(18)

STATEMENT OF LINDA MARY MULLIGAN

I, **LINDA MARY MULLIGAN** of Bundaberg in the State of Queensland, Registered Nurse state as follows:

1 I am a registered nurse.

2 In this statement, I refer to a number of conversations to which I was a party. I cannot now recall the precise words used. However, I recall the effect of the words spoken. In this statement, where I depose to conversations, I am deposing to the effect of the words spoken.

Background/Qualifications

3 In June 1979, I graduated from the University of Windsor in Canada. I obtained a Bachelor of Science in Nursing and a Bachelor of Arts with a major in Psychology.

4 From then until 1982, I worked at the University of Texas Medical Branch in Galveston, Texas. I worked in neurology and then a Medical Intensive Care Unit ("MICU").

5 From 1982 until 1984 I worked at the University of California Davis Medical Branch, Davis, Sacramento first as a registered nurse and then as a charge nurse in the MICU.

6 From 1984 until March 1985, I worked part-time as a registered nurse at the Scarborough Centenary Hospital, Toronto in the ear, nose, throat and plastics ward.

7 I then took maternity leave for a period of 10 to 11 months.

8 In early 1986, I returned to work part-time for a cardiologist in a private laboratory conducting cardiac stress testing and cardiac holtering monitoring.

9 In April 1988, my husband, my child and I moved to Australia.

10 I did not work until February 1989 when I commenced at the Townsville Hospital as a charge nurse in the Medical Specialties Unit.

11 From November 1989 until July 1990, I took maternity leave before returning to my position at the Townsville Hospital.

12 In early 1992, I accepted a position as Assistant Director of Nursing ("ADON") - Clinical at the Townsville Hospital. I remained in that position until mid-1994.

13 In mid-1994 I was the Relieving DON at the Kirwan Hospital for Women in Townsville.

14 In January 1995 I commenced as the Director of Nursing ("DON") at Dalby Health Services in Dalby.

15 In 2003, I completed a Graduate Certificate in Public Sector Management through Flinders University in South Australia.

16 I remained in the DON position at Dalby until mid-March 2004. Attached and marked LMM1 is a bundle of letters which I understand were sent by four staff members who I worked with at Dalby to the Bundaberg Hospital Commission of Inquiry.

17 On 17 March 2004 I commenced at the Bundaberg Hospital as District Director of Nursing ("DDON"). In that role I reported to the District Manager ("DM"), Peter Leck who reported to Dan Bergin , the Zonal Manager.

18 The Bundaberg Health District ("the District") includes hospitals in Bundaberg, Gin Gin and Childers and a five day per week healthcare centre at Mount Perry.

19 Nurses from all divisions throughout the District report to me in relation to all professional issues. However, all day to day operational issues are managed by the rural DONs who are located at each of the facilities, or myself in the case of Bundaberg.

Bundaberg Hospital - Handover

20 I received my handover from Toni Hoffman on 17 March 2004. I understand she had been in the acting DDON position for three weeks before I arrived. Her substantive position was Nurse Unit Manager ("NUM") of the Intensive Care Unit ("ICU").

21 Before I arrived in Bundaberg, Ms Hoffman had telephoned me and asked me if I wanted an organised or informal handover. I said that I would like an organised handover.

22 I did not receive any documents of handover from Ms Hoffman. However, she went through relevant files with me, discussed the meetings I would be required to attend and took me on a tour of the hospital.

23 Ms Hoffman made some comments of a gossiping nature at the time about the capabilities of the DM, Mr Leck, and the ADON, Carolyn Kennedy. I told her that I would prefer to make my own determinations in relation to staff.

24 Ms Hoffman raised no issues concerning Dr Patel at the time of handover. She did mention that at some suitable future time, she wanted to discuss the matter of activity levels and admission and transfer of patients to the ICU as well as some issues concerning communication with doctors (though she did not mention Dr Patel or any other particular doctor by name). She said she had discussed that matter with Mr Leck when she was acting DDON.

25 Ms Hoffman, in her statement dated 22 May 2005, refers at paragraphs 41-42, to a conversation involving Dr Keating concerning Dr Qureshi. I have no recollection of that conversation and would be surprised if it happened in my presence because I believe that the comments attributed to Dr Darren Keating would have been quite out of character and further because I believe that I would have remembered this conversation had it occurred in my presence.

26 Ms Hoffman also refers in her statement:

(a) at paragraph 47 to conversations with Dr Martin Carter and Patrick Martin about the need for liaison with the ICU about availability of beds in relation to major surgery;

(b) at paragraph 48 to an instruction said to have been given by Dr Miach;

(c) at paragraph 50 to a document headed "ICU Issues with Ventilated Patients".

27 None of those matters were raised by Ms Hoffman with me as part of the handover. In particular, Ms Hoffman did not give me the document referred to in subparagraph (c) which she says she gave Mr Leck in February 2004 and to which Ms Hoffman then added to produce the document which is now attachment TH10 to her statement. The first time I saw that document (or any part of it) was when it was submitted by Ms Hoffman with the incident report in relation to Mr Bramich to which I refer below.

28 Ms Hoffman also refers (at paragraph 55 of her statement) to a conversation with me about Dr Patel. I have no recollection of that conversation and I find it hard to believe that I made any such comment about Dr Patel as is attributed to me because, at that time, I did not know Dr Patel and had no basis for passing on any assessment of his ability.

29 I refer to Ms Hoffman's statement (paragraphs 53-54) in which she says that:

(a) although she had handed to Mr Leck the document headed "ICU Issues With Ventilated Patients", she had done so informally and did not wish Mr Leck to take any formal action upon it;

(b) she "was careful not to make adverse comments about Dr Patel" in the course of my handover.

30 In my opinion, particularly having regard to the concerns Ms Hoffman says she had about Dr Patel arising from the matters recounted earlier in her statement, it was quite inappropriate for her to fail to raise the matter with me in handover as the new DDON and to leave it to me to find out for myself matters which she had an obligation to report to me as the Acting DDON.

Nursing Management Structure

31 In my position as DDON, there was a very flat management structure with 25 staff reporting to me on both an operational and professional manner. This structure was in place prior to my arrival.

32 The staff reporting directly to me were:

(a) Assistant Director of Nursing – Carolyn Kennedy;

(b) NUM DEM/Specialist Clinics – Sue Vandenberg (Acting);

(c) NUM Pre-Admission – Margie Mears (Acting);

(d) NUM Theatre – Gail Doherty and David Levings (Acting);

(e) NUM ICU – Toni Hoffman;

(f) NUM Surgical Ward – Di Jenkin;

(g) NUM Day Surgery Unit – Gwenda McDermid;

(h) NUM Renal Unit – Robyn Pollock;

(i) NUM Medical Ward – Dilys Carter;

(j) NUM Paediatrics – Deb Spry;

(k) NUM Rehabilitation – Rens Schenvold;

(l) NUM Family Unit – Anne Robinson;

(m) Nurse Informatics – Beryl Babiddge initially (retired-others acting);

(n) Nurse Informatics – Carol McMullen;

(o) Nurse Educator – Luci Wadsworth;

(p) Nurse Educator – Annette Baldry;

(q) Nurse Educator – Carol McMullen;

(r) Clinical Nurse Consultant Infection Control – Gail Aylmer;

(s) Clinical Nurse Consultant Palliative Care – Jane Truscott (Substantiative), Carol Francis (Acting);

(t) Day Bed Manager – Liz Allan;

(u) After Hours Nurse Manager – Lesley Douglas;

(v) After Hours Nurse Manager – Barbara Taylor;

(w) After Hours Nurse Manager – Jan McClure;

(x) After Hours Nurse Manager – Jan Mareese;

(y) Permanent Reliever-After Hours Nurse Manager – Lynn Anderson.

33 Some specialised Clinical Nurses ("CN") positions such as Stomal Therapy and Diabetes Education felt they reported directly to the DDON, however the organisational chart for nursing did not reflect that. I clarified this matter with the staff involved to ensure they were aware that their line reporting was through the appropriate Nursing Officer ("NO") Three.

34 In my first nine months at Bundaberg I assessed the existing nursing structure. It became obvious to me that the number of people who directly reported to me was

excessive. It was difficult to perform a strategic NO 6 DDON role managing the required changes within nursing services and deal with the competing requirements of day to day operational matters of all the NO 3 and 4s and their clinical areas.

35 I had initiated discussions with Mr Leck in my first few months at Bundaberg about this issue and it was agreed that, after a reasonable assessment period on my part, we would discuss the matter further. A consideration of alternative structures/nursing roles had begun prior to my leave in March 2005 and this task was a priority for progression on my return from leave in April 2005.

36 I have been accused of sidelining the ADON, Ms Kennedy. I deny this. In the first few weeks after I commenced at Bundaberg Mr Leck and all other members of the executive made comments of concern to me about the performance of the current ADON.

37 Mr Leck informed me that the ADON no longer had line management of the NO level 3s and that he had discussed the ADON's role and her performance at length with Beryl Callanan when she was acting DDON, which I understand was from 13 October to 21 December 2003. Mr Leck said Ms Callanan (who was on secondment from her position as ADON at the Princess Alexander Hospital in Brisbane) provided Mr Leck written advice suggesting responsibilities for the ADON. This written advice did not suggest changing the reporting structure but included project and portfolio roles for the position of ADON. Attached and marked LMM2 is a copy of Ms Callanan's email to Mr Leck with attached document outlining suggested responsibilities for the ADON.

38 Ms Hoffman also prepared documentation regarding the role of the ADON which I was provided. Attached and marked LMM3 is the document prepared by Ms Hoffman regarding ADON responsibilities.

39 I indicated to Mr Leck and the remainder of the executive I wished to make my own assessment about the ADON. However, I said I would listen to everyone's views and, in fairness to the ADON, I stated that nursing services had been in flux with so many acting DDONs prior to my arrival.

40 In my first months at Bundaberg, I listened to people's comments about the current ADON's role and performance which included comments from the NO level 3s, the Queensland Nurse's Union ("QNU"), the executive and from Ms Kennedy herself. I requested that any comments made be validated. For example, I asked that this be done in relation to the negative comments made by executive members in response to the poor internal disaster document Ms Kennedy produced, and the complaint made by Vicki Smyth of the QNU that Ms Kennedy sent official documentation about a staff member's performance on plain paper rather than Queensland Health letterhead.

41 I stated to the executive that, in fairness to Ms Kennedy, she should be given the opportunity under my guidance to meet performance expectations as her role had changed prior to my arrival. For example, items such as incident management had been removed from Ms Kennedy and a new system initiated. To that end I met with Ms Kennedy weekly, and was mentoring her to manage delegated items such having a system in place for each clinical area to have clear documentation on their staffing full-time equivalents, requesting her participation in the training of staff in risk management framework and requesting her to review the hospital chemotherapy policy to improve the manner in which staff obtain their initial competency and continuing assessments across the District.

42 I also initiated discussions with Ms Kennedy regarding the ADON role itself, and requested her to document her views, which she did. Attached and marked LMM4 is the document Ms Kennedy provided to me.

43 Initially I was unable to delegate change management projects (as had been suggested by Ms Callanan) to Ms Kennedy such as the Paediatric Rehabilitation Co-location project due to her skill level. However, I was progressively attempting to develop her skills in this area. As a result I supported her attendance at a Change Management workshop, and following this requested her to manage the Surgical Staffing Working Party. Ms Kennedy indicated to me she had not done such a change management process previously, and was not comfortable with her skill level in managing this matter on her own. I indicated I would support her and give her guidance where we could talk over the working party at our weekly meetings and I would attend the working party meetings as required which I did prior to my going on leave in March 2005.

44 On my return from leave in April 2005 the review of the ADON role was going to be continued in a formal manner in line with other nursing positions being newly formed and a review of the nursing structure within the Health Service, including the appropriate consultation with staff and unions.

