



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 27/10/2005

..DAY 30

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THE COMMISSION RESUMED AT 9.21 A.M.

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MR ANDREWS: Yes, Mr Andrews. Good morning, Commissioner. Before calling the first witness, there are a number of documents I would like to tender. The first is an edited letter from David A F Morgan, dated the 24th of October 2005, addressed, Commissioner, to you. It is evidence of the skills observed by Dr Morgan in Dr Sharma when working with Dr Sharma at the Fraser Coast this year.

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COMMISSIONER: Thank you. Exhibit 503.

ADMITTED AND MARKED "EXHIBIT 503"

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MR ANDREWS: I tender a statement of Morgan Neelan Naidoo. The date is 21 October 2005. It relates to fuel records, Commissioner.

COMMISSIONER: That's Exhibit 504.

ADMITTED AND MARKED "EXHIBIT 504"

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MR ANDREWS: I tender as one exhibit a letter from Peter Dwyer, principal lawyer for the Crown Solicitor, to Mr Douglas of senior counsel of the 21st of October 2005. And its enclosure, a statement from Mr Michael Zanco. And that statement is dated the 20th of October 2005.

COMMISSIONER: That's Exhibit 505.

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ADMITTED AND MARKED "EXHIBIT 505"

MR ANDREWS: I tender an affidavit of Ian James Brown, sworn the 25th of October 2005.

COMMISSIONER: Exhibit 506.

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ADMITTED AND MARKED "EXHIBIT 506"

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MR ANDREWS: Commissioner, I call Margaret Eileen Mears.

MR ALLEN: I appear for Ms Mears, if the Commission pleases.

COMMISSIONER: Thanks, Mr Allen.

MARGARET EILEEN MEARS, SWORN AND EXAMINED:

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MR ANDREWS: Ms Mears, is your full name Margaret Eileen Mears?-- It is, that's correct.

You are a registered nurse licensed to practise in Queensland?-- I am.

You are employed as a clinical nurse in the preadmission unit at Bundaberg Base Hospital?-- I am. My employment status has changed since that submission.

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What's your employment status now?-- I am actually the nurse unit manager of the outpatients and preadmission clinic.

Ms Mears, did you declare a statement on the 17th of May 2005?-- I did.

Do you have a copy of that with you?-- I do.

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Would you identify this edited version of that statement? You will see it has been edited so as to remove a number of passages and paragraphs. Do you recognise that as a version of your statement that differs only by the deletion of some passages?-- That's correct.

Are the facts recited in that statement true to the best of your knowledge?-- To the best of my knowledge they are correct.

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I tender that edited version.

COMMISSIONER: That will be Exhibit 507.

ADMITTED AND MARKED "EXHIBIT 507"

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MR ANDREWS: I have no further questions for Ms Mears.

COMMISSIONER: Thank you. Do we have an agreed order?

MR ALLEN: I just have one matter in chief. Perhaps I should do that before any cross-examination, Commissioner.

COMMISSIONER: By all means.

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MR ALLEN: Thank you.

EXAMINATION-IN-CHIEF:

MR ALLEN: Ms Mears, at paragraphs 12 and onwards of your statement, you refer to a meeting you attended on the 7th of April 2005 which was addressed by Mr Buckland - excuse me Dr Buckland and Mr Nuttall?-- That's correct.

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And at paragraph 14 of your statement you refer to some comments at that meeting infuriating you and the whole tone of the meeting being condescending and belittling?-- That's correct.

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Can you recall any specific comments made by, firstly, Mr Nuttall, which you regarded as condescending or belittling?-- The whole - the introduction to - when Mr Nuttall arrived in the room and eventually got to the top of the room, he actually said, "I have been to Bundaberg" - "No, I have been to Springshore today, wonderful town, 900 people, and I have opened a community health centre which cost \$250,000 and the town raised that money. What a wonderful town. And now I am in Bundaberg." The second statement was that he has been to Bundaberg twice before, previously both on good - for good reasons and here he was here again now. Yes.

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And do you remember any further comments made by Mr Nuttall which you took offence to?-- During the meeting, Mr Nuttall said that the only way that we could stop the rubbish that was going on at Bundaberg Base and in Bundaberg was if we were to vote Mr Messenger out.

Was it clear from the context what the rubbish was that he was referring to?-- It was clearly regarding the Dr Patel incident.

40

And do you recall any comments being made by Dr Buckland which you would describe as being condescending or belittling?-- I stood up at the meeting and I actually spoke and said that I didn't endorse the behaviour of Mr Messenger at all and it was insinuated that we were all a party to that.

How was it insinuated?-- I felt that they - that we were - through the terminology that was used, that we were all being blamed for participating in the Mr Messenger incident, the information being released. If not participating, having knowledge thereof.

50

Okay. Do you recall any comments that were made by Mr Nuttall or Dr Buckland which led you to believe that you were being blamed?-- Well, I stood up and I said that I believe that 99 per cent of the people in the room, which was probably 100 or

200 people - I am not sure how many were there - didn't agree with what had been done, but since the incident, was there anything we could do about Dr Patel now, to which he said, "How are we going to get him back from America?"

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COMMISSIONER: He being Dr Buckland?-- He being Dr Buckland, that's right.

MR ALLEN: And at the end of the meeting, what was your understanding as to any further steps, if any, that would be taken by the hospital administration or Queensland Health to investigate matters regarding Dr Patel?-- It was very clear - made very clear to us that the information from Dr Gerry Fitzgerald inquiry would not be released.

10

And was there any understanding on your part that anything else would happen?-- No.

Yes?-- I believe that was the conclusion of that issue.

20

Thank you. Thank you, Commissioner.

COMMISSIONER: Thank you, Mr Freeburn?

CROSS-EXAMINATION:

MR FREEBURN: Ms Mears, can I ask you to have a look at paragraph 11 of your statement?-- Yes.

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Have you got that in front of you? Now, you talk there of arriving at a meeting midway through the meeting?-- That's correct.

And you say when you arrived Peter, meaning Peter Leck-----?-- Yes.

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-----was discussing the inappropriate behaviour. What was the inappropriate behaviour that he was discussing or did you miss that bit?-- He was discussing the release of information to Mr Messenger.

I see. So he was saying he was concerned that patient confidentiality had been breached?-- That's exactly right.

And do you recall him saying that the letter leaked to Mr Messenger, and through Mr Messenger to Parliament, contained confidential patient information?-- He may have said that prior to me arriving.

