

REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE NO. 2

**INQUIRY INTO COMPLAINTS HANDLING WITHIN
NSW HEALTH**

At Sydney on Friday, 21 May 2004

The Committee met at 10.00 a.m.

PRESENT

Reverend the Hon. G. Moyes (Chair)

The Hon. Amanda Fazio
The Hon. Patricia Forsythe
The Hon. M. J. Gallacher
The Hon. Robyn Parker
The Hon. P. T. Primrose
The Hon. Christine Robertson

ROBYN KRUK, Director General, NSW Health, and

DEBORAH PICONE, Administrator, South Western Sydney Area Health Service, on former oath:

CHAIR: I welcome you to the eighth public hearing of General Purpose Standing Committee No. 2's inquiry into complaint handling procedures within NSW Health.

I would like to start by giving an apology on behalf of the attendants and others here for all of us being squashed into this room. Parliament House is being used today for a number of activities and inquiries, including a large one involving a lot of people from TAFE, and this was the only available room for us, so I do apologise that we are in crowded conditions. I have suggested I would take over the public library, but no one else is taking that up with any enthusiasm. There is a vacant Government House and I suggested that as well.

The witnesses appearing today, Associate Professor Deborah Picone and Ms Robyn Kruk, have appeared before the Committee previously. Thank you both for being with us at this time.

In previous hearings I have made detailed statements in relation to privilege, patient confidentiality and the sub judice convention. I do not propose to go through those presentations again, but copies of those comments are available from the attendants. Suffice to say that the Committee is largely concerned with the systemic issues concerning complaint handling procedures in NSW Health and would ask that the witnesses be mindful of the ethical and legal implications of disclosing personal information about patients.

I would also mention that, apart from regular members of this Committee attending today, the Honourable Michael Gallacher will be in attendance and he has an entitlement to ask questions.

I would like to invite our witnesses to make an opening statement.

Associate Professor PICONE: I have no opening statement.

Ms KRUK: As you are aware, I asked the Committee for the opportunity to address you on one final occasion. At my previous attendance before the Committee, a number of issues were raised in relation to the direction NSW Health would be taking. The issue of mandatory reporting also came up for discussion. I have used this as an opportunity to make a final closing submission to the Committee. If you would bear with me, could I just draw attention to the highlights of that and formally table it?

CHAIR: Please.

Ms KRUK: First, I hope that this extra submission will assist the Committee by clarifying the NSW Health perspective on some of the issues raised in the inquiry and outlining important issues announced recently that further demonstrate a commitment to clinical excellence. The submission covers areas such as, firstly, cultural change, which has been a major matter of discussion here, and the importance of fostering a just culture; secondly, ways to encourage reporting and enhance communication; thirdly, new initiatives, particularly the establishment of the Clinical Excellence Committee and the Professional Practice Units and, finally, the role of the department and health services in implementing change.

During the public hearings for this inquiry there has been discussion of individual cases - I note your comments again, Chair, and appreciate those - some of them with quite tragic consequences. NSW Health has not always got it right. We have come to the table in that spirit and come to the table with the spirit of moving forward, but we continue learning from our experience with cases like these and looking for ways to improve. The strategies being implemented now reflect this learning.

Firstly, the Professional Practice Units: These will be established in the area health services giving patients, their families and health service staff a new avenue to raise their concerns about patient care, an avenue which is at the closest point of contact with the health system, an avenue that they can address immediately, an opportunity to have their concerns addressed. These units will be independent of line management so that people can feel confident that their complaints are being addressed openly and objectively.

They will keep complainants informed of the progress and outcomes of investigation into their complaints. I will ask Professor Picone in a few minutes to talk about the operation of the unit within the South Western Sydney Area Health Service. With the introduction of Professional Practice Units, area health services will be much better equipped to handle complaints at a local level. These complaints will focus on prompt investigation and resolution and will refer cases to the coroner or the HCCC if appropriate in a timely manner. That has been a matter that has been raised with this Committee. Complainants will have their concerns dealt with efficiently and effectively. Professional Practice Units will also have an important role in communication skills training. Chair, you will remember that communication has been at the heart of a number of matters that have come before this Committee, but arguably we know that from our own systems and in educating and advising health service staff and managers on how to practise open disclosure and how to deal with complaints more effectively. Better communication benefits everyone quite clearly, both patients, families and also health service personnel.

Secondly, root cause analysis, a matter that has been the subject of some discussion here: I think a number of clinicians, a number of very eminent people, have spoken of the benefits and supported our path in this regard. Root cause analysis has been introduced to ensure that all serious incidents are investigated promptly, transparently and in a consistent manner. Root cause analyses result in concrete recommendations that area health services and management are responsible for implementing. Getting to the core of a problem and identifying what must be done to prevent an incident from occurring is pivotal to making health services safer. It gives further peace of mind to patients and families that serious concerns are being addressed and that the health system is being improved as a whole.

Third, changes to the Health Care Complaints Commission have already been announced in this House by the Minister. They will concentrate on investigating specific complaints rather than systemic issues and, with additional investigators and funding, complaints will be dealt with sooner and in a more focused way.

Fourth, the new Clinical Excellence Commission, which was announced a month ago, will benefit health services in the community by identifying safety concerns through audits of health services and, wherever possible, intercepting problems before they cause any harm. The Clinical Excellence Commission will also provide expert support to health services, helping them to improve their systems when a particular need is identified and assisting them more generally with implementing quality programmes. I think that relates to some of the questions your members may have asked last time in relation to system-wide learning.

Challenges remain and we do not seek to diminish them. Even with the most motivated and expert personnel, human errors will occur. Further cultural change is vital to ensure that staff throughout NSW Health see errors and complaints as learning opportunities and use this information to put systems in place that will prevent errors or reduce their effects.

The initiatives we have identified will go a long way towards supporting these improvements, but it will clearly not happen overnight. This is about continued and sustained improvement to the management of incidents and complaints over a long timeframe. As I have indicated to the Committee before, New South Wales leads in many areas and is recognised to do so, but we are also conscious that every incident is one incident too many and one we seek to avoid. This is about continued and sustained improvement in the management of incidents and complaints over a long timeframe.

As I have stated previously, I welcome this inquiry as an opportunity to continue to improve the delivery of health services in New South Wales. I am happy to take questions from Committee members.

Can I formally table our additional paper to the inquiry and appreciate the opportunity for the Committee to see this.

Document tabled

If Professor Picone could speak about the operation of the unit in her area, I would appreciate that.

Associate Professor PICONE: As you are aware, we set up a Professional Practice Unit soon after I commenced my administration of south western Sydney. It has legal, clinical and mediation skills. The unit is

headed up by a woman called Mary Dowling, who actually has a clinical background as a nurse but has also gone on to do law and mediation. It focuses on serious or unresolved complaints and grievances made by staff, patients and their families.

The Professional Practice Unit has already had a number of success stories, some of which I would like to share with you, but just to give you an idea of the workload through the unit in the last five months or so, the unit has managed 40 staff grievances, 47 complaints and 53 other matters, just to give you an idea of the scope. I asked Mary Dowling to give me some de-identified examples of success stories arising from the unit and I might, with your permission, Chair, share that with the Committee.

It assisted Mr W in dealing with the care and treatment provided to his partner. They drew attention to the need - this is in terms of our staff - to improve ambulance assessment, ambulance hand-over and communication with the emergency department, emergency department triage assessment and also emergency department management of patients in waiting rooms. The PPU also assisted in coordinating interagency response between south western Sydney and the NSW Ambulance Service.

A meeting with Mrs L's family: The Professional Practice Unit gave the family an honest and open account of what had happened to their loved one. This provided the family with a greater understanding of both the course of events and their meaning in a medical context. The family was also counselled about the implications of having a family history of ischaemic heart disease and was provided with a copy of the medical record at no cost. It also arranged counselling for one of Mr L's grandsons and dental assistance was also provided.

A meeting with Mrs Y's family: The PPU provided information about events in Mrs Y's medical care and assisted with their understanding of why these had occurred. The family was also provided with an opportunity to air concerns about aspects of supportive care such as mobilisation and food services. The PPU explained to the family improvements to the process of care which had resulted from a review of Mrs Y's case by a special clinical reference panel.

A meeting with a junior resident doctor, Dr C: The PPU staff supported a resident who had concerns about a registrar in the operating rooms of one of our hospitals. An investigation found that other junior doctors had similar concerns about the registrar. The PPU met with the registrar and advised him of the perception held by the junior staff. The registrar acknowledged that he might be perceived poorly. He was upset and promised to take more care when dealing with staff in the future. The PPU also advised surgeons of the importance of the performance management of such issues when they arrived. According to surgeons, the registrar and the junior member involved three weeks later had a very good working relationship within the theatres.

A meeting with an enrolled nurse: An enrolled nurse was already receiving work-related counselling for a senior member of staff speaking rudely in front of her. The PPU met with the senior staff member concerned. She accepted that she had acted inappropriately as things were not going as planned for her on that day. A meeting was arranged between the two staff members. Mediation resolved the issues and apologies were made. The senior staff member is now a support person for that enrolled nurse.

You can see from these examples why it is pleasing to note the director general's announcement that following the successful establishment of the Professional Practice Unit in south western Sydney the department is setting up similar units across all area health services in New South Wales.

CHAIR: All area health services?

Ms KRUK: That is right Chair.

CHAIR: Will they be uniformly called Professional Practice Units?

Associate Professor PICONE: Professional Practice Units.

Ms KRUK: Chair, if I might take that on board, I think what is important, and I think we would recognize this also when we are users of the system, when you have got a concern, when you have got a worry

or alternative view for a staff member, if you are unhappy about the way you are being treated, you really want to have someone they can go to quite quickly to have the issue raised and ideally to have it resolved. The important aspect, as I said, is that it is independent of line management and it is easily accessible.

This is also a very clear link for the other avenues of complaint. If the matter is serious, there is a very clear entrée point to the HCCC. It ensures that complaints can be dealt with in a timely and effective manner.

I stress again that it is dealing with both aspects of complaint handling, both in relation to concerns about patient care and the New South Wales health system is huge. In many instances one of the greatest difficulties when you are upset if something has gone wrong is who do I ask for assistance. Do I talk to the social worker, do I try to talk to the doctor, do I talk to the administrator or, frankly, in desperation, where do I go?

This gives a very clear focal point to actually raise their concerns and have them resolved quickly. That has been an issue in health and it has been raised I think raised in individual cases before your Committee and it has obviously come to our attention from various other quarters.

In relation to staff grievances, this is an equally important avenue. It is at the local level, it is independent of line management and it is an opportunity for staff to raise their grievances and not to, in effect, have those concerns build up, have the concern, the grief that has occurred in relation to south western Sydney. That is the situation that all parties would wish to avoid.

