

SPECIAL COMMISSION OF INQUIRY
RE GRAEME REEVES

Before Mr Peter Garling SC, Commissioner

At Special Commission Offices
Level 6, 199 Elizabeth Street
Sydney

On Tuesday, 17 June 2008
(Day 4)

Counsel Assisting: Mr T Tobin and Ms G Wright
Solicitor to the Inquiry: Ms C Follett

1 <RAYMOND TOFT:

2

3 <EXAMINATION BY MR TOBIN:

4

5 THE COMMISSIONER: Q. Good afternoon, Mr Toft. This is
6 the resumption of the hearing of the Special Commission of
7 Inquiry. Mr Toft, you remain bound to tell me the truth as
8 you were on the last occasion.

9 A. Yes.

10

11 Q. Present in the room here are the inquiry staff, your
12 solicitor and a reporter, but otherwise no-one else is
13 here?

14 A. A reporter?

15

16 Q. To take down your evidence.

17 A. Yes, that's fine.

18

19 Q. An official reporter, not a newspaper reporter.

20 A. That's okay. You had me worried.

21

22 Q. Thank you for making yourself available again. There
23 is no need to do anything more formally than that.

24 A. Okay.

25

26 THE COMMISSIONER: Mr Tobin, do you have some questions of
27 Mr Toft?

28

29 MR TOBIN: Yes.

30

31 Q. Mr Toft, you produced a 31-page document on the last
32 occasion, on 12 June; you remember that?

33 A. I do.

34

35 Q. And you have a copy with you; is that correct?

36 A. It is.

37

38 Q. I want to ask you some questions about your diary
39 entries, or your recording of your interactions involving
40 Dr Reeves; do you follow?

41 A. Yes.

42

43 Q. The first thing is you told the Commission on the last
44 occasion that you had compiled this document from your
45 computer records; is that right?

46 A. From my computer records, and there was some work from
47 my diary notes when I compiled earlier this year all

1 information I had to get it into a timeline.

2

3 Q. So these entries are not necessarily contemporaneous,
4 are they; that is, you didn't write down the information
5 straight after the events that they relate to?

6 A. Some are and some aren't, no.

7

8 Q. I want to go through this, if you would, Mr Toft. If
9 you have done it already, we will skip that because it will
10 already have been dealt with in the transcript, but you
11 have an entry here on the first page which seems to be
12 undated. Do you see that halfway down: "Ongoing poor
13 relationship between nursing staff at Pambula and
14 Dr Reeves"?

15 A. Yes, I do.

16

17 Q. Can you give us any idea of when that was written?

18 A. Yes. When I look in my notes, this actually was
19 written in the - there's an incident report here somewhere
20 where that's the commencing line, so somewhere I've written
21 a brief and I see that was the beginning line that went
22 with it. It goes into --

23

24 Q. I'm just asking you if you can date this.

25 A. I can't date that, no.

26

27 Q. It would appear to be before 2 September, would it
28 not, because 2 September is at the bottom of page 1 and
29 over the page you have a full page document which is a
30 letter to Dr Reeves and copies on page 3; do you see that?

31 A. I do see that. I cannot tell you when I have written
32 this about the ongoing poor relationship between nursing
33 staff at Pambula. It was sometime before February this
34 year is all I can tell you. I cannot tell you for sure
35 when I wrote that.

36

37 Q. Can I take you then to the 2 September letter?

38 A. Yes.

39

40 Q. In summary does that contain in fact complaints by
41 Dr Reeves about the management of the theatre?

42 A. Yes, that was the response to a letter that I received
43 from Dr Reeves in regard to the difficulties he was
44 experiencing within the theatre.

45

46 Q. And I think we dealt with that on the last occasion,
47 didn't we?

1 A. I think we did. I saw a copy of that letter that he
2 wrote to me in the notes that I was sent this morning, and
3 this was a response to those concerns.
4

5 Q. The next document is on page 3, dated 11 October 2002,
6 the "Incident Report". The issue is "adverse outcome post-
7 operative patient"; see that?

8 A. Yes.
9

10 Q. For the purposes of the hearing we will just use the
11 initials of the patient "SW"; is that all right?

12 A. Yes, that's fine.
13

14 Q. Did you prepare this incident report based on
15 information you yourself were aware of at the time or which
16 was reported to you?