50

All right?-- I don't recall him saying that.

Right. But you certainly recall him saying that he was concerned that patient confidentiality had been breached?-- That's correct.

All right. He would be right to be concerned about an issue like that, wouldn't he?-- He would be.

And patient confidentiality is important, isn't it?-- Absolutely.

And that's why he would have been talking about the code of conduct?-- That's correct.

10

You talk in paragraph 11 about him saying there would be serious repercussions for anyone breaking the code of conduct?-- That's correct.

Do you recall what the breach of the code he was talking about then?-- The release of patient information to an independent person, a person who shouldn't have been privy to that information.

To a person outside the health system?-- Outside the health system, yes.

20

And you would agree that if a nurse or other health professional was disclosing confidential patient information, that is a serious matter?-- I would agree, given the circumstances that had gone on before, I think that it was - it was - I felt I would have done the same if I had had the same information.

Well, you would agree that disclosing confidential patient information is a serious matter?-- I agree with that.

30

And-----

COMMISSIONER: You were about to say something further, were you?-- At the time, given what had happened at our hospital and the inquiry that had been undertaken, et cetera, it was an exceptional circumstances beyond the code of conduct. I believe that.

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MR FREEBURN: Well, let me put it this way: have you seen the letter that was disclosed to Mr Messenger?-- I have not.

Well, a complaint about Dr Patel's competence could easily be made without disclosing confidential patient information, couldn't it?-- I think several complaints had been made prior to that and they hadn't been acted upon.

Well, can you answer my question: a complaint about Dr Patel's competence could be made without disclosing confidential patient information, couldn't it?-- The - that's correct, in normal circumstances but these were exceptional circumstances.

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Well, do you agree - now, patient details, you have agreed, are - I mean, we have got the code of conduct and the Health Services Act that both require health professionals to keep confidential information relating to patients?-- That's

correct, but I stand by what I said in exceptional circumstances, other action had to be taken. 1

Well, you haven't seen the letter to Mr Messenger?-- I haven't seen the letter to Mr Messenger.

You haven't seen what was disclosed to him?-- I haven't seen what was disclosed to him.

So that judgment you are making about what's exceptional is just speculation, isn't it?-- I have actually been a registered nurse for 30 years and I have had 30 years' experience working in surgical and I believe that what was happening at the time needed to be acted upon. 10

Ms Mears, nobody is quarrelling with that proposition, that something had to be acted on. The question is do you do it disclosing patient information or without disclosing patient information? What would your choice be? 20

MR ALLEN: Well, is it relevant what Ms Mears' choice would have been?

COMMISSIONER: Not really, no.

MR FREEBURN: This Commission has identified some patients by numbers. P26?-- Yes, that's correct.

That's an easy way of avoiding disclosing patient details, isn't it?-- That's correct. 30

And - thank you.

COMMISSIONER: Yes, Mr Diehm?

MR DIEHM: I have no questions.

COMMISSIONER: You have none, okay. 40

CROSS-EXAMINATION:

MR O'SULLIVAN: Ms Mears, my name is O'Sullivan. I am acting on behalf of Mr Nuttall?-- Yes.

You have a copy of your statement?-- I have. 50

That is now Exhibit 507 in this inquiry in front of you. Could I take you to paragraph 12 of that statement?-- Yes.

You address certain matters in respect to the meeting that was conducted on the 7th of April this year?-- That's correct.

That is correct?-- Yes, that's correct.

Now, can I just indicate to you that when Mr Nuttall was at the meeting, he clearly informed the people assembled there that he had been at Springshore, that's correct?-- That's correct.

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And that - did he indicate that he took a detour to Bundaberg?-- He did indeed.

So that?-- He did say that, that's right.

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Did he indicate to you in any way that the decision to go to Bundaberg was made on the sudden; it wasn't a planned meeting?-- That's correct, he did indicate that to us.

Now, you have raised certain things that occurred at that meeting. Can I put it to you that he was trying to be very positive to the meeting in indicating that he wanted matters to move on so that there would be a more positive outlook for those at the hospital?-- I was an attendee at the meeting and I would not have thought that myself.

20

All right. At the meeting were you quite anxious or upset about the matters as they had progressed to that point, that is to the point of the meeting?-- Prior to the meeting.

Yes?-- I felt that the inquiry that was going on was - would be what we would need to investigate what had happened at Bundaberg Base, but at the meeting, as the meeting progressed, it was very clear that that was not going to happen, and that infuriated me.

30

All right. Can I tell you that - can I put it to you that at the meeting Mr Nuttall indicated that the Chief Health Officer, Mr FitzGerald, was going to visit Bundaberg to brief staff on the preliminary findings of Dr FitzGerald?-- I do not remember him saying that.

Well, do you dispute that that was said by him?-- No, I don't dispute it. It may well have been said but I don't recall it.

40

But he said that that was to occur on the following day; that is the day after the meeting?-- Yes, I don't remember him saying that. I don't recall him saying that.

At paragraph 15 of your edited statement - I am not sure whether - excuse me for a minute, Mr Commissioner - I have got a slightly different copy to you, madam, so can I just put this to you: today you have said that Mr Nuttall said that, in essence, the only way we could stop this rubbish was to vote Mr Messenger out of office?-- That's correct.

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Can I put it to you that at no stage did Mr Nuttall say that to anyone?-- That's incorrect.

Yes, thank you, Mr Commissioner.

COMMISSIONER: Thank you.

MR FARR: I have no cross-examination, thank you.

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MR ALLEN: Just by way of re-examination, please, Commissioner.

COMMISSIONER: Yes, certainly.

RE-EXAMINATION:

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MR ALLEN: You were asked questions by Mr Freeburn, who is seated next to me, as to whether a complaint about Dr Patel's clinical competence could be made without disclosing confidential patient information?-- Yes.

And he actually made reference to a practice that was adopted in this Commission of identifying patients by number?-- Yes.

20

Which was in fact instigated by your union-----?-- Yes.

-----in assisting the Commission. Now, are you able to say whether, firstly, any meaningful complaint or - about Dr Patel's clinical competence could be made without actually pointing to particular patients and their outcomes?-- I - I believe that the staff who had made the complaints had tried what they believed to be every option at that point.

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Do you know - you said you haven't seen the letter-----?-- I haven't seen the letter.

-----that was leaked. So you don't know whether in fact in the letter itself patients were only identified by UR numbers?-- I don't know.