45 I found that as the DDON I was unable to delegate to an expected level and I had to personally get involved in change management activities in addition to all other DDON day to day responsibilities. The workload of the DDON role was enormous and in the first year I was required to manage system reviews in nursing where there were issues i.e. patient complaint management, adherence to policies such as TOIL and Human Resource Delegations. There were issues with clinical competency both on a systems basis i.e. overall competency rates for CPR, Emergencies and Infection Control to

individual staff performance matters of a serious nature with which I assisted the DM and NUMs. There were a number of acting NO 3s requiring support and human resource issues which had to be addressed, as well as recruitment and selection activities I had to be personally involved in. Strategic matters such as the cross district role change of the NUM for Renal Services, the establishment of the Winnie May Scholarship and the matters within the nursing stream of Mental Health were given very tight time frames for implementation. Furthermore there were contentious professional nursing issues requiring my personal involvement which in some respects had not been handled properly prior to my arrival. These professional issues were being driven corporately and included the grievances related to the career structure implementation for NO 3s and above, the implementation of the nursing qualification allowances and the advertisement and filling of the Enrolled Nurse Advance Practice positions.

46 There was a lot of generalised anger within nursing services, and in particular at NO level 3 over these matters, which was common across the state. Ms Aylmer, Dr Truscott and Ms Jenkin were NO level 3s who had lodged grievances with the career structure translations and were very angry in relation to the same.

47 My daily schedule was full and my hours long, requiring me frequently to do work in the evening, on weekends and on public holidays in addition to normal business hours.

48 There had previously been a Nurse Manager HRM which supported the DDON and level 3s in management of staffing, including recruitment and selection. This position was changed prior to my arrival and reported to the HR Manager and then became part of the newly formed corporate services group that was independent from the Health Service District. This was a concern and issues were raised with me by the Day Bed Manager who had to take on the responsibility of casuals, the After Hours NMs, the

NUMs and ADON who had to manage with fragmented staffing as each clinical area was doing their staffing including recruitment and selection independently. This resulted in no one person having any clear handle on staffing overall across the Health Service from a nursing perspective. Additionally it appeared job descriptions were not being updated (some for years) and in fact I was implementing some strategies in relation to this matter, and had conversations with the NO 3 HR who also had concerns regarding her role. As a result, I initiated discussions about the unsatisfactory situation with Mr Leck, as I felt that nursing services had lost support services, with no evaluation of the same after the role had changed. He agreed there were some issues with this role, and I began to address the issues with Peter Heath, Director of Corporate Services in early 2005.

Accessibility

49 It was not the case, as has been suggested, that members of the Executive were remote and inaccessible. In fact, there was a good deal of consultation and numerous opportunities for issues to be raised. In order to demonstrate this, I propose to outline first, the various available forums at which issues could be raised.

50 There are a number of committees/meetings in which any issues/concerns/problems could be communicated to the senior medical or nursing staff and executive. Those committees (together with brief comment where appropriate as to their involvement with the issues concerning Dr Patel) are detailed in the document attached and marked LMM5.

51 There is an evaluation process in place within Bundaberg Health Services by which the Committees listed in LMM5 (not the forums and other general meetings I have listed) are reviewed on an annual basis. Evaluation forms are distributed to Committee

members to complete and these forms were sent back to the District Quality officer who correlated the same and sent them back to the Committee for discussion and/or implementation of changes.

52 When I started at Bundaberg, I found there were many committees. As a new-comer, I made suggestions to improve the committees and meeting minutes, including having an administrative assistant to sit in on major meetings and record minutes directly on to a computer, listing the relevant ACHS indicator to items and recording an item as either opened or closed after the discussion as this aspect was often unclear in the minutes.

53 All minutes of committee meetings were placed on G Drive at the hospital so the minutes could be accessed by all staff. It was encouraged that all middle managers ensure their staff were aware of hospital activities through holding their own regular staff meetings, distributing hard copies of minutes and encouraging staff to access the minutes on G Drive.

54 I was also available to meet with nursing staff (and others) individually. I informed my initial meeting with NO level 3/5s held on 8 April 2004 that every attempt would be made for NO level 3s (which included Ms Hoffman) to have same day access to me on urgent matters but that otherwise appointments should be made with my administrative assistant. That was documented in the minutes for that meeting, a copy of which is exhibit 84.

55 Ms Hoffman makes reference in her statement (paragraph 79) to the location of my office and suggests that it was inaccessible. It is the same office as was occupied by my predecessor, Glennis Goodman, and presumably by her predecessors.

56 My contact numbers were listed in the Hospital's Internal Telephone Directory which was available in hard copy and via every computer on the intranet system. The directory on the intranet was updated by our IT department.

57 I carried a free-set which is part of an internal phone system and I could be contacted on it by any hospital staff. I used the same free-set contact number as my predecessor, Ms Goodman, and this was known to the NUMs and other staff as well as being listed in the internal telephone directory.

58 There is no reason why Ms Hoffman could not have contacted me on my free-set. I carried it with me at all times. I would always answer the free-set unless I was in a meeting where it was inappropriate to do so. On occasions I turned my free-set off if I was in a meeting where it was not appropriate to receive calls. When I did not answer my free-set or I had it switched off, the call would automatically divert to my administrative assistant who would take a message. Therefore, no telephone calls went unanswered.

59 It was and always has been my practice to return phone messages promptly, particularly if they were expressed to be urgent.

60 I was also available to staff during my walkabout of the hospital. Prior to my arrival I understand the DON and ADON had a roster where they visited the wards at 0800 daily. On my arrival I stated to the level 3/4/5/6s that I would be visiting the clinical areas, but not on a roster basis. The rationale was that I wanted to visit when it was suitable to talk to staff, not just to the NUMs and at unplanned times/different times as appropriate. I also indicated if an area was having difficulty or needed support I would be visiting that area more frequently and this would be dependent on the matters at

hand. However, the ADON would continue with her roster as before and the staff were still able to raise any issues with her if they wished.

61 It is my view that random visits were more effective than a daily round at 0800 which was not the best time to be able to talk to all levels of nursing staff and patients, nor was it contemporary nursing practice. I initially wanted to view the clinical areas at different times of the day, in order to get a feel for those areas. Further, the NUMs were professionals with responsibility for managing their respective areas and ought not to have needed daily supervision by me. It is my understanding from discussion with other District DONs that it is no longer the general practice to go on rounds in hospitals and that many of them do not do so at all, relying on their NO level 3/4/5s to ensure appropriate information is relayed.

62 Further, I had to ensure appropriate time management with all the requirements of my role to ensure that I was accessible, not exclusively during the course of walkabouts, but was also available for individual and group appointments and the various meetings which I attended.

63 My own practice involved going on walkabout on average to one or two areas every couple of days. The timing of my visits to the wards varied as I would make those visits before and after meetings, on my way to and from home and at lunch time. I would select the areas that I visited according to the particular need at the time. As a result, I spent more time during 2004 visiting the Emergency Department (which had experienced issues relating to bullying) and the Rehabilitation Unit (which was undergoing a change management process). In later times it was the Family Unit because complaints of bullying had been lodged in relation to staff in those areas and I

considered that it was important that I spend time speaking with and supporting staff in those areas.

64 There was great opposition to the removal of "Matron Rounds" from only a few people, including the ADON and Ms Hoffman. I understand my practice differed from the previous DON. However, I consider this to be a difference in management style only. I note from the evidence given by Ms Hoffman, that she preferred the previous DON's system of rounds. However, it is apparent from her evidence that that system did not result in her concerns regarding Dr Patel being addressed in any way despite Ms Hoffman saying that she informed the previous DON of her concerns on a regular basis.

65 I was also available to go to ward staff meetings when requested, and I did so in a number of areas such as Renal, Rehabilitation and Emergency.

66 I attended the nursing orientation of each new group of staff on a monthly basis and introduced myself and let the staff know how to access me. I also held two one hour sessions on a monthly basis for discussion of Queensland Health values and the management of complaints from patients of the Health Service which were open to all nursing staff.

67 Additionally there was an "On Call System" for Nursing Administration. This was done by roster and was one week on, one week off, twenty four hours a day shared between myself and the ADON. I kept a mobile with me at all times and NO level 3/4/5s, other executive members and Switch could contact me at all times.

68 I have extracted from my diary details of my days worked on a month by month basis and numbers of meetings with nursing staff from the Enrolled Nurse level upwards. In

any one month, these figures may include more than one meeting with the same staff member. I have not included meetings with persons other than nursing staff or the routine meetings/committees listed in LMM5. Those meetings are summarised below:

Month	Working Days	Days I was at Hospital	Meetings with Nursing Staff
2004			
March	8 (after handover)	7 (I on rural tour)	9 staff / 8 appointments
April	22	13 (3 public holidays, 1 day sick leave)	49 staff / 41 appointments
May	21	15 (2 public holidays, 3 days conference, 1 day leave)	27 staff / 25 appointments
June	22	17 (2 zonal DON's forum, 1 public holiday, 2 sick leave)	32 staff / 32 appointments
July	22	16 (5 days workshop, 1 day course) of which 10 as Acting DM	31 staff / 27 appointments
August	22	21 (1 day workshop)	58 staff / 44 appointments
September	22	16 (4 days sick leave, 2 days leave)	28 staff / 24 appointments
October	21	16 (5 days leave)	20 staff / 19 appointments
November	22	20 (2 days leave) of which 4 devoted to tilt train accident	26 staff / 25 appointments
December	23	10 (1 day workshop, 1 day Hervey Bay, 1 day open day, 10 days leave)	14 staff / 9 appointments
2005			
January	21	15 (2 public holidays, 1 day Mt Perry, 3 days leave)	21 staff / 16 appointments
February	20	17 (3 days leave)	42 staff / 32 appointments
March	10 (pre leave)	10	26 staff / 22 appointments

69 In addition, I was accessible by email. I would estimate that I received up to 60 emails per day. It was and always has been my practice to respond to emails promptly, particularly if they were expressed to be urgent.

70 I have reviewed my records to identify emails I sent to Ms Hoffman (either responding to emails from Ms Hoffman or initiating contact with her). I have included only emails sent specifically to Ms Hoffman and have excluded emails to groups which included Ms Hoffman and emails to others which were copied to Ms Hoffman. Such email contact with Ms Hoffman may be summarised as follows:

Year	**Month**	**Emails (dates)**
2004	March	8 (25 x 2, 26, 29, 30 x 3, 31)
	April	9 (5, 6, 8, 14 x 2, 15 x 2, 20, 20)
	May	13 (4, 5, 6, 13, 17, 18 x 4, 19, 21, 31 x 2)
	June	14 (1 x 3, 3, 9, 17 x 2, 18, 21, 28 x 4, 30)
	July	9 (2, 5, 6, 8, 9, 15, 27 x 2, 29)
	August	7 (10, 13, 16, 17, 19, 20, 26)
	September	7 (7, 20, 23, 28 x 4)
	October	3 (1, 18 x 2)
	November	9 (1 x 3, 10, 11, 12, 18, 24, 26)
	December	3 (8, 9, 17)
2005	January	11 (4, 7, 10, 11 x 2, 12, 14, 20 x 2, 24, 25)
	February	20 (1, 2 x 3, 4, 7, 8, 9, 15 x 2, 16 x 2, 17 x 2, 22, 23, 24 x 2, 28 x 2)
	March	7 (2 x 2, 4, 7, 13 x 3)

71 In summary:

(a) I had numerous meetings at which I was available for matters of concern to be raised;

(b) I was contactable on the internal telephone system;

(c) I was contactable by email;

(d) I had numerous meetings with nursing staff including Ms Hoffman;

(e) I did random walkabouts.

72 Finally, if Ms Hoffman had requested to see me on an urgent basis to discuss a serious matter such as her allegations against Dr Patel, I would have seen her at the first available opportunity and certainly the same day. The fact of the matter is that Ms Hoffman did not make any attempt to raise issues concerning Dr Patel with me save as set out below.

Systems/Processes

73 I considered NO level 3/4/5s to be highly trained and experienced managers and responsible for their relevant areas of work. I did not consider I needed to supervise them on a daily basis.

74 Both Ms Hoffman and Ms Aylmer have given evidence that they consider I "micro-managed". I do not consider that was my management style nor did I have the time to manage in that way.

75 I recognised that staff may require guidance and support. However, level 3/4/5s are senior managers in their own right and are accountable for their delegations. As such, I

expect that they will request assistance from me when needed as their staff will do with them.