I have been pleased that south western Sydney has been an area that has seen a successful introduction of this initiative, as I said to the extent of which I am now confident of seeing that roll out occur across the State.

They will be headed by clinicians, that is the important issue, but they will be a multi-disciplinary team.

The Hon. ROBYN PARKER: Who is going to assess the success or failure of those?

Ms KRUK: We will do that as part of our ongoing audit program. What it gives us is a readier indicator in relation to complaints, it gives us also a better ability to assess the type of complaints.

The other issue is one of your best indicators is your community satisfaction. We have in the past made available a whole range of avenues for people to raise concerns. The 1800 number in many instances is quite a cold avenue of response, you are not sure who you are dealing with. Most people in these instances, particularly where there has been a death or whether there has been some other cause of great concern, the family like face to face contact.

We will review them. We will continue to review them. There is no doubt, as I have indicated in earlier evidence, the model was initially trialed in the ambulance service and was very successful.

Professor Picone has modified to suit the circumstances of the South Western Sydney Area Health Service. We are not suggesting this is a panacea, because this will not fix the issues but this will provide a very effective avenue to deal with complaints locally, quickly, and to ensure also where there are serious complaints, that they go to the HCCC, matters are raised with the coroner but also that I have the opportunity to see what they system-wide issues are.

The Clinical Excellence Commission, this is an initiative in tandem. It has many components. It really is trying to deal with all aspects of the issue.

The Hon. PATRICIA FORSYTHE: Ms Picone, can I ask you about the three deaths that have been highlighted in the media. When did you become aware of the complaint about three more deaths at Liverpool Hospital?

Associate Professor PICONE: Yesterday I confirmed that I had referred three additional deaths at Liverpool Hospital to police and to the Independent Commission Against Corruption in February 2004. This brings to four the number of deaths between 1999 and 2001 at Liverpool Hospital referred by us to the police for investigation.

When the allegations were first brought to my attention in early February this year, I referred them immediately to the police and to ICAC. I had been advised by the police that the coroner is the appropriate body to contact the next of kin in these investigations, that was back in February and repeated to me again yesterday by the police

I also referred these cases additionally to the Health Care Complaints Commission and to the relevant medical boards. All these matters are subject to further investigation by those authorities and on that basis I cannot provide any detailed comments.

The Hon. PATRICIA FORSYTHE: Can you confirm or otherwise whether the four cases involved the same doctor?

Associate Professor PICONE: I cannot provide comments, they are matters for the police.

The Hon. PATRICIA FORSYTHE: In an earlier hearing in reference to the death of one patient that was the subject of discussion, Audrey Daly-Hamilton. There was reference to documents having been discovered that had been discarded when the doctor had left in the office. Is that doctor still practising in the health system?

Associate Professor PICONE: That doctor does not practice as far as I understand in New South Wales.

The Hon. PATRICIA FORSYTHE: But he could be practicing interstate?

Associate Professor PICONE: Chair, I would ask for some assistance here. These matters, including the matter of Mrs Daly-Hamilton, I have immediately referred to police, it is the subject of a police investigation and an investigation by other authorities. I am not at liberty and have not been until yesterday, when I sought permission, following a number of media inquiries to actually release this statement. I feel that these questions would be best directed to the police.

The Hon. PATRICIA FORSYTHE: Why did you issue yesterday's media release?

Associate Professor PICONE: Because I had received a number of inquiries from the media and I then contacted both the police and ICAC to seek their permission to release this statement.

The Hon. PATRICIA FORSYTHE: Why did you hush up the allegations?

Associate Professor PICONE: It would not be normal practice for me to brief the media in relation to confidential discussions between myself and the police and ICAC in relation to matters of such a serious nature.

Ms KRUK: Chair, could I, with your consent, Professor Picone is in a difficult position here in relation to both the circumstances of the case. I understand the issue of privilege. I think we have raised before the issue about talking through both individual patient care issues and also respecting rights of clinicians involved in these investigations.

CHAIR: Professor Picone is a very experienced woman and evidence-giver and I am quite sure she knows the bounds where she can go. I will also keep an eye on the issue.

Ms KRUK: Chair, can I also say I think does demonstrate some of the change that has occurred in South Western Sydney Area Health Service. These are normally very difficult allegations to investigate. I know that from my limited experience in the health sphere. The fact that Professor Picone exercised the judgment to bring these allegations to the note of the appropriate authorities as early as she did should be commended and not the subject of criticism. I think that is the important issue. It is unfortunate that there becomes a debate about the merits and the components of the individual cases. It is difficult for someone both in my position and Professor Picone's position to, in effect, comment without fuelling it and in some instances actually that may jeopardize

the proper conduct of an investigation, so I am applying also the difficulties in my instance.

The Hon. AMANDA FAZIO: Professor Picone, was there any delay between you becoming aware of these three additional cases and you referring them to the police, the coroner and ICAC?

Associate Professor PICONE: I contacted both ICAC and the police that afternoon. I was advised in the morning, I rang them that afternoon and I met and briefed the police within four days.

The Hon. PATRICIA FORSYTHE: Is not the issue in part about dealing in an open and accountable system? The only reason that we know about this is because there were media inquiries?

Associate Professor PICONE: I would not normally brief the media on these sorts of allegations. I advised immediately the relevant authorities, who took over the matter from me. I have been advised at the time, and as late as yesterday, that if there were to be statements on these matters, that it was in the longer term they would be made by the coroner, certainly not by me.

The Hon. PATRICIA FORSYTHE: Why did you issue the press releases as a police investigation update? Isn't there a suggestion that you had previously advised about it?

Associate Professor PICONE: Because in that group of particular group of patients, Mrs Hamilton was in that group of patients.

The Hon. PATRICIA FORSYTHE: In terms of these cases, when were they reported to the Minister's office?

Associate Professor PICONE: I did not report it at the time to the Minister's office.

The Hon. PATRICIA FORSYTHE: Why not?

The Hon. CHRISTINE ROBERTSON: Why, isn't that what you have been on about all month?

Associate Professor PICONE: At the time, following my discussions with the police, I felt at that time it was not necessary. In retrospect, perhaps I should have.

The Hon. PATRICIA FORSYTHE: Can I just go back to some of the earlier evidence about Mrs Daly-Hamilton's case, this issue about relevant documents and discarded documents. What are the protocols for keeping of documents about such critical incidents?

Associate Professor PICONE: If I recall correctly the documents that I think we are discussing are the handwritten notes of a doctor arising from a meeting that the doctor had with a member of the nursing staff. They were, from my understanding of everything, and I think this was five years ago, those records were kept in the doctor's office.

My advice to people would be to put those documents then into official records. That did not occur at the time. I can assure you in future it will. I think people have learnt from that.

The Hon. PATRICIA FORSYTHE: In future, is there now not a protocol in place?

Associate Professor PICONE: There is a protocol.

The Hon. PATRICIA FORSYTHE: Has it been applied and when did that protocol commence?

Associate Professor PICONE: One would normally keep the transcripts of those sorts of meetings in my view. That did not happen then, I do not know why.

The Hon. PATRICIA FORSYTHE: Are you satisfied that all relevant documents relating to these

three latest cases have all been referred on to the appropriate authorities?

Associate Professor PICONE: I certainly have referred all of the materials that are available to us on.

The Hon. PATRICIA FORSYTHE: And copies kept by south west Sydney?

Associate Professor PICONE: As best I understand I have referred all the relevant documentation on.

The Hon. MICHAEL GALLACHER: You said all the available information or documentation available to you. You have been conducting an investigation for some time. Is there anything missing that is of concern to you at this stage?

Associate Professor PICONE: I am not conducting an investigation into these matters, the police, ICAC, HCCC are conducting those investigations. I assist by providing information when I am requested.

The Hon. MICHAEL GALLACHER: Surely you must have conducted a preliminary investigation that warranted you to suspect that this matter should have been referred to the police?

Associate Professor PICONE: I was advised that there were some concerns and simply on the basis of the concerns I referred it.

The Hon. PATRICIA FORSYTHE: In relation to the doctor or doctors involved, have you gone back to other patient records to satisfy yourself that there are no other incidents involving other patients that would be a cause of concern involving this doctor or doctors?

Associate Professor PICONE: These are a matter for the police. These investigations are a matter for the police. I think those questions would be best directed to the police conducting the investigation.

The Hon. MICHAEL GALLACHER: Were the complaints that were raised with you brought to your attention, as you have just told the Committee, raised by health professionals or members of the public?

Associate Professor PICONE: Chair, I am concerned that this matter is the matter of a police investigation, an ICAC investigation. I would be most concerned if I continue to answer questions, that this may cause some difficulty for that investigation. I just do not know where to go with this.

The Hon. MICHAEL GALLACHER: Mr Chair, could I just be of assistance to the witness. A great deal has been said this morning about changing the culture. What we are interested to know, without getting into the nitty gritty of the case, is whether what you have told the Committee this morning is in fact correct, that it is an internal reporting mechanism that has brought this to your attention or indeed, has it come from outside the health practitioners?

Associate Professor PICONE: The complaint was raised by clinical staff. I cannot recall whether they continue to be on staff.

Ms KRUK: Mr Gallacher, you understand some of the issues there in relation to also protecting the rights of an individual making a complaint like that. Professor Picone is in a difficult situation here. It is not a matter of being unhelpful. I also do not want a situation where one of my CEOs is criticised for jeopardising the conduct of the inquiry. That is also part of the cultural change that I have talked about. I think the fact, as I said before, that it was referred to both the police and the appropriate bodies in a timely manner indicated that that judgment was taken. Now whether the matter is proven or found to be sustainable at the end of the day is obviously a matter for those authorities.

The Hon. MICHAEL GALLACHER: You used the word "judgment", and it is an issue that I will return to a little later, in terms of the judgment that has been made with regard to reporting in the past and that is why we are keen to proceed with this issue to ensure that the public has confidence that there is transparency in terms of what is happening within health because right now we are not really convinced.

The Hon. AMANDA FAZIO: You may not be convinced.

Ms KRUK: I can understand what you are saying. If we can avoid breaking down individual cases, I echo Professor Picone's concerns. We are very happy to take your questions in relation to how it impacts on the processes and the extent to which the processes address the concerns you are raising.

The Hon. PETER PRIMROSE: I think also it is appropriate to take account of the fact that this Committee made it clear, as I know you have Mr Chairman, that it in no way wishes to be seen to be interfering in due process.

CHAIR: We are looking at systemic issues.

The Hon. PETER PRIMROSE: Yes, and due process I think is what we are being alerted to.