You know what UR numbers are?-- Yeah, I do know what UR numbers are.

40

They are a unique identifier of a patient?-- Yes.

Okay. But unless one has access to the relevant Queensland Health internal records, one would not be able to put a name to a UR number?-- That's correct.

And you don't know whether Ms Hoffman, in providing that letter to Mr Messenger, in fact, specifically asked him to delete the UR numbers themselves?-- I do not know that.

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Okay. Yes, thank you.

COMMISSIONER: Mr Andrews?

MR ANDREWS: No further questions. May the witness be excused, Commissioner?

COMMISSIONER: Thank you, Ms Mears. You are excused from

further attendance?-- Thank you very much.

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WITNESS EXCUSED

MR ANDREWS: I call Karen Louise Jenner. It seems there will be a two minute delay, Commissioner.

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COMMISSIONER: You can't call the other one?

MR ANDREWS: Yes - apparently not. Commissioner, at the reasonable request of one of the parties, the witnesses, because some were speaking about topics that would be discussed by Ms Mears in the witness-box, the witnesses were asked to remain out of reach of the monitor outside.

COMMISSIONER: I see.

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MR MORZONE: So that they wouldn't be influenced by the evidence.

COMMISSIONER: Right.

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KAREN LOUISE JENNER, SWORN AND EXAMINED:

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MR ANDREWS: Is your full name Karen Louise Jenner?-- Yes.

Ms Jenner, you are a registered nurse?-- Yes.

You currently are employed as a Level 1 registered nurse in the intensive care unit at the Bundaberg Base Hospital?-- Yes, I am.

10

And Ms Jenner, did you prepare a statement dated the 19th of May 2005?-- I did.

You are aware that that statement has since been edited by inquiry staff? Would you have a look at this edited version, please? I would like you to confirm for yourself that it has been edited simply by deleting some passages from a longer statement you provided on that date?-- Yes.

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Are the facts recited in it true and correct?-- Yes.

To the best of your knowledge?-- Yes.

I tender the edited version, Commissioner.

COMMISSIONER: That will be Exhibit 508.

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ADMITTED AND MARKED "EXHIBIT 508"

MR FREEBURN: Can I just enquire whether paragraphs 10 - sorry, 12 and 19 are excluded from the version?

COMMISSIONER: No, I have got a 12 and I have-----

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MR ANDREWS: Commissioner, they have been excluded from the version that has been tendered.

COMMISSIONER: Oh, is that right?

MR ANDREWS: Yes. 12 and 19, including the headings which precede them.

COMMISSIONER: Okay. No, that's not correct.

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MR ANDREWS: Karen Louise Jenner?

COMMISSIONER: Yes.

MR ANDREWS: That's very interesting.

COMMISSIONER: I have a 12 and I have a 19. Would you like to have a look at that?

MR ANDREWS: I would, Commission other, thank you.

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Yes, Commissioner, the version that you have is not the version that ought to be tendered.

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COMMISSIONER: Do you have another one? What about the one that Ms Jenner has in her hand?

MR ANDREWS: The one that Ms Jenner has in her hand will have those paragraphs crossed out, but what appeared in them beforehand will remain legible.

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COMMISSIONER: That's all right. As long as she doesn't - we're not relying on it that way. As long as - and the copy that comes to me doesn't matter much. I can just cross it out if there's some agreement that they're not to be tendered.

MR ANDREWS: Those paragraphs were not to be tendered.

COMMISSIONER: Okay. I'll cross out 12 including the heading in my copy here, and 19 including the heading in my copy here, and you can substitute one with those paragraphs deleted-----

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MR ANDREWS: Thank you, Commissioner.

COMMISSIONER: -----at an appropriate time.

MR ANDREWS: Ms Jenner, at paragraph 18 of your statement you discuss your attendance at a meeting held on the 7th of April 2005, and you recall asking Dr Buckland if he supported his staff 100 per cent, then where was the support for the nurses who made the multiple formal complaints about Dr Patel, and you said just because one letter was leaked did not mean that the nurses were not entitled to his support. You said those things to Dr Buckland, or words to that effect?-- I did.

30

Do you recall - I beg your pardon. Your statement makes it plain you don't recall the exact response that Dr Buckland made?-- Not the exact response, no.

Do you recall the effect of Dr Buckland's response?-- There were words to the effect of they had come up to visit Bundaberg, saying that Dr Patel - that the FitzGerald - FitzGerald report wouldn't be released as he had left the country, and that there would be no formal inquiry.

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COMMISSIONER: The FitzGerald report would not be released?-- No, it wouldn't be released.

Would not be released?-- Because Dr Patel had not been given natural justice.

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Thank you?-- And that Dr Buckland was saying that he had 100 per cent support in Queensland Health staff and he wouldn't have his staff tried by the media, and that's when I asked him that question, that if he had 100 per cent support in all of his staff, where was the support for the nurses, because there was only one letter leaked, but multiple formal complaints had been made. His response was words to the effect - he sort of said to me, "Well, what part of 'there's going to be no

inquiry don't you understand?'" , that - once again, that Dr Patel wasn't in the country and he couldn't - he didn't have a right of reply, and he hadn't been given natural justice, so that was it. There was nothing more that they could really do regarding Dr Patel.

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MR ANDREWS: Thank you. I've no further questions.

MR ALLEN: I should have mentioned I appear for Ms Jenner, but I don't have any further evidence-in-chief to lead.

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COMMISSIONER: All right then. Mr Freeburn?

CROSS-EXAMINATION:

MR FREEBURN: Ms Jenner, you say in your statement that you are well aware of your professional and ethical responsibilities as a nurse and as an employee of Queensland Health?-- Yes.

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You just have to say "yes", because it's being -----?-- Sorry, yes.

Nods can't be taken down. One of those responsibilities is to keep patients' details and patients' treatment confidential?-- That's true.

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And you've known that since you started nursing, haven't you?-- Yes.

And that's an important duty, isn't it?-- It's very important.

And although there are exceptions, the Health Services Act and the Code of Conduct both forbid disclosures of patient information - confidential patient information and information that might identify a particular patient?-- Yes.

40

Yes?-- Sorry.

That's all fundamental stuff, isn't it. Now, can I ask you, patients are assigned a UR number, aren't they?-- They are.

And that's a unique number so that if I know a particular patient's UR number and I have access to the computer system at Bundaberg Hospital, I can find out about them; is that right?-- If you know their UR number.

