well, Mr MacSporran, I am trying to be fair by making it as clear as possible to the witness that the answers she has given on this subject do not as yet persuade me that she is being truthful. Now, I am giving her the opportunity to persuade me that she is being truthful. That's what having an open mind is all about.

At the moment there is an unexplained discrepancy between the assertions in the body of her statement and the documentary record that is exhibited to her statement. That excites suspicion that the witness may not be telling the whole truth. Isn't it consistent with the most fundamental principles of natural justice to give the witness the opportunity to respond fully to that concern?

MR MacSPORRAN: The witness has responded fully already, in my submission, Commissioner, and to take it further is, as I have said already, really unfair to the witness. She has given her recollection, she has given her version of this particular point on three or four occasions now. If you see some inconsistency in that and wish to make comment upon it, it is your perfect entitlement. She has given her best response.

COMMISSIONER: If you, as her counsel and spokesman, do not wish her to be given any further opportunity to address the concerns that I have, I am happy to leave it there.

MR MacSPORRAN: Look, she's-----

COMMISSIONER: No, no, that's up to you, Mr MacSporran.

MR MacSPORRAN: I am telling you she is here to answer your questions. If you think there is something to be gained by pursuing this line, well, I am not here to stop you. I am simply asking - submitting to you to do so in a balanced way and in a courteous way, if I might say so.

COMMISSIONER: Thank you, Mr MacSporran.

MR MacSPORRAN: Thank you.

D COMMISSIONER VIDER: Mr Allen, can I ask Mrs Mulligan a question that comes out of paragraph 80?-- Yes.

Which is where I am coming from just in this clarification: where you talk there that you get monthly reports from the Costs Centre Managers?-- Yes.

And you talk about some of the breadth of the information that comes in to you?-- Yes.

My question is directed at where some of that information might generally be discussed to be acted upon. You talk about the finance committee at which executive members attend?-- Yes.

Do you have a separate executive meeting?-- We do.

And is that the sort of forum where you might discuss issues like number of transfers out of Bundaberg?-- Yes.

Retrievals, I am talking about?-- Yes.

And you might also discuss there not just the statistic of how many patients return to the operating theatre, but why?-- Yes, we would discuss trended data and information, yes.

And is that the forum that the executive would also look at that, because the executive for the Bundaberg Health Services District is its decision-making authority?-- Yes.

Would you therefore at that meeting look at some of those cases? I mean, if you get "return to operating theatre" and it is a "leaking anastomosis", you are a member of the executive with a clinical background; that means something to you-----?-- Yes.

-----that it wouldn't mean to somebody without a clinical background. In the discussions that you would have about these issues, would you move it on up a level, to the accountability level for an executive forum, and look at whether the surgery that underpinned the reason why the anastomosis was leaking needs to be looked at, and did you ever have any discussion, for example, that said, "We should not be doing oesophagectomies in the Bundaberg Base Hospital."?-- That - where - the discussion - we would refer that discussion, in relation to the anastomosis - we would refer that discussion back to the clinical services forum for that area, and - or alternatively that would be the first option. And then at executive council, which is where all the medical - senior medical staff attended with the executive, there would be further data from there. So basically first to the clinical services forum with the clinicians, the NUMs and the Directors of Medical, Surgical, et cetera, and then they would look at the issue and then report back through the executive council if it needed to be reported back as an issue.

As it moves out through the organisation to the various committees that get involved with assessing and reviewing these sorts of situations-----?-- Yes.

-----would it come from the executive, though, what the executive concerns are?-- Yes.

So, in other words, you don't just refer it on and say, "Have a little discussion and tell us what you think about this."?-- No, because an executive member sits on every clinical services forum.

But the executive would give a direction that clearly would indicate to the committee that it has gone before that you have a concern?-- That's my understanding. I didn't attend ASPIC, but certainly in the Department of Emergency Medicine clinical services forum, that's what occurred.

I'm getting back to the point that if it comes back to that forum?-- Yes.

Which is the senior decision-making forum for this district?-- Yes.

You would be the group that would finally make an outcome that says no more that procedure will go on here?-- As an executive group at the end of the day, yes.

Did you ever come to any of those decisions regarding any of these clinical matters in your experience?-- The oesophagectomy, that decision was made outside of that executive meeting, so no, I wasn't involved in that decision-making executive member.

Would it come back to the executive at any stage, whoever made the decision?-- Yes.

So that it would be recorded at executive level that that's the direction that's been given?-- That was the intention, yes, that that would come back to the executive so all the members were aware.

Thank you?-- You're welcome.

MR ALLEN: Could you just go to August 2004?-- Which page?

Oh, the bundle of monthly costs centre summary reports in front of you?-- Oh, sorry. Yes.

And we see there, "Ventilated hours, 812.5, (normally around 200 hours per month"?-- Which page are you on?

The first page of the report for August 2004?-- Yep, yep, sorry.

COMMISSIONER: And what did you do when you noticed it was up an amount of four times than what it should have been?-- Well, August and - basically, July, August, September are the highest activity in the Bundaberg Health Services during the winter season so it would be expected that we would have increased activity.

What did you do about it?-- In what respect?

Did you raise it with executive? Did you conduct investigations?-- Yes, as I said, there were ongoing discussions with myself and Dr Keating about this matter over a number of months.

Okay, so at the September meeting you raised the August figures, did you?-- I can't tell you, I've told you that I cannot tell you if I specifically raised it in any meeting.

Yes, Mr Allen.

MR ALLEN: On the same page, "Often two to three vents at any

given time"?-- Yes.

"The Level 1 ICU is supposed to have one ventilated patient as standard with a capacity in times of need to cater for a second"?-- Yes.

But here we've got often two to three at any given time?-- The reason why having a very clear policy and the same is important.

I see, so even though you got that in September and you allege Miss Hoffman hadn't supplied the policy, updated policy during the last two months, you didn't send an e-mail off to her then?-- No, I did not.

Right. You decided well okay, that seems pretty extreme, we've got four times as many ventilated hours as we should, but I'll just wait for Miss Hoffman to come up with that updated policy?-- Yes, Miss Hoffman should be responsible to know that that was important to do.

September '04, can you go to the second page of the report?-- Yep.

There's the statistics as usual, there's figures for deaths, retrievals and there's a statement, "Figures correspond with patients not being transferred out for various reasons, staff working extreme hours of overtime to cut ventilated patients. Several ventilated patients at one time, up to four and one or two on BiPAP"?-- Yes.

"Acuity very high with various patients with obscure diagnosis"; do you agree?-- Well, it's written here.

Yes, there is the information you would have received in October?-- I assume so, this isn't the one that I've signed but I assume this is the one that came to me.

Go forward to the next line, "Several totally inappropriate ICU admissions"?-- And where? Yes.

What did you do about that when you read it?-- Well, this was the September report which I got in August, and as I say-----

COMMISSIONER: No, I think in October actually?-- Sorry, in October, you're correct, Commissioner, and I had discussion with Toni Hoffman in October about NFR orders et cetera, so I actually had a discussion with her in ICU about that and getting actual data to support that.

MR ALLEN: All right. Look, the bottom line of that paragraph, "Need to work within our scope of practice, ie, no more than one ventilated patient at a time."?-- Yes.

Repeated, again and again each month?-- Yes.

You thought well, that will be fixed up because I asked Miss Hoffman to update the policy?-- I guess what you've got to

remember, Miss Hoffman was working with a team with Dr Carter who had responsibilities for the running of the Intensive Care Unit, and I would have expected that those two addressed this issue, and yes, the policy was going to make it clear. I as Director of Nursing was not going to be able to go into the ICU and say, "Sorry, there's three patients, you have to move one.", I don't have the clinical skills nor the ability to do so.

What's the point of these reports if they're not to be a basis for some type of action by a person reported to?-- There was some type of action, I continued to discuss it with the executive.

And what action did that produce?-- As I said, we asked for an updated policy and ongoing - as I said, I assumed that there were ongoing discussions with Dr Carter and this was our busiest time of activity in the region, which I was informed when I arrived through those months when I discussed it, because I don't have that history at Bundaberg Health Services.

Commissioner, can I tender that set or if it assists to provide context, the monthly reports from February 2003 through to May 2005?

COMMISSIONER: I think it will probably help, Mr Allen, to have the whole set of them in evidence.

MR ALLEN: Yes.

COMMISSIONER: Exhibit 186 will be the monthly costs centre summaries from February 2003 until May 2005.

ADMITTED AND MARKED "EXHIBIT 186"

MR ALLEN: Look, if we could just return briefly to the solution as you saw it, which was your allegation to Miss Hoffman that Miss Hoffman had been from July 2004 preparing an updated policy. I asked you to look at the leadership and management minutes for the 10th of January 2005 and you agreed there was no mention of the matter in those minutes?-- Not in those minutes, no, there was not.

Could you just look at this document? Do you agree from looking at the front page that that's the leadership and management meeting minutes for the 17th of January 2005?-- Yes.

I'll ask that the second page be put on the visualiser? And do you see there that the first item for discussion?-- Yes.

Under the column "Discussion"?-- Yes.

"The Director of Medical Services has undertaken a thorough search of records. Has been unable to locate an admission policy containing information regarding ventilated patients."?-- Yes.

"He has discussed with the Director of Anaesthetics and ICU who does not recollect the policy. DMS has requested that he develop a draft admission policy."?-- Yes.

"The DM said he is adamant a policy has been developed which included information regarding number of ventilated patients."?-- Yes.

"DDON advised she has met with Toni Hoffman (CNC ICU) and requested she prepare draft ICU admission policy by 21 February 2005."?-- Yes.

I'm just wondering how this fits in with your evidence that at a leadership and management meeting, there was an expression of dismay as to the inordinate time that had been taken for Toni Hoffman and Dr Carter to prepare a policy, and that as a result of that, you spoke to Toni Hoffman on the 7th of January and told her to set a deadline for it?-- Yes, I did speak to her on the 7th which I indicated I had met with her and requested and Peter Leck made it very clear that he was unhappy about the fact he couldn't find the previous policy and there was a great deal of discussion going through files and he was unhappy that a policy, a current policy was not in place, and I think if we go to the policy in here, it's a couple of years old.

