



Transcript of Proceedings

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THE HONOURABLE G DAVIES AO, Commissioner

MR D C ANDREWS SC, Counsel Assisting
MR R DOUGLAS SC, Counsel Assisting
MR E MORZONE, Counsel Assisting
MR D ATKINSON, Counsel Assisting

IN THE MATTER OF THE COMMISSIONS OF INQUIRY ACT 1950
COMMISSIONS OF INQUIRY ORDER (No. 2) 2005
QUEENSLAND PUBLIC HOSPITALS COMMISSION OF INQUIRY

BRISBANE

..DATE 20/10/2005

..DAY 28

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

THE COMMISSION RESUMED AT 9.31 A.M.

COMMISSIONER: Mr Diehm, I have your draft.

MR DIEHM: Thank you.

COMMISSIONER: You don't want to say anything further about that?

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MR DIEHM: No, Commissioner.

COMMISSIONER: Mr Allen, I also have your e-mail.

MR ALLEN: Yes.

COMMISSIONER: Do you want to say anything further about that?

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MR ALLEN: Only that whilst it may be appropriate for parties making submissions to seek an order from the Commission that their submission remain confidential-----

COMMISSIONER: Yes.

MR ALLEN: -----for good reason, it's not appropriate for parties to seek to stifle the openness of these proceedings by seeking an order that other parties' submissions remain confidential.

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COMMISSIONER: The difficulty about that is that other parties' submissions may relate to matters in respect of which notice of adverse findings or recommendations have been made and it is very hard to separate that out.

MR ALLEN: That may be the case but the written submissions are really a substitute for a type of addresses that would normally be made in a public forum in any event.

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COMMISSIONER: Oh, I understand that, and often counsel assisting the inquiry would make submissions which would result in adverse findings or recommendations.

MR ALLEN: Yes.

COMMISSIONER: But I thought it better to protect those people until those findings were made.

MR ALLEN: And, hence, the confidentiality of the notices of allegation.

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COMMISSIONER: Yes.

MR ALLEN: But my client's concern, for example, is that the type of directions sought would mean that even the submissions on behalf of my client would not be available to the numerous members of my client who have an interest in this matter, both

members in Bundaberg and elsewhere.

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COMMISSIONER: I intend to publish them with my report.

MR ALLEN: I think I have made my position clear in the e-mail.

COMMISSIONER: Yes. All right.

MR ALLEN: Yes. Thank you, Commissioner.

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COMMISSIONER: Does anyone else want to make a submission to me?

MR HARPER: Commissioner, the patients' group is in a similar position in the sense that we have a number of members. Obviously, at the very least, the executive committee of our membership would need to see those submissions before they're filed.

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COMMISSIONER: Yes.

MR HARPER: We would assume that that sort of publication would not be covered by a non-publication order.

COMMISSIONER: No, of course not. They're your client.

MR HARPER: Yes, thank you.

COMMISSIONER: Yes. I propose then to make the following directions and intimations:

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(1) Extend the time making submissions to this Commission until Wednesday 26 October 2005;

(2) Notices of potential adverse findings and in some case recommendations have been or will be sent to a number of parties. It is my intention that in the interests of fairness to those parties, these documents be kept as confidential as is reasonably practicable until I have concluded whether and, if so, to what extent they have been substantiated by findings. I propose to adopt the same course in respect of submissions made by any of those parties because otherwise those submissions may expressly or implicitly reveal the contents of those notices in circumstances in which no such findings are made;

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(3) Nevertheless it is my opinion that in the interests of fairness all parties should be obliged to provide all other parties with copies of their submissions.

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Accordingly, I direct that all parties provide all other parties with copies of their submissions forthwith upon providing them to this Commission.

I further direct that no party provide to any person, other than the Commission or another party, a copy of

their or any other parties' submissions or otherwise
publish the same;

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(4) It is my intention when publishing my report to
publish also the submissions made by the parties. When
doing so, however, I may exclude from publication any
part of those submissions which deals with any potential
adverse finding or recommendation not made by me in my
report.

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(5) It is not my intention by the directions which I have
given to confer on any party a right to make submissions
in reply to submissions by any other party. However, if
any party in its submissions makes a submission which
supports an adverse finding or recommendation against
another party, that other party may, within three days of
receipt of that submission, make a submission in reply
limited to that adverse finding or recommendation.

Any submissions arising out of those directions?

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MR DIEHM: Commissioner, I just wonder, in listening to it
orally I may have missed it but have you got - by those
directions otherwise made a non-publication order with respect
to submissions?

COMMISSIONER: Yes.

MR DIEHM: Thank you.

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COMMISSIONER: Mr Andrews, did you have evidence you want to
put in now or is that going to be tomorrow?

MR ANDREWS: Tomorrow, Commissioner, thank you.

COMMISSIONER: All right. There is nothing further now then.
We will now adjourn.

THE COMMISSION ADJOURN AT 9.37 A.M.

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