17 A. It would have been reported to me through the staff
18 where I was - who I was a manager of. I compiled this. I
19 would have got it from the patient's records and from
20 verbal reports from staff who were working.
21

22 Q. Without going into the detail of the adverse outcome,
23 without going into the detail of it, can you just identify
24 in shorthand, if you like, what was the adverse outcome?

25 There seems, for example, on 13 October to have been
26 ongoing reports of abdominal distension --

27 A. And difficulty breathing. The outcome was that this
28 patient was having - the outcome from the surgery is not
29 what would be expected. It was having an unexpected
30 outcome post-operative. She should have been, you know,
31 having decreasing pain, shouldn't have been having trouble
32 breathing and, yeah, that's what she should have been
33 having.
34

35 Q. Was this an adverse outcome report which was intended
36 to be critical of Dr Reeves or was it neutral in that
37 regard?

38 A. I can't tell you what the intention would have been.
39 It was to record an incident. An adverse incident - it was
40 a requirement to put in, if they have an unexpected outcome
41 and it is a notification of an adverse outcome.
42

43 Q. You also had, did you not, a series of policies
44 relating to below standard clinical practice; is that
45 correct?

46 A. Can you explain that?
47

1 Q. There was a policy, was there not, of reporting for a
2 review, a clinician's performance, if there were an
3 emerging concern relating to the performance or practice of
4 or clinical outcomes achieved by that individual?

5 A. A copy of that was faxed to me just before?

6
7 Q. It was.

8 A. It was. And by the dates on here, it says that that
9 was in place - I can't remember that I would actually have
10 known this policy off by heart, but when I look at the
11 date, when it was signed, it looks like nearly it was
12 signed in '04 to me.

13
14 Q. I don't want to go into the debate about it, but the
15 top right shows that it is a policy from May 2002, does it
16 not?

17 A. It says that in the date of this policy, but when it
18 was signed - it is not policy until then. It looks to me
19 as though it was signed on 7/8/04.

20
21 Q. I see. Without going into the ins and outs of that,
22 there was a system, was there not, of reporting a
23 clinician's performance if there was a concern as to
24 whether or not it was up to standard?

25 A. I believe there was, yes.

26
27 Q. What I put to you earlier was that the incident
28 report, which I'm just asking you about, for 11 October
29 does not appear to have been a report of that kind; that
30 is, a report that was generated because of the concern
31 about the clinician's performance?

32 A. It was a report that was generated due to the
33 requirements of reporting where if a person had to return
34 to theatre or have an unexpected outcome, or was a - they
35 are the main reasons that we were to do a report, an
36 incident report about those matters.

37
38 Q. I take it that over time you may have done incident
39 reports relating to outcomes of patients of many or most of
40 the VMOs; is that a fair assumption to make?

41 A. I've done quite a number of reports over the times,
42 and I haven't ever done a check to see if I have done one
43 about each of them but it could be possible. I have done a
44 number about different doctors - not about different
45 doctors, but different doctors have been involved here.

46
47 Q. Mr Toft, I am really putting to you a fairly simple

1 point. Is it fair to assume that an incident report of the
2 kind that you have before you of 11 October 2002 would not
3 of itself necessarily generate any concern about Dr Reeves'
4 performance as a clinician?

5 A. I've got to think on how that is worded. One in
6 itself would raise a concern. But just one, it's - one
7 incident would raise concern. It is what degree of concern
8 that you would see as being a concern. If it was one
9 episode in this patient. Then one episode that was a
10 concern - I wasn't a specialist to be able to tell whether
11 this was a very - you know, so unexpected but it still
12 wasn't the planned outcome for this patient.
13

14 Q. I take it that this didn't generate from your desk,
15 from you, over a quest that Dr Reeves' clinical performance
16 be reviewed?

17 A. This incident didn't, not from my desk.
18

19 Q. Or from you yourself?

20 A. Yes.
21

22 Q. Did any of his clinical outcomes cause you to report
23 about his treatment with a view to having a review of his
24 clinical performance between this one and early 2003?

25 A. I believe it did. The meeting that came over -
26 there's documents of it - there was a couple over there
27 with nursing staff who were raising concerns about the
28 actions of the doctor at the time, brought up a couple of
29 incidents.
30

31 Q. We will come to them, Mr Toft.

32 A. That raised concern which I pursued through my manager
33 through medical administration - concerns about this
34 doctor's activities.
35

36 Q. Are they recorded in your notes which are MFI4, the
37 document that I started with?

38 A. MFI4, which one?
39

40 Q. The document that's called "Timeline interactions with
41 Dr Reeves". In that document have you recorded taking up
42 Dr Reeves' clinical performance with your manager?