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In some cases the unique UR number will more easily identify a patient than their name, won't it, because-----

COMMISSIONER: You mean within the hospital or outside the hospital?

MR FREEBURN: Well, I'll clarify that. Within the hospital the UR number will more easily identify a patient. For example, John Smith, a commonly - a common name - there might be several of them, so a UR number is a better identifier of the patient; is that right?-- Well, that and date of births and addresses and things are all part of the hospital information system.

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Yes. If you've got access to the hospital's computer and you have a UR number that's unique to each patient, or you could alternatively have their name and date of birth?-- Yes.

10

Now, that - one of the reasons you deal in your - you talk in your statement, for example, about patient P11, is because that doesn't identify that particular patient, does it?-- No, it doesn't.

Just to clarify, the UR number, would that - do you know whether there's details of patients' UR numbers external to the Bundaberg Hospital?-- I wouldn't think that - I think that's a hospital identification number. That's only their number whilst they're in hospital.

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Right. In the Bundaberg Hospital?-- In the Bundaberg Hospital, unique to Bundaberg.

Right. Now, you've been careful in your statement to keep patients' details confidential, I notice. That's clear, isn't it?-- Yes.

30

And in fact the unprofessional approach to patient confidentiality was one of your criticisms of Dr Patel, wasn't it?-- Yes, it is.

He was discussing one patient's details in the hearing of another patient?-- That's right.

Now, can I take you to the 23rd of March meeting-----?-- Yes.

-----that you talk about. Now, that involved a meeting with Mr Leck and Ms Walls?-- Yes.

40

Di Walls. It's dealt with in paragraph 15 of your statement. Do you have that?-- I do.

Now, when you arrived for work that day you say Jan Marks, another nurse, told you that a letter detailing complaints about Dr Patel had been leaked to the local member of parliament, Mr Messenger; is that right?-- That's true.

50

And she'd heard about it on the radio on the way to work?-- Yes.

Did she tell you that the letter included confidential details about patients?-- No. There was an article in the News Mail, which is a local paper as well.

Did you see that at the time? I'm just-----?-- Later. No.

1
Then what happened on this 23rd of March, was that Toni Hoffman and Di Walls arranged a meeting with, as you say, all the nurses who provided complaints to Ms Hoffman about Dr Patel; is that right?-- Yes.

And you were one of those nurses?-- I was.

10
And so you thought the purpose of the meeting you were going to was to discuss the complaints about Dr Patel?-- I thought the purpose of the meeting was to discuss the fact that our names were on the letter that had been leaked, and that we were told that the media may try and contact us personally because our names were out in the media, also to discuss what had happened in the last 24 hours.

20
Just have a look at your statement again. Just go back to paragraph 15. Do you see down the bottom of page 5, "Before the meeting commenced Ms Hoffman voiced her concern to me that the media may try and contact the nurses as our names appeared on the bottom of her letter of complaint which was read out in parliament."?-- Yes.

So that wasn't the purpose of the meeting. That was something that Ms Hoffman discussed-----?-- She said that she-----

30
Before you started the meeting?-- She said that that is why, and then she said there was going to be a meeting with the Acting Director of Nursing regarding, like, what would happen if the media did try and contact us as well as to discuss what had actually happened in the last 24 hours, because obviously we were quite shocked.

Shocked that the matter had become-----?-- That it had happened.

That the matter had become public?-- Yes.

40
But reading paragraph 15 of your letter, all the nurses who were - had provided complaints, were the ones who were attending this meeting; is that right?-- Tony had contacted everybody, yes, and asked them to come in.

Okay. Now, I gather neither Ms Hoffman - it's Ms Hoffman and Ms Walls who organised the meeting?-- As far as I'm aware, yes.

50
And they didn't tell you that one topic of the meeting was going to be the disclosure of confidential patient information to Mr Messenger?-- No.

So when you went to this meeting, you didn't know that Mr Messenger and parliament had confidential details about patients, UR numbers and the like?-- I had - by the time I went to the meeting I had seen the News Mail article.

Okay. And that disclosed what?-- Well, it didn't disclose patient - it just disclosed some of the details of Toni's

letter. There was no names or anything.

1

No. No names and UR numbers?-- There was UR numbers mentioned, but they're specific to Bundaberg. Outside - the general public would not be able to identify anyone from a Bundaberg UR number.

But even a wardsmen could get on to-----?-- They wouldn't have that access, I wouldn't - shouldn't imagine. They wouldn't have access to be able to get on to the system.

10

Just to clarify, the UR numbers were published in the letter?-- As far as I can - in the letter - in the News Mail?

Yes?-- In the article there was a UR number that I can remember there.

Anyway, so Ms Hoffman and Ms Walls arranged the meeting, but Ms Walls turned up with Mr Leck?-- Yes.

20

And Mr Leck's appearance at the meeting was a surprise to you?-- Yes, it was a great surprise.

But Ms Walls must have known he was coming because she accompanied him to the meeting?-- She must have known, yes.

But obviously she didn't tell you that he was coming?-- No.

Now, I gather you can't, after all this time, recall exactly what Mr Leck said?-- I can recall some of the things that he said, yes.

30

All right. Well, you did your statement in May 2000 - May of this year?-- Yes.

And it was prepared by the Queensland Nurses' Union?-- It was.

Now, Mr Leck told the meeting that this - the leaking of this letter amounted to a breach of patient confidentiality?-- A breach of the Code of Conduct.

40

Right. And he also said he had sources which suggested that a nurse was responsible for the leak of the letter?-- That an ICU nurse was responsible, yes.

Well, I suggest that he said it was a nurse, but you might have assumed it was an ICU nurse?-- From my recollection, I remember him saying an ICU nurse.

50

Now, stopping there, when he said that, were you concerned that patient confidentiality had been breached?-- I was concerned that the whole incident had happened, and that Toni's letter had gone to the media, but I think the only identification for the patient was a Bundaberg UR number. It's not like their date of birth and name were printed to identify them as such.

But at this stage you hadn't seen - had you seen Toni Hoffman's letter?-- Yes, I had.

1

So you know that it includes a lot of UR numbers?-- Yes, I was aware of that.

And were you concerned that a nurse might have breached patient confidentiality? Because that was what Mr Leck was saying?-- I think the fact that the information had gone to the media was a concern, but I don't think that the patients were identifiable from the information that the general public had.