COMMISSIONER: Mrs Mulligan, can you now answer counsel's question?-- Could you ask me again?

MR ALLEN: I'll ask you differently. See, it says there that you advised the meeting on the 17th of January 2005 that you'd met with Toni Hoffman and requested she prepare an admission policy?-- Yes, I believe I talked to her early in January-----

Yes, in fact-----?-- -----yes.

-----in fact, in an e-mail-----?-- Yes.

-----you send to her later on, you remind her of a discussion on the 7th of January?-- Yes.

Okay. Now, there's nothing there to suggest that you'd asked her, in fact, back in July 2004?-- No, there is not.

And we already agree there's nothing in any of the correspondence between you and her to suggest that she'd been asked before the 7th of January?-- Yes.

In fact, that appears to be more consistent with the fact that you're repeating a recent event, something which has just occurred?-- Yes, that I spoke to her in early January.

You spoke to her in early January?-- Yes.

There's nothing there to suggest that, as you said in your oral evidence this morning, that at the leadership and management meeting, there was discussion regarding the inordinate length of time that was being taken in getting the existing policy reviewed?-- Yes, it was discussed at executive.

Those minutes are completely inconsistent with that?-- Well, the minutes don't reflect every single thing that's stated, but perhaps you can ask the other executive members as well.

Do you still maintain that you asked Toni Hoffman to do that in July 2004?-- Yes.

And that that was the reason why you didn't take more action than you did during the second half of 2004 to address these figures that were coming from the monthly reports?-- I don't understand the question?

Well, your explanation, one of the things you'd say about what you did in the second half of 2004 in relation to this problem in ICU was wait for this policy to be updated; that's one of the things you were doing?-- Yes.

Do you still maintain that?-- Yes.

Given this evidence?-- Yes.

COMMISSIONER: Mrs Mulligan, looking at that minute that's on the screen at the moment, "DDON advised she had met with Toni Hoffman and asked she prepare a draft ICU admission policy by" a particular date. That reads as if it's recorded there because you're telling the executive something new that they didn't know about?-- Well, as I said, Peter Leck was quite unhappy and he expressed that clearly, and I can distinctly remember that, and so basically we both, Dr Keating and I explained that we had actually given a deadline and I gave a different deadline actually than Darren did, so that's why there's a different date there, but as you will see in my e-mails, requested it by the 14th of February.

It reads as if you're informing - providing information to them because it's something that they wouldn't have known about unless you've told them?-- I'm sorry, I don't understand the question?

The purpose of recording this is to record the fact that certain information was passed on; that's why you have minutes, isn't it?-- We have minutes to record a decision that came with a timeframe.

No, no, the decision's further over, this is the discussion column?-- Yes.

It records the fact that information was passed on-----?-- Information?

-----at the meeting?-- I'm sorry, I still don't understand what you're saying?

You have a column in the minutes headed "Discussion"?-- Yes.

And what that column relevantly records is that you as DDONs passed on certain information to the other people at the meeting?-- Yes.

All right. There is no minute anywhere prior to this date that you said anything about having requested Toni Hoffman to prepare a draft ICU admission policy?-- In these minutes?

There is no previous minute anywhere prior to this date that you made such a request of Toni Hoffman?-- I don't know, I'd have to go through the minutes.

If it existed, it would be in your statement, wouldn't it?-- No, because I didn't specifically go through all of the executive minutes, and you have to remember that the discussion here is always a summary and we put them on G drive so that all staff would access them, and we wouldn't certainly put negative comments or critical of any individuals on minutes that went on to a G drive everyone accessed.

I don't think you're getting the point of my question. From what you've told us, this is something that you'd been repeatedly discussing with your fellow executive members since August or September of the preceding year?-- Of ventilated hours?

No, about the need to have an ICU admission policy to deal with the problems?-- I had repeatedly discussed it with Peter Leck and Darren Keating, yes.

Yes, when you look at it here, it looks as if you're telling them for the first time?-- Well, it may look like that but that's not the case, I've told you, I've had discussions previously.

Well, why wouldn't it read, for example, "DDONs advised that she had met with Toni Hoffman regarding the earlier request to prepare a draft ICU."; you see "requested" makes it sound as if it's the first request?-- Well, it wasn't and I don't write the minutes, so that's the way it was written.

You approved them, didn't you?-- I approved them.

Yes?-- I didn't approve them, I said that they were confirmed that they were the minutes of the meeting, and that's what I said.

Yes, Mr Allen.

MR ALLEN: See, the part before it seems to record - well, the Director of Medical Services hasn't been able to find a policy, he's looked. So they're looking for the existing

policy?-- That's correct, they're looking-----

But the District Manager, he's sure there is one, he's sure there is an existing policy, so there's a bit of a disagreement between them?-- Yes, there was discussion and I certainly had that discussion with Peter Leck in my fortnightly meetings, he was of the belief that there is a clear policy because this issue had been discussed in the time prior to my arrival and that he was sure there was a policy that actually listed the actual number of ventilated hours or number of patients. He couldn't actually locate that at that time and Darren Keating also looked through the information and also could not locate it.

He couldn't find it. All right. But there's nothing from any comments recorded from them to suggest that they're aware that there's a process underway that a policy's being updated?-- I've said it doesn't say "updated" yet.

You spent a lot of time in your statement talking about how, in fact, you were very accessible to staff. Do you accept that there was a perception held by nursing staff that, in fact, the executive, including yourself, were inaccessible?-- With the testimony I've heard from some people, yes, there appears to have been that perception.

And this seems to have been a view expressed by persons spoken to by the Mattiuissi team?-- Sorry?

Have you seen the report from the Mattiuissi team?-- I've seen the recommendations, yes.

Okay, so there seems to have been a perception to that effect expressed to them by staff?-- Oh, I can't remember it actually saying that but if you say so.

Okay. And do you think that that could have been contributed to by the fact that as far as the nurse managers were concerned, generally speaking, if they phoned your free-set, they'd simply be forwarded to another number, your secretary?-- No, because I talk to my Level 3s on my free-set.

You disagree with the proposition that you're basically unavailable on that number?-- Yes, I disagree with that.

Is there any reason why your e-mail signature didn't include that number?-- Yes, there was.

Why is that?

COMMISSIONER: What was the reason?-- The reason is the - and I've always done that, I did the same thing in Dalby.

No, what was the reason?-- I'm explaining it to you, Commissioner.

No, you're not, you're telling me what you did at Dalby. Now,

what was the reason?-- I'm telling you what my normal practice was. My normal practice was not to put any internal numbers on any e-mails externally from Bundaberg Health Services and that was so that people that called me externally would go through to my secretary and that the free-set was used for people internally so that they had the first priority and could get to me immediately.

MR ALLEN: But unlike the previous Director of Nursing, your free-set number wasn't on any of your e-mails which were sent internally?-- I just explained why and I don't know what the previous Director of Nursing did, I never got any e-mails from her.

Would it concern you, in hindsight, if there was a body of nursing staff, perhaps under the level of nurse managers, who in fact weren't able to put a face to the name until they saw media reports about that matter?-- About Level 3s?

Below Level 3s?-- That would be unfortunate, yes, but there are some people who were straight night staff and I might not see them.

No, but what about day staff?-- Yes.

They can't even put a face to the Director of Nursing?-- That would be unfortunate, yes.

Well, as well as part of leadership is to advocate for the nurses, isn't it?-- Yes, and I would expect that staff would go to Level 3s and Level 3s on to myself.

Part of the role of advocating would surely be taking on nursing issues with, say, the Director of Medical Services?-- Yes, and I did, I can give you a good example.

But if there were concerns being expressed by nurses about outcomes to patients and the distress they were experiencing and their concerns about those outcomes, you wouldn't simply leave it to the Director of Medical Services to investigate it on the basis that's a medical matter concerning a doctor, would you?-- Yes, it wasn't under my auspices or my delegations to investigate.

You're there to protect the nurses' interests and to advance their concerns, you don't simply pass it off to the Director of Medical Services, do you?-- Advancing their concerns is taking them to my line manager, which was Peter Leck, which I did immediately on every occasion and it was under his auspices for the investigation, not mine.

And then you'd consider well, he is delegating it to the Director of Medical Services to investigate so I don't have to worry about it anymore?-- I don't know whether he delegated it to the Director of Medical Services, that's between Peter Leck and the Director of Medical Services.

So you didn't even go that extra step?-- No, I spoke to my

line manager and he informed me of the progress.

Right. Okay. Excuse me, Commissioner. If I could tender the minutes for the Leadership and Management Meeting of the 17th of January 2005?

COMMISSIONER: Yes, Exhibit 187 will be minutes of the Leadership and Management Meeting of the 17th of January 2005.

ADMITTED AND MARKED "EXHIBIT 187"

MR ALLEN: It's easy to be wise in hindsight, but with the benefit of that hindsight, do you feel that there's any things that you could have done differently in your role as Director of Nursing?-- In hindsight, no. I believe I've already put that on the record, that if I was aware of the level of distress that was there, then I would have probably tried to go and spend a little more time in ICU, but at that time I was spending my time in other clinical areas.

Do you think in hindsight you could have done things differently so that you would have had a greater awareness of the issues?-- I think I would have probably pressured to have the reporting structure reviewed quicker, but I felt that I was just there assessing it and I thought it was a bit difficult to go in and make a determination that soon into my arrival at Bundaberg that the structure was inappropriate.

Sorry, do you think you could have looked at the reporting structure quicker?-- Yes.

What do you mean?-- Well, the fact that 25 people reported directly to me.

All right. Look, it's not a very large hospital, is it? Like, physically speaking, it doesn't take that much time to every couple of days walk around the wards?-- When I did a whole round, it could take up to four hours.

Four hours?-- Yes, because I actually stopped and spent time talking to patients and staff, firstly going to a couple of areas. That's why I said I more often every couple of days go to a couple of areas.

And I suppose during the time that you were there, you would have spent, what, less than half the month actually in the hospital anyway?-- I think it lists the number of days I was here if you want to have a look.