The Hon. MICHAEL GALLACHER: I can conclude on this one question: It is right, therefore, to assume from what you have told the Committee this morning that the allegations were made as a protected disclosure?

Associate Professor PICONE: No, they were not.

The Hon. PATRICIA FORSYTHE: Professor Picone, are you aware that Dr David Hugelmeyer, the director of emergency medicine at Macarthur, is about to take stress leave after he was allegedly bullied for appearing at this inquiry?

Associate Professor PICONE: No, I am not aware of that.

The Hon. PATRICIA FORSYTHE: In view of the evidence that we have had from a number of witnesses before this inquiry concerning morale amongst staff at Camden and Campbelltown in particular, what have you done to assure yourself that witnesses appearing are not being bullied, are not the subject of internal staff complaint?

Associate Professor PICONE: I think that is an excellent question. I believe I have set the tone for the organisation by encouraging everybody to have an opinion on everything and, as I have said before, whilst we might not agree with each other, I think it is important that people are able to have opinions. In hospital life, and I suspect in other organisations, sometimes those views are quite passionately at polar opposites, but I think it is very important that we encourage everybody who wants to have a say or have a view to be allowed to do that.

The Hon. PATRICIA FORSYTHE: Are you aware that Helen Parsons and Lisa Kremmer are alleged to be involved in bullying Dr Hugelmeyer?¹

Associate Professor PICONE: No, I am not.

The Hon. PETER PRIMROSE: May I point out that when asking questions members should be prepared to verify statements, so I presume the member will attest to the fact that the question is accurate?

The Hon. PATRICIA FORSYTHE: I would not be asking it if I did not have some confidence.

The Hon. PETER PRIMROSE: I just want you to confirm--

The Hon. PATRICIA FORSYTHE: I am quite able to confirm it.

Have you met with Helen Parsons since it was alleged that she ordered the changing of medical records

¹ See correspondence from Whyburns Legal dated 24 June 04 and from Assoc. Prof. Picone dated 03 June 2004 in relation to this allegation. Copies are available in the same location as the transcript on the Parliament's website at www.parliament.nsw.gov.au

because it would not look good for the hospital?

Associate Professor PICONE: I have had a meeting with Dr Parsons on a separate issue but, upon being made aware of that at the Committee, I immediately referred that allegation to ICAC and I did advise her by phone that it was my intention to do so.

CHAIR: I remind all members concerning adverse comments about persons.

The Hon. PATRICIA FORSYTHE: Thank you, Mr Chairman. As I recall, we gave Helen Parsons an opportunity to appear before this Committee.

Is it appropriate for Helen Parsons to continue in her current role considering that serious allegations have been levelled against her and this latest one about bullying Dr Hugelmeyer?

Associate Professor PICONE: I think it is very important that any time I receive complaints of that nature, which are that serious, I do refer them to appropriate investigation, in this case to ICAC. Equally I think it is important for the person whom the allegation has been made against that I offer them fair process and allow that investigation to take place prior to any action that I would take.

Ms KRUK: This goes to the heart of the issue of a just culture. There are the rights of someone to make a complaint, whether it is a staff member or a member of the community, but there is equally the right to have the opportunity to respond in that case. I am conscious, Ms Forsythe, of your questions about the impact on morale. There is no doubt that the impact on morale in that area health service as a whole has been significant. I think Professor Picone in evidence last time gave some statistics in relation to the number of assaults on staff. The stress that staff are under cannot be understated. At the same time, we as a system, we as a community, rely on them to continue to provide services. I echo the importance of the justness of that culture and that that be accorded to all parties.

CHAIR: I allowed that question because it was subsequent to Dr Hugelmeyer's appearance before this Committee that these issues were raised.

Associate Professor PICONE: I will, having been made aware of this today, contact Dr Hugelmeyer and see if there is any assistance that I can provide him. Could I also add to the director general's comments simply because she reminded me of a meeting that I was at at Campbelltown Hospital yesterday with some of the senior medical staff. I have to say that one of our great difficulties during this period of time has been to maintain the morale of that hospital. It is a public hospital and people do attend to be treated for their illnesses. We have 1500 people, and good and fine people, employed there. It has been extremely difficult for them.

I looked this morning at the assault figures, because I thought one of the Committee members may be interested to know, because I did give some evidence at my last appearance about assaults on the staff. It is interesting to note that the assaults on staff at Campbelltown Hospital are four times higher than any other hospital in the area health service. I just point that out to you as a practical reality of morale and the relationship issues that our hospital has with its local community at the moment.

The Hon. PATRICIA FORSYTHE: Professor Picone, what action have you taken to investigate claims of nurses abusing an elderly dementia patient on Thursday, 29 April 2004, at Campbelltown?

Associate Professor PICONE: This is a very serious matter. I might just go to my brief, if I could. We are working very closely with the family of a 94 year-old woman who was at the centre of this allegation of assault. She had an acute delirium and some underlying dementia issues. I do not have permission from this family, nor did I seek it, to disclose the details of this case; however, I can go over some of the general issues.

The care of this lady is currently the subject of a number of review processes. The allegations were made by a student nurse and we swiftly acted with a preliminary investigation that I commenced that day. As a result of the investigation and at the preliminary investigation I instigated a meeting with the patient's family and I have maintained ongoing communication with the family during this process and regularly speak to the

next of kin. At the request of the patient's family, a communication has been issued to all staff reminding them of their obligations relating to patient confidentiality. In addition, the nurses related to the allegation were suspended from duty pending a full investigation.

The health service is obliged, under relevant legislation and policies, to notify particular matters, such as the death of a patient in a coroner's case, safety and well-being of children and young people, so children at risk of harm, and bomb threats, et cetera, to the police. The police may also be notified of other matters that are considered serious, sensitive or subject to public scrutiny.

As members may be aware, the area health service notified police of this case on 6 May 2004 at 9 a.m. following our preliminary investigation. An independent external review of the care and treatment plans for this patient has since been completed by the Professional Practice Unit and we are currently coordinating action in response to the review's finding. I would have to say, on balance, our opinion is that the dementia care plan for this patient also was not satisfactory.

Continuing education programmes facilitated by the New South Wales College of Nursing commenced the next week for clinical staff on the management of patients with confusion and also the care of elderly commenced in the week commencing 10 May.

Further allegations relating to this incident have been received which are currently being investigated. I am nearly at the end of this matter. I am meeting with the family on Monday and I feel I will be in a position at some stage next week to finalise any disciplinary matters that will arise from it.

The Hon. AMANDA FAZIO: Mr Chair, I have some questions I would like to ask.

The Hon. PATRICIA FORSYTHE: I am going to finish this series of questions.

In relation to the student nurse who made the allegations, when were those allegations made?

Associate Professor PICONE: An allegation was made by an undergraduate nurse, so that is a nurse who is not qualified yet, who is on clinical placement with us from the University of Western Sydney, of an alleged assault on a 94 year-old patient to her facilitator at the university on 29 April 2004.

The Hon. PATRICIA FORSYTHE: And when did you take action on the allegation?

Associate Professor PICONE: That afternoon.

The Hon. PATRICIA FORSYTHE: What action did you take that afternoon?

Associate Professor PICONE: The long and the short of it is that we met with the student nurse, she reported an incident to us which was of a serious nature and we then met with the nursing staff involved. On the basis of their response to us - this occurred at the local hospital level - I was not satisfied with their responses and on that basis I suspended them.

The Hon. PATRICIA FORSYTHE: But you did not notify the police until 6 May?

Associate Professor PICONE: Yes. As I said earlier, I notified the police, or I didn't but my staff at the hospital contacted the police station at 9 o'clock on the following Monday morning.

The Hon. PATRICIA FORSYTHE: Is it appropriate in these circumstances that the health department itself investigates these complaints or should they, as a matter of course, be referred to the police?

Associate Professor PICONE: I have some figures and I might just give you an example of the practicalities of this. I am just trying to remember the assaults. In a hospital that size, on staff, for argument's sake, there can be up to - and I do not have the exact figures here, so if I could just say to the Committee that I am giving you my best estimate from recollection - around 50 serious assaults in the hospital per year. I will

give you an example: In one of our hospitals a month or so ago a nurse was king hit in the face by a patient in the emergency department. That assault we immediately reported to the police. In this case we had conducted a preliminary investigation and over the weekend I formed the view that we should notify, which we did do, the police, local area command, and I have been forwarding material on to them since.

The Hon. PATRICIA FORSYTHE: And the family of the 94 year-old?

Associate Professor PICONE: They knew that afternoon, immediately.

The Hon. PATRICIA FORSYTHE: You mean 29 April, that afternoon?

Associate Professor PICONE: Yes.

CHAIR: I think the interest behind the question was not the attack on staff by patients but the attack on patients by staff.

Associate Professor PICONE: I know, but I was just giving that as an example of you take each case on its merits as to whether you will immediately notify the police in the matter.

The Hon. PATRICIA FORSYTHE: What steps have you taken to ensure that a second claim of a nurse abusing a patient in November 2003 is investigated?

Associate Professor PICONE: What was this one in relation to?

The Hon. PATRICIA FORSYTHE: It is in the one in the Daily Telegraph reported on quite recently.

Associate Professor PICONE: I think I can help you, I think I have got it here for you. It was an allegation reported in the Daily Telegraph of a nurse swearing at a patient. As soon as I became aware of this, and it was actually following a complaint to Campbelltown Hospital, our Professional Practice Unit immediately commenced an investigation. We actually knew about this the week before it actually appeared in the media, in relation to the allegations of an incident that occurred approximately six months ago.

The Hon. PATRICIA FORSYTHE: Is it more than just swearing?

Associate Professor PICONE: I might be able to actually help you with this one. We contacted the patient who is alleged to have been sworn at and that patient has reported back to us that whilst a verbal exchange did occur, the nurse did not swear. On the basis of that I have concluded that the allegation that the nurse swore at this patient not to be found, because the patient says the nurse did not swear at them.

I am continuing some investigations in this matter because my view also is, I require professional standards and behaviour at all time, so I am still continuing to work this through but from what the patient who is alleged to have been sworn at, says no, the nurse did not swear at her. I accept what the patient says.

The Hon. AMANDA FAZIO: Both Ms Kruk and Professor Picone, I am sure you have had the opportunity to look at the transcript of earlier evidence that this Committee has heard. What I wanted to ask you about today is evidence that we heard on the first day's hearing, on 12 March, from the so-called whistle blower nurses about incidents, a lot of which were reported in the Sunday program that aired in February and I wanted to get your comments, since you have been at South Western Sydney Area Health Service, if you have actually found any evidence that would either refute or back-up the allegations that we heard then, because they were some of the more dramatic bits of evidence that we have heard about.

