

## Submissions

Ms Deborah MILLER

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**Crown Law**  
Queensland Government

Your ref:  
Our ref: CSS5/HEA027/5744/DZP  
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Department of  
**Justice and Attorney-General**

26 October 2005

Mr David Groth  
Secretary  
Queensland Public Hospitals Commission of Inquiry  
Level 9  
Brisbane Magistrates Courts Building  
363 George Street  
BRISBANE Q 4000

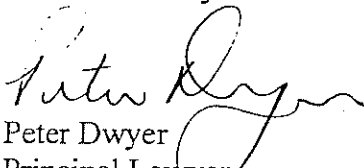
Dear Mr Groth

**Submissions in response to Notices of Potential Adverse Findings**

I enclose submissions on behalf of Drs Fitzgerald, Nydam, Krishna and Huxley, Ms Erwin-Jones, Mr Allsopp and Ms Miller in response to Notices of Potential Adverse Findings (or, as the case may be, Notices of Potential Adverse Findings and Recommendations) given to each of those individuals.

The submissions were drawn by Mr Farr of counsel and settled by Mr Boddice SC.

Yours faithfully

  
Peter Dwyer  
Principal Lawyer  
for Crown Solicitor

encl

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QUEENSLAND PUBLIC HOSPITALS COMMISSION OF INQUIRY

SUBMISSIONS ON BEHALF OF DEBORAH MILLER

1. Relevantly, the evidence of Ms Miller appears at:
  - (a) Exhibit 416 – Statement of Deborah Miller;
  - (b) Transcript – T6409/34–6410/51; 6413/50–6415/42; 6417/26–6418/6; 6418/50–6419/55;
  - (c) Exhibit 460 – Executive Services Guidelines.

**Re paragraph 1 of Notice**

2. Ms Miller spoke of the information system known as Recfind as being an electronic index system for some documents (including submissions). Whilst Recfind would probably be the first place to look in an attempt to identify documents in relation to an FOI application,<sup>1</sup> it was not the only avenue of search available to an employee responding to an FOI application.<sup>2</sup>
3. Accordingly, the removal of a document from Recfind might at worst lengthen the search process, although that would not necessarily be so, but it would not reduce the potential for the document to be accessed pursuant to the *Freedom of Information Act*. On Ms Miller's evidence, other areas of search would be utilised in the process of responding to an FOI application.
4. Importantly, the removal of a document from Recfind has no bearing to its continued retention on the hard drive system of Queensland Health. Recfind is merely an electronic index system. It is not the system on which the document was originally created, and on which the document would be retained.
5. Whilst the removal of a document from Recfind has the potential to lengthen the search process in the event of a FOI request, there is no evidentiary basis for a conclusion that Ms Miller intended to cause the document to be more difficult to locate or to cause its non-retention. That being so, even though Ms Miller may have misunderstood the nature of the Recfind system, there is no reasonable basis for the making of findings adverse to Ms Miller.

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<sup>1</sup> T6417/26 – 55.

<sup>2</sup> T6409/50 – 6410/15.

**Re paragraph 2 of Notice**

6. It is acknowledged that Ms Miller's evidence was inconsistent with some Queensland Health guidelines.<sup>3</sup> However, that error would at most be an indication of a misunderstanding of administrative procedures.
7. It must be noted that there is no evidence before the Inquiry that these guidelines had ever been brought to Ms Miller's attention. She was not questioned about them during her evidence. The topic was however raised with Dr Buckland who said that, whilst he did not recall ever reading the guidelines, he was of the opinion that they were designed to assist executive support staff.<sup>4</sup>
8. Adverse findings, even if they are not accompanied by any recommendations for disciplinary or other action, can have a deleterious effect on career prospects. Such findings should therefore only be made in relation to areas of significance, on clear and unequivocal evidence. For the reasons stated above, no reasonable basis exists for the making of any adverse findings against Ms Miller.

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<sup>3</sup> Exhibit 460.

<sup>4</sup> T7104/10-17.