When I say less than half a month, you may have been there 15 days or the figure you refer to range from in relation to the four months, 13 through to 21?-- Yes, depending on public holidays, any sort of leave, any away for meetings, and there was a lot of meetings as I said, like the meetings of the

Director of Nursings in the areas around Bundaberg I didn't go to because I didn't have the time.

And look, just in relation to this issue of the Assistant Director of Nursing?-- Yes.

You yourself understand that when you started, the Assistant Director of Nursing didn't have any operational command of those nurse unit managers?-- Yes.

It seems from the Mattiuissi investigation that it's unclear when that changed, but it seems that at the time Glennis Goodman was Director of Nursing, the Assistant Director of Nursing did have some operational responsibility?-- I can't answer that question because I don't know, but prior to my arrival, and my job description shows that clearly.

Should the Assistant Director of Nursing have some type of operational responsibilities?-- I believe so, yes.

All right. Because what was the Assistant Director of Nursing doing during your tenure?-- Well, you - there's a document in there that she talks about her roles and responsibilities, so I believe that her role should have been different than what it was, but that was set in place and changed just prior to my - sometime obviously between Glennis leaving and my arrival, so - and as I said, I'd already initiated discussions with the District Manager that I didn't think that was appropriate, however, he requested me to use the documents in my folder related to Beryl Callanan's recommendations on the role, and that's what I moved towards which was endorsed by the District Manager.

Because, according to the Mattiuissi report, or Woodruff report, Bundaberg seems to be somewhat unique in that respect?-- Well, that's my belief, yes.

That the Assistant Director of Nursing wouldn't have some type of operational line responsibility?-- Yes, and I found that that was unusual being recommended by someone who's an A/DON himself, but again, I wasn't there and didn't have the rationale other than what I was told and I've put in my statement.

And just stepping back briefly to a matter in relation to regular rounds?-- Yes.

Are you aware that there was some type of review of the Bundaberg Hospital nursing services in about 2000?-- Yes.

All right. And are you aware that the practice of regular rounds by the DON was re-introduced in 2001-----?-- I was told-----

-----because of nursing staff expressing concerns at that time and it wasn't occurring?-- I was told that by the A/DON that that's when it occurred, yes.

When were you told that?-- When we had discussions early on in the first - oh, I'm guessing, but Peter Leck had a discussion with me first about the A/DON role and what was to occur, and after that, the A/DON mentioned to me that that's why it was instituted, I went back and discussed it with Peter Leck and basically was told that that report was now five years old and that the position had been reviewed and that Beryl Callanan had made recommendations and that that's what I was to look at. As I said, I raised the issue early on and thought well, I'll assess it, but as I've said, I was making moves to try and change that because I don't think it was - the structure was right.

Oh, not the structure, see, in relation to in 2000 and 2001, nursing staff expressed concerns that the practice of the DON and A/DON doing regular rounds had fallen into disuse and it was a recommendation at that time that it be - it be re-introduced?-- I don't have those exact details now.

Was that your understanding though?-- My understanding was that I didn't know whether it was in place before it had to be re-introduced. My understanding from the A/DON was that she thought it was a good idea and that there had been a review in 2000 and that they took turns on different days.

Okay, so because of concerns by nursing staff which had been investigated by an appropriate person, the system of regular rounds was set in place?-- I don't know that for a fact, as I said-----

COMMISSIONER: No, that's what you understood to be the case?-- -----I understood the case to be-----

Thank you. Yes, Mr Allen.

WITNESS: -----that they wanted to go on alternate days.

MR ALLEN: So they alternated on regular rounds?-- Yes.

COMMISSIONER: You chose to discontinue that practice?-- I said very clearly I was accessible and I did continue rounds, I just didn't go through the whole hospital and not at 8 o'clock in the morning, I chose a couple of areas and went to those areas.

Is your answer to Mr Allen's question that you discontinued the practice in place when you took over?-- I was never told it was in place other than with Glennis Goodman, but when I arrived, I talked to Level 3s about what I would be doing.

MR ALLEN: Are you saying that neither Toni Hoffman nor Patrick Martin, who'd been acting as the DON, told you whether or not they did rounds?-- I never asked them and never had the discussion. Patrick Martin was actually overseas when I arrived, so I didn't meet him for a number of weeks later.

So it didn't interest you whether that was one of the practices of the DON before you arrived?-- What interested me

was the fact that I was going to try and do business in a manner that I thought I could do it best and spend specific times in specific areas and every couple of days and within my time limits, that's what I did.

You didn't see any benefit in staff, for instance, in the ICU, just as an example, of knowing that - whether it be every second day or every third day or every fourth day - they'd know that the DON's coming through seeing what's happening and they'd be able to raise matters without having to phone and make an appointment?-- No, because most of the times when I went to ICU, it was usually when we were fairly busy and I'd go along, they didn't have time to talk to me, Toni Hoffman talked to me more, and when it was quieter, they were basically sent out to the wards to work. So again, I trusted the Level 3s to be the managers of their unit and communicate to me any issues, and if I needed to attend - if I needed to go to a staff meeting, I would do so.

So - but you were aware at the time you commenced, the A/DON didn't have line management?-- Yes.

Okay. Excuse me, Commissioner. Thank you, Commissioner.

COMMISSIONER: Mr Allen, can you just wait for a moment because you way want to follow up on a couple of questions I have. I want to move away from the personalities at the moment and just talk about systems. We've heard over the past three or four weeks what I've described previously as horror stories, and I'm sure you're aware of some of this from the media reports and so on, awful things. I'm concerned those sorts of things simply could not go on in a hospital, at least a hospital the size of Bundaberg, unless the administration of that hospital in a systemic sense was totally dysfunctional. Do you have any response to that comment?-- I don't believe in my time that - and when you say administration, if you're referring to the executive, I do not believe the executive is dysfunctional.

I'm not singling it down to the executive. We hear things like this gulf that existed between the executive and the clinical parts of the hospital. Do you dispute that?-- Listening to some of the things said, it is obvious that there is a perception in some areas that that was the case.

I heard a comment of yours within the last half hour where you're talking about the situation in ICU and that you didn't have the clinical skills to deal with that situation. What's the point of having a matron or a superintendent of nursing or a Director of Nursing who doesn't have the clinical background to be able to come to the assistance of the nurses under her charge to provide them with leadership on that sort of issue?-- I guess what you have to understand is in our current career structure, that it's very dependent, as I said, on Level 3s to be the clinical experts in their areas and to be the managers of those areas and provide advice and send information up. And when I said it wasn't my role, I was talking about in the assessment of patients and whether they should or shouldn't be transferred at that time. I couldn't make a clinical assessment of that. I haven't worked in ICU - and I've only ever worked in a medical ICU - in a very long time. So my role is much more administration, which is how it's set up in the career structure.

Well, I understand that and I know that you're not responsible for setting up the career structure or the management structure. What I'm really asking is should we be looking at throwing out this career structure and this management structure and having a structure where clinicians are involved in making these decisions rather than people whose focus is purely administrative?-- The career structure, since my arrival in Australia, has been evaluated a couple of times and I would say that there's probably - and most recently it's been evaluated and a whole process gone through, both industrially and corporately, on the evaluation of the career structure. The models that I'm used to working with and from the information I have from overseas when I travel overseas

to where I'm from originally, nurse administrators, basically, in - in those countries don't actually have a clinical role because we - it's devolved down to the clinicians. I think there was obviously, and I'm talking my Level 3s now, excellent - some excellent skilled clinicians there but there was obviously major cultural issues and major communication issues and I don't know that changing the career structure is the only solution to that. At the end of the day, perhaps there needs to be a level of clinicians who are more senior managers between the Level 3s and the Directors of Nursing but, at the end of the day, somebody has to sit at the top and deal with all the non-clinical issues as well with the clinical experts advising them.

Or you need a clinician at the top with managerial experts advising the clinician?-- Yeah, well, I - I don't believe in Bundaberg, that size hospital or bigger, that a Director of Nursing could actually do their job as it is and manage all the issues they have to manage and actually be doing clinical work too. It'd be nice - in an ideal world, it would be nice.

You see, despite some of the harsh questions I've asked I'm, frankly, inclined to give everyone here involved the benefit of the doubt, and that includes Mr Leck and Dr Keating as well as yourself, and assume that all of you were operating this management structure as efficiently and as competently as it could have been operated, and the outcome still is that the patients were let down. That drives me to think, "Well, if it's not the people who are at fault, it must be the system"?-- I think, and I think this has been referred to previously, there has to be - and certainly the HEAPS, the human error and patient safety, where we actually across Health look at outcomes and look at bad outcomes and try to determine why that happened and do something about it, but there's still a lot of divisions, I believe, between nursing and medical. I think that that's got a way to go, culturally, and I - from what I see, coming from a different system, and I think that people honestly have to respect each other's views and be able to document concerns and not feel that they're not going to be blamed and be able to, you know, talk about what's happened, I strongly support open disclosure and I know that the - oh, it must be - I'm guessing. I don't know my time frames, 18 months to 24 months where all the health Ministers endorsed open disclosure and I know that Queensland Health was having a trial in Brisbane at - with a hospital. So that, if we actually - if there are bad outcomes, not only do we acknowledge them ourselves but we actually sit down with patients and families and discuss those matters and I think that's absolutely the way we have to go.