10

COMMISSIONER: You didn't see it as breaching patient confidentiality, the fact that the UR numbers had been disclosed?-- No.

Because they were only available to nurses in the hospital?-- In the hospital.

20

MR FREEBURN: Now, Mr Leck was right to be concerned about possible breaches of patient off confidentiality, wasn't he?-- He was right to be concerned with what had happened.

And when you say "what had happened", that is, this matter becoming public?-- That the letter had become public, yes.

Now, at that time of this letter, Dr FitzGerald had been to interview staff?-- Yes.

30

Now, you would have been concerned that the leaking of this letter beyond the hospital had the potential to damage relations between nurses and medical staff?-- No, I don't believe that, no.

You don't think it might have caused a problem?-- No.

You don't think there might have been some medical staff loyal to Dr Patel?-- The fact that there was no source of the letter - we didn't know where the letter had come from, so I don't know that there could have been a problem between nurses and medical staff. There was no source of where the letter had come from.

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But Mr Leck is saying that the source of the letter was the nurses?-- He said that he thought it was the nurses, that - an ICU nurse, but he obviously didn't know that, otherwise he would have, surely, taken that person to task if he knew that.

Now, Mr Leck makes his position clear about breach of confidentiality and he says that it's a nurse - he thinks it's a nurse that leaked the information. Did anybody try to deny that or respond?-- I don't think we had a chance to respond.

50

Now, can I deal with Dr FitzGerald? In paragraphs 13 and 14 of your statement you talk of an interview you had with Dr FitzGerald and Ms Jenkins?-- I just had the interview with Ms Jenkins.

Did you?-- Yes, Dr FitzGerald was - they ran them in conjunction with each other. She interviewed some people, he interviewed others.

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Right. How long did the interview last?-- Probably half an hour.

And Ms Jenkins asked you about Dr Patel?-- Yes.

10

They asked you about his surgery, his decision making?-- Mainly it was related - they already had my letter of complaint. It was mainly related to that.

Right. You told them - told Ms Jenkins of your concerns?-- Yes.

She listened, I assume, and took notes?-- Yes.

Did Ms Jenkins ask you about the performance of any other doctors other than Dr Patel, or was it mainly directed to Dr Patel?-- Sorry, other doctors-----

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Doctors other than Dr Patel? Was it mainly directed to Dr Patel?-- Mainly to Dr Patel, yes.

So they were investigating Dr Patel when they interviewed you?-- They told us that they were gathering information to see whether or not an investigation would be necessary.

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Well, see-----?-- We were told quite clearly that it wasn't an investigation at that stage.

Who told you that?-- When - I think it was either the beginning of the interview - it was like, "This is not an investigation of Dr Patel. This is us gathering information to find out whether or not it is important to have an investigation into Dr Patel." It was more an inquiry.

Right. But-----?-- And if there was to be an investigation, they would get all the information and they would let us know.

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All right?-- We would hear.

They were a Queensland Health team from outside the hospital, they'd come in, they'd asked you a whole series of questions about Dr Patel and your concerns about him; is that right?-- Yes.

Now, in paragraph 15 of your statement you complain that Mr Leck had not offered you any support concerning your complaint about Dr Patel?-- That's correct.

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You had not been to see Mr Leck direct yourself, had you?-- No.

You complained through Ms Hoffman?-- I had.

And Mr Leck had acted on the complaint by appointing these external investigators.

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COMMISSIONER: How would she know that?

MR FREEBURN: Sorry?

COMMISSIONER: How would she know that?

MR FREEBURN: Well, I'm going to ask.

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COMMISSIONER: How would she ever know whether he appointed external investigators on the basis of her complaint? How could she possibly ever know that?

MR FREEBURN: Well, she might have been told.

COMMISSIONER: Well, you can ask her if Mr Leck or anyone else told her that.

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MR FREEBURN: Were you told, or did you know that Mr Leck had acted on the complaint by appointing external investigators?-- I wasn't told he was acting on my complaint, no.

Sorry, that-----?-- I wasn't told anything by Mr Leck.

Right?-- I wasn't contacted by Executive at all.

Right?-- The first contact I had was when they rang to organise the meeting with the Queensland Health staff coming up.

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So what support Dr Mr Leck fail to offer?-- The support that was failed to offer was from anyone in Executive contacting me regarding my initial complaint.

But you'd been in contact with Ms Hoffman, hadn't you?-- I had asked Ms Hoffman many times if she had heard anything, and she hadn't.

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Now, so far as you knew, you'd made a complaint through Ms Hoffman and the management obviously took that seriously because there was an appointed investigator-----

COMMISSIONER: No, you can't ask that question, Mr Freeburn. You can't say the management took her complaint seriously by appointing an investigator. You don't know why the management appointed an investigator. She doesn't know that, unless someone told her - unless Mr Leck or someone on his behalf told her the reason why he appointed an investigator, and there's no evidence of that. In fact she's given evidence to the contrary already.

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MR FREEBURN: The witness is saying that she was offered no support. I'm exploring with her-----

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COMMISSIONER: Well, by all means explore that, but don't make an assumption and ask a question on the basis of an assumption.

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MR FREEBURN: So can you identify for us what support Mr Leck failed to offer?-- Giving any information as to what - where the extent of the complaints were going.

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Right?-- As I said, I'd had no contact regarding my client at all until I was asked to go and have an interview with people from Queensland Health who were gathering information regarding Dr Patel.

And who is it that asked you to go to that meeting?-- The executive assistant, I think her name is Cheryl Miller.

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Who is she?-- I think she's one of the executive secretaries. I don't know exactly which office.

Do you mean Mr Leck's office or-----?-- I don't know - it was from Executive, I don't know exactly whose office she works for. I don't know if she's Linda Mulligan's or Peter - I'm not sure who she actually works for.

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Ms Wall's obviously accompanied Mr Leck to the meeting so she knew he was coming. This is correct-----?-- Well, she must have because she came with him.

Yes. I think you've told me before she didn't tell you about that he was coming. So what was belittling about him coming and it being a surprise to you? What was belittling about that?-- The fact that it was a lecture on our - we had no right of - it was a lecture on our patient code - it was on our Code of Conduct that - and patient confidentiality that we are well aware of being Queensland Health employees, and that we had no right of reply to him. He - the fact that he told us that we had caused a rift between medical and nursing staff, that the general public would never look at ICU staff the same way again.