76 Part of my responsibility was to ensure that staff at this level practiced within Queensland Health's policy and industrial requirements. In this regard, there were areas of concern which I was required to monitor and enforce in my role as DDON, including but not limited to rostering practices, utilisation of TOIL and stand down on Public Holidays. Some staff accepted this requirement freely. However, others (including Ms Hoffmann and Ms Aylmer) did not. In fact Mr Martin informed me just prior to my leave in March 2005 that Ms Hoffman and Ms Aylmer had commented to him that they considered that I micro-managed. I assumed they thought this because of some of the actions I had to take to ensure adherence to Queensland Health policy..

77 The Bed Manager or After Hours Nurse Manager sent a daily shift report on a shift by shift basis for the three shifts of each day. The information conveyed in these reports depended, to a large extent, on the person who prepared the report. I had a habit of reading this report first up on arrival to work and then calling the level 3/4/5 if there was an issue in relation to which I needed clarification. Alternatively, if I had meeting requirements or the Level 3/4/5 was not working at that time I would email them for further clarification.

78 I did expect that if the staff at level 3/4/5 wished to discuss any matters of concern that they would notify me.

79 I also had the ability to access daily information on the patient/nurse acuity system called TREND CARE, which gave patient and staffing details. After my arrival I also requested the Nurse Informatics staff to provide regular reports on analysis of staffing for the clinical areas and this resulted in me having a clear picture of the same and

allowed opportunities for me to have conversations with NO level 3 and 5s with validated information.

80 Each Cost Centre Manager (NUMs for clinical units, CNCs for Infection Control and Palliative areas, Nurse Educators for the education unit and the ADON for the cost centre of Nurse Informatics and her own wages/supplies) did a monthly report. These monthly reports were sent to me and included information on finance, performance indicators such as activity, staffing, clinical indicators, performance monitoring/audits, quality activities/improvements and complaints and compliments. These staff were provided support by the District Quality and Decision Support Unit ("DQDSU") in compiling data for the reports and I expected the level 3/4/5s to analyse variances and alert me to any issues of concern that were not evident from the face of the report. For example, a clinical indicator for the Theatre area was unplanned returns to theatre. I have again reviewed the reports for the twelve month period I was at Bundaberg and confirmed that this data was reported to me as ranging between 0 to 2 patients per month which appeared to me to be within an acceptable range. At no time was I alerted that this was an increase from previous years or cause for alarm.

81 There were numerous systems in place to provide me (and other members of the executive) with information about the activities within the hospital.

82 Time off in lieu ("TOIL") for nursing services was part of an industrial agreement which had to be documented by a system within nursing services and mutually agreed between an employee and their line manager. Limits existed for the hours and time frames in which TOIL could be taken. Within the Bundaberg Health Service District a TOIL policy had been developed prior to my arrival. It required any staff who had an industrial ability to have TOIL to document it on a standard form. The form made

provision for the recording of dates and the amount of TOIL accrued and used and sign off by the line manager.

83 Mr Leck raised TOIL as an issue soon after I arrived at Bundaberg. He informed me that he was concerned about the level of TOIL hours within nursing services and the apparent lack of documentation and sign off for TOIL at level 3. He said this concern was a result of an experience he had with a couple of NO level 3s.

84 Initially TOIL was not my first priority. However, I later asked level 3 and 4s if they were adhering to the District TOIL policy requirements. It was evident they were not – the majority were not maintaining the required form for recording TOIL or getting sign off from their line manager (DDON) and some had excessive hours which was actually outside the industrial award agreements for accumulation of TOIL. Therefore, I requested all staff to carry forward their current balances to the correct District form and then send the form to me for sign off. I asked the staff to continue on from that point in time adhering to the policy requirements. However, I did say that if they had levels of TOIL accumulated which were outside the award agreements, I would expect an explanation for those levels and then expect those staff members to put a plan in place to take some of the excessive TOIL hours. This actually occurred with Ms Douglas who explained her excessive TOIL balances often related to meetings she attended as a QNU representative such as DCF outside of her normal working hours as a After Hours Nurse Manager. I agreed that was fine and a plan was put in place for her to take a whole week off and be replaced in order to reduce those TOIL balances to the acceptable level.

85 I also explained to NO level 3 and 4s that I did not expect them to ask me personally each time they were in a situation where they had to do an extra hour or wished to take

an extra hour, as at their level I would expect them to responsible. However, I asked them to just let my administrative assistant know their plans or send me an email so that it was recorded that they worked longer or had left early. If I happened to be at my desk when an email arrived, I would respond. An example is attached and marked LMM6. Otherwise my administrate assistant would make a note in the electronic diary. This was also done to protect them in case of an accident while leaving work early or coming in late as they were covered by Work Cover for travel to and from home and, in that case, we would need to be able to demonstrate that their hours had been altered on that day as this was not documented on their roster. This was explained to staff and I can not think of any occasion where any staff reporting directly to me was refused TOIL.

86 I always tried to ensure flexibility with the staff that reported to me and if the matter was short term so it did not impact on patient care or the operational aspects of the hospital I would allow those staff flexibility for their personal circumstances. For example, I allowed a NUM of a busy clinical area to take up to a two hour lunch break each day to check on her sick spouse and I allowed a Nurse Educator to work very limited hours with special adjustments due to a long term illness.

March – July 2004

Initial meeting with Peter Leck

87 On 26 March 2004, I had my first meeting with Mr Leck. An earlier appointment with him had been cancelled. After welcoming me, Mr Leck discussed the need for reform within the nursing services generally and the requirement for systems review as well as performance management of middle managers (being NO level 3s and the ADON.)

88 He gave me a history of the facility where all the streams of administrative, professional, medical and operational had experienced change management to ensure appropriate processes where in place. He said this was required as a result of a culture where staff often disregarded appropriate processes and felt they did not have to adhere to corporate or district rules. Rather, he said that many of the staff determined themselves what should occur, ignoring management expectations or directions.

89 He stated it was a very industrial orientated workforce which strongly resisted change and that the Health Service had to have numerous issues resolved at the Industrial Commission level. He indicated that he had discussed with the previous DDON, Ms Goodman, that reform in the nursing stream was to occur next and she resigned soon thereafter.

90 I was provided clear priorities to address within the nursing stream by Mr Leck in my first twelve months.

Visit by Minister of Health

91 Gordon Nuttall, Minister of Health, and Steve Buckland, Director General of Queensland Health, planned a visit the Bundaberg Hospital on 7 April 2004. On 29 March 2004, in preparation for that Ministerial visit, I requested five NUMs, including Ms Hoffman, to prepare briefs on their areas of responsibility.

92 Attached and marked LMM7 is a copy of an email from Ms Hoffmann attaching the summary she prepared in relation to ICU and CCU. She identified only one issue in her summary where she states "Main issue is difficulty in maintaining ventilated patients for longer than 24-48 hours". She did not mention Dr Patel.

Written report re P40

93 Ms Hoffman refers in her statement (at paragraph 85) to giving me a copy of the report by Ms Boisen dated 28 March 2004. I have never seen that document prior to receiving it as an attachment to Ms Hoffman's statement. She did not provide it to me in March 2004 and did not raise the matter with me at any time.

Meetings with QNU

94 On 30 March 2004, I called and arranged a meeting with Auriel Robinson, QNU Organiser located at Bundaberg. I had worked with Ms Robinson previously in Dalby Health Service where Ms Robinson was an Enrolled Nurse and local QNU branch member. Ms Robinson did not mention any issues regarding Dr Patel.

95 However, she did speak in negative terms about Mr Leck and Judith McDonnell, the Service Director of Integrated Mental Health Services. I listened to her comments and then said she was aware of how I did my job and I would get on with ensuring systems were in place for addressing any issues. We agreed to meet on a monthly basis before the District Consultative Forum. We also agreed to have a working relationship where either of us could contact the other directly with issues of concern.

96 I met with Ms Robinson on 1 April 2004, 6 May 2004 and 6 June 2004. Ms Robinson did not raise any concerns regarding Dr Patel during these meetings.

97 Ms Robinson was subsequently replaced by Vicki Smyth. I met with Ms Smyth on 1 July 2004 and 5 August 2004. Ms Smyth did not raise any concerns regarding Dr Patel during these meetings.

98 I also met with Kym Barry, Professional Officer with the QNU from Brisbane, on 4 May 2004 and 27 July 2004. Ms Barry did not raise any concerns regarding Dr Patel during these meetings.

ASPIC meetings

99 Ms Hoffman refers in her statement (at paragraphs 62-66) to discussions at the ASPIC meeting on 14 April 2004. I did not attend ASPIC meetings and Ms Hoffman did not raise with me at that time the issues she says were discussed. The matter of the retention of ventilated patients in the ICU was not raised with me by Ms Hoffman until our meeting on 8 July 2004 to which I refer below.

100 Ms Hoffmann was then on annual leave during the week commencing 19 April 2004. The relieving NUM, Martin Brennan, did not raise any issues with me regarding Dr Patel.

101 Mr Brennan has given evidence that he did not meet me until about nine months after I started at Bundaberg. That is not true. I met Mr Brennan when I visited the ICU during the week he was acting NUM.

Adverse event training

102 On 20 April 2004, I sent an email to all level 3 and 5 staff stating that I expected them to attend training on the updated process for documenting adverse events as it had been indicated to me that there needed to be better attendance rates within nursing services. A number of staff and NO 3s such as Ms Hoffman had attended already (Ms Hoffman attended on the 8 April 2004). However, some areas had poor compliance, for example, Theatre staff. The training was to ensure staff not only documented actual

incidents as they occurred, but also near misses or potential incidents and to encourage a learning and quality improvement environment.

103 I found when I arrived at Bundaberg that there was no consistent practice amongst nursing staff of documenting issues including adverse events. Rather, it appeared to be common practice for such matters to be reported sporadically and only verbally. On occasions when adverse events were reported in writing, often the correct form was not completed and the document was undated and/or unsigned. It is my strongly held view that such matters need to be properly documented so that they can be effectively investigated and further, in order that a proper record can be kept for future reference. I communicated this requirement to nursing staff on a frequent basis to ensure their understanding of the same.

Meetings with Level 3s

104 Soon after I commenced at Bundaberg I informed all NO level 3s that I wanted to set up times to meet with each of them individually to get to know them and their views in relation to their areas of responsibility. Prior to the meetings I sent an email providing information about the questions I intended to raise with them for discussion. The email is attachment TH12 to Ms Hoffman's statement.

105 I met with each of the NO level 3s at the following times:

(a) 5 May 2004 at 1400 – NUM Day Surgery, Gwenda McDermid;

(b) 5 May 2004 at 1600 – Nurse Manager Elective Surgery Coordinator, Karen Smith;

(c) 11 May 2004 at 1400 – NUM Surgical Ward, Di Jenkin;

(d) 11 May at 1600 – NUM ICU, Toni Hoffman;

(e) 11 May 2004 at 1000 – Acting NUM Pre-admission Clinic, Margie Mears;

(f) 13 May 2004 at 0900 – Clinical Nurse Consultant Infection Control, Gail Aylmer;

(g) 13 May at 1400 – NUM Renal Unit, Robyn Pollock;

(h) 13 May 2004 at 1500 – NUM Theatre, Jenny White;

(i) 4 June 2004 at 1100 – Nurse Manager Bed Management, Liz Allan;

(j) 8 July 2004 at 1400 – After Hours Nurse Manager, Lesley Douglas (and QNU Hospital Representative).

106 Noone raised any concerns regarding Dr Patel at these meetings. Attached and marked LMM8 is a copy of the notes from my meeting with Ms Hoffman which record that she told me when questioned on any issues in the ICU area that there was an "excellent body of nurses/supportive-limited conflict in the area". Ms Hoffman did not raise any issue concerning Dr Patel at the meeting and to the extent that she suggests (at paragraph 72 of her statement) that we discussed Dr Patel, that is incorrect.

107 Ms Hoffman refers (at paragraph 73 of her statement) to her perception that I "appeared to be concentrating on bureaucratic and pernickety measures" and to the introduction of a "file note" form. When I first arrived at Bundaberg, I found that there were many issues being raised verbally by nursing staff in relation to such matters as recruitment and selection, performance management and so on. I would be told about a particular problem but found that there had been no report previously generated raising the issue and that the person raising the problem intended to simply report the matter to me verbally without any documentation.