It may be that you and I are at cross-purposes. I'll be frank. I shudder when reading statements like, "The executive was, as part of its strategy map, looking at developing middle managers and trying to develop a more cohesive medical/nursing team at that level. To that end, an external consultant was engaged to hold a workshop on teamwork, which was held on or about the 10th of March 2005." I mean, this is at the time when everyone in Bundaberg knew of the awful things that were

going on, what had happened to Mr Kemps, what had happened to the 15-year-old boy and, still, everyone's talking about strategy maps and middle managers and having more cohesive teams and workshops on teamwork rather than sorting out the problem in a practical way?-- Well, that was actually, and I know you criticise the word "strategy", but that was actually strategy to get both the medical and nursing clinicians at a middle management level to actually sit down and try to discuss some of these issues and how they communicate with one another and how they treat one another, and some of that discussion actually did occur. You know, gone are the days where I can walk in and, as has been suggested, that I - you know, I tell a nurse that they have to actually go and talk to a doctor and sort out the problem. I don't have an ability to do that in the current industrial framework or the current human resource framework. I have to - I can give them lawful directions about specific things but if I was to tell a nurse, "Sorry, this isn't acceptable. You're go to and sit and talk to that doctor and sort it out", I would have an industrial issue on my hand and probably a dispute and could be considered, as I said, to be bullying and harassment. So there are certain frameworks I must work in. I'm very cognisant of the industrial aspect and make sure that staff can have those people there and that they're rights are adhered to, but, in the end, I could probably tell them to do it but I'd probably have an industrial dispute, as I said. And they'd do what I said while I was there but that wouldn't be going to fix the problems in ICU between doctors and nurses-----

It is not a matter of telling people they have to go and sort it out. It is a matter, as it seems to me, of leaving your office and sorting it out yourself. Going to see Dr Patel and saying, "Look, you have a problem with Nurse Hoffman. I'm here to support my nursing staff. I'm here to protect my nursing staff. If you've got a problem with her, I need to know about it. If you don't have a problem with her, then can't the two of you behave like adults and get on with another"?-- And I did have that discussion with him and another Level 3 that he had issues with and there were some problems between, but in this particular instance Toni Hoffman told me how she wanted to handle it and I allowed her that opportunity, and I know you disagree with it but that's what happened at the time.

Well, I must admit, I disagree with the concept that leadership, the very word "leadership" involves this sort of consensual going up and down and having mediations and having discussions and canvassing ideas. Leadership means having someone who is actually decisive and does things about the problems?-- And I'm trying to explain to you in the frameworks that we work, both from an HR perspective and an industrial perspective, I don't have the full ability to be decisive because of the parameters around how I can manage certain behaviours.

Then you'd agree that that has to be changed?-- I would agree, yes, it would be nicer if it could be simpler and that

we didn't get caught up with all the industrial aspects and so on, but everybody's rights has to be adhered to, everybody has to be documented and there has to be a systemic process. Once I try to circumvent that process, I can tell you, I will have a problem.

D COMMISSIONER EDWARDS: But what about the patients?-- Exactly. And that's why I have to encourage the staff that report directly to me and that I can in some manner influence the behaviour in a certain way or take a certain action. But at the end of the day, as I said, I cannot tell two staff to get on. Well, I can but it's - it wouldn't work. I have to try to work through the issues. And that's what I tried to do in a systemic fashion and that's what the executive were trying to do in working with teamwork workshops and communication. I mean, obviously we wouldn't have spent all that money if we didn't think we needed it and maybe it is ludicrous for people to think that in a hospital people don't always get on. But that's a fact. They don't always get on and we have to try and deal with it the best we can.

COMMISSIONER: Mr Allen, have you got anything arising from that?

MR ALLEN: No, thank you, Commissioner.

COMMISSIONER: Does anyone else have questions of this witness? Ms McMillan?

MS McMILLAN: Oh, no.

COMMISSIONER: Mr Diehm?

MR DIEHM: No.

MR BODDICE: I just have a couple, Commissioner.

COMMISSIONER: All right. I was going to check with Ms Feeney whether-----

MS FEENEY: Oh, no, thank you, Commissioner.

COMMISSIONER: Yes, well, Mr Boddice, you have the floor.

CROSS-EXAMINATION:

MR BODDICE: Just a couple of matters, Mrs Mulligan. You spoke about adverse events and when you first arrived, about the fact that the impression you had was that the adverse events forms were not being used as they should be used?-- That's correct.

From what you observed in relation to it, is part of the problem that staff members are concerned, despite the fact

that the system is a no blame system, that by putting a form in, somebody might get into trouble?-- I think there obviously is that perception but it was early days. The policy had just been changed. The HEAPS program, people - we'd been sending people away and, so, I think again it's a culture that was at Bundaberg. So that's why all the training was occurring. And that only started, you know, just as I was arriving, and it - I guess you can do the training but unless they see that that's the case, it's not necessarily going to change the culture overnight and I think that will evolve and I don't believe that this will be just unique to Bundaberg.

So it's a matter that will take - what you're saying is that the system is a good system but will take time for the staff members to accept it in that light?-- To accept it and trust it and actually have open discussions about something going wrong without, you know, sitting in a - perhaps an ASPIC meeting and having great debate over a definition but trying to say, "Well, what's the real issue", and moving forward.

And you were asked some questions in relation to the strategy map?-- Yes.

And you said that one of the strategies was to encourage open communication between the nurses and the medical staff?-- It was in - in the midst of developing middle managers and in relationship there were a couple aspects. One related to communication/teamwork and the other one related to them having the skills and ability to actually manage/change processes themselves rather than expecting the executive director to do that.

And the middle management really are at clinician level?-- Yes, well, we're talking Nurse Unit Managers, Directors of Units, Head of Paediatrics, that sort of thing.

Is another one of the issues the strategy of looking, say for the Bundaberg district, at what are going to be the medical requirements in years to come?-- It was looking at what was not necessarily just medical requirements but clinical requirements. So, for example, you know, with chronic disease, the management of diabetics, the management of people with asthma, renal - chronic renal failure in our district, which was huge. So it was - what were the issues in our district, what was the population like, what are the predictions for the future and how will we manage that, and recognising at the same time our workforce is ageing and dwindling and we have difficulties with that. So, you know, what do we really need to do at Bundaberg. And so, it was a long-term - strategy maps weren't something that we knew we were going to achieve in 12 months. It was a long-term process and to be planning towards, as I said, Queensland Health 2020 document, which talks clearly about what the issues were going to be by then.

So really looking forward - forward planning in effect?-- Yes.

You say is this population, for example, largely going to be an older population because of the demographics?-- Yes.

And therefore you require certain types of services-----?-- Yes.

-----to be provided within the district?-- Exactly.

To meet those needs?-- Bundaberg, one of its - it has one of the fastest growing aged group, I think it's 67 but I can't quote that, but 67 and above, it's one of the fastest - highest - quickest growing in the state, so what does that mean for us and what will those patients look like in the future. As well as doing a lot of health promotion and health prevention as well, you know, which is things like, you know, visiting children and the child health nurses in schools and all those types of things. So it wasn't just about medical treatment.

Yes, thank you.

COMMISSIONER: Thank you, Mr Boddice.

D COMMISSIONER VIDER: Can I say something? Mrs Mulligan, we're coming to the end of our time in Bundaberg and while we've been here we've sat and heard evidence from a large number of people. I have been particularly impressed by the clinical competence of certainly the nursing staff who have come forward to help paint the picture of what's gone on in Bundaberg that has led to this inquiry and I think that there are a tremendously large number of staff, nursing staff, who are very competent in their areas. So, I think that this district is very lucky to have such people to provide such a service. I share the Commissioner's observations, though, that it would seem to me that there's also now a large paper trail?-- There is.

And I would strongly suggest that you re-evaluate that paper trail and don't be frightened to toss it. Use it so that it meets your outcomes but don't lose the vision of what your outcome is, because the vision of any hospital is neither new nor profound. Why does the hospital exist; it's to care for the sick?-- Mmm.

And I think that you have to be grounded in that one sentence so that everything that takes you away from that is a very clear indication that you probably don't need it and I would think that the incredible number of clinicians that are here, and certainly that are part of the nursing service that you lead, are a wonderful, wonderful value to this community?-- And I would agree. The foundation and other people in the community started a Winnie May scholarship which I had to develop the criteria and in relation to the foundation soon after my arrival, and that was May, I believe, May 2004, and I actually did a little speech at that and said exactly that. I believed that there is a lot of very highly skilled nurses. The complaints that I got from nurses mostly related to

communication and attitude and I believe there wasn't a huge amount of complaints. I was impressed with what I saw, and certainly at Level 3, highly trained group of nurses. In relationship to doing less documentation, I don't believe I'm in a position within the systems I work to do that at the moment although-----

And I accept that and I think that's probably - the word "systems", it probably is - it's above you that requires you a lot of the paperwork but my observation would certainly be that you've got an ACHS accreditation system-----?-- Yes.

-----that will you give you clinical outcomes that are nationally recognised?-- Yes.

You don't need to duplicate those in another system. That's just one example?-- Yes.

Thank you?-- Thank you.

COMMISSIONER: Sir Llew? Mr MacSporran?

MR MacSPORRAN: Just one brief matter, Mr Commissioner.

RE-EXAMINATION:

MR MacSPORRAN: Mrs Mulligan, you were asked questions about your free-set and the fact that you had no reference to the number of that free-set on your internal e-mail documentation?-- Yes.

You gave an explanation. Was that free-set number listed somewhere?-- Yes, it was listed, as I said, in the internal telephone book that was just inside of Bundaberg Health Services and which was in hard copy and on the computers. Every computer had access to it. And it was the same free-set that Miss Goodman had for I don't know how many years. So I guess I'd be surprised at certainly Level 3 and above, they didn't know that number.

All right. Could you look at this document, please, if you would.

COMMISSIONER: We're perfectly happy to accept that evidence without documentary support.

MR MacSPORRAN: Very well. I think you told us the internal directory is obviously for use by the hospital staff?-- Yes.

Thank you. That's all I have, thank you, Mr Commissioner.

COMMISSIONER: Thank you, Mr MacSporran. Mr Andrews, any re-examination?

MR ANDREWS: One topic, Commissioner.

COMMISSIONER: Yes.

RE-EXAMINATION:

MR ANDREWS: Mrs Mulligan, when you were at Dalby Health Services as Director of Nursing, was that a hospital of a similar size to Bundaberg's or smaller?-- It had similar sized beds but different - different configuration because Bundaberg is acute beds only. Dalby has services - when I started, they had a 140 aged care Commonwealth funded or accredited nursing home and it had - well, when I first started it had 35 beds but it dropped to 25 acute beds. And then - so I had the nursing home, the hospital and community health as well. So a similar number of beds but different configuration.

In Dalby, it was your management style not to do ward rounds?-- Not a specific time on a specific day, no.

I noticed among the testimonials in your statement that one from Colleen Rasmussen, who seems to have followed you in the position of Director of Nursing and Services Manager at Dalby?-- Yes.