Specifically I would like to ask you about evidence from Nola Fraser where she stated there were thousands of cases of mismanagement that she had witnessed in five years. Would you be able to confirm that, whether there was the level of mismanagement that she has alleged before this Committee?

Ms KRUK: If I may start, and I will ask Professor Picone to comment. This is difficult because this is

obviously with Mr Walker's brief. I understand he made reference to the fact that he was meeting with the nurses and also the other members who were involved in allegations. It is my belief, looking at his interim report, that he intends to make further commentary in that regard. We have, and I stress again, we have not in any way sought to judge the merits of the cases. The HCCC's report is on the table, the HCCC's report made a series of findings. What we did, and this is started very clearly from my request that Professor Barraclough lead that team to look at issues that required immediate attention. We have not sought to judge the cases or the allegations made by the nurses in question. We have dealt with the criticisms of the incidents of care and just let the Walker process come to its natural culmination

I will ask Professor Picone to talk to the Committee about the changes she has made, because we have spoken very honestly and I think all members that have appeared before the Committee have indicated where there are difficulties, where there were problems in the area, where there were problems on a system wide level that we have sought to address. Some of the initiatives I have spoken to today but I think your question perhaps relates more specifically to what Professor Picone and the Barraclough team - if I may call them that - have done in the last few months.

The Hon. AMANDA FAZIO: Just before you comment on that Professor Picone, the other issue I would like you to address is the one raised by Sheree Martin in relation to people being stopped pressing the emergency team button and the fact that allegations were made that people had been bullied if they did press the emergency button or that they were physically attacked. That is what we were told. If you could address that in your comments as well I would appreciate that.

Associate Professor PICONE: I might just firstly, with the Chair's permission, go to complaints handling again, it is one of my favourite topics and I only in discussion with the director general the other day, because I had occasion to be given a paper at an aged care conference, and I said that one of the things that we should be aiming for - and I know this will happen with many of the changes we have now put in place - is to have a complaints handling system that is as effective as aged care.

There are many more people in aged care facilities than in hospitals and yet in that sector they seem to have one of the best systems that I have seen and in fact I am taking a lot of leaves out of their books in relation to it, just by way of a general comment on that.

As I have already advised the complaints numbers at Campbelltown and Camden Hospitals have increased in the last few months. This I see as a positive step to ensuring that the best possible care and treatment is provided and that a more positive environment is created to encourage patients and staff to raise their concerns.

I have established a dedicated team of three extra clinicians to continue to assist staff at Campbelltown and Camden Hospitals in addressing around about 150 complaints at the moment. I expect to see this figure drop rapidly over the next month or so. Also, the Area's Professional Practice Unit is providing training on complaints handling, letter writing and incidents handling, initially to the nursing staff at Liverpool Hospital and then this is going right out across the Area Health Service.

A review of the various complaints handling and quality improvement of systems and process across the Area Health Service is also close to completion.

The objective of the review is to consider current structures and processes of patient quality and safety, review best practice models and recommend revised systems which will integrate within the new organizational structure for south western Sydney and I know that at the last Committee a number of our very senior medical staff appeared and in their evidence they talked about the importance of not seeing quality and safety and complaints handling as a side thing running on the side of an organization or a sort of industry in itself but to be integrated in the way we think and go about our work and I still strongly believe that what leads to the best quality and safety systems, including complaints handling, are good clinical governance structures and some evidence I note has been given to you on that.

We will be implementing a new clinical governance system across south western Sydney from July this year and in fact only yesterday evening I met with those senior doctors in the area health service and nursing

staff to discuss exactly how this will happen and how it will look.

I think the immediate challenges identified for the area health service are around leadership and culture. They are around the governance framework of the organization and they are around our reporting structures which can identify trends and monitor improvements.

These will be our focus in implementing our area-wide complaints handling and quality management systems, but they cannot be seen as a separate system, they have got to be integral to the way we think and go about our work on a daily basis.

I have given previous evidence to this Committee about the improvements that I believe have been made to Campbelltown Hospital in the last six months or so. I have to say I think one of the most significant improvements has been the establishment of a fully staffed intensive care at Campbelltown Hospital, to the establishment of a joint unit between Liverpool and Campbelltown with the most senior staff specialist there rotating out to Campbelltown Hospital.

What that means at a practical level to the patients is that the protocols from a level 6 tertiary centre, one of the largest intensive care units in the State will now become the practice in the unit at Campbelltown.

We have also achieved a full staffing complement of senior medical staff for the emergency department unit. It is now one of the better staffed emergency departments in the State.

I think we will be in the position around August or September to set up the joint department again between the Liverpool emergency department, which as you know is probably the largest one in the State, it certainly has the biggest trauma workload in the State, with the Campbelltown unit, with the very senior doctors there rotating out to Campbelltown.

We also took the steps, and appropriate steps in my view, based on the recommendations of Professor Barraclough, to have ambulances not attend Camden Hospital from the emergency network anymore. Although ambulances do go to Camden Hospital, if there is a certificate from a general practitioner saying it is appropriate for a patient to go there, either for palliative care or transitional care or any of its other important functions.

We have increased the nursing staff numbers at Campbelltown Hospital in terms of seniority of nursing staff. We have been fortunate to attract some very senior people from some of Sydney's teaching hospitals to take up key positions as clinical nurse consultants in that hospital. I am already seeing the changes from their presence and we are very grateful to have them.

I am also pleased to report that we have a nurse practitioner for the first time working in the emergency department, also at Campbelltown Hospital. I believe that that will make a very significant difference there.

Recently, only in the last month or so, we have established a cardiology roster for the first time at Campbelltown Hospital. What this means now is the 40 percent or so of people who attend emergency departments are heart related problems and are admitted to our hospital have qualified cardiologists caring for them.

We have also increased the general physicians roster there. One of our better appointments is the appointment of Professor Reginald Lord who was previously head of surgery at St Vincent's Hospital, to work at the hospital two or three days a week as the director of surgery. He is making a significant change in the way the surgical activities of that hospital work, particularly around quality and other issues. Apart from the fact that he is quite a wonderful and senior man who has seen it all and he is assisting us greatly in moving the surgical practices in the hospital.

In relation to METs matter, Professor Ken Hillman in January requested that I make some changes to METs, not just at Campbelltown but across the system. On the basis of that request I put senior people in to each of our hospitals to co-ordinate and better improve the METs response. On advice I have received from nursing and medical staff I think that is taking effect well. I have to say I have never received a report that a nurse or any other member of the staff has been stopped from calling a MET. In fact, people are encouraged to

call METs but those things can always improve.

We have also improved the complaints handling, which I have talked about previously and many other things there but I just cannot pull them all forward because I have not got a list here.

The Hon. AMANDA FAZIO: I just wanted to ask Ms Kruk, when we first started the inquiry a lot of people were talking about the development of a 'no blame' culture within New South Wales health. I have noticed that when you appear before us you talk about a just culture rather than a 'no blame' culture and I just wanted to tease out from you why you think it is better to try to promote this concept of a just culture rather than a 'no blame' culture and what the real difference is between the two terms?

Ms KRUK: I think it is an important distinction. I think I said at the last inquiry that the concept of no blame is actually a misnomer. It is an incorrect usage of a term to describe a process because there are very clear checks and balances in the system that make it quite clear that there is an individual accountability and there is a system-wide issue, the Murphy's law, you know: One thing goes wrong that leads to another thing going wrong, that sequence of events. So there is clearly a distinction between an individual's accountability and a system-wide accountability.

I am very pleased to have seen, in the weekend's papers, Mr Walker announce a round table discussion with I think some of the most eminent academics and clinicians to actually look at where that line comes into play because I think a number of clinicians have appeared before you, a number of academics have said it is important to have that balance and to work at that. A just culture is literally as the term would imply. It is justice in relation to people wishing to make an allegation or raise a matter of concern, whether they be a staff member or family member. Irrespective of its source, they have that right to be heard, they have that right to be protected in making that allegation and they have the right for that procedure to be considered independently and transparently. Equally there is an issue of the right of the party against whom that allegation is being made to be accorded similar justice. There is no doubt that that should not be done through the media. That does not respect the interests of any parties. What in effect we are seeking to do is to put a process in place and that people are comfortable with that resolution process.

It is quite critical and I think a number of clinicians and academics - and I think Dr Chesterfield-Evans also raised it a number of times - have looked at the merits of root cause analysis in that process. It should not be under-estimated. It is a technique shown to be successful; it really does give an opportunity for peer assessment, quality assessment, in relation to the handling of the particular incident. We want a system that encourages involvement in that. We want a system where people feel there will be improvement in being part of that process, so to sit around and reflect back so you can avoid the incident recurring. That is the major benefit of that exercise. It is not an exercise intended to seek to blame individuals. It is a learning exercise. If there is fault, if there has been clear misconduct, incompetence on behalf of a party, there is a clear avenue for that to be dealt with through the professional boards and that process has always been the case.

The Hon. PATRICIA FORSYTHE: Professor Picone, in relation to the investigation of the appalling treatment of the 94 year-old dementia patient at Campbelltown Hospital, you said this morning that police were advised on 6 May. The Minister told the House that police were advised on 3 May. Who has it wrong?

Associate Professor PICONE: Well, the Minister would only report on the basis of advice he received from me, so in that case I may have, if that is the advice that the Minister had - can I just go through my papers?

CHAIR: On a matter of fact it is important for you to consult your notes.

The Hon. AMANDA FAZIO: Is that the level of nitpicking we are resorting to today, is it?

Associate Professor PICONE: I gave you the wrong date earlier, I am sorry.

The Hon. PATRICIA FORSYTHE: Perhaps you might want to take on notice the full sequence of events and give us an accurate account of what actually took place.

CHAIR: I think we should move on from that point and you may wish to give a written comment on that.

The Hon. AMANDA FAZIO: I would also like to draw your attention to the fact that members of the Committee are only supposed to receive communications via the attendants and not from flunkeys passing them across chairs.

Associate Professor PICONE: I do have a note here from which I am happy to read. I have given 6 May, which must have been the Monday. It says here on 3 May 2004 at approximately 9 a.m. Campbelltown police were contacted and a message left for an inspector there. At approximately 1.30 p.m. a detective was verbally notified of the allegations by our director of nursing. Further advice was provided later that day, so I have got the wrong date in one brief, I do apologise to the Committee for that.

The Hon. ROBYN PARKER: I joked earlier that this was groundhog dog. The difference is that today we are talking about moving forward rather than going back and it is a chance to tidy up a few issues. It is fair to say, is it not, that all of the changes you have talked about, about putting in place a culture of learning, would not have been enacted had it not been for people blowing the whistle?