43 A. I need to check with my notes on what I have recorded
44 there. I know that we made a phone call around about the
45 page - yes, it does. In the briefing report --
46

47 Q. What page is that?

1 A. Page 9.
2
3 Q. That's a briefing report of 31 October; is that right?
4 A. The report and the recommendation there was
5 "Drs Arthurson and Mortimer to continue to work with
6 Dr Reeves to address his inappropriate anger response to
7 issues."
8
9 Q. I think you took you to that document on the last
10 occasion, did I not?
11 A. I can't remember that one.
12
13 Q. If you could go back to page 5 where there is an
14 incident report of 25 October.
15 A. Yes.
16
17 Q. This involved a suture needle left in situ in a
18 patient on 24 October 2002; is that correct?
19 A. That's right.
20
21 Q. Were you the nurse in charge, or was that Mr Munro?
22 A. Mr Munro was in charge on that day. I was away, I
23 think, at the Area office in Queanbeyan for the day, if my
24 memory serves me correct, but I'm not sure exactly where I
25 was, but I was away for the day.
26
27 Q. Did you prepare the incident report, or was that done
28 by someone else?
29 A. I can't confirm either way, whether I compiled it, or
30 whether Mr Munro compiled it and I sent it off. I'm not
31 sure. It was an incident from that day. I can't tell you
32 and I haven't actually got written there who sent it.
33
34 Q. Do you know whether that incident report caused a
35 further report, or a further review into his clinical
36 performance to be established?
37 A. I don't know. If it was, I wasn't advised. I can't
38 find records to say that I was advised of that.
39
40 Q. At about the middle of page 6 you have a report on 28
41 October; do you see that?
42 A. I do.
43
44 Q. Is that one that you yourself wrote?
45 A. That is a note that I have written and I'm not sure
46 where I wrote that letter, whether it was written in my
47 diary or whether I wrote it into an electronic note at the

1 time. I can't remember where it came from.

2

3 Q. On 28 October you have referred to concern about the
4 clinical care of patients due to a breakdown in relations
5 between Dr Reeves and I take it to be the nursing staff; is
6 that right?

7 A. Yes, it was.

8

9 Q. A number of matters are identified in those dot points
10 or dash points, are they not?

11 A. There are a number of briefs that I put there for
12 myself, yes.

13

14 Q. Is the ectopic the one that on 11 October resulted in
15 that incident report, or rather related to the suture
16 needle and was the subject of the incident report?

17 A. The ectopic that went septic was the incident from
18 11-13/10. It was that one. The case with the broken
19 needle was the next incident, 24/10. A couple of returns
20 to theatre - I don't have records of them.

21

22 Q. Once an incident report was prepared - and let us
23 concentrate on the ones that you would have done at this
24 time - to whom were they sent?

25 A. They would have been sent through my general manager
26 who would have forwarded them then on to the Area Health
27 Service in Queanbeyan.

28

29 Q. So would that have been Christine Dwyer as the general
30 manager?

31 A. It would have been Christine Dwyer at that time.

32

33 Q. And then who would it be sent onto by Christine Dwyer?

34 A. I can't confirm who it would have been sent to, but I
35 would assume it would have went up to the chief executive's
36 office, but I don't know for sure where they went to.

37

38 Q. Well, it would have gone to Dr Robinson - is that what
39 you would understand; the CEO in Queanbeyan?

40 A. Yes, I'm just thinking about this. Now, that is where
41 I assumed they would go, but I'm not sure that she would
42 have got every incident - I don't know the processes that
43 they had in the Area and where they went to.

44

45 Q. If I can just clarify it, is it your understanding
46 that they went to Queanbeyan or to Goulburn?

47 A. I assume they went to Queanbeyan, but I've never

1 thought that hard before on where they go to.

2

3 Q. The next diary entry you have there is relating to a
4 conversation with Dr Reeves on 28 October where you discuss
5 with Dr Reeves his relationships with yourself and theatre
6 staff?

7 A. I actually couldn't speak to him until the 30th. I
8 tried on the 28th, but I'm not sure, something must have
9 happened then. I was not able to contact until early on
10 30/10/02, I spoke to him. I raised my concerns about the
11 relationship between himself and theatre staff.