108 In my opinion, it was more appropriate for significant issues to be recorded in writing and a copy of the document provided to staff affected. I found that, even where some documentation was produced, it was sometimes undated and unsigned and one could therefore not tell where it had come from. Accordingly, I instituted what I regarded to be a practice consistent with contemporary HR and nursing practice by requiring that significant issues be raised in writing so that they could be dealt with appropriately. The purpose of instituting the system was not to make me less available but to enable matters to be dealt with more factually and professionally.

Complaint Management

109 Ms Hoffman also refers (at paragraph 74) to documentation of complaints. The procedure to which Ms Hoffman refers is that which applies to complaints surrounding or received from patients, the family of patients or from other hospitals (eg. Eidsvold) which refer patients to Bundaberg.

110 The policy was for each of the Executive Directors to ensure that complaints within their respective areas of responsibility were investigated and addressed. Thus, complaints about medical staff are investigated and managed by the Medical Director whilst I was responsible for investigating and addressing complaints directed to nursing staff, unless such complaints were of a criminal nature or raised professional issues (including misconduct) or were of a legal nature, in which case they were to be referred to the DM. I was not responsible for the overall management of complaints in the Bundaberg Health Service, but because of my strong interest in management of patient feedback, I was asked by the Mr Leck to be responsible for updating the District policy relating to complaints.

111 The procedure that I implemented within Nursing Services was to have any patient complaint investigated by the NO level 3 line manager of the staff member who was the subject of the complaint. Thus, patient complaints would ordinarily be referred to the relevant NUM who was expected to use the template letter in order to inform the staff member of the complaint and to obtain a response. It was important that the principals of natural justice were adhered to, and staff had an opportunity to respond to the actual allegations, and a determination be made after all facts were considered

112 The procedure involved the NUM meeting with the staff member concerned, providing the letter which would have a copy of the complaint attached and requesting a response within an appropriate period, usually of the order of a week, during which time the staff member could consult with the Union or the Employee Assistance Service ("EAS") if desired.

113 The template letter warned against discussing the allegations with other staff members or the patient who had made the complaint. The purpose of that stipulation was:

(a) Where more than one staff member was involved in care of the patient, to prevent any collusion between staff members in relation to the response to the complaint and to prevent any suggestion of collusion;

(b) To prevent any general discussion about the fact that a complaint had been received, particularly in circumstances where nursing staff were responsible for the ongoing care of the patient when general knowledge of the fact that the patient had complained might impact on the attitude of other staff members to that patient;

(c) To prevent the staff member from making any direct contact with the patient concerned, and patients then being concerned about reprisals.

114 Once the complaint had been investigated by the relevant NUM, a report would be provided to me and I would then respond in writing to the complainant. If the complaint was substantiated against an individual nurse(s) or if in the course of the investigation there were opportunities for improvement within nursing services, I would have discussion with the relevant NUM to put a plan in place. This, for example, may include change of policy or procedure, counselling and/or further skill development of a staff member(s).

115 Where the complaint related to the conduct of one of the NO level 3/4/5s, I would be the person responsible for investigating and managing the complaint in my capacity as their line manager.

116 I had discussed the policy with the QNU organiser, Ms Robinson, shortly after my arrival in Bundaberg. I had known Ms Robinson from my time at Dalby and she was therefore familiar with the process and responded positively to implementing it in Bundaberg.

117 I would estimate that over the course of my first year at Bundaberg, there were between about 30 and 50 patient complaints which were dealt with in accordance with this policy.

118 It may appear from Ms Hoffman's statement (paragraph 74) that this procedure was required to be followed by staff who wished to raise complaints about other staff or aspects of hospital management. That is not the case; rather, the policy I have been describing was for use in dealing with patient complaints although there were two

occasions early in 2005 when a similar process was followed in dealing with complaints of conduct of a bullying nature made by staff members against other staff.

119 The policy relating to patient complaints was in fact revised by the Executive during the period late 2004/early 2005. I was requested by the Executive to review the existing District policy and this was delayed as I was awaiting the National project outcomes of "Turning wrongs into rights", and had hoped to have a new District brochure and poster to be released at the same time which Leonie Raven, Quality Officer, was assisting in sourcing/developing of the same. The outcome of that review was a document which was considered and approved by the Leadership and Management Committee in early 2005. I then provided the document to Ms Raven under cover of an email dated 10 March 2005, a copy of which (together with the attached document) is attached marked LMM9. The poster and brochure was to follow.

120 I conducted on a monthly basis two one hour sessions with the nursing staff to explain the procedure for dealing with complaints as well as addressing the same issue at NO level 3/4/5/6 meetings. I told staff that I did not consider any patient complaint trivial and that if a patient took the time to lodge a complaint then I was sure that the patient would not regard the matter as trivial either. I said that I therefore expected that all complaints would be taken seriously and dealt with in a fair and transparent manner and most importantly, a consistent manner. I told NO level 3/4/5/6 meetings that I expected the NO level 3/4/5s to have a proactive role in managing patient complaints and doing so in a conciliatory manner.

121 It is my understanding that prior to instituting this procedure, the manner in which patient complaints were dealt with was that the DDON would speak with the NUM and then make a determination about the complaint. The staff member who was the

subject of the complaint was not provided with a copy or consulted and given any opportunity to respond. The outcome was therefore not evidence driven but rather was dependent largely on how well the staff member was liked by the NUM.

122 Ms Hoffman did raise in one of those meetings the matter of being prohibited from discussing complaints with other members of staff. I told her that there were support mechanisms in place and that staff could obtain assistance from EAS or the QNU or could discuss the matter with me. However, complaints were not to become everyone's business, but only the business of those concerned. I did not want a continuation of the existing culture where complaints were gossiped about and discussed by persons who had no involvement. I wanted to make the procedure for managing complaints more professional and confidential. This was a matter which I discussed at the NO level 3/4/5/6 meetings on 8 April, 29 April, 21 May and 30 June 2004.

123 Ms Hoffman gave evidence she thought that if she lodged complaints this would impact her ability to access ongoing training or career opportunities such as acting up. I dispute this was the case. In fact, after Ms Hoffman lodged her complaint with respect to Dr Patel's clinical competence in October 2004, Ms Hoffman attended a critical care conference in Melbourne for one week from 15 November 2004 and the Central Zone Critical Care Network Workshop in Rockhampton on 7 and 8 December 2004 and she acted as the ADON between 10 and 23 January 2005.

Line Management

124 Ms Hoffman refers (at paragraph 76) to my removing the ADON as the line manager of the NUMs. In fact, it is my understanding that the NUMs' line manager prior to my

arrival was the DDON, not the ADON. That is reflected in my job description, a copy of which is attached marked LMM10.

125 Further, I note that Ms Hoffman refers earlier in her statement (at paragraph 28) as well as in her evidence (eg T43/10, 32, 51/41, 59/46, 60/27) to the then DON, Ms Goodman as her line manager. I believe that is an inaccurate statement of the management structure. The ADON was not Ms Hoffman's line manager at any time and that her complaint that I removed the ADON as her line manager is simply unfounded and based on Ms Hoffman's lack of understanding of the factual position.

126 Documents such as leave forms are required by Queensland Health to be signed off by the line manager, in Ms Hoffman's case the DDON. Accordingly, if the ADON had been signing off "leave approval forms and the like" then that practice was in error and outside the delegations as set by Queensland Health.

127 Further, I do not agree with Ms Hoffman's observation that in general the ADON would act as DON or that my system was unusual. In my opinion, good practice is to advertise the availability of acting positions both within the District and outside in order to attract applications from the best available qualified staff as well as to enable a broader range of persons within Queensland Health to have the opportunity to gain experience acting in positions above their existing levels.

128 Further, the appointment of acting DONs from outside the district was not unusual. Prior to my arrival, apart from Ms Hoffman herself, Mr Martin, June Fischer, Fay McGrath-Dowse and Ms Callanan had relieved in the DDON position rather than Ms Kennedy.

129 I would point out that when I was on leave for one week in late October 2004, Mr Martin (from Bundaberg) relieved for me. There was only one other occasion (in March 2005) when I was relieved.

130 In any event, it is the DM's responsibility to select and appoint an acting DDON, not mine.

Conduct During Meetings

131 Ms Hoffman then refers (at paragraph 77) to my acting in a bullying fashion towards some of the attendees at the NO level 3/4/5/6 meetings. I deny acting in a bullying fashion. Where appropriate, I was firm in expressing my expectations and in giving directions. It was apparent to me that there were some members of the nursing staff who believed that they were not required to act in accordance with normal Queensland Health policy and who had, in the past, developed their own way of doing things.

132 At times, I had to make it clear that the rules applied to everyone. There were occasions when staff members raised their voices at these meetings. There were also occasions when staff members raised particular issues or persons in a manner which I considered inappropriate and better dealt with privately. Again, I accept that I expressed my position in a firm manner, but deny that I engaged in any conduct which could fairly be described as bullying. When staff raised issues which were not appropriate to be discussed in that forum or not relevant to the meeting which was in progress, I invited the staff to speak to me after the meeting or to make an appointment to see me.

133 Ms Hoffman did not hesitate to raise issues in meetings at which I was present if she felt the need to. She always appeared comfortable speaking openly about relevant issues. I always gave staff the opportunity to raise relevant issues during meetings.

134 Ms Hoffman refers (at paragraph 82) to my summoning staff members to her office on short notice, often about trivial matters. I deny that that was the case. Quite apart from anything else, I did not have time to call staff members into my office to discuss trivial matters but rather would telephone them.

135 The incident to which Ms Hoffman refers (at paragraph 82) concerning the illness of a nurse in the Education Centre is, I believe, a reference to an enquiry I made of Ms Hoffman when she was ADON (not NUM of the ICU) and concerned two NO level 3 staff members who were very sick. I wished to obtain information as to how they were progressing because I was concerned about their health and in fact spent a good deal of my time trying to assist them and their families deal with the trauma of their illnesses; that included telephone calls and visits.

Meeting with Ms Hoffman – 25 June 2004

136 I met with Ms Hoffman on 25 June 2004. I requested the meeting to discuss concerns what had been reported to me by others that indicated Ms Hoffman may have a health problem and her frequent sick leave and low sick leave balance. We discussed strategies to overcome the concerns which had been raised. Ms Hoffman raised no issues concerning Dr Patel during this meeting.

Meeting with Ms Hoffman – 8 July 2004

137 On 8 July 2004, I met with Ms Hoffman at 1100. This was a routine Performance and Development ("PAD") meeting. During the course of this meeting Ms Hoffman

expressed concerns about Dr Patel's style of communication and behaviour. Ms Hoffman made the following comments about Dr Patel:

(a) He was always loud and "full of himself";

(b) He would 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;

(c) He was always saying how great his skills were;

(d) Ms Hoffman had not agreed with him at times, and he would then ignore her and not talk to her.

138 I asked Ms Hoffman whether she was able to confront Dr Patel when he behaved inappropriately. She stated she found that difficult. On further questioning, she also said this was not unique to Dr Patel, but a problem she has had generally, both at work and in her private life.

139 I told Ms Hoffman that she had the following options available to her:

(a) She could lodge a complaint or grievance against Dr Patel's behaviour;

(b) I could arrange a meeting to be attended by Ms Hoffman, Dr Patel, Dr Darren Keating (Medical Director) and myself to discuss the issues.

140 Ms Hoffman said she did not want to pursue either of those options.

141 I also suggested to Ms Hoffman that it could help with her skill development to consult a psychologist from EAS. I also offered her a book of my own that had been helpful to staff I had worked with previously on dealing with difficult behaviour. The book is called

Coping with Difficult People and was written by Dr Robert Branson. She said she would like to read the book and took it with her.

142 We agreed that it would be appropriate for Ms Hoffman to undertake additional training in conflict resolution. This was documented in Ms Hoffman's PAD agreement, a copy of which is attached marked LMM11.