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Well-----?-- And that the person who leaked the letter couldn't be trusted.

Well, when he raised the potential breach of patient confidentiality, that was a matter of legitimate concern, wasn't it?-- Confidentiality, probably. We had no right to respond to him either. As soon as he'd finished, he got up and left. There was no - there was no questions, no - we had no right to ask him questions or give any information to him or anything. He just got up and left straightaway.

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But it's right, isn't it, Ms Jenner, that what you wanted to talk to him about was not the breach of confidentiality; you wanted to talk to him about complaints about Dr Patel.

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COMMISSIONER: You didn't believe - you've already told us you didn't believe there was a breach of confidentiality, did you, patient confidentiality?-- No, because the numbers are only Bundaberg Hospital numbers.

You're making an assumption again that it was a breach of patient confidentiality in the question you asked and she

already said it wasn't.

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MR FREEBURN: Well, Ms Jenner, when you were concerned - sorry, when Mr Leck raised his concern with you at the meeting he said, didn't he, that he was concerned about a breach of confidentiality?-- Amongst other things, Code of Conduct and things.

Yes. Now, did you - you said you wanted to respond. Did you wish to respond about that matter, about whether there had or hadn't been a breach, or did you want to respond about something else?-- Probably something else.

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Thank you. Now, can I take you to page 5 of your statement. See that page?-- Yes.

That heading in the middle of the page "Bullying and Intimidation by Management", are those your words or the words of the lawyers who prepared the statement?-- They're our words.

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They're your words or not?-- Yes.

What do you mean by "our words"?-- Well, that was the heading we deemed appropriate for that paragraph.

Who's "we"?-- The lawyer and myself.

Well, what conduct of Mr Leck was intimidation?-- The fact that he came unannounced to the ICU. We had no idea he was coming. That we got this lecture and that he left. I'd never met Mr Leck previous to that despite working at the hospital for two years, and to go to a meeting thinking it's going to be something that's completely different, to sit there, cop this huge, big lecture about all the stuff that he mentioned and then for him just to leave is quite intimidating when that's not what you're expecting the meeting to be about.

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Well, it was a surprise.

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COMMISSIONER: You've said in your statement that, "It was belittling that he came down to the ICU unannounced, poured out a tirade, gave us no opportunity to respond and left." Is that what you meant by intimidation?-- Yes.

MR FREEBURN: You weren't fearful, were you?-- Probably not scared fearful, no.

You weren't really intimidated, were you?-- Yes, I was intimidated. He was quite angry.

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You weren't overawed?-- I was shocked.

You were surprised because you didn't know he was coming?-- And I was shocked at the way in which he delivered what he had to say.

You didn't say anything that was threatening to you?-- I

think that when he's saying that we've caused irreversible rifts between nursing and medical staff and that the general public will not look at ICU nurses the same way again, I think that that is inappropriate.

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Mmm, I can understand you might think it's inappropriate but he didn't say anything that was threatening, did he?-- I think his whole manner was threatening, yes.

Well, you say his manner was threatening. You've told us the three things - is there anything beyond what's in your statement you haven't told us about that was threatening?-- No.

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COMMISSIONER: He was angry in his manner she said.

MR FREEBURN: Thank you.

COMMISSIONER: Mr Diehm.

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MR DIEHM: Thank you, Commissioner.

CROSS-EXAMINATION:

MR DIEHM: Ms Jenner, my name is Geoffrey Diehm and I appear for Dr Keating. I just wanted to ask you a few questions about a particular paragraph. It is paragraph 10 of your statement. They detail in there your recollections about the care of two particular patients, P36 and P20. I take it that at the time you prepared this statement you didn't have access to the patient files to assist you?-- No, I didn't.

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I've got documents here which I can show to you to the extent you need to try and put them in greater clarity in terms of the timing of the issues with respect to these patients, but we'll try to shortcut first. You tell me though if you're unhappy with agreeing or disagreeing with my propositions without seeing the documents and I can take you to them?-- Okay.

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Firstly, if we may deal with patient P20, if I suggest to you that he was a patient who had initially undergone a laparoscopic cholecystectomy on the 19th of November 2004. Without trying to test you about the specific date, does that sound about the right time?-- I can't remember-----

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All right?-- -----which is which patient at the moment.

If I was to mention this patient by name, and I understand he is not the subject of a suppression order witness, I think he has given evidence before the Commission?-- Mmm-hmm.

Mr Halter?-- Mmm-hmm.

Does that assist you?-- Yes.

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Now, do you recall Mr Halter as being a patient who'd had a laparoscopic cholecystectomy in about November of 2004?-- Possibly.

You'd need-----?-- Yeah, possibly. I can't remember dates or anything.

No, okay. That - well, with respect to Mr Halter, that about a week after the cholecystectomy was performed he had a further procedure performed being to drain a subhepatic haematoma. Does that sound right in your recollection-----?-- Sounds right.

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-----of history?-- Mmm-hmm.

Now, in that time period between his initial procedure and the second procedure, he wasn't in the ICU, was he?-- I would have to look at the notes to clarify that.

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Well, we'll go about it that way because in the end it is probably going to be faster. If I can have the visualiser turned on, please, Commissioner?

COMMISSIONER: Yes.

MR DIEHM: If we can start with this page, it will come up on the screen for you. You see the entry at the top of the page?-- Mmm-hmm. Yes.

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Now, that shows an entry, does it not, indicating the patient returning to the ward following surgery on the 19th of November?-- It does. It does.

And that's a return to the surgical ward, is it?-- Yes.

MR ANDREWS: Commissioner, in case this assists Mr Diehm, I myself went through these notes yesterday and it does appear that on a thorough reading of the notes, it seems that the patient was in ward 12 until at least about the 29th of November and the notes suggest that somewhere after the 29th, the patient was transferred to the ICU and remained in the ICU until transfer to Brisbane on the 4th of December.

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MR DIEHM: Commissioner, if it does save time, might I read this chronology into the record. Mr Andrews might be able to indicate whether his checking of the notes accords with it.

COMMISSIONER: All right.

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MR DIEHM: Initially, operation performed on the 19th of November 2004. Patient then admitted to the surgical ward. A further operation performed on the 26th of November 2004. Patient returned to the surgical ward, then admitted to the ICU on the 28th of November 2004. The patient underwent a further procedure on that date to drain an abscess. The patient was then returned to the ICU on ventilation and the

patient was then transferred to Brisbane on the 4th of December 2004.