Associate Professor PICONE: I am hearing what you say--

The Hon. ROBYN PARKER: Well, yes or no, would you have taken those actions if the whistle had not been blown?

Associate Professor PICONE: Are you talking about across the health system?

The Hon. ROBYN PARKER: South west area.

Ms KRUK: Could I pick that up because it is not an issue that was unique to south western Sydney. We talked about that initially. There was already quite a bit of work under way in relation to handling adverse incidents. There was already work under way in relation to the complaints handling system. Unashamedly, the events that were raised by the nurses at South Western Sydney Area Health Service brought those to public notice and I think they were an important--

The Hon. ROBYN PARKER: So without them bringing them to public notice we would not be in this position?

Ms KRUK: No, what I am saying is I am giving that acknowledgment that the issues raised by the nurses no doubt have pushed the reforms on far more quickly. As I indicated to the Committee beforehand, each and every health service was at a different stage of development. I think the Chair quite correctly said to me at one stage the health services are like hydras: Many heads. There is now in place a consistent process of dealing with it. There is a minimum expectation. The quality systems, as I gave in evidence before, were at an immature stage of development and I think in relation to the allegations that have been raised by the nurses, as I said to Ms Fazio earlier, we have not judged their merits. We took the issues that they raised at face value and sought to use them as a lever to improve the system. I say that in context.

Associate Professor PICONE: I would also say that, in my view - this is a personal view - many of those patient care issues raised by the nurse complainants have led to positive improvements in the system and in many of the cases that they raised there were areas, in my view also, of professional concern. The standard of patient care was not good enough.

The Hon. ROBYN PARKER: So your response to that will be some level of congratulations to those people?

Associate Professor PICONE: I have already met with all of the nurse complainants who are known on the public record and many others who have chosen not to be known on the public record and I have thanked each of them for doing that.

The Hon. ROBYN PARKER: A number of doctors as well have come to this inquiry with complaints and, just in terms of tidying that up, have you met with Dr Parker who told the inquiry there has not been a lot of change and "it is hard to get a response"?

Associate Professor PICONE: I gave some evidence on this last time and said it was unsatisfactory that Dr Parker waited that period of time for her concerns to be dealt with. I immediately issued a request to the hospital involved that they get on with that and resolve those issues.

The Hon. ROBYN PARKER: This is Dr Parker. Have you met with him?

Associate Professor PICONE: No, I have not. I see her in the car park and wave hello, but that is about it.

The Hon. ROBYN PARKER: What about Dr Prendergast who says nothing has changed?

The Hon. CHRISTINE ROBERTSON: She did not quite, you will have to re-read her words.

The Hon. ROBYN PARKER: I will read her words.

The Hon. AMANDA FAZIO: You have read a selective quote.

The Hon. ROBYN PARKER: It was on Friday, 19 March, Dr Prendergast said "I personally do not think anything has changed particularly in our department".

Associate Professor PICONE: I am sorry, I got Dr Parker confused with Dr Prendergast. I have met with Dr Parker, not to discuss his concerns but at another meeting with the medical staff council. I have a good working relationship with Jim Parker and sometimes we agree to disagree, but it is a very healthy relationship, and actually I will be asking him to advise us on gynaecological issues soon, but in relation to Dr Prendergast, no, I have not met with her, but I did ask that the issues she raised be resolved as best they could. My understanding is that that is occurring at the hospital. I have not gone back to the medical head of the department at this stage to follow that up, but I will in due course, and I understand those meetings are occurring.

The Hon. ROBYN PARKER: You have just told us that you have established a new complaints handling process and things have improved and yet you have just given us a couple of instances where they have not been followed up.

Associate Professor PICONE: Well, I have just explained that those matters were referred back to the hospital for resolution, which is where it should happen, and that the head of the department of obstetrics and gynaecology at the hospital, the medical departmental head, I know is meeting with Dr Prendergast to resolve those issues and I do believe that, knowing that particular medical director, that will occur and I will follow it up when they have gone through their series of meetings.

The Hon. ROBYN PARKER: In relation to Dr Prendergast, when you came to the Committee on 30 April you said you had not been aware that Dr Prendergast had raised concerns. Why were you misleading the Committee on that?

Associate Professor PICONE: I do not believe that I was.

The Hon. ROBYN PARKER: Is it true that Dr Prendergast wrote to you on several occasions with four complaints in December last year asking to have a meeting with you?

The Hon. CHRISTINE ROBERTSON: You are distorting the timeframe.

Associate Professor PICONE: No, Dr Prendergast apparently has not written to me. Dr Prendergast

may have written to the general manager of the hospital. That is a possibility.

CHAIR: It seems to me we have heard a lot, particularly today, concerning how NSW Health is developing new systems for effective complaint handling, but we seem to keep running into a problem of getting doctors to overcome their reluctance to report adverse events. Have you got any suggestions that we could pass on to the medical profession and to the disciplinary groups within the medical profession to encourage members to report adverse medical problems?

Associate Professor PICONE: I think that is a superb question; it is the subject of a lot of discussion at the moment. The best units do, as a matter of their team, have very strong processes in place and in fact they have meetings called M&Ms, mortality and morbidity meetings, where they will look at adverse events. One of the best systems I have seen is actually run by Michael Sklrout at Liverpool Hospital to review adverse events in the care of trauma patients. The question for us is to set up a system of, in a tertiary centre, the review of those adverse events and the remedial action after it, the improvement of the system, the dealing with the individual clinician's level of quality of work occurs also at Brewarrina Hospital. That is the great challenge for us across the New South Wales health system. I have some views, which are not NSW Health's views but this never worries the director general, and I think that there are some concerns on the litigation side, the ability of someone to sit down and look someone in the eye, without prejudice, and say "I am sorry", number one, and "I made an error and this is what happened and this is what I am doing as a result". Now it is the insurers and other people who put great pressure on clinicians not to admit this. I do not know in all the things we are doing at the moment if this is something that we are going to look at - I am not a lawyer either - but I understand that we are not meant to put people in positions where they self-incriminate. I think we have to overcome this so that a doctor, a nurse, a physiotherapist, a hospital manager can sit in a room with a person and say, "This happened". I truly believe that we need to look at that to allow people to say, "This happened, I am sorry, this is what we are going to do about it" and then allow the legal things to also go on at the same time.

Ms KRUK: Can I add to it: This is an issue that I think has also been raised with your inquiry and there is obviously a very fine line here. A number of clinicians would no doubt have said to the Committee: Well, we are now nervous actually being involved in root cause analysis because I think in some instances documents have either been provided to the media or provided in other avenues where root cause analysis has been discussed and clinicians have felt, well, I have acted in the right interests of the system, I have sought to get improvements and basically I have not had the opportunity actually to engage openly in that process.

One of the issues in progressing the Clinical Excellence Commission is to actually get clinician feedback on what is going to be the right circumstances in relation to the protections that they need, balanced obviously very finely with the fact that I, as a member of the community in addition to my professional responsibility, want some transparency, I want some understanding in relation to the issues that the hospital and the clinical staff are facing.

CHAIR: Which is part of the just process.

Ms KRUK: Chair, can I add to it, because Bret Walker, this is one of the major purposes of that round table that he is calling together, to actually have that debate and to have that discussion because you want a system that actually encourages it, but you also want one that has the appropriate transparency. This is probably the most difficult policy and legal issue that has come up in your inquiry and also arguably in relation to the Walker inquiry.

The Hon. ROBYN PARKER: Just in relation to the clinicians making complaints about issues. I just wanted to refresh your memory on some of the things that Dr Prendergast did say and this was on 30 April, she said "We make resolutions in our medical staff council that we see things are wrong and we want them to improve and the practice that has been happening in recent years, let's say for the past five or six years, is that things have not changed. Things do not change. You make your complaint and nothing gets done."

She goes on to talk about a number of cases that she has referred and says "They date back now just the ones I have got, to March last year." Further on she goes on to talk about the fact that Professor Picone, you had not heard anything about these complaints and she says, "This was wrong, because when the new administration came to Campbelltown Hospital my Department, particularly the visiting medical officers in my

department requested a meeting with her” - Professor Picone - “to bring up some of these complaints and to see why we could not get them answered. That was done in December last year. After that I have got a letter from Professor Picone asking me to outline these complaints. I sent her that in detail, even including one of these letters from my patients who wrote about their situation.”

So it was not just at this inquiry, was it, that you heard about those complaints?

Associate Professor PICONE: I will repeat the advice that I have given previously, it was the first time I had heard of those complaints. When I became aware of them here I immediately wrote to Dr Prendergast to try and assist her and she kindly forwarded her concerns to me. I referred those immediately back to the hospital. I did express that I was unhappy that there had been a delay and I wanted those matters resolved.

The Hon. ROBYN PARKER: Dr Prendergast says that was in December last year and she got a letter back from you. So you are saying that letter came back from you did not happen until after you had heard about it in the inquiry then?

Associate Professor PICONE: I am talking about the letter that I sent to Dr Prendergast requesting that she outline those concerns. Now, I am happy Chair to take all this on notice. If Dr Prendergast has said in her evidence that she wrote a letter to me in December and that I have responded to her, I am happy to go through our records to see if that is the case.

I have met with the head of the department around issues around obstetrics and gynaecology on a number of occasions around December and early January but certainly Dr Prendergast was not at any of those meetings and certainly did not raise those concerns with me at the time, she may not have been able to attend, but I am happy to look if there is a letter on the file like that.

CHAIR: I do not think we need that in more detail because that will not impact upon our report.

The Hon. CHRISTINE ROBERTSON: I have just got a couple of questions. One is about this Clinical Excellence Commission. Is it set up yet?

Ms KRUK: If I could refer you to the paper I have just tabled, the Clinical Excellence Commission, as you understand, is building on the institute of clinical excellence. The Minister’s announcement and I think my subsequent comments will indicate it begins operation as of 1 July.

I have a major consultation underway with clinicians and stakeholders right across the system early in June. We have provided initially a concept paper. We have now provided a far more detailed technical paper where we seek the input of clinicians in relation to the best operation of the Clinical Excellence Commission.

At the heart of it, Ms Robertson, it really is (1) putting in place a consistent audit process that focuses on patient safety and the clinical governance initiatives that Professor Picone has referred to.

The second major component is obviously the concept of consistency, system wide learning, which I have referred to before.

The third, and this is an equally critical component, is to assist in provided capacity to bring about change in clinical consistency in relation to standards.

If I could add to Professor Picone’s comments, I gave her an invidious task in sending her into that Area Health Service, the major brief was quite clearly to ensure that services of a quality were provided to that community.