That Miss Rasmussen's management style is to perform ward rounds daily. Is it the case that you would have been able to do so at Dalby but elected to use a different management style?-- In Dalby in acute, the 25 beds acute, I visited daily, not at the same time. It could range anywhere from 6 a.m. in the morning till 2 a.m. at night. So I visited there mostly daily. The nursing home, it's actually considered a home not a hospital, and I visited them basically weekly and, again, not on a specific day but on a weekly basis, and sometimes that was a weekend.

Thank you, Mrs Mulligan?-- You're welcome.

I have nothing further, Commissioner.

COMMISSIONER: Thank you, Mr Andrews. Mrs Mulligan, you and I had a discussion earlier about the concept of natural justice?-- We did.

Let me say something to you about at least our approach to natural justice. You'll be aware that this inquiry has a number of issues that we were asked to consider. Some of those relate to Dr Patel. Some of those relate to things like criminal charges, official misconduct or disciplinary matters. From the evidence that you've given and the evidence which we've heard to date, I can inform you that we are not considering any recommendation against you in respect of criminal, official misconduct or disciplinary matters. Of

course, there is the possibility that further evidence will come to light but at this stage of the inquiry, that would seem unlikely. I think, in fairness, I should say that it may be the case that in our final report there is at least the possibility that there will be comments about your role at the Bundaberg Hospital and some of those may be ones that you find unattractive, not because they're directed at you personally but because, as I've said, we have quite strong concerns about the system that operates and the part that you've played in that system. In that sense I can't give you a complete exoneration or a complete bill of health but you can leave here in confidence that you are not under threat of any criminal, official misconduct or disciplinary consideration, and in the unlikely event that situation were to change, your solicitors would be given formal notice. I'm sorry I can't say more than that but I hope what I have said is at least some comfort to you. We thank you for coming along to give your evidence and giving it so robustly, and Mr MacSporran has made the point on your behalf, very appropriately, that some of my questioning was, he suggested, discourteous. I hope you will appreciate that my only object is to get at the truth and that sometimes robust questioning is the best way to satisfy one's self as to where the truth sits. It wasn't intended as an attack on you personally. If anything, it was part of my enthusiasm and passion for getting at the truth and that's all it was about. Is there anything you or Mr MacSporran wishes to raise arising out of those comments?

MR MacSPORRAN: No, no, I certainly have nothing, Commissioner.

COMMISSIONER: And, Mr MacSporran, for your purposes, are you comfortable with the form of assurance that I have been able to give your client at this stage? As I say, I can't go beyond that.

MR MacSPORRAN: No, I understand. Your comments are consistent with the ones you made earlier and I understand the reasons for those.

COMMISSIONER: Yes.

MR MacSPORRAN: It may still be a matter where submissions can be made to senior counsel assisting in terms of a letter of comfort of some sort.

COMMISSIONER: Indeed. Can I say on that subject, because I was going to raise that, obviously after the Bundaberg sittings we are going to have a week without sittings in which we can regroup and think about what's happening and examine the evidence. I think it's common knowledge that part of the inquiry is looking at other areas of the state at the moment, exploring evidence from other services, which obviously won't affect Mrs Mulligan whatsoever. So when we have had a chance to review what further evidence there may be, I'll certainly encourage Mr Andrews to communicate with you about any form of formal letter of comfort that can be issued.

MR MacSPORRAN: Thank you.

COMMISSIONER: Thank you, Mr MacSporran.

WITNESS EXCUSED

COMMISSIONER: Is there any point trying to start any witness this afternoon?

MR ANDREWS: There is a short witness, I understand, Commissioner.

MR ANDREWS: There is a short witness, I understand, Commissioner. I can't see the clock from here, but I am told there is a witness who could be completed within 15 minutes.

COMMISSIONER: I was also concerned - I see that Mr Smith's still here and we didn't finish his evidence yesterday. I rather thought Mr Smith would like to finish off. Would that suit, Mr Diehm?

MR DIEHM: Yes, if we have a five minute break it would. I could retrieve some things.

MR ANDREWS: That's convenient, Commissioner. May I confer with Mr Atkinson? Commissioner, there is another witness, Mrs Hillier, and no break would be needed if Mrs Hillier's evidence were to be obtained now and she has someone here for support today and so it would be convenient to dispose of that issue.

COMMISSIONER: Well, I actually feel like a little break myself so why don't we deal with both Mrs Hillier and Mr Smith this afternoon. We should be finished by 5 o'clock, shouldn't we?

MR ANDREWS: Yes.

COMMISSIONER: Is that going to cause anyone any inconvenience? I know, Mr MacSporran, you have a plane to catch.

MR MacSPORRAN: Yes.

COMMISSIONER: You can run for that now if you like.

MR MacSPORRAN: Thank you.

COMMISSIONER: We'll just take five minutes.

THE COMMISSION ADJOURNED AT 4.14 P.M.

THE COMMISSION RESUMED AT 4.27 P.M.

COMMISSIONER: Mr Andrews?

MR ANDREWS: Commissioner, I am in the unfortunate situation of having neither a witness, nor a counsel to call one.

COMMISSIONER: Yes. We're happy to wait.

MR ANDREWS: I see we do have a witness, but we don't have the counsel who has the list of questions to ask.

COMMISSIONER: Well, do you mind coming forward to the witness-box?

DORIS JAN HILLIER, SWORN AND EXAMINED:

COMMISSIONER: Please take a seat and make yourself comfortable. Do you have any objection to your evidence being filmed or photographed?-- No.

Okay. Mr Morzone?

MR MORZONE: Thank you, Commissioner. Is your full name Doris Jan Hillier?-- Yes, it is.

You reside in Bundaberg?-- Yes.

You are 57 years of age and you have lived in Bundaberg all your life?-- Yes.

You have two children?-- That's correct.

You have prepared a statement in this matter which you have signed. Can I ask you to have a look at a copy of the statement? Can I draw to your attention, and perhaps for the benefit of my learned friends, in the copy of the statement that you have before you, which has been handed to the Commissioners, the third sentence which is in parenthesis in paragraph 20 has been deleted, as has the last sentence continuing over the page, of page 4 and 5 has also been deleted?-- That's right.

COMMISSIONER: Sorry, what's deleted on 5?

MR MORZONE: I think, Mr Commissioner, on your copies there is a black line that deletes the relevant sentences on page 4 and 5.

COMMISSIONER: We have got a sentence deleted in paragraph 20.

MR MORZONE: And also paragraph 25.

COMMISSIONER: No, that hasn't been deleted on my copy. So it is the sentence commencing "When I had my operation"?

MR MORZONE: Perhaps I can exchange that, Mr Commissioner, with mine.

Also Ms Hillier, in paragraph 26, at the time this draft was prepared you referred to the fact that you were going to still have an operation to fix the hernia you mention in your statement. Have you now had that operation?-- Yes, I have, in the middle of June - first week in June.

And was that performed by Dr Anderson?-- Yes, the Friendlys.

At the Friendlys.

COMMISSIONER: Was it completely successful?-- Well, hopefully.

We hope so, too?-- Yes.

MR MORZONE: Obviously you wish paragraph 26 to be varied accordingly, but otherwise are the contents of your statement true and correct to the best of your knowledge and belief?-- Yes, it is.

I will tender the statement, if it pleases the Commission.

COMMISSIONER: Yes, the statement of Mrs Hillier will be exhibit 188.

ADMITTED AND MARKED "EXHIBIT 188"

MR MORZONE: Ms Hillier, you refer to - refer to seeing Dr Patel on a number of occasions. The first occasion that you spoke to him was on the 23rd of August and you refer to that in paragraph 6 of your statement?-- That's correct.

And it was on that occasion that you saw him about pain which you had experienced?-- Yes.

In your stomach, is that correct?-- Yes.

And you referred to what he said to you there, he said that you weren't to be such a baby about the pain, is that right?-- That's correct.

And that you should come back and see him in six to eight weeks' time?-- Yes, he left me in hospital from the Sunday night, I went in. On the Monday morning he saw me. He kept me in there till the following Thursday and told me to go home and come back in six to eight weeks when he will take my gall bladder out.

D COMMISSIONER VIDER: Mrs Hillier, can I just ask you what tests did you have done that indicated you needed to have your gall bladder out?-- I had had an ultrasound about four years ago that showed one huge stone in there, but as far as the hospital is concerned I had no tests.

So Dr Patel didn't order any investigation before he told you?-- No, it says in my patient file I was to receive an ultrasound but I never received one.

Thank you.

MR MORZONE: The following Thursday you were discharged and then soon after developed pain in your stomach again?-- Yes.

And that resulted in the surgery occurring with - under the care of Dr De Lacey and Dr Risson, is that right?-- That's correct. I went to my own GP on the Saturday morning and he rang the hospital and said that I needed hospitalisation and operation as soon as possible because I was in a bad way.

And how long were you supposed to be in hospital after that occasion?-- Overnight.

After the operation you were in terrible pain and then you saw Dr Patel again-----?-- Yes.

-----on the Monday morning, the 30th of August, is that right?-- That's correct.

That's the day after the operation?-- Yes.

And Dr Patel came to see you and explained what had happened in the operation?-- Yes.

And did anything further occur on that day?-- I started getting severe pains in my stomach, and on Monday afternoon a rash started appearing on the right-hand side beneath my right breast - my daughter took notice of it - and I started with a temperature, but I just thought, you know, there was nothing wrong so I left it until the next day.

And the next day you were in further pain and a rash had progressed?-- The rash had progressed something shocking. The heat from my stomach was unbelievable. My dear friend Lisa, she was up there, and her mother, and she said, "Dossie, this does not look right." So she went and spoke to the nurses, and they said they can't discuss anything with her because she is not a relation. So Lisa then went and made a phone call to my daughter, who had just left, but she came back up to discuss the business with Dr Patel, and he said it was a haematoma. And Jodie then said to him, "But mum is in a lot of pain", and he said she would know what pain was if she had cancer." Well, I have had cancer twice before, so I know what pain is.

Did he do anything further about the rash on that day?-- No.

Okay. Subsequently, the following day, the rash got larger and larger?-- On the Tuesday afternoon, my friend drew around the rash with a Niko, and the next day it was about an inch, inch and a half bigger. On the Wednesday afternoon it had grown that much.