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COMMISSIONER: Do you agree with that?

MR ANDREWS: Yes, Commissioner.

COMMISSIONER: Well, they're agreed facts, on the basis of which you can ask questions if you like.

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MR DIEHM: I don't want to take the witness any further beyond that, Commissioner.

COMMISSIONER: That's all right.

MR DIEHM: I was simply going to establish those facts with her.

COMMISSIONER: That's all right. She mightn't have known them anyway.

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MR DIEHM: Will, I was only able to show her the documents no doubt.

COMMISSIONER: All right.

MR DIEHM: If that document may be returned.

COMMISSIONER: Are you finished or are you-----

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MR DIEHM: I'll still going.

COMMISSIONER: Right.

MR DIEHM: Now, with respect to the other patient who is P36 on the patient code, do you recall who P36 was?-- I think I do, yeah.

Now, if I - perhaps if it assists you, the code would indicate that that patient as I understand it is P36?-- Yes.

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Commissioner, I wonder again whether I might do the same process, if Mr Andrews might be able to agree.

COMMISSIONER: Yes, that's better I'm sure.

MR DIEHM: P36 was, at the time of his admission, a 73-year-old patient with an incidental condition of diabetes. He was operated on on the 22nd of January 2005, being a subtotal colectomy for a blockage in his bowel. He was returned to the surgical ward but that on the 23rd of January 2005 he was admitted to the ICU as he was suffering from some what was perceived to be heart complications. He was ventilated on the 24th of January 2005. A not for resuscitation order was made in consultation with his family on the 25th of January 2005. That order was lifted on the 28th of January 2005. The patient was then taken off ventilation on the 3rd of February 2005. He was placed back on

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ventilation after aspirating on the 10th of February 2005. On the 11th of February 2005 at the request of a family member, or - sorry, I'll rephrase that. There was a request from a family member for the patient to be transferred to either Brisbane or Sydney to allow easier visiting and the patient was then transferred on the 14th of February 2005. 1

COMMISSIONER: Do you agree with that, Mr Andrews.

MR ANDREWS: I concede I haven't read the record yesterday, I don't recall it. 10

COMMISSIONER: All right. Well, unless there's some contradiction, we can assume those facts are correct. Do you want to ask questions on the basis of anything?

MR DIEHM: No, I don't. I would have otherwise taken the witness through those notes.

COMMISSIONER: Well, there is no point in doing that. 20

MR DIEHM: Thank you, Commissioner.

COMMISSIONER: Right.

MR DIEHM: Ms Jenner, with respect to the transfers of those patients, you say that the only reason they were eventually transferred was that the beds were needed for someone else. I take it you can't recall who the patients who-----?-- No. 30

Who those beds were needed for? Are you certain that they were only transferred because the beds were needed for someone else?-- From my recollection, yes.

From your recollection, yes, did you say? Do you have a recollection, for instance, in the case of the second patient P36 that the patient was actually transferred because of a request from a family member that he'd be moved somewhere else so that they could more readily visit him?-- I know his family member was requesting he go to Sydney because that's where she was from. 40

Yes. Thank you, Commissioner, I have nothing further.

COMMISSIONER: Thank you.

MR FARR: I have no questions, thank you.

COMMISSIONER: Mr O'Sullivan?

MR O'SULLIVAN: No questions, thank you. 50

MR ALLEN: No re-examination.

COMMISSIONER: Mr Andrews?

MR ANDREWS: May Ms Jenner be excused?

COMMISSIONER: Thank you, Ms Jenner, you're excused from further attendance.

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WITNESS EXCUSED

MR ANDREWS: I call Gail Yvonne Doherty.

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GAIL YVONNE DOHERTY, SWORN AND EXAMINED:

MR ANDREWS: Is your full name Gail Yvonne Doherty?-- Yes, it is.

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And, Ms Doherty, you are an Acting Nurse Unit Manager at the Bundaberg Base Hospital?-- I was but I'm not now.

What's your occupation now?-- Clinical nurse at the Bundaberg Base Hospital.

Ms Doherty, did you prepare a statement dated the 20th of May 2005?-- Yes, I did.

And are you aware that inquiry staff have edited a sentence or two from paragraph 25?-- Yes, I am.

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Would you look at this edited version. Are the facts recited in it true to the best of your knowledge?-- Yes.

I tender that edited version, Commissioner.

COMMISSIONER: Exhibit 509.

MR FREEBURN: Before that's tendered can I make mention of a matter. We have a letter from the Commission which went to all parties which - it's dated the 24th of October and it refers to the first sentence in paragraph 26 and the letter says, "From the statement of Gail Doherty at paragraph 26 in the first sentence you will see 'hearsay'. It is intended to retain that sentence. It is not intended to treat that evidence as being against the interest of Mr Leck."

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COMMISSIONER: Mmm.

MR FREEBURN: Now, if it's tendered on that basis, if that paragraph is tended on that basis - or we just inquire whether it's intended on that basis.

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COMMISSIONER: Is that right, Mr Andrews?

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MR ANDREWS: That's correct, Commissioner.

COMMISSIONER: Yes, it is.

MR FREEBURN: In that case, I have no questions of the witness.

COMMISSIONER: All right. Have I marked that Exhibit 509? That will be Exhibit 509.

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ADMITTED AND MARKED "EXHIBIT 509"

MR ANDREWS: I have no questions of Ms Doherty, Commissioner.

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COMMISSIONER: Yes.

MR ALLEN: I appear for Ms Doherty, if the Commission pleases. Could I just ask a few questions?

COMMISSIONER: Yes.

EXAMINATION-IN-CHIEF:

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MR ALLEN: Ms Doherty, you annex to your statement an email from Dr Keating to yourself dated the 8th of February 2005?-- Yes.

Which has already been admitted as an exhibit in these proceedings. In relation to the need for the Bundaberg Hospital to achieve the elective surgery target for the financial year?-- Yes.

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And there is reference to the fact that at that time, in early February 2005, the hospital is behind target?-- Yes.

There is reference to the imperative that everyone continue to pull together and maximise elective surgery throughput until the 30th of June 2005?-- Yes.

Now, can you, given the position that you held then, as the acting nurse unit manager in the operating theatres, express any opinion as to whether or not there would have been any impact upon the ability of the hospital to meet the elective surgery targets being referred to in that email if Dr Patel had been suspended from practice as a surgeon in late 2004 or early 2005?-- No, we certainly would not have met targets if he had been suspended.