I am conscious of the fact that Professor Picone on a day-to-day basis would have other incidents and other concerns raised and would have had to spread herself very thinly. I think she has been very ably supported and got the support of Professor Barraclough, the Reg Lords of the world. It is that assistance, it is that clinical expertise that needs to be shared across health because it is rare and it needs to actually be provided on a system wide basis.

Professor Picone has had one of the most difficult tasks given to a senior officer of the health system. I think the work of the Clinical Excellence Commission is in effect intended to provide support to all hospitals, State wide, irrespective of whether they are metro or rural to get that clinical expertise, so I think it is a really important issue.

The Hon. CHRISTINE ROBERTSON: Of course, that is my next question, what is being done to make sure that the audit tools actually relate to the country and to the city?

Ms KRUK: That is why the consultation with the clinicians is important. This is not about clinical quality of practice, this is about making sure that there is a consistently high quality of service provided on a State wide basis.

I have indicated before to the Committee that workforce is our major constricting factor at the moment. The work of the Clinical Excellence Commission is to ensure that where there is assistance required, wherever clinicians are actually required to drive change to review systems and to bring about that improvement process if they are available.

The Hon. CHRISTINE ROBERTSON: How is that going to inter-match with the equip process?

Ms KRUK: As I indicated I think in previous evidence, the whole concept of accrediting hospitals to look at the quality of services they are doing is not a new one and I think arguably we have led in that regard. What this does is very clearly, and I pick up Professor Picone's comments, quality and safety has to be at the heart of those systems. We already have a lot of base work in place, this puts it clearly at the forefront of a full management team's responsibility and it actively involves clinicians necessitating that forward, so it links in very clearly with existing processes. It builds upon them.

The Hon. MICHAEL GALLACHER: Associate Professor Picone, a couple of questions in relation to the press release yesterday from the South Western Sydney Area Health Service in regard to the Liverpool matters. Have you conducted an investigation into all the deaths involving the medical professional, the health practitioner or practitioners involved in the matter that has been referred to the police?

Associate Professor PICONE: That is not a matter for me. I referred those matters to the police to conduct an investigation, also to ICAC. I have also referred the matter to the Medical Board. I also sent them to the HCCC as well on some of the clinical care issues.

The Hon. MICHAEL GALLACHER: Can I just disagree with you in terms of your desire not to answer that question and I refer you to your own letter dated 24.4.2004 to this General Purpose Standing Committee in which you included an Upper House Inquiry briefing note on the alleged euthanasia of Ms Audrey Daly-Hamilton, which going by your press release here, is one of the four that is subject to that investigation. Is that correct?

The Hon. CHRISTINE ROBERTSON: That is what she said.

Associate Professor PICONE: If I could just read my--

The Hon. MICHAEL GALLACHER: No, is it correct? I have got a series of questions and you might be able to extract one after the other.

Associate Professor PICONE: Can you just repeat the question?

The Hon. MICHAEL GALLACHER: I assume that of the four, one of them is Ms Daly-Hamilton's inquiry?

Associate Professor PICONE: That is correct.

The Hon. MICHAEL GALLACHER: That it has been referred to the police as a murder investigation, is that correct?

Associate Professor PICONE: No, Mrs Daly-Hamilton, and I think I have given evidence on this previously, was raised with me by the coroner as a potential patient from initially Camden Hospital and the name was incorrect. We were asked to assist the coroner to try and find a person whose name was incorrect. We eventually located Mrs Hamilton at Liverpool Hospital.

The Hon. MICHAEL GALLACHER: It is being investigated by the homicide squad, is it not? It is being investigated by Acting Sergeant Chris McKinnon of the homicide squad.

Associate Professor PICONE: Yes, it is the homicide squad who does the preliminary investigations and I understand provides information to the coroner, who would then decide whether he assumes jurisdiction.

The Hon. MICHAEL GALLACHER: What concerns me is the paragraph in which it is outlined it is a matter for the homicide squad also details that the file notes in relation to this matter, the Daly-Hamilton matter, have been discarded. Going by this, "the file notes have been discarded". This is going by your own briefing notes.

The Hon. AMANDA FAZIO: Before you popped in here today you might have read the transcripts. We have dealt with that at length.

The Hon. MICHAEL GALLACHER: What I am interested to find out from you, and this is in the public interest, is whether--

The Hon. AMANDA FAZIO: It is not in the public interest. You are a member of Parliament now or are you still a cop?

Associate Professor PICONE: I have to correct something. I think I corrected this at the last hearing, Chair, that these were not clinical records, these were the notes that a doctor kept of an interview with a nurse. I have to re-emphasise that these were not clinical records.

The Hon. MICHAEL GALLACHER: The point is, however, what we are keen to find out is you have spoken about this change in culture and transparency in health, what we are keen to find out is whether the health, in terms of Liverpool, is now looking at all deaths in your area involving the said health professional or professionals involved in the matters now referred to police. I am not asking you to give me details about the current investigations, I am now asking you have all other matters resulting in the death of a patient now become the subject of some investigation by you where it is the same health professional or professionals involved in the matters that you have referred to the police?

Associate Professor PICONE: As you are aware, the police are investigating these matters. These were concerns, the three additional matters, were concerns raised by a staff member. When the police conclude their investigations and when the coroner makes a determination one way or another, if there are further implications arising from the area health service, and no doubt we will receive recommendations should they go on, then the area health service will implement that.

The Hon. MICHAEL GALLACHER: Is it not fair, though, to suggest that if you have got four deaths that have warranted you referring it to the police you would now use a bit of initiative and actually start to collate all deaths involving the said medical practitioner or practitioners if you felt that there was sufficient there for the matters to be referred to the police? Why aren't you initiating a collection of all necessary information with regards to other deaths?

Associate Professor PICONE: When I met with the police and with ICAC in relation to these matters I asked if there was any further action at this stage I needed to take and I was advised at the time, no, that the police were taking over this investigation, which, as you rightly say, could lead the police, and I cannot possibly second guess what they will or will not do to go on then to do further investigations in relation to this particular

medical practitioner, but to be quite honest with you it is not my job to second guess what the police will or will not do. I cannot do that.

The Hon. MICHAEL GALLACHER: Is this the same medical practitioner involved in the allegations of euthanasia against Mrs Daly-Hamilton?

Associate Professor PICONE: Once again, this is a matter of a police investigation. I think these questions you ask should be directed to the police.

CHAIR: I would accept that comment.

The Hon. PETER PRIMROSE: I think that is very appropriate, if the Committee wishes to pursue it, and I accept that Mr Gallacher is not a member of the Committee, he has just arrived here today so he may not be aware of the background, but if it is appropriate then maybe we should go in camera.

The Hon. AMANDA FAZIO: Then he will miss out on his headline tomorrow.

The Hon. PETER PRIMROSE: I am not aware of what the police are doing. The police, the Director of Public Prosecutions, ICAC and others obviously institute their own inquiries and I, for one, at this stage would not expect a member of the health bureaucracy to know, nor should they know.

The Hon. MICHAEL GALLACHER: I am simply asking whether we are talking about one health professional or a number of health professionals and that, at the end of the day, is all that this Committee is about: Are we talking about endemic problems within the system; are we talking about one health professional-

The Hon. CHRISTINE ROBERTSON: We are talking about complaints processes; we are not talking about doctors and nurses.

The Hon. MICHAEL GALLACHER: Are we talking about one or are we talking about a number of people being referred to the police? It is as simple as that.

CHAIR: We have not named anybody at this stage. I think you could answer: Are there a number of doctors involved?

Associate Professor PICONE: No, sir, there is not.

The Hon. MICHAEL GALLACHER: One, thank you. I notice in the information that you have provided to the Committee which is dated 20 May, which relates to questions on notice, you refer to conversations you had with Mr Yakub and you have gone through and listed a number of dates here. Did they come from your diary?

Associate Professor PICONE: They come from department of health files.

The Hon. MICHAEL GALLACHER: Do you keep a diary?

Associate Professor PICONE: My office keeps a diary, yes.

The Hon. MICHAEL GALLACHER: So when you interview somebody and it is the subject of a potential coronial inquiry, recognising that a number of these conversations you had with Mr Yakub were at a time when the coroner was still considering his options, do you keep file notes of those conversations?

Associate Professor PICONE: I cannot recall every conversation, whether I did or I did not. Sometimes I jot notes down.

The Hon. MICHAEL GALLACHER: Is that normal practice with a matter that is currently before the

coroner's court, which at that early stage it most certainly was, a sort of haphazard "We'll keep notes this time, but we won't at other times"?

Associate Professor PICONE: It might help the Committee to understand my role.

The Hon. AMANDA FAZIO: You might need to explain it.

The Hon. MICHAEL GALLACHER: Well, it is interesting because you were asked a question very early on, in fact on 19 March: What was your objective in coordinating the review? You gave the Committee an undertaking that you would come back with a prepared answer and up until now you have not.

Associate Professor PICONE: I am happy to do that.

Ms KRUK: Professor Picone at that time had, amongst her other responsibilities, clinical quality. The matter of Mr Yakub, and I acknowledge that I think regret has been expressed by all parties in the system in relation to Mr Yakub's circumstances, was given to her as part of her responsibilities as deputy director general. Can I say that in relation to the referral to the coroner at that same time, and from my memory and I am happy to stand corrected, I think all of our documents in relation to Mr Yakub have been provided to this Parliament, so I think all of the documentation, all of the discussions, the chronologies, et cetera, have already been a matter of discussion before the Parliament. Professor Picone also - I think there has been discussion about the need to actually keep in contact with family members during the course of concerns being raised. It is a bit of a situation here: Damned if you do and damned if you don't. I think the reality is the question of a coroner looking at a matter should not negate the fact that a health service or an individual should still maintain contact with a grieving family member.

The Hon. MICHAEL GALLACHER: I recognise what you have said in terms of providing documentation. Is it right to assume that you were the conduit, the main contact point, between Mr Yakub and the health department?

Associate Professor PICONE: Yes, and just to confirm that the dates came from a review of my diary and records and my secretary is actually excellent, she tries to keep up with me and sometimes she can't. I would not keep file notes of all conversations, but could I--

The Hon. MICHAEL GALLACHER: No, that is fine, we are limited with time and I have a series of questions. I do not need anything further on that.

The Hon. PETER PRIMROSE: I would like you to expand. This is not an inquisition. I am happy to extend the time to allow the person to answer this question.