Okay. And then on Thursday did you see Dr Patel again?-- We saw Dr Patel again. My daughter also, sorry, on the Wednesday afternoon, rang Dr De Lacey and told her - told him her concerns, and he said he cannot come up to see me as he is not my doctor now and it would be unethical for him to come and visit me as my doctor. So he just ignored me.

Is that because Dr Patel was then-----?-- Yes, he said, "Dr Patel is now your treating doctor. You should go to him - you know, stay with him."

You spoke to Dr Patel again on the Thursday, and by this time how did you feel?-- I was sick of needles, I was sick of cannulas blowing out. I think I had 20, 21, 22, 23 cannulas that kept blowing out. I said, "I am sick of hospitals, I am sick of doctors, I am sick of needles. I just want to die."

You will have to slow down?-- Sorry.

Yes?-- That is how sick I was. I was just lying there. Blood pressure was high one minute, blood pressure was dangerously low the next minute. Temperatures up around the 40 degrees. They had ice packs under my arms, fans blowing on me. Next minute I was freezing cold where they had to put warm blankets on me, and still they just kept changing the antibiotics, but no blood tests, no nothing to find out what the - by this stage the rash had gone from underneath my right breast, down into my right buttock, down into the top of my right leg and up into my back. I had stretch marks where I had never had stretch marks before. The welt was raised up a good inch, and the heat - you could feel about six inches, nine inches away from my body.

Did Dr Patel give you any prognosis about your condition on that Thursday?-- He maintains that I was getting better, that the rash was improving.

Now, in paragraph 17 you set out what occurred on the Friday. That's the 3rd of September. Dr Patel came to see you again and you said to Dr Patel that they should get you to Brisbane, that you were feeling that sick, is that right?-- That's correct. On the Thursday afternoon my friends were up at the hospital. They all went home and cried and said that would be the last time we see her alive, "she is going to die". Friday morning I came to and I saw all these people standing around me and I realised one of them was Patel, and I said to him, "For God's sake, get me out of here or get me to Brisbane, I am going to die."

And did they do some further tests on you on that day?-- Yes.

And what did they discover?-- One o'clock that day they did a CAT-scan and organised that I was full of streptococci.

And as a result of that did you undergo a further procedure?-- Yes, Dr Younis came in and spoke to my daughter and myself and said to me that I have to undergo life-threatening surgery, I could die on the table, and I said, "Oh, God", and he said, "Yeah", he said, "you are a very seriously ill woman", he said, "and you could die." And I just turned to my daughter and I said, "Would you ring my son and my mum and tell them if anything goes wrong, just that I love them." Anyway, Patel came in and I said to him, "I don't want to die.", and he said, "Oh, don't be so stupid", he said, "you are not going to die", and I said, "Dr Younis said I could die because this was the second major surgery I had had in under a week, and my age, being a bit overweight." So then I was ordered for surgery that afternoon about quarter to two, emergency surgery.

D COMMISSIONER VIDER: What was this surgery for?-- To remove the streptococci.

Oh-----?-- Cellulitis.

MR MORZONE: Subsequently on the 14th of September, you - or between then and the 14th of September, after that procedure you had had your wounds dressed every day or every second day, is that right?-- Yes, when I was in hospital, I had the wounds dressed, packed twice a day. The bottom wound was okay but the two top wounds, which were about probably the length of my pointer finger long, about two inches wide and about three to four inches deep, I had them packed twice a day.

And for how long had you remained in hospital after that surgery?-- I was operated on on the 29th of August and then I was released from hospital on the - no, the 1st - heavens, a week and one day after I had been operated on for the strep.

On the 14th of September, you refer in paragraph 22 to again visiting the hospital and seeing Dr Patel. This was approximately 10 days after the operation or procedure relating to the streptococcal, is that right?-- Yes.

On that occasion you were told that welts were healing over too quickly?-- Yes.

And they needed packing. And Dr Patel came to the room and did a further procedure with local anaesthetic, is that right?-- That was two visits after that. The dressing clinic nurse said that she wanted the wounds - two main wounds still being packed because they were closing in from the top, and he has refused to do that. My next visit, which would have been, say, four days later, she demanded the same thing or that they be stitched, and he still said no. Then two days after that was when I went there and she more or less demanded that he stitch the wounds, which he did.

What occurred on that occasion?-- He put local anaesthetic

in, and my daughter's there, and there was two nurses. The nursing clinic sister was holding my hand, another one was rubbing me up and down the leg, and Patel had his arm across my chest here - his left arm, sorry, and his right arm started stitching. I felt every stitch that went through my body, and I didn't cry, didn't scream. I just said, "Ooh, I can feel that." He said, "Of course you will." He said, "Local anaesthetic won't go down that deep, and we have to go to stitch you up, because", he said, "it is too deep and local anaesthetic won't work that way."

You have referred to two nurses in that paragraph. Do you have anything adverse to say against the treatment you received from the nurses?-- No, no, nurses were brilliant.

Okay. Now, you refer in paragraph 25 to subsequently noticing a lump in your stomach that grew and that was subsequently diagnosed as the hernia we mentioned. Before you had that dealt with by Dr Anderson, did you visit Dr Patel again some time in December?-- Yes, yes, I did. I went - I had to go back for a check-up in December, and I showed him the lump around my navel, and he said, "Oh, don't worry about that. It is only from the stitches." I said, "When I had the gall bladder out, they were sutured - they were stapled, not stitches." He said, "Don't worry about it." But at this stage, it possibly would have been the size of a golf ball. I realised then that things weren't going the way they should have been going, so I tried to get in contact with Mr Leck but he was unavailable. Over the period of time I tried to ring Peter Leck three times but I got fobbed off every time that he was unavailable. The last time I rang I said to his secretary that, "I want to speak to somebody", I said, "otherwise I am taking this to the media." I was then put on to Dr Keating who said to me we have got - because I was complaining about my scars as well as the hernia, but the main subject was the scars, and he said, "I will put you on to a cosmetic surgeon. He has had some experience." And he then made an appointment for me to see Dr Patel on the - April the 6th.

By that time, of course, Dr Patel had left?-- Dr Patel had already gone on holidays.

There is some photographs which you have provided me which you would like to go before the Commission, is that correct?-- Yes, there is.

I will just ask you to identify them and then tender them, if it please, Commissioner. That is of the scarring which occurred after the operation which occurred on the 3rd of September, is that correct?-- Yes.

I will tender those, thanks, Mr Commissioner.

COMMISSIONER: Thank you, Mr Morzone. Mrs Hillier, with these photographs, we can either make them a confidential exhibit, which means they don't go out to the press or anyone else, or we can make them a normal exhibit, in which case anyone who wants to can see them. Do you have a preference?-- It

doesn't make any difference to me.

Okay?-- If anybody wants to see them, they can see them. It doesn't, you know.

The photographs in relation to Mrs Hillier will be exhibit 189.

ADMITTED AND MARKED "EXHIBIT 189"

MR MORZONE: Thank you, Mr Commissioner. That's the evidence-in-chief.

COMMISSIONER: Thank you, Mr Morzone. Does anyone have any questions for Mrs Hillier?

MR DIEHM: Commissioner, I don't presently. The statement of Ms Hillier was provided to us this afternoon.

COMMISSIONER: Yes.

MR DIEHM: And my client wasn't specifically named in the statement at all. I do understand there is again a complaint file with respect to the contact Mrs Hillier had with my client, and I am not even so sure that what's been said in evidence here is intended to be critical of Dr Keating.

COMMISSIONER: I was going to say, on my interpretation there is no criticism of Dr Keating involved and unless anything tends to suggest otherwise, I am happy to leave it.

MR DIEHM: If that's the case, then I am happy to leave it as well, Commissioner.

COMMISSIONER: Mr Morzone, do you agree with that?

MR MORZONE: Not from the evidence that's been adduced.

COMMISSIONER: No.

MR DIEHM: Thank you, Commissioner.

D COMMISSIONER VIDER: Mr Morzone, does Mrs Hillier have a number on the keycode?

MR MORZONE: She-----

COMMISSIONER: Apparently it is P130.

MR MORZONE: Thank you, Commissioner.

COMMISSIONER: Unfortunately, that means my list is out of date again, so I will have to get that up to date. But in any event, Mrs Hillier's name is no longer the subject of any

suppression order.

MR MORZONE: Thank you.

COMMISSIONER: Ms Feeney, do you have any questions?

MS FEENEY: Commissioner, I am in a similar position to that of Mr Diehm, in that the statement didn't mention my client but the witness has mentioned my client in evidence. If similar comments that you have made in relation to Dr Keating apply to my client then I am happy to-----

COMMISSIONER: Well, I think it is slightly different, though, because there is at least the suggestion that your client wasn't easy to get in touch with. I don't think that's a serious matter, but if your client wishes to respond to that-----

MS FEENEY: I would like the opportunity to at least see the complaints file, Commissioner.

COMMISSIONER: Well, we won't keep Mrs Hillier waiting, obviously, but if once you have seen the complaints file you would like Mrs Hillier to come back to answer some questions, we will see what we can arrange.

MS FEENEY: I am happy with that, thank you, Commissioner.

MR FITZPATRICK: I just have a couple of brief matters for Mrs Hillier, if that's convenient.

CROSS-EXAMINATION:

MR FITZPATRICK: Mrs Hillier, I am Chris Fitzpatrick and I act for the Health Department?-- Right.

Mrs Hillier, you told the Commissioners that you had some surgery I think performed very recently by Dr Anderson?-- That's correct.

Here in Bundaberg, is that so?-- Yes.

And, Mrs Hillier, do you know whether that surgery was performed - was paid for by the Health Department?-- Yes, it was.

All right. And, Mrs Hillier, following that surgery, do you know whether you now need any further surgery to address your treatment - your earlier treatment by Dr Patel?-- Yes, I need one more operation. The two main scars that I have are very, very deep scars and they are right on my pants line, on my slacks line, and I need cosmetic surgery done on that, but I have been to a cosmetic surgeon who told me that I am obese, and that I need to lose 27 kilos before he will even think of

doing any operation on me.