143 At this meeting, we also discussed the issue of admission/transfer to ICU and the unit's capacity for ventilated beds. Ms Hoffman said this was a matter she had discussed with the Director of ICU, Dr Martin Carter. She said that there were problems between doctors in Internal Medicine and those in Surgical and that the situation could be improved by updating the existing admission/transfer guidelines. She said that there was an existing policy which had been in place for some time to the effect that if there were more than two ventilated patients in ICU, then arrangements would be made for transfer. That was because caring for more than two ventilated patients was difficult with available nursing staff.

144 However, Ms Hoffman had been unable to locate a copy of the existing policy. She was eventually able to locate in March 2005 an ICU policy regarding ventilation.

145 Ms Hoffman also said that problems were arising because of communication problems between Surgery (Dr Patel) and Internal Medicine (Dr Miach) in relation to available ventilated beds. The situation was being exacerbated by Dr Patel's policy of keeping his patients in Bundaberg for longer than provided in the previously accepted policy of 24 to 48 hours for ventilated patients.

146 Ms Hoffman expressed the view that having a clear and concise updated policy would assist in resolving the communication issues between Dr Patel and herself as well as

between the internal medicine and surgical streams in relation to bed availability. I agreed with Ms Hoffman that by adopting a formal policy to deal with these matters, the difficulties which were being experienced could be more readily overcome. This seemed the best way of progressing the matter in light of Ms Hoffman's unwillingness to meet with Dr Patel in person. We agreed that she would work with Dr Carter with whom she felt comfortable to progress the updating of the admission/transfer policy and I asked Ms Hoffman to keep me informed as to how things were going.

147 This meeting on 8 July 2004 was the first occasion Ms Hoffman had ever informed me of any issues she had with Dr Patel. The issues raised by Ms Hoffman at this meeting related only to Dr Patel's communication and behaviour and the admission/transfer of patients, not his clinical competency.

148 A number of weeks later, Ms Hoffman returned the book I had given her and told me it was helpful.

August – September 2004

Complaint relating to Mr Desmond Bramich

149 On 3 August 2004, I received copies of an Adverse Event Report Form (incident reported by RN Karen Fox) and a Sentinel Event Report Form (incident reported by Ms Hoffman) from DQDSU relating to the treatment of Mr Desmond Bramich whilst he was in ICU. Copies were also sent by DQDSU to the Medical Director and the DM. Copies of the reports are attached and marked LMM12.

150 On 5 August 2004, I discussed the adverse event regarding Mr Bramich with Dr Keating. I asked him whether the matter was going to be investigated. He said it was and that he had already requested information from the Medical Officers involved. He

said he would discuss it with the DM when he returned to the office. Attached and marked LMM13 is a copy of an email from Dr Truscott DQDSU dated 3 August 2004 with my handwritten note recording my discussion with Dr Keating.

151 The complaint concerning Mr Bramich involved medical issues. As such, it was my responsibility to refer the complaint to my line manager, Mr Leck. I was not responsible for nor was I able to investigate the complaint. I had no involvement in investigating the complaint.

152 I was of the belief from my discussions with Dr Keating and Mr Leck that the matter was being handled appropriately and an investigation was occurring.

153 On 13 August 2004, I emailed Ms Hoffman (who had been away from work due to illness) and informed her that the incident she had reported involving Mr Bramich was being investigated and that I would contact her once I had more information. My email to Ms Hoffman and her response is exhibit 86. Ms Hoffman is therefore inaccurate when she says that she received no feedback for at least one month (statement paragraph 89).

154 At the NO level 3/4/5/6 meeting on 25 August 2004, Ms Hoffman raised "staff stress over medical incident and difficulty accessing EAS". I followed this matter up with Ms Hoffman soon after this meeting. I discussed the issue she had raised, and asked her to follow up the same including with an individual staff member. Attached and marked LMM14 is a copy of a note I made of this discussion.

155 On 26 August 2004, I received an email from Ms Hoffman containing further information regarding the incident involving Mr Bramich (see TH21). I immediately forwarded Ms

Hoffman's email to Dr Keating for use in connection with the investigation. Attached and marked LMM15 is a copy of that email forwarding Ms Hoffman's email and report.

156 In that email Ms Hoffman raised the issue of an impending surgical procedure to be performed by Dr Patel that she was concerned about. I immediately sought advice from Dr Keating who followed up this issue with his Medical Officers and confirmed by email that day that it was appropriate for the surgery to proceed the following day. Attached and marked LMM16 is a copy of my email to Dr Keating, his response and my further response to him. I then responded to Ms Hoffman, noting my concerns about the ongoing communication issues and the need to address the problem (see TH22), as it was being demonstrated to me with this current issue that the action Ms Hoffman insisted on taking in relation to communication issues with Dr Patel, that we had discussed in our meeting on 8 July 2004, did not appear to be successful. Ms Hoffman responded to my email on 30 August 2004 (see exhibit 87)

157 During my regular meetings with Mr Leck, I also spoke to him in the course of this time period regarding the Mr Bramich complaint and he indicated that the investigation was taking some time as Dr Keating had informed him that a clinical review had to be done, including a review of all the clinical data relevant to the case, and consultation with the medical officers involved. I mentioned this verbally to Ms Hoffman in one of our conversations on a date I cannot recall and she did not raise concerns with me at that feedback.

158 On 3 September 2004, Ms Hoffman forwarded a further email to me with a statement relating to Mr Bramich from RN Karen Fox (see TH26). I immediately forwarded this to Dr Keating. A copy of the email from Ms Hoffman to me with my handwritten note is attached and marked LMM17.

159 Ms Hoffman refers (at paragraph 83 of her statement) to an attempt to make an appointment to see me on 28 July 2004 about Mr Bramich. I do not accept that Ms Hoffman was unable to speak to me about Mr Bramich because:

(a) On 28 July 2004, the monthly DMs forum was held at about 1200 followed by lunch. The forum was regularly attended by all executives and NUMs were among the staff invited. I cannot say for certain whether Ms Hoffman attended on this particular occasion, but as a general observation she rarely attended such forums. If Ms Hoffman had wished to discuss Mr Bramich with me, she could have done indicated so at this forum or at the lunch which followed;

(b) Both Ms Hoffman and I attended the NO level 3/5/6 meeting which took place between 1300 and 1530pm on 28 July 2004 (though the minutes record the date inaccurately as 29 July). Again, Ms Hoffman could have raised the matter of needing to see me re Mr Bramich at that time, but did not choose to do so.

(c) I met with Ms Hoffman on 5 August 2004 as appears from annexure TH14 to Ms Hoffman's statement; again, she did not raise Mr Bramich with me at that time.

(d) Ms Hoffman also refers (in paragraph 83) to her cornering me in her office which I take to be a reference to my visit to the ICU on 18 October 2004 (to which I also refer later). On that day I made a visit to ICU because I understood from my meeting with the QNU representatives that there were staff in ICU who had issues they wished to raise in relation to Dr Patel's behaviour. I had expected, following that meeting, that those ICU staff who had raised the matter would contact me. In fact, I had heard nothing further about the matter and that was why I had decided to go to ICU on that day. When I arrived at the ICU I

found Ms Hoffman in her office and so I went into her office and sat down in the chair on the other side of her desk, near the door. I told her in follow up to my meeting with the QNU regarding allegations of staff concerns, that I had not received complaints from other nursing staff and it was therefore arranged while I was in ICU that I would speak to the staff at that time. Accordingly, Ms Hoffman's characterisation of the meeting as having been the result of her cornering me is a distortion.

160 Ms Hoffman refers (at paragraph 107) to a meeting with me on 30 August 2004. I have no record in my diary of a meeting with her on that day. Ms Hoffman did not at any time raise with me the matters set out in the email from Ms Fox which is part of attachment TH32.

161 I refer to paragraphs 113 and 114 of Ms Hoffman's statement. The only statement Ms Hoffman sent to me was the statement by Ms Fox which was emailed to me by Ms Hoffman on 3 September 2004. Ms Hoffman did not provide any of the other statements directly to me, but rather, they were provided direct to Mr Leck. In that regard, I refer to Ms Hoffman's email dated 22 October 2004 (TH36) and her letter to Mr Leck dated 22 October 2004 (TH37).

Meeting with QNU

162 There was a meeting scheduled for 8 September 2004 with Ms Barry (Professional Officer, QNU, Brisbane). It was to deal with workload issues and (as I understood from Ms Barry) possibly an issue relating to the ICU. However, I was absent from work due to illness on that day and my administrative assistant cancelled the meeting. I was told by my assistant that Ms Barry had requested that I phone her on my return about an

important matter. I did not meet with Ms Barry on 3 September 2004 as asserted by Ms Hoffman (paragraph 111).

163 I returned to work on 10 September 2004, however I remained unwell and had additional time off until 15 September. On 16 September 2004 I telephoned Ms Barry. She said she wanted to talk to me about ICU. However, she said she was otherwise engaged at this time and said she would call me back, but she did not make the follow up call to me.

164 On 6 October 2004, I had my monthly meeting with Ms Smyth (Bundaberg Office Organiser QNU). Ms Barry had been in the habit of flying up from Brisbane for these and other meetings, which was unusual in my experience. It was at this meeting that Ms Barry told me that there were issues with ICU. I asked her whether this was the matter she had raised on 16 September 2005. She said it was.

165 She said that she and Ms Smyth had met with seven ICU staff regarding issues concerning Dr Patel's behaviour. I said to her that I was aware Ms Hoffman had issues with Dr Patel's behaviour and I outlined to her my discussions with Ms Hoffman on 8 July 2004. I said that no other issues had been raised with me by ICU staff or any Theatre/Surgical staff. I said that I had understood that the problem was only between Ms Hoffman and Dr Patel but that if there were problems involving other staff, then they should meet with me or document their concerns so that they could be addressed. Ms Barry said she would have the staff do that.

166 Ms Barry did not tell me at the meeting the detailed nature of the concerns though she did say that they went beyond communication issues. I recall that Ms Barry mentioned the Mr Bramich matter and I told her that was being investigated. She did not indicate any disagreement with the proposition that Ms Hoffman's concerns related to

behavioural and communication matters. Attached and marked LMM18 is a copy of my notes from that meeting.

October 2004

167 On 18 October 2004, I went on walkabout in Health Service. I visited ICU. There I spoke to Ms Hoffman who told me that QNU had said to her that in our meeting I had said that the only current issue at hand was that Ms Hoffman had a personality conflict with Dr Patel. I told her that is not what I had said, but that I had gone through the options we had discussed in July 2004. I also said she was the only person who had raised any issues in relation to Dr Patel (other than in relation to the case of Mr Bramich) and that those issues concerned behaviour/communication and the admission/transfer policy.

168 Ms Hoffman went on to talk again about issues with the available number of ventilated patients and the ability to transfer to other facilities. I told her it was imperative that she provide detailed information to me and to the executive so the matter could be addressed.

169 I reminded her that I was happy to meet with any staff and encouraged her to ensure that if staff had any issues that they document them and provide them to me as soon as possible.

170 While I was still in ICU, I met with three staff, two female RNs and one male RN. I am presently uncertain as to their names, but could ascertain those names if I had access to hospital records as to staff on duty that day. They talked about the Mr Bramich matter and provided me with other examples of concerns they had about Dr Patel. All of the concerns (other than the Mr Bramich matter, which I reiterated was being

investigated) related to Dr Patel's behaviour and not to any issue related to the standard of patient care. I strongly encouraged them to document the issues to me, so that the correct procedure could be followed and the matters investigated.

171 At 1400 that day I requested an urgent meeting with Mr Leck and Dr Keating. I said I understood Mr Bramich's case was being investigated, but that I also believed that the behavioural/communication issues relating to Dr Patel needed to be addressed as a matter of urgency. I informed them of my conversation with the nursing staff earlier that day. I said I felt we needed to progress the option of mediation between Ms Hoffman and Dr Patel in order to resolve the issues of behaviour/communication, as I was concerned the matter was not resolving and impacting the smooth operation of the ICU. It was agreed that since Ms Hoffman was unwilling to discuss the matter with Dr Patel, Dr Keating would progress the matter by seeking Dr Patel's agreement to participate in mediation with Ms Hoffman and I would then raise the proposed mediation again with Ms Hoffman.