12

13 Q. And what was the problem that you saw at that stage?
14 Let me put it to you more directly. At that stage were you
15 raising this with Dr Reeves because you had a concern about
16 the clinical care of patients?

17 A. I raised with him my concerns because of staff raising
18 their concerns with me about the inability to discuss
19 patients and just their problems they were having with him
20 with communication. I cannot tell you whether it was
21 because I had concerns about these incidents, what my
22 thought pattern was there, but according to my notes I had
23 concerns about the relationship between himself and the
24 theatre staff.

25

26 Q. On page 7 there's a series of entries appearing to be
27 related to 31 October, which is on the very bottom of the
28 previous page.

29 A. Yes.

30

31 Q. So can we take it that these notes on page 7 are
32 relating to 31 October?

33 A. I would assume that. I want to see in my notes if
34 there is any other reference to the date, or what the next
35 date is. I would believe it is 31/10 from the incident -
36 although the brief that I've got written over on page 9 is
37 talking about the same incident, so it would have been
38 31/10.

39

40 Q. I just want to ask you this about page 7. About nine
41 lines down. It says:

42

43 Ongoing tension in theatre.
44 During the second case Charmaine received a
45 laceration from a scalpel by Dr Reeves.

46

47 What was the detail of that incident?

1 A. This is from the notes I wrote down I saw a copy of
2 the TMF notification where there was - Charmaine received a
3 laceration during the procedure, and there is a
4 notification in those notes that came this morning about
5 the actual incident there.
6
7 Q. What is TMF?
8 A. TMF is Treasury Managed Fund.
9
10 Q. So there was a report relating ultimately to the
11 insurance issue, was there?
12 A. That is a WorkCover notification. Because it was an
13 occupational exposure, it is a requirement that TMF is
14 notified because it could be a workers comp issue if there
15 was an occupational exposure there.
16
17 Q. Was there a criticism of Dr Reeves for causing the
18 cut?
19 A. I will have to check in my notes what was actually
20 recorded at the time.
21
22 Q. Tab 49 is an accident report which says, "Scalpel
23 blade placed onto drape by surgeon catching RN Johnson's
24 hand. Cut with sharp contaminated scalpel blade"?
25 A. That's right. There was a notification by Charmaine
26 Johnson to TMF.
27
28 Q. Well, there seemed to be every prospect that the
29 nursing staff wouldn't continue in the theatre with
30 Dr Reeves at this stage; is that a correct inference to
31 draw?
32 A. Charmaine Johnson left the theatre at that time when
33 she received her laceration. She actually left and went to
34 the Emergency Department, I believe, and came around to me
35 quite distressed, to my office.
36
37 Q. Would you perhaps just focus on the question, Mr Toft.
38 Was there a criticism of Dr Reeves in the causing of that
39 injury?
40 A. I was not in the theatre at that time to know what was
41 said.
42
43 Q. Did you communicate with the staff, as the note says,
44 about their need to remain calm and professional and do
45 what Dr Reeves asked?
46 A. My records indicate that, and my memory is that that
47 is what I did as well.

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Q. And also did you make a note at the time about the patient, that as the abdominal cavity was open there was no option but to continue with the case?

A. My notes would indicate that, and I was --

Q. All right. They also indicate, do they not, that you had a discussion with Dr Thomas as to whether the list should be continued, and you spoke also with the nursing staff about that; is that correct?

A. That's my - my notes would indicate that, yes.

Q. And you rang Dr Arthurson, who talked to you about whether he should come down to Pambula as a result of the incident; is that correct?

A. That is correct. He was in Goulburn, I believe, at the time.

Q. What happened to cause the staff to consider whether they would cease working in the theatre, you consulting Dr Thomas and the nursing staff as to whether the list would continue, and with Dr Arthurson about the possibility of him coming down to Pambula? What happened?

A. I'm not sure - Charmaine who received the laceration came out of theatre, and not wanting to stay in there because she had to get the laceration fixed up. I don't have a record or memory that the other staff in there didn't want to be there at the time. It was a very tense situation, and I believe I wrote these notes as it was happening, because I do remember it was a very tense situation at that time, and it was "What do we do?" Patient safety was my priority. We had this patient who needed to be put back together, I couldn't put it in any better words, and there was no other surgeon there who could put this person together, so that was my response to staff, to do whatever they had to do for this patient's safety.

Q. Was it said to you at this time that Dr Reeves had become very angry following which Charmaine had received a cut?

A. I cannot recall if that was said to me or not, and I'm trying to see in my record here whether I've written that down. I cannot recall that. I can't recall that.