Associate Professor PICONE: I just thought the context might be helpful to the Committee. In my role as a deputy director general in complaints handling, my involvement in the management and resolution of a complaint is the everyday part of the role of a deputy director general. The division I led was responsible for a number of policy areas that dealt with or responded to complaints and community concerns. These included areas as wide as child protection, mental health, oral health, provision of appliances for disabled people, the isolated transport and accommodation scheme and sexual assault services. That is just a few, but I put those because they were the major ones that I would deal with and I did have a habit of ringing up a person because I always felt that by the time the complaint got to the department the person was pretty frustrated with what was going on out there and I used to like to follow up that we had actually done what we said we had done, so I was the sort of person who picked up the phone and spoke to Mrs so and so and said "Did you get your teeth" or whatever the issue was. The types of issues raised traverse funding, service provision, equity and access issues and the quality of health services. Indeed, my division had responsibility for health policy during the period 2000-2003. This inevitably led to my involvement with other senior colleagues in the matter of public concern involving the provision of health services.

Now around the matter of meningococcal disease, as members may recall, a significant matter of public concern in New South Wales in 2002 was the rise in the reported incidences of meningococcal disease. Given

the high profile of these cases, the department was asked to review a number of complaints about the care and treatment of affected patients. One of the meningococcal cases that occurred in 2002 involved the tragic death of Mrs Yakub. As there was conflicting advice at the time about the care and treatment that she had received - this is at the local level - it was decided to have an independent review team conduct a comprehensive review into the circumstances surrounding the death of Mrs Yakub. On 30 October 2002, with one of the members of the review team, Mrs Jane O'Connell, I met Mr Yakub to discuss the recommendations prior to the team submitting its final report to the director general on 11 November. The review team's report and its recommendations formed the basis of advice provided by the department of health to the coroner in December 2002 and the Health Care Complaints Commission in January 2003. A report was also provided to these bodies. I do regret the length of time it took to resolve Mr Yakub's complaint. With hindsight, and I think this particular inquiry has been about learning lessons, it would have been better to give Mr Yakub the report on his wife's death at around the time we provided it to the coroner and to the HCCC, but at that stage the matter was still being open to being investigated by either or both of those bodies and it was not the usual practice of this department to provide a report to the family when the matter under investigation had been referred to the coroner or the HCCC. I do remind the members of the Committee that Mr Yakub was subsequently provided with a copy of the full report.

I have thought about this a lot because it has been raised a couple of times that I have been here and I thought that I might explain how it would have been different for that family under this new system that we are talking about. Since those matters arose, the department introduced in April 2003 a quality management system involving the severity assessment of actual or potential adverse events from SAC-1, the most serious, to SAC-4. The new system is proactive as well as responsive to incidents. It includes the timely provision of reportable incident briefs to the department on more serious matters, that is either SAC-1 or SAC-2.

As the director general has advised, an investigative process known as a root cause analysis is another part of the quality management system for more serious matters. This involves an investigation by the area health service in question of the causes of an incident with a benchmark reporting period of 45 days. The RCA process involves identifying any areas of clinical management, policy or practice that may need to be further reviewed or amended, whether at particular facilities or across the system.

Had that system been in place when Mrs Yakub contracted meningococcal disease, the matter would have been handled quite differently. The death would have been the subject of a reportable incident brief and would have triggered an RCA. Mr Yakub would have been promptly advised at the time of the process. The case would have been referred to the area's Professional Practice Unit, which would then take carriage of the matter and liaise directly with the family. A family conference would have been conducted at the conclusion of the RCA within the benchmark timeframe of 45 days. This would have provided an opportunity for the hospital staff to explain how the death occurred and what action had been taken and what other action would be taken to address any issues and to address any outstanding matters of concern that family members might have. In this case the matter would ordinarily have been satisfactorily resolved at the local level and would not have necessitated the investigation to be overseen by the department of health.

The Hon. PETER PRIMROSE: Thank you. I think it was important that we understood that.

The Hon. MICHAEL GALLACHER: Yes, thank you. Going on from what you have just said, were you involved in informing the Minister's office of serious concerns about Mr Yakub's mental state?

Associate Professor PICONE: In general discussions around meningococcal disease I did say that I felt Mr Yakub was grief-stricken.

The Hon. MICHAEL GALLACHER: Is it Yakob, as you are pronouncing it, or is it Mr Yakub?

Associate Professor PICONE: Yakub, sorry.

The Hon. MICHAEL GALLACHER: Can you detail exactly what you mean by "around meningococcal" discussions?

Ms KRUK: Mr Gallacher, could I add, because it is significant--

The Hon. MICHAEL GALLACHER: The question is specific to the witness who has just indicated that she has made comments about what she believed was happening with Mr Yakub's state of mind. I am not after how you would interpret it or handle it; I am actually after, from the witness, what she said and who she said it to you.

The Hon. AMANDA FAZIO: It might be better if you address the witnesses by name. Why don't you go and put your police uniform back on; you might feel more comfortable.

Associate Professor PICONE: As a general comment, I did make the comment - these are personal matters to him actually, I have to say.

The Hon. MICHAEL GALLACHER: You might recall that the Minister's staff actually made comment to the media just prior to the last State election when they were seeking an FOI and they said, no, we shouldn't put this in the paper because we are concerned about Mr Yakub's mental state, so we are not breaking this news. In fact the Government broke it to media itself. What I am after is what you based that opinion on in terms of Mr Yakub's state of mind?

Associate Professor PICONE: A meeting that I had with him.

The Hon. MICHAEL GALLACHER: Did you put your concerns in writing to the Minister?

Associate Professor PICONE: No, I do not recall having put that in writing.

The Hon. MICHAEL GALLACHER: So you spoke to the Minister directly?

Associate Professor PICONE: I made it a general comment that Mr Yakub was suffering terribly as a result of the death of his wife, yes, I did.

The Hon. MICHAEL GALLACHER: You spoke to the Minister directly?

Associate Professor PICONE: I do not recall speaking to the Minister, but because there were a number of these meningococcal deaths going on - three at the time - we did brief the Minister's office.

The Hon. MICHAEL GALLACHER: Who did you brief in the Minister's office?

Associate Professor PICONE: Well, it was discussed at numbers of meetings and there were various people at the meetings that occurred. I think I may have explained this at the last Committee meeting. We have meetings with the Minister's office on a regular basis and a range of things are discussed.

The Hon. MICHAEL GALLACHER: So was Mr Yakub's case, his mental state, discussed at one meeting or at a number of meetings?

Associate Professor PICONE: I do not recall discussing that at those meetings.

The Hon. MICHAEL GALLACHER: When did you discuss it?

Associate Professor PICONE: I actually do not honestly remember bringing that up much but I certainly did raise with people that I had met with this man, that he was grief stricken that his wife had died. I was concerned about him.

The Hon. MICHAEL GALLACHER: And you were concerned about the FOI application as well?

Associate Professor PICONE: Not about an FOI application, I was concerned about him.

The Hon. AMANDA FAZIO: Were you concerned about him in human terms or concerned generally

about his welfare

CHAIR: I think Professor Picone has actually answered that. She was concerned about grief and about the impact upon Mr Yakub.

The Hon. MICHAEL GALLACHER: You must have been concerned, were you, when you read about it in the media, that the Government were openly talking about Mr Yakub's mental state?

Associate Professor PICONE: I cannot recall reading the media in detail about all of that to be honest.

The Hon. MICHAEL GALLACHER: No-one has ever brought that to your attention?

Associate Professor PICONE: No, no-one has come up and said Here is the media on it.

The Hon. MICHAEL GALLACHER: This is the first time you have heard about it?

Associate Professor PICONE: Can I just explain about me and the newspapers, I sometimes read them and I sometimes do not. Obviously lately I have been reading them a great deal.

The Hon. MICHAEL GALLACHER: We are not talking about the loss of a couple of Band-aids, we are talking about a death within health and comments were made about a grieving spouse's mental state and I am just obviously struck that you have not been informed that these comments were made by the Minister's own staff.

Ms KRUK: Chair, can I add to this, because I remember over that period of time I actually had occasion to talk to a family member of a meningococcal incident in regional New South Wales. Can I say, you would not expect otherwise than for a member of a family like that to be distressed, whether there was a discussion about their mental state or otherwise, I must admit I am not aware in relation to specific commentary but having spoken to family in similar situations, I am sure Committee members can all understand that circumstance.

I want to add to Professor Picone's situation, the issue there was there were three deaths in that period of time, a very short period of time. The concern about meningococcal deaths was very high in the community. Mr Yakub's was one of three within a month. That is why the focus on that particular case, there were obviously disagreements about the circumstances and of the handling of that case as well too. I hope that assists the Committee.

CHAIR: I want to wrap up this section of questioning.

The Hon. MICHAEL GALLACHER: If I could just assist, because one of the things we are very interested in is the relationship between the Associate Professor and the Minister's office.

The Hon. PETER PRIMROSE: Who is we?

The Hon. MICHAEL GALLACHER: What I would also like to ask you to consider is on 7 August 2002 you would have become aware that Minister Knowles has stated that Ms Yakub was called into the emergency ward, and he made the quote on a number of occasions in fact, if I could quote one of his pieces:

Eighteen minutes later she was called for treatment after being triaged eighteen minutes earlier and in that context was recorded in the registration form as 'did not wait'. However, as you would be aware--

The Hon. CHRISTINE ROBERTSON: Didn't we deal with this at the last meeting?

The Hon. MICHAEL GALLACHER: In fact the briefing paper states that the Minister was incorrect and if I can quote it to you:

It is now evident that Sarita Yakub was not in fact called at 1 a.m. as reflected in the documentation.

As you are the conduit, the main contact between health and Mr Yakub, you have indicated you did not know anything about the media comment, what have you done to set the record straight to ensure that the Minister sets the record straight with regards to that quote, which is quite simply incorrect?

The Hon. AMANDA FAZIO: Point of order Mr Chair. My point of order is that we have at previous hearings dealt with this matter but is the matter relevant? Our inquiry is into the health complaint system within New South Wales Health and particularly in relation to Camden and Campbelltown Hospitals. This incident did not occur in Camden or Campbelltown Hospital, it is an incident that is unrelated to the allegations that gave rise to this inquiry being held.

It is also a matter that we have discussed at length at other hearings of this particular inquiry that Mr Gallacher did not deign to attend and I think it is a waste of time to go over this again.

CHAIR: I have asked the member to wind up.

The Hon. MICHAEL GALLACHER: The Sarita Yakub matter has been a matter that the Government has been more than happy to participate in so now that there are some questions being put that one of the members does not like, well unfortunately--

The Hon. CHRISTINE ROBERTSON: No, no, it is not to do with our Committee.

The Hon. MICHAEL GALLACHER: These questions have never been answered, and you would know that if you had looked at your transcripts of the evidence that you have given in the past, as I have. I am interested to see what the relationship is between yourself and the Minister's office, given that you have already told us you have had some discussions about Mr Yakub's mental state, you cannot remember who with and you cannot remember exactly where--

The Hon. CHRISTINE ROBERTSON: Back where we stopped before.