172 It was also agreed that data needed to be provided to us from Ms Hoffman and Dr Carter in order to address the issues relating to transfers/ventilated capacity which Ms Hoffman had raised. I had not received anything from Ms Hoffman about the proposed new policy since the 8 July 2004 meeting, nor any data about ventilation hours so in order to progress the matter, I had to request the data from Ms Hoffman. I did so by email , requesting the same by the close of business on 1 November 2004. Attached and marked LMM19 is a copy of my email dated 18 October 2004 and Ms Hoffman's responses on 1 November 2004 providing data as requested. See also TH40.

173 On 20 October 2004, Mr Leck told me that Dr Patel was willing to participate in mediation with Ms Hoffman, so I arranged for Ms Hoffman to see me that morning to discuss this option with her.

Meeting with Ms Hoffman – 20 October

174 Ms Hoffman came to my office at 1100 at my request. The meeting was not arranged by Ms Hoffman as claimed in her statement (paragraph 120), nor did it concern the staffing matters which had arisen in late September which are the subject of the exchange of emails attachment TH35 to Ms Hoffman's statement - a staffing problem which resulted from a failure on Ms Hoffman's part to plan in advance with a staff member being on maternity leave.

175 At the meeting on 20 October, I raised the concerns I had about the unresolved behaviour/communication issues between her and Dr Patel and suggested that an external trained mediator be brought in. I told her that Dr Patel had agreed to participate in mediation.

176 Ms Hoffman then proceeded to tell me that this was not just an issue about Dr Patel's behaviour/communication but that she believed his patients were dying because of his care and that he had falsified records. She mentioned that there were a number of cases, but she did not provide me with any further details at this time. She said she had raised issues previously with other medical staff. In particular, she said that:

(a) In 2003, she and Dr Joiner went to see Dr Keating in relation to Dr Patel but that she had found Dr Keating dismissive. She said that she had discussed the matter at the time with the DDON;

(b) Dr Peter Miach, Director of Medicine, told her he would not let Dr Patel treat his patients;

(c) Dr David Risson told her he had concerns with Dr Patel;

(d) Dr Patel was delaying transfer of patients to Brisbane and that there were a number of examples (she did not provide patient names at this stage, apart from mentioning Mr Bramich).

177 I was shocked and horrified and asked why she had not given me this information sooner. She was crying and kept saying she was sorry she did not tell me everything sooner. I said that if she was making allegations about patient outcomes and safety, then this was a very serious matter and it must be investigated by a medical practitioner who had expertise in this area. I explained I would try to get in to see Mr Leck urgently and raise this matter so that she could see him personally to tell him these allegations. I said I would call her as soon as I had talked to Mr Leck.

178 This was the first occasion Ms Hoffman had ever informed me of concerns she had in relation to Dr Patel's clinical competency (other than the Bramich case which was being investigated).

179 I immediately requested to see Mr Leck. Mr Leck saw me within about five minutes and I briefed him on what Ms Hoffman had told me. It was agreed he needed to see her immediately; he requested I remain for the discussion. Ms Hoffman was called up to Mr Leck's office to discuss her concerns/allegations. Ms Hoffman was not kept waiting for 15 minutes to my knowledge and the claim in her statement (paragraph 122) that Mr Leck and I were laughing is simply untrue. Rather, I was in shock from what Ms Hoffman had told me and Mr Leck was equally horrified when I relayed the information

to him. Mr Leck asked Ms Hoffman to document the allegations by Monday, 25 October 2004.

180 Ms Hoffman was reminded of her ability to access her industrial support group and EAS. Ms Hoffman did raise an issue about another staff member having problems accessing EAS, and Mr Leck requested her to document that issue so it could be taken up with the EAS staff and to ask that staff member to make contact with me or Mr Leck, as consideration for payment of any private psychologist could occur.

181 I was assured by Mr Leck that the matter would be dealt with and he had taken over responsibility to progress this complaint which was of a serious nature. This would be the expected action as this complaint by Ms Hoffman regarding Dr Patel was a medical issue which meant I was not responsible for investigating the matter and managing the issues surrounding it.

182 I was on leave from 22 October to 31 October 2004. Mr Martin was relieving as DDON in my absence and at the handover meeting on 21 October 2004, I briefed him about the meeting with Ms Hoffman the day before and told him that the matter was in the hands of Mr Leck who was waiting for the details of the allegations to be provided by Ms Hoffman.

183 After I returned from leave, I saw that Ms Hoffman had sent an email to Mr Leck on 22 October 2004 regarding her concerns about Dr Patel. See TH36 and 37.

November-December 2004

184 During the time period prior to 1 November 2004, Dr Keating and I had more than one discussion on the ICU activity and ventilation hours, and in fact had Dr Keating had also requested some independent information regarding those issues as I had on the 18

October 2004. Ms Hoffman did have some difficulty meeting the deadline and did not provide validated information in relation to some of the issues she had raised, for example, the number of patients whose transfer was delayed and for what time period. See last page of LMM19.

185 During November the Tilt Train Diaster and aftermath occurred, which certainly affected the time and ability of executive staff to deal with day to day matters.

186 During November/December 2004, I sought updates from Mr Leck from time to time and he kept me informed generally regarding the complaint Ms Hoffman had made against Dr Patel. I did not document his responses as they were often in passing, but I recall that he told me that he had spoken to the doctors Ms Hoffman had referred to in her statement and that he had sought advice from other DMs and from Dr Mark Matuissi. He also said he had referred the matter to Queensland Health Internal Audit which had advised him to appoint a senior clinician to investigate the matter, but that it was difficult to find a suitable person during the Christmas time period.

187 Ms Hoffman had leave during the November and December period. However, I provided Ms Hoffman with verbal updates of the fact Mr Leck was progressing the investigation. I did not did not provide specific details (which I did not have) and I did not discuss the involvement of the internal audit. Ms Hoffman did not, at any time, raise any concerns with me about the timing of the progression of the investigation.

188 From 21 December 2004 to 3 January 2005, I was on leave.

189 Prior to my going on leave, I had spoken to Ms Hoffman regarding some personal events in her life. On 22 December 2004, she sent me an email. Attached and marked LMM20 is a copy of the email.

January 2005

190 On 4 January 2005 (the day I returned from leave), I went on a walkabout around all the clinical areas in the hospital. When I was in ICU, I asked Ms Hoffman if any issues had arisen while I was on leave. She informed me that no issues had arisen in ICU, but she had heard further rumours about Dr Patel which originated from nursing staff in theatre and the surgical ward. I told Ms Hoffman that I would be seeing the NUMs in those areas shortly, so I would question them about this.

191 I then went to the surgical unit and spoke to Di Jenkin, NUM surgical. When I asked her she denied any issues had arisen in the surgical unit over the Christmas period. I then referred to my earlier conversation with Ms Hoffman and said Ms Hoffman believed that some staff in surgical had raised some issues which may relate to Dr Patel. Ms Jenkin then said she had heard that one staff member had raised some concerns about Dr Patel. I asked her who the staff member was and she told me it was RN Michelle Hunter. I asked her what Ms Hunter's concerns were. She told me she did not know the details, but she understood it related to a surgical procedure. I asked whether Ms Hunter was working at that time. Ms Jenkin said she was not. I asked Ms Jenkin to contact Ms Hunter immediately, find out what she was upset about and get her to document her concerns.

192 Ms Hunter states, in paragraph 15 of her statement, that Ms Jenkin came to see me on this occasion. She did not. It was me who approached Ms Jenkin after my discussion with Ms Hoffman earlier that morning. Ms Hunter, also in paragraph 15 of her statement, states that Ms Jenkin told me that Ms Hunter intended to write to the HRC about this issue and that I told her that that was not the right way to go about it. I deny this. Ms Jenkin did not even mention the HRC during our conversation.

193 I then went to speak to Gail Doherty, the acting NUM in theatre. Ms Doherty had just taken over as acting NUM after returning from leave. The previous NUM had asked to step down from her position. During the recruitment process and after an unsuccessful attempt at recruiting a replacement NUM, Ms Doherty and David Levings agreed to act in the position on a "month on/month off" basis until a replacement could be found. After I asked Ms Doherty whether any theatre staff had raised any concerns she said she was aware that Mr Levings, acting NUM, had spoken to a number of theatre staff who had raised issues about Dr Patel. I reminded Ms Doherty that if any staff had concerns they needed to document their concerns immediately. Ms Doherty said she believed three staff members were involved. I asked her to seek out those staff and ask them to document their concerns. She told me she was not sure if they were willing to document their concerns. I told Ms Doherty that if that were the case, she should encourage the staff to come and see me at least so that I was aware of the issues.

194 Damien Gaddes states, in paragraph 21 of his statement, that David Levings informed him that he had spoken to me about P21 on 21 December 2004 and a meeting would be arranged between Mr Gaddes and the two other nurses. That is not true. Mr Levings never spoke to me about P21 and, in any event, I was on annual leave on 21 December 2004.

195 Mr Gaddes states, in paragraph 24 of his statement, that he was advised by his NUM they had been told that Dr Patel was not going to be permitted to perform oesophagectomies in the future. I do not consider the NUM would have informed Mr. Gaddes of this at that time (although may have done so subsequently), rather I informed Mr. Gaddes of this at our meeting on 7 January 2005.

196 I completed my walkabout and then returned to my office and sent emails to Ms Hoffman (see TH43), Ms Jenkin and Ms Doherty confirming our conversations. Attached and marked LMM21 are copies of my emails to Ms Jenkin and Ms Doherty. I mentioned to Mr Leck that there were concerns being expressed and that I had requested details be provided.

197 Later that day or the following day I received a letter from Ms Hunter expressing concerns about the treatment of [redacted] and delay in transferring him to Brisbane. Attached and marked LMM22 is a copy of Ms Hunter's letter with received stamp dated 4 January 2005.

198 I referred Ms Hunter's complaint to Mr Leck on 5 January 2005 (see exhibit 152) and sent a memorandum to Ms Hunter thanking her for her letter (see exhibit 153) and informing her I had referred her complaint to the DM. Mr Leck responded to my email with information regarding the complaint (see exhibit 151). As requested by Mr Leck, I attempted to contact Ms Hunter on 6 January 2005 (see exhibits 151 and 152). In light of Ms Hunter being on days off until 10 January 2005, I contacted her at this time and provided the feedback I had received from Mr Leck for which she thanked me (see exhibit 152).

199 I did not hear from any staff from theatre. A day or two later, I spoke to Ms Doherty again by phone. I asked her to encourage the staff to come and see me about their concerns.

200 On 7 January 2005, three theatre staff (RN Katrina Zolak, EN Janelle Law and RN Damien Gaddes) made an appointment to see me. They raised issues about the surgical skills of Dr Patel, his practising beyond his capabilities and delays in transferring patients to Brisbane, as well as falsifying records and intimidating staff. I

spent approximately one hour listening to their concerns and encouraged them to provide their information in a factual and professional manner immediately so that I could forward it to Mr Leck. I indicated to them that they were describing allegations that were questioning the behavioural and clinical competence of Dr Patel, so it was important that they document their concerns so that the allegations could be investigated by medical officers. I reassured them that they should not be concerned that their complaints would not be investigated or result in retribution. I reminded them of their ability to access EAS and industrial support. My notes of that meeting which are erroneously dated 7 December 2004 rather than 7 January 2005 are exhibit 147. I immediately emailed Mr Leck and made him aware of my meeting with the theatre staff (see exhibit 148).

201 Mr Gaddes states, in paragraph 22 of his statement, that he and the other two theatre nurses met with me in my office a day or two after 21 December 2004. That is not true. I will on annual leave until 4 January 2005. The meeting he is referring to is the meeting I have discussed which took place on 7 January 2005.

202 In relation to paragraph 22 of Mr. Gaddes' statement, Mr. Gaddes did not say that he would be forwarding a copy of his written statement to the QNU. He told me he had already sought advice from the QNU and I told him they were entitled to access that advice. My recollection is consistent with paragraph 23 of Mr. Gaddes' statement where he says he consulted Vicki Smyth of the QNU on 22 December 2005 and that he subsequently gave her a copy of his written complaint which Ms Doherty sent to me on 14 January 2005 (see below).