All right?-- And then he proceeded to send me next door to see the wrinkle lady.

And, Mrs Hillier, have you made my client aware of the fact that you need some cosmetic surgery?-- They know, yes.

They know?-- Yes.

And are they addressing that need; do you know?-- I have to find my own cosmetic surgeon because I won't go back to the Bundaberg Base Hospital or Queensland Health at the moment. I don't feel confident in them.

All right. When you do are you to return to my client with the name of your selected surgeon?-- Yes.

Have you been given an indication if you will be paid by my client for your treatment?-- The Queensland Health Department is paying for it, yes.

Thank you. Thank you, Mrs Hillier. That's all that I have.

COMMISSIONER: Mr Morzone, do you have any questions?

MR MORZONE: No, thank you, Commissioner.

COMMISSIONER: Mrs Hillier, I'm going to excuse you from further attendance. As you've heard it may be the case that we have to ask you to come back, but, if so, we'll let you know as soon as possible?-- I'm sorry, could I just say one thing?

Yes?-- The nurses at the Bundaberg Base Hospital were the most fantastic, caring, considerate people that I have ever had dealings with in a hospital before. They were all so concerned about me, it was just unbelievable, and I can't say enough about my three week stay in hospital. I think one thing that Queensland Health has to do is put the patients first. Forget the almighty dollar because no amount of money can replace a person's life and I would also like to thank you three up there for taking the time and for the compassion you have shown us all in the last three and a half weeks. Thank you.

Thank you, Mrs Hillier.

D COMMISSIONER VIDER: Thank you.

WITNESS EXCUSED

COMMISSIONER: Mr Smith, would it suit you to finish off your evidence this afternoon?

MR SMITH: Yes.

COMMISSIONER: Please come through to the box.

GEOFFREY LEONARD SMITH, CONTINUING:

COMMISSIONER: Mr Smith, I'll formally remind you that you are still under oath?-- Yes, Mr Commissioner.

And I understand you have got no objection to being photographed or filmed?-- No, I haven't; that's correct.

All right. Now, I think where we got to was that, Mr Diehm, you had some questions.

MR DIEHM: Yes, thank you, Commissioner.

CROSS-EXAMINATION:

MR DIEHM: Mr Smith, you may be aware my name is Geoff Diehm and I am counsel for Dr Keating?-- Yes, Mr Diehm.

Just a few things arising out of your statement in your evidence, Mr Smith. The first one is that, as I understand, one of your concerns is that when Dr Keating wrote to you on the 10th of March 2004 he advised you that there would be an alert put on your file concerning the problem that you have with respect to the local anaesthetic?-- Correct.

But that wasn't a problem for you. You, no doubt, appreciated that proposal, but your concern arose out of that when you received a copy of your file in May of this year and there wasn't any mention of the alert in the file that you received; is that right?-- That is correct, yes.

Okay. Now, is it the case that you've since discovered that there is, in fact, as it stands presently, a sticker on your file referring to this problem?-- To answer your question correctly, it wasn't until I went - I - I took the whole file of mine home that I went through looking for something that may be in my file that would correspond with Dr Keating's response to my complaint. I had a look in there and I - I seen a number of different pieces of paper on my file like Emergency Department records, specialist out-patient records, correspondence, that type of thing. So I went through, I dissected it all, I pulled everything apart to find the original Dr Patel issues and in that, doing so, I still could not find anything that pertained to what my apology would be like, what he would do. That's when I rang up the hospital again and spoke to a lady at the hospital asking for the lady named Carol and she informed me that she was in a meeting and she would ask me what was my complaint and then I told her what my complaint was and it wasn't until later on that I was told to come up to the hospital and they've got something to show me.

Okay. So they there at the hospital showed you the cover of your file?-- Correct.

And we have that here, Mr Smith, and on the outside of the cover - perhaps that could be put on the visualiser, please. I think this is, in fact, an exhibit to your statement, but we have that sticker on the front cover?-- Correct.

And then, Mr Assistant, if you could open up the cover and place the inside of the cover rather than the page there. Were you then shown this sticker on the inside cover?-- Not that I can remember.

All right. Now, you were concerned because if this information was on the cover of your file you didn't get it as part of your file as you requested-----?-- Correct.

-----when they supplied the documents to you in May?-- My question is what is my file? My file is everything that I believe and if there's something on the front page of my file, my - my file that pertains to me, that should be given to me.

All right. Mr Smith, do you accept that these stickers, the inside cover and the outside cover stickers, were placed on the cover of your file at around the time of Dr Keating's letter to you in 2004?-- To be very honest with you I don't know because I never seen it placed on there. As I said, the only thing I can go on is when I asked for a complete file I like to know that I'm getting my complete file. This was the cover that I got on my complete file. It never said anything about that being an alert on there.

There are two possible explanations, aren't there, Mr Smith, I suggest to you? One is that somebody has placed those stickers on your file subsequent to providing the documents to you in May of 2005, or they were always there but when the documents were provided to you the person who put them together did not think to cover - to copy the information on the cover of the file including the stickers?-- It's a very hard question to answer.

COMMISSIONER: But logically those are the only two possibilities?-- They would be the only two possibilities; that's correct.

And it's, at least, quite possible that it was just that, the people operating the photocopier made a mistake and forgot to include the cover?-- Well, to go further there is another document that was supplied to me when I came back the second time. I've got it here and I seen it. There is another second part there.

That's the one which is your GS3 to your affidavit or to your statement?-- Just one moment, please. Correct.

Yes. And that wasn't actually in your file. It was kept somewhere else?-- This is what I was told. I was told this is kept in another part of the hospital and it would not be on

my file and my question was why would this be kept in another part of the hospital when it pertains to my file, what it says, but in all fairness it's very generalised that - this part and I ask why this isn't in the correspondence. There's a lot of correspondence that was in my file. Why wasn't this GS, is it, 3, in my file?

Well, Mr Smith, there may be - if we can have the inside cover of the file put back up on the visualiser. Actually, this is from your file and it says "entered in HBCIS" which is apparently some sort of data system within the hospital and it may be that this GS3 is just part of that data system, so you've got something in your file that cross refers to the data system?-- May have. I don't - as I said, I don't know the systems, I'm afraid.

No?-- So I cannot give an answer on that. I don't know the systems.

It's just, Mr Smith, you mention some very serious matters in your statement and you have given us some very important evidence and I don't want to waste time on things that may have a totally innocent explanation?-- True.

Mr Diehm, I assume that that was essentially where you were coming to?

MR DIEHM: Yes, Commissioner.

COMMISSIONER: Yes.

MR DIEHM: Commissioner, could I ask that the inside cover be copied at some convenient time and made an exhibit?

COMMISSIONER: Look, by all means. In fact, I think the secretary could probably do it now. We just need a photocopy of the inside cover of the file. Please continue.

MR DIEHM: Thank you, Commissioner. Now, Mr Smith, you've given evidence about your meeting with Dr Keating on the 10th of March 2004. Now, by the time you came to that meeting or at the time you came to that meeting it would be fair to say, would it not, that you were quite angry with your - or concerning your treatment at the hands of Dr Patel?-- You could say that, yes.

And that anger caused you to - well, perhaps if I can rephrase it and say this: you demonstrated that anger to Dr Keating in the meeting, didn't you?-- I don't think I demonstrated the anger. I think I demonstrated the facts of what went on.

Yes, but it would have been clear to Dr Keating that you were angry, wouldn't it?-- I couldn't say that.

All right.

COMMISSIONER: Can we put it this way, Mr Smith: you don't come across as a wilting violet. You're a solid man and so

on. It may well be the case that Dr Keating, if you're a bit concerned, a bit angry about the situation, may have got the impression in any way that you're an angry man?-- I suppose you could say you could lead to the expression, yes, but all I was doing was being forceful-----

Yes?-- -----in my words to Mr Keating about the way I was treated by the surgeon and what had happened in the hospital.

And did you think it's also possible that if Dr Keating had been through your entire file as we have seen it here he might have been a little bit concerned about dealing with you in a way that was unfair, but is understandable?-- Well, I thought he would have gone through my file, Mr Morris.

Yes, and having been through it, if he had been through it from go to woe, he would have looked at things that might have caused him some concern?-- I can't see that there's anything in my file that could cause him some concern.

All right. Okay.

MR DIEHM: Commissioner-----

COMMISSIONER: The photocopy of the inside front page - front cover of the medical file of Mr Smith will be Exhibit 190.

ADMITTED AND MARKED "EXHIBIT 190"

MR DIEHM: Thank you. Mr Smith, you've described how, when it came to the meeting, you waited outside of Dr Keating's office and then, as Mr Atkinson put it to you, you were ushered into Dr Keating's office by a secretary?-- At that stage I was - thought I was seeing Mr Leck, remember.

I appreciate that, and please don't take my questions as trying to trick you in any way?-- No, I'm just saying what I was led to believe, I was to see Mr Leck.

But the secretary who was - was it the same secretary who had directed you to the place to wait for this meeting who was the one who told you it was time to go into Dr Keating's office?-- Well, that I can't remember, but at no time was I told that I was going in to Dr Keating's office.

But when the time came to enter the office this person came to you and asked you to go in?-- Oh, yes, yes, she did.

Did she say anything to you?-- No, not that I can remember, no.

Nothing at all?-- "This way, Mr Smith." I think that was-----

She didn't say to you, "Dr Keating will see you now."?-- No, no.

She said nothing to you to indicate who it was that you were going to be speaking to?-- I'm afraid no. That's all she said.

COMMISSIONER: Again, you wouldn't necessarily blame Dr Keating for that?-- No. As I said, it was - I was - I was there to see the manager of the hospital. That's who I think you make a complaint with - if you go and lay a complaint you want to go and lay a complaint to the manager.

Yes.

MR DIEHM: Now, you then say when you met Dr Keating he did not introduce himself to you?-- Correct.

Did you introduce yourself to him?-- No, I didn't.

So you didn't say, "I'm Geoff Smith. " at all?-- No, I didn't. No. I thought that was all arranged because when I first seen the person at the desk to ask that I wanted to see the manager about my complaint that - when she went and seen the person who I believe was the manager, that she would have mentioned my name is - "Mr Smith is here about a complaint that he registered with the hospital."