The Hon. MICHAEL GALLACHER: And we now have a situation where--

The Hon. AMANDA FAZIO: Further to my point of order, which you have not ruled on yet--

The Hon. MICHAEL GALLACHER: The Minister has incorrectly made statements in the media that quite simply you, I would have expected, as the main person responsible for looking after Mr Yakub. I just want to know have you addressed that?

CHAIR: Can we have an answer for that and that will solve the relevance of the point of order issue?

Associate Professor PICONE: Could I say that I feel I am answering these questions as best I can, Chair. I cannot comment on what a Minister did or did not say and I will not and I repeat again that I did express my deep concern for that family.

The Hon. MICHAEL GALLACHER: But the Minister was wrong though with what he said.

Associate Professor PICONE: And I--

The Hon. MICHAEL GALLACHER: You can give an opinion.

CHAIR: Professor Picone cannot answer that question.

The Hon. PETER PRIMROSE: Can I ask the defendants, what do you think would happen to the oversight monitoring functions you have been talking about if a future government slashed the number of senior and middle management positions in area health services?

Ms KRUK: I must admit, I saw a headline in the paper and I am not familiar with the actual detail in relation to it.

The Hon. PETER PRIMROSE: Well, no-one is yet but just in terms of if a future government slashed the number of senior and middle management positions that presumably are responsible for doing this work, could the system monitor and continue to evaluate itself and provide this sort of just culture that you have been describing or would it be under even greater strain?

The Hon. MICHAEL GALLACHER: Point of order, the witness is being asked--

The Hon. AMANDA FAZIO: Actually, you cannot raise a point of order because you are sitting in on the Committee, you are not a full member of the Committee. It is against the rules.

CHAIR: He can ask questions but he cannot vote.

The Hon. AMANDA FAZIO: He cannot raise a point of order because it is a procedural matter.

The Hon. MICHAEL GALLACHER: Chair, the witness is being asked to give an answer on a hypothetical in terms of the word 'slashed' when there are no figures put to it, yet we have just been told that the other witness cannot answer when the Minister has clearly been caught out saying something that is not correct.

CHAIR: I will allow the question.

Associate Professor PICONE: It would be good because you could have a holiday, get a life, see your family.

Ms KRUK: Mr Chair can I answer, I mean it is a difficult question. I would hope that any government would give priority to the resourcing of this area. That is probably all that is appropriate for me as a bureaucrat to say.

The Hon. PETER PRIMROSE: I appreciate that, thank you.

CHAIR: I understand there are a couple of other questions to wrap up issues.

The Hon. CHRISTINE ROBERTSON: During this inquiry, because this is the last hearing I understand, we have had some fantastic evidence given to us and that should mean that we are going to put out a pretty productive, I personally perceive, report in the end. Mr Chair of course will put it out but we will participate. The management processes of the implementation of the quality processes has certainly sped up. We have seen the evidence of that during the months we have been sitting here.

I am wanting to know from either or both of you how worried you are about the damage to the morale and the professionals at Camden and Campbelltown, how worried you are that will go on for years before they can actually move on? Even though you are investing a whole lot of resources.

Ms KRUK: Can I answer, and Professor Picone is closer to it, but I would hope that this Committee uses its authority and influence to actually acknowledge the stress under which the staff has been. I stress that the staff are very committed, as I said in my earlier testimony, both during the course of the inquiry, during the course of the incredibly adverse media commentary being still required to provide continued services to the public.

I would really plead and ask that you acknowledge that and you acknowledge the good work. I do think that it will be a long journey. I think we have been very frank in talking about some of the difficulties. I would hate a situation where an adverse incident is related, that that is seen as being a step backward. A culture that actually has complaints reported is a good culture. A culture where there are no complaints reported I would argue is a culture of the one that you are seeking to see the end of.

The morale is a huge issue. I am out at the area health service quite frequently. I meet the clinical staff. I walk through the wards. It is incredibly distressing to see people who are so committed, to be in tears and to talk about threats they received from the community. They are proud of their hospital, they live in that community, they want the best area health service.

I would hope that your Committee would do that and I would also hope that the media acknowledge that, I think in terms of having a good health system, it is as good as the people who are in it and the willingness of the people that are in it to provide those quality services. I would ask Professor Picone to comment.

Associate Professor PICONE: Could I say that there are 1500 people who work at that hospital. The events that led to this inquiry and others, many of them occurred eighteen months ago and some as long as six years ago. The hospital has moved on since then and I think if I had the senior staff of the hospital here today with me, and certainly the staff, generally the clinical staff of South Western, they would ask what they asked in a letter that they wrote to the media two months ago and also to the Parliamentarians, and this is what they asked.

They said that in matters relating to the clinical care of patients, that they accepted they should be - this is a paraphrase - open to public scrutiny. They believed that there were bodies that did that and that these matters should be reviewed but they felt that it was not the appropriate place to consider the merits and arguments of a clinical care situation either in the Parliament by Parliamentarians or in the media and that was a letter that they sent out as a general open letter some months ago in the middle of considerations of the care of a particular patient.

I think they find these things extremely difficult because normally these matters would be considered in some of the processes we have outlined here today. The morale issue in relation to the hospitals is the greatest challenge that we have because there is no question in my mind at all that there were events brought to our attention by those nurse complainants of patient care that was not satisfactory and that they are now the subject of a thorough review by the special commission of inquiry and that will come out and that there were practitioners at the hospital in very small numbers who were not up to scratch. There is no doubt in my mind about that, but in the meantime there are 1500 other staff that work there, there are many thousands of patients that attend that hospital for treatment every year, many of them - I was walking through the radiotherapy out there only yesterday and in the window where they sit to operate the linear accelerator, it was completely full of thank you cards from very very grateful patients.

I have done and regularly do rounds of those hospitals and I always find people who are very grateful for their care. At the same time it is my firm belief that the new systems we have put in place, particularly around complaints handling, will allow people who do not have a happy interface with the health service, for those complaints to be dealt with appropriately and for us where it is necessary to improve the system.

CHAIR: Thank you for your comments. I cannot guarantee what will be reported through the media. It is not necessarily just.

The Hon. PATRICIA FORSYTHE: Professor Picone, thank you for lifting the cloud over other doctors who work at Liverpool in relation to the death of the four patients under investigation.

When you appeared before us last time you said that doctor left and went to another State. Could you confirm that the doctor is not practising in New South Wales?

Associate Professor PICONE: Deputy Chair, to the best of my knowledge that doctor is not but I have referred those matters to both the New South Wales Medical Registration Board and South Australia Registration Board.

The Hon. ROBYN PARKER: Thank you for your statements about the people working currently in Camden and Campbelltown. I am sure that you would want to extend that care and consideration to those nurses who no longer have careers. Am I right?

Associate Professor PICONE: I have.

The Hon. ROBYN PARKER: One final tidy-up issue in terms of Dr Prendergast, one of the issues that she referred to you was about a patient having been sent home to have a miscarriage, having a miscarriage, sent home to miscarry, and she felt that that was not dealt with as a matter of priority. It was not, was it?

The Hon. CHRISTINE ROBERTSON: That is a clinical question.

Associate Professor PICONE: No, but that did come in a subsequent letter of Dr Prendergast.

The Hon. ROBYN PARKER: I am sorry, it is disjointed.

Associate Professor PICONE: When I wrote to Dr Prendergast she did send that back and that is what is being reviewed between Dr Prendergast at the moment and the head of department. If that did occur, that is very unsatisfactory.

The Hon. ROBYN PARKER: And it should have been dealt with as a matter of priority?

Associate Professor PICONE: Yes, it should have been.

The Hon. ROBYN PARKER: So you regret that it was not?

Associate Professor PICONE: I do not know the details of the individual case. Could I leave that until I am given the details of the matter?

The Hon. MICHAEL GALLACHER: Going back to the last discussion that we had before, could you indicate to the Committee when you became aware that Minister Knowles had incorrectly made the statement in terms of Mr Yakub's care and that was pursuant to the document of 26 August 2002? What steps did you take to inform the Minister of that incorrect statement?

Associate Professor PICONE: I was not involved in any of the media statements at the time.

The Hon. MICHAEL GALLACHER: I did not ask that, I asked what steps did you take when you became aware that he had made an incorrect media statement?

Associate Professor PICONE: I was not involved in the media statements at the time or subsequent.

The Hon. MICHAEL GALLACHER: I understand you were not involved.

Associate Professor PICONE: I was not handling this as a media issue, that is not my job.

The Hon. MICHAEL GALLACHER: You are aware of the document of 26 August?

Associate Professor PICONE: I would appreciate it if I could look at the document you are referring to.

The Hon. MICHAEL GALLACHER: That was the one under the hand of Cathy Hill. Are you aware of that document? You have seen that document before?

The Hon. CHRISTINE ROBERTSON: Is this document part of our information?

The Hon. MICHAEL GALLACHER: Yes, it is. It was given to us through the Committee.

The Hon. CHRISTINE ROBERTSON: I do not remember anything about this at all.

Ms KRUK: I must admit I am not briefed on the Yakub stuff. I will try to assist here. There was a chronology I think given to Parliament before, which I think Mr Gallacher may be referring to. I think that

document appeared in that chronology. I am happy in terms of if we need to give you more information then we will. One of my staff, obviously knowing that my memory is not great, has reminded me that Minister Knowles has, in Parliament, indicated that there was a misunderstanding in relation to fact. I am happy to table that. I am sure members around the table - there is no date on it - would be familiar with his statement in the House where he sought to correct it.

The Hon. MICHAEL GALLACHER: Does Ms Hill work for you?

Associate Professor PICONE: I do not know who - I might, but Cathy Hill does not ring a bell for me.

The Hon. MICHAEL GALLACHER: I assume therefore you have no recollection of that document at all?

The Hon. CHRISTINE ROBERTSON: Could these papers be tabled?

Associate Professor PICONE: Could I read this? I do not want to make a guess, I am sorry.

CHAIR: It is not a direct Committee matter, it was part of the papers that were called upon and submitted to the Parliament.

The Hon. CHRISTINE ROBERTSON: That is right, it is not part of this inquiry at all.

The Hon. AMANDA FAZIO: I want to thank Professor Picone for coming here today to give evidence and I would also like to place on the public record the public demonstration of the lack of confidence of the Leader of the Opposition in the Honourable Robyn Parker and the Honourable Patricia Forsythe by having somebody else sit in today to direct them.

(The witnesses withdrew)

(The Committee adjourned at 12.10 p.m.)