203 On 12 January 2005, in my regular meeting with Mr Leck, he indicated that Dr Patel would no longer be doing esophagectomies at Bundaberg Hospital. He asked me to let

Ms Hoffman know this and I informed her on 13 January 2005. My notes of that meeting are attached and marked LMM23. On these notes I have noted that I informed Ms Hoffman as Mr Leck had requested.

204 On 13 January 2005, I met with Ms Doherty, Ms Jenkin and Ms Hoffman to inform all of them that an investigation would be proceeding concerning the matters that had been raised in relation to Dr Patel and to reassure them about the investigation process.

205 I was careful to explain to them that they understood both their rights and the rights of their staff to be free of any threat of retribution and also Dr Patel's right to natural justice. I reinforced to them that they could access the Employee Assistance Programme and their Union throughout this process. I told them that it was imperative that staff understood the process and that they must behave professionally and that the same was expected of Dr Patel. There was an opportunity for them to ask questions during the course of the meeting.

206 I told them that if Dr Patel said anything to them or to other staff in relation to the matter under investigation, they were to inform me or Mr Leck immediately because they were not to fear any retribution as a result of their complaints. I asked that each of them discuss the matter immediately with the staff who were involved in the complaints and requested that they confirm to me by email that they had done so and that their staff understood the position. My file note of the meeting on 13 January 2005 is exhibit 149.

207 I received that confirmation from Ms Doherty on 14 January 2005 and from Ms Jenkin on 18 January 2005, both by email. However, as I did not hear anything further from Ms Hoffman, I followed her up by email on 2 February 2005 and she responded on that date. Copies of the emails are attached and marked LMM24.

208 On 14 January 2005, I received an envelope from Ms Doherty which contained statements from the three theatre staff. I immediately forwarded the statements to Mr Leck without retaining copies (see exhibit 148 which includes my handwritten note confirming that I received the statements and forwarded them to Mr Leck on the same day).

209 In paragraph 24 of Mr Gaddes' statement, he says that he did not receive any further response directly from me after the meeting on 7 January 2005. I received the three theatre staff statements in an envelope from Ms Doherty, not the staff themselves, on 14 January 2005. I had told the three staff at our meeting that I would send their statements to Mr. Leck as soon as I received them (which is what I did). I met with Ms Doherty, Ms Jenkin and Ms Hoffman on 13 January 2005 (see above). I knew that Mr. Gaddes had received feedback from me through Ms Doherty (see LMM24).

February 2005

210 On 1 February 2005 at 1445 to 1520, I met with Ms Smyth and Ms Barry of the QNU. I explained Mr Leck had informed me of the names of the people who would be investigating the issues concerning Dr Patel and the dates of their arrival at Bundaberg. I explained the people coming would be Dr G Fitzgerald the Chief Health Officer and Ms S Jenkins who was a nurse. Ms Barry was pleased about Dr Fitzgerald being involved, and she stated to Ms Smyth that he would be good, as Ms Smyth did not know him. I also told them the investigators would be in Bundaberg on 14 and 15 February 2005 for their meetings with staff. Ms Smyth and Ms Barry had a discussion between themselves about Ms Smyth having to re-arrange some other commitments if nursing staff wanted her to be in attendance. I told them that staff were generally aware that an investigation was to occur and that they may be required to be

interviewed. I acknowledged that EAS and the QNU may wish to be involved in the process. I did request that they allow me time to notify staff of the specific matters I had discussed with them, as I had just received the information and had not been able to notify the staff yet and they agreed. Attached marked LMM25 are my meeting notes from that meeting.

211 I met with Ms Hoffman on 2 February 2005 at 1430 to 1500 to notify her of the impending details of the investigation and which I had discussed with the QNU. I told her that she would be contacted regarding a suitable time for an interview and that I was not involved in that aspect. Ms Hoffman noted she would be on leave the next week if someone was trying to contact her. I then said I would notify the administrative assistant who was making the appointments of this which I did.

212 On the 3 February 2005 the Zonal Manager, Dan Bergin, visited the Bundaberg Health Service at 1000 hours. He met with executive and asked for an update from each director's area of responsibility. From a nursing perspective I explained that it had been a difficult year for the Nursing Officer 3s with a great deal of change including corporate systems relating to rostering and maintenance within their wards, and issues like the career structure translations and qualification allowances. I described some of the feelings of that group (including anger), and how their roles had changed over the years versus medical roles in relation to administration. Mr Baergen related his recent visit to Emerald and stated an external consultant had assisted the staff there with change and suggested that it also be considered in Bundaberg. I indicated that we were doing the same with consultants assisting in devolvement of staff in relation to change management and teamwork.

213 Mr Bergin also met with staff at the Heads of Department meeting and, I was told, he had a meeting with Dr Carter (which I was not involved in).

March 2005

214 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 Dr M O'Brien was engaged to hold a workshop on teamwork which was held or on 10 March 2005.

215 Teams of NUMs and Medical Directors in the areas of Renal, Medical, Family Unit, and ICU and after hours Nurse Managers were targeted. We did have difficulty in getting all staff there, and some nursing staff did not attend, or attended in part only. Ms Hoffman did attend in part. See attached and marked email LMM26.

216 I meet with Ms Smyth of the QNU on Monday, 14 March 2005 at 1300 to 1430. I indicated to her in that meeting I had no information in relation to the investigation of Dr Patel. Attached and marked LMM27 are my documented notes from that meeting. The minutes are erroneously marked 13 March 2005 rather than 14 March 2005.

Subsequent complaints

217 After this I was received complaints from various nursing staff in relation to Dr Patel. On each occasion, I actioned these appropriately and in accordance my delegation. The action I took is summarised in the following schedule:

Date	Complaint received	Action taken
20 January 2005	Email from Ms Hoffman attaching documentation from RN Vivienne Tapiolas re ICU issues	Forwarded the documentation to Mr Leck for inclusion in the investigation and confirmed I had done so in a return email to Ms Hoffman on the same day

Date	Complaint received	Action taken
	Meeting with Robyn Pollock, NUM renal unit, re renal planning document. At the end of the meeting she told me about issues Dr Miach had with Dr Patel.	I put forward Ms Pollock's name to be interviewed in Dr Fitzgerald's investigation.
4 February 2005	Meeting with Margie Mears, acting NUM pre-admission clinic, to discuss pre-admission tele-health clinics. At the end of the meeting I asked her whether she was aware of any issues re Dr Patel. She said the patients love him, but he was full of himself.	No action required.
6 February 2005	Email from Lesley Douglas, after hours nurse manager, re allegations of increased admissions and post-operative complications.	On 7 February 2005, I forwarded the email to Ms Jenkin and Ms Aylmer asking why I had not previously been informed of the cases. I received responses from both Ms Jenkin and Ms Aylmer.
10 February 2005	Letter of complaint received from RN Carolyn Tandy, theatre nurse.	I arranged for the documentation to given to Mr Leck the following morning and for a letter to be sent to Ms Tandy confirming receipt of her letter and informing her it had been sent to Mr Leck
18 February 2005	Received file note from Ms Aylmer re alleged comments made by Dr Carter. She indicated this was for my information only.	I did not believe it was appropriate that this be for my information only. I emailed Ms Aylmer and stated that I considered she should lodge an incident report, a complaint or raise it with the investigators so it could be followed up.
4 March 2005	Email received from Ms Hoffman regarding a patient who was refusing blood because of religious beliefs. Ms Hoffman stated the matter was a sentinel event.	I responded to Ms Hoffman by email on that day. I told her that I had informed Dr Keating of the incident and thanked her for informing me of the incident. I did point out though that it was not correct to label the incident as a sentinel event. Ms Hoffman responded and said she had completed an incident report.
8 March 2005	Ms Fox made an appointment to see me and identified herself as the person who had experienced problems	I listened to her concerns, told her I would follow this up Mr Leck immediately and told her she could be reimbursed for her private psychologist costs. Ms Fox said she had lodged a WorkCover claim the

Date	Complaint received	Action taken
	accessing EAS after the Bramich case.	previous week and the costs would be covered from the date of lodgement if approved. Following the meeting, I saw Mr Leck who confirmed the costs incurred prior to lodging the WorkCover claim would be covered. He requested I get documentation for him to sign. I emailed Cathy Fritz, Human Resource Manager, to draft a letter to Ms Fox to be signed by Mr Leck.

ICU admission/transfer policy

218 During the period from 8 July 2004 onwards, work on the formulation of the new admission/transfer policy for ICU had proceeded very slowly. The intention had been that Ms Hoffman would work together with Dr Carter to formulate a draft policy.

219 From time to time, I raised the matter with Ms Hoffman to enquire as to progress and she responded in a general way to the effect that it had been difficult for Dr Carter and herself to get together to discuss the policy, but that they were working on it.

220 During November 2004, Ms Hoffman was on leave and in addition, normal operation of the hospital was disrupted by the tilt train disaster.

221 I believe that Dr Carter was also absent from the hospital around the Christmas period when he travelled to England.

222 The matter was discussed at the Leadership and Management meeting in early January 2005 when it was decided to set a deadline of 14 February 2005 for Ms Hoffman and Dr Carter to produce the draft policy. When it was not received by that date, I continued to follow up Ms Hoffman who provided me with a draft on 17 February

2005. Attached marked LMM28 are copies of our email exchanges on 16 and 17 February 2005 and the draft policy.

223 However, what I received from Ms Hoffman was her draft and it appeared that she and Dr Carter had been working independently, each producing their own draft rather than working collaboratively as had been requested and agreed. The draft was also deficient in that it made no mention of the capacity for the number of ventilated patients, which was the key issue. Accordingly, a further extension was given to Ms Hoffman until 23 February 2005 when she and Dr Carter were to produce their draft.

224 On 23 February I was still in receipt of separate policies, and the ventilation capacity was not included in the policy Ms Hoffman sent. I therefore met with Dr Keating and expressed my concern about the apparent inability of two senior staff to produce the revised policy. Dr Keating agreed and we called a meeting on 1 March 2005 with Dr Carter and Ms Hoffman to discuss our concerns. The meeting took place from 1230 to 1345. Ms Hoffman emailed to me a copy of three intensive care manual policies relating to the care of ventilated patients later that day. On 2 March 2005, Dr Keating sent an email to Dr Carter, which was copied to me. I made a handwritten note of our meeting on 1 March 2005 on foot of that email. The final draft policy from both Ms Hoffman and Dr Carter was then received on 2 March 2005. Attached marked LMM29 are copies of the further communications leading up to the submission of the final policy on 2 March 2005.

ICU additional funding

225 On 3 February 2005, I requested Ms Hoffman to produce a draft submission for additional funding for the ICU directed to obtaining approval either for more funded beds or for more staff for ventilated patients within the existing bed numbers. I

understood from Mr Leck that he had received an indication that such an application would be considered favourably as indicated by the Zonal Manager on his visit. Approval of additional funding for ICU would also have helped to address some of the problems which were being experienced.

226 However, Ms Hoffman was going on one weeks leave from 7 February 2005 and delegated the task to the acting NUM. In the meeting with Ms Hoffman, Dr Carter and Dr Keating on 2 March 2005 I had enquired about the ICU submission. In view of the difficulties being experienced with the Admission/Transfer policy, I was not confident that Dr Carter and Ms Hoffman had agreed on the draft submission which had been submitted. Ms Hoffman responded to the effect that the draft had been prepared in her absence on leave but that it was in her office in an envelope unopened. Dr Carter said he had not seen it. Accordingly, Ms Hoffman and Dr Carter were requested to review the draft immediately and submit an agreed document outlining the funding direction needed from their perspective.

227 On 14 and 15 March 2005, I did my handover to Deanne Walls who was relieving as Acting District Director of Nursing while I was on 5 weeks annual leave.

228 In the handover, I requested that the finalisation of the ICU submission be followed up with Ms Hoffman during my forthcoming leave, and I emailed Ms Hoffman re the same. As it turned out the submission was not prepared in time for it to be considered and so far as I am aware, no additional funding was obtained.