Well, did Dr Keating acknowledge you by your name?-- No.

So he didn't say, "Hello, are you Mr Smith?"?-- No.

Nothing of that kind at all?-- Nothing of that kind at all.

Well, I suggest to you that Dr Keating did, in fact, introduce himself to you by his name, that he did inform you that he was Dr Keating?-- As I said before, no.

No, all right. Now, you've said in your evidence yesterday that you said words to the effect to Dr Keating that the hospital would have a lawsuit on its hands out of conduct like this from Dr Patel?-- Correct.

Now, that's not in your statement, is it?-- No, that is not in my statement there and there's a lot of things that when I gave my statement doesn't pertain in the statement here and also I've had to correct things that was in my statement also.

So did you tell the person who prepared your statement that you said those words to Dr Keating?-- Yes, I did.

You also said in your evidence yesterday that you said words to the effect to Dr Keating that you didn't think Dr Patel should be at the hospital doing what he is doing?-- Correct, like, I said that the way he is treating people - patients, his bedside manner, the way I also explained in a way that, for arguments sake, if I come to you and said that I'm allergic to, say, any drug or something like that, would you then administrate that to me after I said to you that I'm allergic to it? That's the way I put things over to Mr Keating.

Is what you've just said there something that you actually said to Dr Keating or is that just an example of the kind of thing that you said?-- That's an example of the kind of thing that I said to him.

COMMISSIONER: You can't recall the exact words but it was along those lines?-- Along those lines because, you know, if a person says you're allergic to something, you're trying to tell somebody that you're allergic to something, aren't you?

Yes?-- And they should listen and take that on board and I was trying another way to put things across.

MR DIEHM: The statement - I'm sorry, I'll withdraw that. Did you tell the person who took your statement that you said words to that effect to Dr Keating?-- Yes, I did, when we were doing the statement first up, I went through a lot of things and talked to him what had happened, what I could remember, there was a lot of things discussed at the time I was giving my statement.

COMMISSIONER: Are you talking about discussions with people from the Crime and Misconduct Commission?-- Yes.

And then you later had discussions with people connected with this inquiry?-- I - when I first gave my statement, the gentleman came out to my place and we went through things and we talked about what had happened, the way I was treated, this type of thing, I talked to him about there would be a - well, I said to Mr Keating that there would be a law suit if this bloke kept on doing what he was doing, but this never appeared in my statement and I never set about to correct that. All I set about to correct what was there now written in my statement I set about to correct.

Mr Diehm, of course you're entitled to follow these matters up as far as you'd like, but can I give you a strong intimation that I don't think there's any need to.

MR DIEHM: Commissioner, I'm happy to act on that intimation and not pursue it, except perhaps with respect to one particular matter.

COMMISSIONER: Yes.

MR DIEHM: That is, this: you actually say in your statement that Dr Keating said to you, "What do you want from us? Do you want money? Come on, come on, tell us, do you want money?"?-- Correct.

Are you suggesting there that Dr Keating was planting in your mind, if you'd not already thought of it, that you might make a claim for compensation against the hospital?-- Definitely not, definitely not, I was there, I thought the way this doctor carried on, that I wasn't the first person that he spoke to like this and that's why I bought it to his attention, and just to add another thing has just come back to my mind also if I'd like to add, I also said to Mr Keating, "If this hospital had doctors like Dr Barnes, it would be a great hospital, you would need Dr Barnes to go around and talk to some of these doctors because his manner is quite good, very good." That's another thing that's just come back to me now.

I put it to you that Dr Keating did not say words to you to the effect of, "Do you want money?"?-- It's in my statement, he did say that.

You say he did. Commissioner, may I take your intimation to extend then to not pursuing these matters further nor the matters in paragraph 23 in Mr Smith's statement?

COMMISSIONER: Indeed. Just in case this escapes my mind, I wonder if Mr Atkinson or Mr Andrews could make a note that I have given that strong intimation to Mr Diehm and it relates to the entire conversation between Mr Smith and Dr Keating?

MR ATKINSON: I will do that, Commissioner.

COMMISSIONER: Good.

MR DIEHM: Thank you, Commissioner. Just one further thing, Mr Smith?-- Yes.

The letter from Dr Keating itself, the 10th of March 2004, would you agree that it was quite a conciliatory letter from your point of view, it was apologising, acknowledging your complaint and validity of it and proposing a course of action to try and fix that into the future?-- Yes, Mr Diehm, I thought to myself there and then, I said, "Well, thank God somebody's listened to me and they might be doing something about the way Dr Patel treats people." I said to my wife, I said, "This does seem like it's going in the right direction for me."

Yes. All right. And your concern subsequently has simply been that you weren't so sure that everything that had been

talked about there was done, in particular?-- Like what?

In particular, the alert on your file?-- Oh, definitely not done. When - as I said, when you ask for your whole file and this is the reason why I asked for my whole file, that later on there could be nobody coming back and say, "Hey, you just asked for Patel's file" and another thing, Mr Diehm, why wasn't my doctor said this as well? I have got a copy here from my doctor that was posted to the - sent to my GP and it doesn't pertain anything on it also.

Thank you. Commissioner, in those circumstances, I certainly don't need to pursue, I don't think, the other matters in those other records so I won't take those up, thank you.

COMMISSIONER: Thank yaw. Ms McMillan.

MS McMILLAN: Yes, just one matter relates to paragraph 20.

COMMISSIONER: Yes.

MS McMILLAN: You will no doubt see where I need to just put a couple of matters to Mr Smith again, unless you indicate that you don't need to, in my submission, there's not a great deal that turns upon it.

COMMISSIONER: Look, nothing at all, I mean-----

MS McMILLAN: We're happy to provide a statement if necessary.

COMMISSIONER: No need at all.

MS McMILLAN: Thank you, I won't then pursue it.

WITNESS: Mr Morris, on your behalf, I am pursuing the matter further with Telecom to retrieve telephone numbers that have been - would have been on my bill. I've got them back to April, I've asked Telecom - Telstra to provide me more telephone bills that will go back after April and I may be able to find that number, but Telstra has always - also said to me if it is a 1300 number or an 1800 number, they may have trouble in getting that number.

COMMISSIONER: Mr Smith, thanks for that. We actually have the resources that we could follow that up if necessary, but the difficulty is that that will just tell us that there was a phone call to a particular number on a particular day, it doesn't really tell us what was said during that phone call?-- No, it doesn't unfortunately.

MS McMILLAN: In fact, the phone number was what I was going to put.

COMMISSIONER: Yes.

MS McMILLAN: In fact, that was the particulars of the Board, but if I don't need to take it further, then thank you, I won't. Again, I take the same intimation as Mr Diehm.

COMMISSIONER: Yes, and Mr Atkinson will note that as well.

MR ATKINSON: I will, Commissioner.

COMMISSIONER: Yes.

MS McMILLAN: Thank you.

MR DIEHM: Commissioner, I was remiss in the sense that one of the reasons or perhaps the reason for the delay in Mr Smith completing his evidence yesterday was my request to Queensland Health for the production of the notification of the complaint form. Now - and there was a further delay because the document that was produced, as I informed the Commission yesterday, was simply that printed off the G drive.

COMMISSIONER: Yes.

MR DIEHM: Further inquiries that have continued since then have been unable to locate the original document, and so with all that has been produced is the copy, but for completeness perhaps it should be received into evidence.

COMMISSIONER: Yes, that makes sense.

MR DIEHM: Commissioner, can I substitute that document? There is a further one that's been produced, it is a copy but it does have a signature on it of the witness.

COMMISSIONER: All right. The notification of complaint relating to Mr Smith dated the 27th of February 2004 will be Exhibit 191.

ADMITTED AND MARKED "EXHIBIT 191"

COMMISSIONER: Now, anyone else got any further questions? Mr Fitzpatrick?

MR FITZPATRICK: No thank you, Commissioner.

COMMISSIONER: Mr Atkinson?

MR ATKINSON: Commissioner, I have nothing by way of re-examination. May Mr Smith be excused?

COMMISSIONER: Yes. Look, Mr Smith, I just want to thank you again for coming in?-- Yes.

Your evidence has been very helpful. I don't want you to be under any misunderstanding about that exchange I had with Mr Diehm. There are some things in your statement that, whilst they're important to you, aren't so important to the outcome of this inquiry?-- Mmm.

You've given us very important and valuable evidence about the agony that you went through with Dr Patel and I must say that in the last 24 hours, I've thought many times about having a matchbox size piece of my flesh cut out and how awful that would be, so, you know, we do appreciate your evidence and it has been very useful?-- Mr Morris, may I also say that I am very concerned about what's in my file that come from the North Burnett Health District.

Yes?-- I am very concerned about that and I would like to know how that got into my file, I had never seen this doctor, never had a consultation with this doctor, yet this doctor can put this in my file. Now, I don't know. It seems to pertain to me what it talks about, but as I said, I have never seen this doctor in my life and I don't know who this doctor is or neither have I been to the North Burnett Health Service.

I suppose there is a possibility that there's more than one person called Geoff Smith?-- I'm an original, mate.

Yes, okay. Thank you again for your evidence.

WITNESS EXCUSED

COMMISSIONER: Mr Atkinson?

MR ATKINSON: We have nothing further. I was hoping we'd stand down.

COMMISSIONER: Ladies and gentlemen, you'll all be aware that tomorrow morning the Deputy Commissioners and I are having an inspection of the hospital. I understand that Mr Andrews, are you joining us?

MR ANDREWS: I am, Commissioner.

COMMISSIONER: And I think Mr Boddice is also planning to come along.

MR FITZPATRICK: That's right, Commissioner Morris.

COMMISSIONER: And I understand we are meeting at the hospital at a quarter to nine, is it? 8.45?

MR ANDREWS: 8.45.

COMMISSIONER: Yes. In those circumstances, we won't resume evidence until 10.30 tomorrow. Does that suit everyone's convenience?

MR ANDREWS: Thank you, Commissioner.

COMMISSIONER: 10.30 tomorrow then.

THE COMMISSION ADJOURNED AT 5.22 P.M. TILL 10.30 A.M. THE FOLLOWING DAY