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Why is that? What sort of impact would it have had upon meeting those targets if he was suspended?-- He was doing a large amount of work to achieve the targets.

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I see?-- And if he was not operating, a lot - a significant amount of our work would have probably dropped right off.

Okay. So, what, are you indicating then that the type of matter that's being urged upon you by Dr Keating in this email, that is to attempt to meet the targets by maximising elective surgery throughput, would have in fact been impossible without Dr Patel continuing as a surgeon up until the end of the financial year?-- Well, unless they'd organised for another general surgeon to come, yes, it would have been.

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I see. Thank you.

COMMISSIONER: Thank you. Mr Freeburn? You say no questions?

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MR FREEBURN: No, thank you.

COMMISSIONER: Mr Diehm?

MR DIEHM: Thank you, Commissioner.

CROSS-EXAMINATION:

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MR DIEHM: Ms Doherty, my name is Geoffrey Diehm and I appear for Dr Keating. Dr Patel had holidays from time to time, didn't he?-- Yes, he did.

At the times that he took his holidays, there was still the need for the Bundaberg Hospital to get surgery carried out so that it could move towards meeting its targets?-- Yes.

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When Dr Patel went on leave at times, other surgeons came to replace him, didn't they?-- Sometimes they did.

Sometimes. So presumably if it was perceived there was a need for replacing Dr Patel whilst he was on leave to meet the demands for surgery, then that was done?-- If they could find a locum, is what my understanding was.

COMMISSIONER: Did they always do it, or sometimes were they just unable to find a locum?-- Sometimes they were unable to find a locum.

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Is that common, being unable to find a locum?-- I can't recall how often it did occur but occasionally it did occur.

Thank you.

MR DIEHM: So the question of the impact of Dr Patel's absence

if he was suspended, as you conceded before, really depended upon whether or not he was replaced on a temporary or permanent basis?-- Yes.

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With respect to the email from Dr Keating, he wasn't, in your understanding, saying to you, was he, that it just did not matter whether or not the nursing staff were able to deal with the surgery that was there to be done; it was to be done anyway? That's not what he was saying to you, was he?-- That was my impression from it.

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Well, what he was saying to you, from the plain words, I suggest, was that there was a need to try and meet the elective surgery targets for some very important reasons. That was the first thing he was saying to you, wasn't it?-- Yes.

Secondly, that, therefore, you should try to avoid having cancellations of surgery. He was saying that to you, wasn't he?-- Yes.

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The third thing he was saying to you was that if there was a problem, don't just immediately cancel the surgery, there was a team or a group of people that should meet to try and sort that matter out?-- Yes.

And the fourth thing he was saying to you was that if that team or group couldn't sort the matter out satisfactorily, then it should be referred to him for a decision?-- That's what it is saying, yes.

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So, for instance, if it were the case, on the face of that email, that the nursing or the anaesthetic staff were stretched beyond the point of safety to themselves or the patients in meeting a surgical case load, then that was a matter that was to be discussed and sought to be resolved by that group of people identified in the email?-- Yes.

And if there was no satisfactory resolution there, then the matter should be brought to Dr Keating's attention?-- I spoke to Karen Smith who was the elective surgical coordinator because the theatre staff were complaining to me about the excessive amounts of overtime they were doing and they were physically worn out. She raised the issue at the clinical management meeting and I got this email the following week.

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Yes. Now, you don't know precisely what it was Ms Smith raised at the meet?-- No, I don't because I was not there.

What you have got, as you say, is this email that set out that several step process that should be gone through in the event there be a problem?-- Yes.

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Thank you. I have nothing further, thank you, Commissioner.

COMMISSIONER: Thank you, Mr Farr?

MR FARR: No, thank you, Commissioner.

COMMISSIONER: Mr Allen, do you have any re-examination?

MR ALLEN: Yes, thank you Commissioner.

RE-EXAMINATION:

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MR ALLEN: Just taking up where matters were left off then, after you raised those matters with Ms Smith, that is the excessive amounts of overtime and the staff being worn out, did you receive any other type of response from the executive management other than this email from Dr Keating?-- No. I was also told by Dr Patel that we had to meet the targets at any cost and we just had to keep going. I had been yelled at by Dr Patel for trying to reorganise lists when staff were off on fatigue leave, were off sick. Because there were so few of us, it impacted on the whole day and we were often working 14, 16 and 18 hour shifts because we couldn't fit in life-threatening emergencies during the day, and this had been ongoing for quite a while.

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Okay. How had - apart from the communication to Ms Smith by yourself, would there have been any other indications through the normal course of communications in the hospital to the executive management as to the extent of overtime being undertaken as to the hours being used in the operating theatre?-- Yes, it would be. The nurse managers, as far as I understand, gave a report to the DON every morning and she would notify her how many hours we'd done. It also came up on our costs reports as well because it also impacted with fatigue leave, sick leave, things like that, because there were so few of us.

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So when did the situation finally change, if it has, whereby there was no longer excessive overtime in the operating theatre and staff being physically exhausted?-- It has only changed - in probably the last two months we have commenced an afternoon shift which we did not have before, so we basically work from 8 o'clock in the morning till whenever the list was finished. We have now commenced afternoon shift. I know in the last - I think it is about two months, I have only done about three hours' overtime in that whole two months, whereas before it would have been quite a significant amount more because we're now doing the afternoon shift which covers for the late run of the list and any emergencies, and they have altered the lists so that the theatres are covered safely. So we're only doing what we can do with the amount of nurses we've now got, which is what I tried to do for quite a few months, is organise to try and get some more staff. But I was told we were only acting, that we would have to wait for a new nurse unit manager to be employed and they would review the theatre, and still at this time there has been no nurse unit manager employed and that was from August last year.

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Thank you.

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COMMISSIONER: Mr Andrews?

MR ANDREWS: I have no further questions, Commissioner.

COMMISSIONER: Thank you.

MR ANDREWS: May Ms Doherty be excused?

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COMMISSIONER: Thank you, Ms Doherty, you are excused.

WITNESS EXCUSED

MR ANDREWS: That is the evidence for today, Commissioner.

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COMMISSIONER: Thank you. If anyone feels the need to make a supplementary submission arising only out of the evidence given today, then they have until 4 p.m. tomorrow in which to do so. We will now adjourn.

THE COMMISSION ADJOURNED AT 10.51 A.M.

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