Gail Aylmer

229 Ms Aylmer has given evidence about the inappropriate wearing of theatre attire. Ms Aylmer consulted me about the issue and I agreed with her suggested approach. After

Ms Aylmer emailed me on 7 January 2005 requesting feedback following her report to the Leadership and Management meeting in December 2005, I responded to her by email confirming we had discussed the issue of theatre attire at the meeting and would wait and hear the outcome of the ASPIC meeting. Attached and marked LMM30 is a copy of Ms Aylmer's email and my response. Following that, I also provided Ms Aylmer with some assistance in wording an email to Dr Patel which is GA 18. Ms Aylmer did not request any further assistance from me in relation to this issue.

230 The executive had requested Ms Aylmer to be recertified in Professional Assault Response Training (PART) in order that ongoing essential education could occur with staff in aggression management. It was recognised this was not necessarily part of her role of Infection Control, however Ms Aylmer had a nursing education background and had been a certified trainer in Bundaberg in recent years.

231 This required Ms Aylmer to be away for five days so I indicated to her verbally that she could be replaced. I followed this up with an email on 22 March 2005, Ms Aylmer responded to my email, suggesting it was too late and she would just need to work some TOIL. I was always conscious of the workloads of the NO 3s and did not have an issue if they were required to work longer, but wanted to ensure that this was not excessive and impacting on them personally or in their role. A further email exchange occurred where I was suggesting appropriate succession planning as she stated she could not be relieved due to lack of certain skills. Ms Aylmer actually suggested in this instance she would rather have an immunisation practice nurse to assist her on her return. I was happy for that to occur. Attached and marked LMM31 are a bundle of emails in relation to Ms Aylmer being replaced.

232 Albert Van Zanten contacted my office and requested to see me urgently on 1 April 2004. I met with him at 1100-1130, where he stated he had issues with Jenny White of a serious nature, as he felt he was discriminated against by her in relation to his rostering and acting up to Level 2 opportunities. He presented me with a document stating he was lodging a grievance. Attached and marked LMM32 is a copy of Mr Van Zanten's grievance document. Mr Van Zanten was adamant in progressing with the matter in a grievance format, and I stated I would follow-up with the HR department and get back to him as it appeared an investigation would need to occur into the allegations to progress the matter.

233 I meet with Cathy Fritz, HR Manager, that afternoon from 1630-1730. We set up a time to see Mr Van Zanten the following day (2 April 2004) from 1100 to 1200.

234 At that meeting, we discussed the option of mediation, rather than heading straight to grievance. However, Mr Van Zanten again was adamant about progressing the grievance and he stated he had already discussed the issues with Auriel Robinson, then Bundaberg organizer from the QNU.

235 Ms Fritz agreed to be an investigator and I met with Anne Robinson, Acting ADON, the same day between 1230 to 1300, to request her to be the second investigator due to her nursing background. She assured me she would not be biased in the matter, and agreed to do the same.

236 I gave Mr Van Zanten a letter dated 2 April 2004 setting out the details of the grievance and the process (see exhibit 79). The letter was drafted by HR and signed by me.

237 I then met with Ms White for forty-five minutes from 1300 that same day and explained the matter to her, including the fact that Mr Van Zanten insisted on progressing a

grievance. I gave Ms White a letter dated 2 April 2004 setting out the details of the grievance and the process (see exhibit 73). The letter was drafted by HR and signed by me. Ms White was upset and stated she was tired of the behavior of Mr Van Zanten and the QNU (Mr Van Zanten was a local hospital QNU representative). She said they had been hassling her for months and this was impacting her health, causing hypertension. Ms White denied any discrimination against Mr Van Zanten relating to rosters and acting up higher duties. I reassured her that if that was the case, the truth would prevail and the process would accord her natural justice. I reminded her of her ability to access EAS or her relevant industrial body, to which she responded she sure would not be contacting the QNU, as she saw them as the opposition.

238 The investigation proceeded. Ms White was off sick in proceeding days. I was concerned for her well being, and contacted her by phone at home on 8 April to offer support. Ms White indicated she had gone to her GP and EAS, and declined any further assistance on my part. She said she would be returning to work the following Tuesday. Attached and marked LMM33 is a copy of my file note of my conversation with Ms White.

239 In light of both Ms White and Mr Van Zanten taking sick leave following the grievance progress beginning, delays occurred in finalizing the matter. The results of the grievance were given to Ms White on 6 May 2004 (see exhibit 82). The results were given to Mr Van Zanten on 7 May 2004 during the grievance resolution meeting. Mr. Van Zanten was unhappy that his grievance had not been upheld. However, in light of the fact that Mr Van Zanten and Ms White were to continue working together, I suggested that mediation would be appropriate, but that both parties would have to agree. Mr Van Zanten said he was willing to participate in mediation and I said I would

encourage Ms White to participate. However, I could not force her to do so. Attached and marked LMM34 is a copy of the minutes from that meeting.

240 I spoke to Ms White about participating in mediation. I told Ms White that I thought mediation was a good idea given that they would both need to continue working together. However, I said it was her decision. Ms White expressed anger towards Mr. Van Zanten and QNU for this matter going to grievance. However, she agreed to mediation. I did not say to Ms White that it was a requirement of Queensland Health that she participate in mediation.

241 Tina Wallace was appointed as an independent mediator. She contacted both parties by phone to see if they were willing to participate in mediation. They confirmed they were and Ms Wallace progressed that matter independently. I was provided a copy of the signed agreement by both parties on 11 June 04. Attached and marked LMM35 are copies of the agreement from mediation session signed by Ms White and Mr Van Zanten.

242 I had follow-up discussions with Ms White. She remained angry at Mr Van Zanten and the QNU and she was very happy when Mr Van Zanten resigned from the hospital.

243 Ms White raised with me by letter received on the 28 May 2004 matters relating to staffing within the theatre (see exhibit 74). I met with Ms White on the 3 June 2004 to discuss the matter with her. During this meeting she expressed anger about the fact Dr Patel had done a staff survey of nurses, and she felt unsupported by the ADON and DON at the time. The results of the survey were discussed, and out of the matter came the possibility of having an additional four hour shift on Monday and Thursday which ended later in the evening to address workloads. I agreed for her to progress the matter, and to look at putting on additional staff to do so. A plan to progress the

matter included Ms White discussing the matter with the local QNU representatives to ensure appropriate consultation, and having indicators to assess the trial on completion which just did not include financial considerations. This was to assist Ms White to manage such situations, and I was available for support if required. Ms White agreed to keep me updated and we agreed to aim for the trial to begin after 18 July 2004 due to the fact consultation had to occur, and the current roster was already out. Attached and marked LMM36 is a copy of my handwritten note regarding the meeting.

244 I personally informed the QNU that consultation would occur and Ms White would be contacting them with the details of the trial, as the QNU organizers had expressed unhappiness, prior to my arrival, about a lack of consultation by NUMs when staffing and/or roster changes were being considered. See LMM36 which also includes a record my handwritten note of that conversation.

245 I received an email from Ms White on 7 June 2004 with a suggested letter to the QNU, and I responded by email the same day that having a chat would be more appropriate (see exhibits 76 and 77).

246 The progression of the matter did eventually require my assistance, and I attended a meeting in the theatre complex with theatre nursing staff, Ms White and Ms Smyth from the QNU to discuss the proposed roster changes. There was some opposition to the trial by staff (who Ms White previously informed me had agreed) so I was required to attempt to have further discussions with the QNU on the matter. This is noted in my email request of 30 June 2004 to Ms White (see exhibit 78).

247 Every effort was made to support Ms White through this process. However, it seemed to me that she was not happy working through the industrial aspects of her role.

248 Ms White ended up tendering her resignation on the 19 July 2004, to take effect after her planned annual leave in August 2004 (see exhibit 80). I had more than one discussion with Ms White to ensure that was what she wished to proceed with, and I even stated I would not progress the matter until after I returned from my conference leave on the week ending the 30 July 2004. Ms Fritz, HR Manger, also discussed the matter with Ms White as well. Ms White was firm with her decision, and stated that it was for personal reasons to do with her health, and the fact she was tired of having to fight with the industrial orientated staff and QNU over everything in her role as a NUM. Ms White and I discussed opportunities for her future, which included Acting NO 2 as there were no permanent vacancies at that level. Ms White also discussed her interest in clinical education, as she had been encouraged by myself in her progress in attaining a Certificate IV in Workplace Training and Assessment. I agreed to support her in her interest in clinical education including the possibility of involvement in the nursing education peri-operative transition program.

249 I asked Ms White if she would agree to a farewell dinner, as even though she was not leaving the hospital she was leaving the NO 3 role which she had held for a significant period. She stated yes, and in discussing the details she said that Ms Hoffman was a friend and she could organize the farewell with her.

250 On Ms White's return from leave in late August, and after she had spent some time in the NO 2, I met with Ms White to see how she was progressing in her new role, and ensure she was ok, At that time she stated she was enjoying not having the management responsibilities, was feeling better health wise and was pleased she made the change. We again spoke of her farewell dinner, as no dates had been set.

251 I sent a follow-up email to Ms Hoffman on 28 September 2004 regarding the farewell as it had not yet been organized. Attached and marked LMM37 is a copy of my email to Ms Hoffman on 28 September 2004. The dinner was then organized by Ms Hoffman to take place during the week I was on annual leave so I was unable to attend.

252 I believe I supported Ms White through the issues she had in the role of a NUM, and I continued to do so by supporting her participation in the Nurse Transition course for peri-operative as noted in my email of 4 March 2005. Attached and marked LMM38 is a copy of that email.

Feedback and support

253 I have repeatedly told nursing staff at NO 3/4/5 that patient care is the first priority, and staff interests come a close second. However, when faced with making decisions as a DDON, as difficult as some of those decisions may be, I always had to put patient safety first. At times this did cause angst amongst nursing staff when I took up the position, for example in my limiting of staff leave during high peak patient activity times. I found this out in late April 2005 that this issue had been leaked to Mr Messenger MP and discussed in parliament in early 2005.

254 I felt that feedback was essential to both patients and staff.

255 In the management of patient complaints, I routinely called the patient and/or family involved to discuss their concerns and give them updates if there was any delay in the investigation of their concern. At times this may have meant me staying later into the evening to talk to family members for example in Sydney who wished to discuss their matters outside of the work environment. I also ensured that staff rights were protected and they were afforded natural justice in the investigation of complaints. I would

explain to patients/families that the process allowed for any allegations made to viewed by the staff member, and they would be given an opportunity to respond. Feedback was always provided to the patient/family and opportunity for them to have further discussion with me if they had any concerns on the outcomes of the investigation of their allegations. I have also offered patients meetings with the relevant staff in certain circumstances so, for example, the mother of a child felt confident accessing a service in the future. Staff received feedback from me personally on a complaint outcome if I was their line manager, or the matter was of a serious nature. In other cases, it was the role of the ADON or NUM to provide the feedback.

256 I have always felt that support of staff is essential and every attempt was made to provide feedback to staff on issues raised, and give them positive feedback as well.

257 At times I provided feedback in person. An example of this was when Mr Leck and I visited ICU after a particularly busy weekend. Recognition of this visit is noted in the ICU communication book marked LMM39.

258 Whist it was not always possible to do so in person, I would provide feedback by phone or more often by emails. The rationale for sending emails was that the NUM could then post that feedback onto staff to read. Examples of this are:

(a) my email to ICU staff with feedback from a Brisbane hospital;

(b) my email to Ms Aylmer dated 17 November 2004 and Ms Aylmer's response.

Attached and marked LMM40 are copies of those emails.

Conclusion

259 I believe that I have, at all times, acted diligently and conscientiously within my delegations as DDON. It was not for me to investigate allegations concerning Dr Patel's competence. Apart from anything else, I am not qualified to assess and pass judgment on matters of surgical competence. However, as soon as I was informed of the concerns (firstly in relation to Mr Bramich and then more generally) I immediately took appropriate steps to ensure those matters were investigated. At no time did I discourage Ms Hoffman (or anyone else) from raising their concerns.

260 I am aware that a complaint has been made that I shredded documents relating to this investigation. I have not been provided a copy of any such complaint, nor any more detailed information. However, I deny that I have at any time shredded or otherwise destroyed documents relevant to the investigation.

DATED: 8/07/05

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LINDA MARY MULLIGAN

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WITNESS