Q. On page 8 - I won't go into this in any more detail - there seems to be some discussion between yourself and

1 Dr Reeves as to whether he should continue with the list?
2 A. That's right. TR who is written there is Tony Robin
3 who was the acting senior nurse manager at Bega at the
4 time. I rang him for advice because it was a very
5 stressful situation at the moment - quite - you know, was
6 wanting to discuss what to do next. So he came down, and
7 by the time he got down from Bega, that case had been
8 completed so we went and had discussions with Dr Reeves
9 about whether he should progress or not.

10
11 Q. And did Dr Reeves ask Tony Robin to decide whether he
12 should continue, he Dr Reeves should continue, with his
13 operating list?

14 A. My notes would indicate that was the case.

15
16 THE COMMISSIONER: Q. Just before we leave that section,
17 Mr Toft, if you look at the top of page 8, at the fourth
18 line, it reads:

19
20 Much conversation re the right of Tony to
21 request Dr Reeves ability.

22
23 See that?

24 A. Yes, I do.

25
26 Q. Between whom was the conversation?

27 A. That would have been - was between Dr Reeves, Tony and
28 myself. There was the three of us there. I can't tell you
29 who said what, just that it was a very - well, much
30 conversation about how dare we come and question Dr Reeves'
31 ability to continue.

32
33 MR TOBIN: Q. Mr Toft, on page 9 of the document you
34 will see that briefing report of 31 October which you
35 referred to earlier.

36 A. Yes, I believe that's the one.

37
38 Q. In the second sentence you refer to the "tense
39 atmosphere during an operation (31.10.02) when Dr Reeves
40 expressed his anger over a number of issues; do you see
41 that?

42 A. I do.

43
44 Q. Then the next sentence refers to Dr Reeves' "level of
45 anger and the potential for a poor outcome in such an
46 environment"; see that?

47 A. I do see that.

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Q. You have told the Commissioner that you can't remember whether the question of his anger was to the forefront on this occasion. Is this part of the report something that was told to you by the nursing staff on 31 October?

A. I cannot recall whether it was told to me or whether I wrote that down as the level of anger that I viewed while I was actually in the theatre on that morning when discussing what to do with Dr Reeves' patients. I can't remember who it came from, whether it was from myself or from staff.

Q. This briefing report, I take it, was sent up to your manager; is that correct?

A. That would be where I believe it would have went.

Q. What was the practice at the time for a briefing report?

A. Briefing reports, you would send them through to the general manager who would then forward them on, my understanding was, up to the Area, to the CE, but I don't know that definitely. That was just my assumption.

Q. Could you go then to page 11. On 1 November 2002 it says at approximately 10.30 in the morning you were contacted by Dr Reeves to set up a meeting with theatre staff?

A. Yes, I do see that.

Q. As a result of that contact was there a meeting held with the various clinicians who worked with Dr Reeves?

A. As a result of that request, a meeting was arranged with the OT staff, Robert Arthurson, Maree Wetherstone and myself on Wednesday, 6/11/02.

Q. You have recorded on page 12 for 6 November what happened at the meeting?

A. Yes.

Q. You raised there, did you not, that poor relationships with the surgeon, between the surgeon and the nursing staff could result in poor outcomes for the patients?

A. My records would indicate that.

Q. Did you take any steps beyond this meeting, other than what Dr Arthurson may have decided, in order to try and achieve a better rapport with Dr Reeves?

A. I cannot - oh, we had that meeting and then straight

1 away afterwards we had a meeting with Dr Reeves.

2

3 Q. Where have you noted that?

4 A. That is on page 14. Page 12 is the beginning of the
5 meeting. That's who was present and the discussions from
6 that meeting. Then on page 14 --

7

8 Q. Before you go to 14, if you would just pause at 13,
9 you see the dot points on page 13?

10 A. Yes.

11

12 Q. The last dot point which is under the heading at the
13 top "Summary of further discussion and opinions put forward
14 which then occurred", the last dot point says:

15

16 Concerns are not of GRs clinical ability
17 but to improve communication so that issues
18 related to patient care can be sorted out.

19

20 Do you see that?

21 A. I do see that.

22

23 Q. Did that reflect at the time your opinion or the
24 opinion of others or the opinion of several of the people
25 there including yourself?

26 A. I can't confirm whether whose opinion it was. I can't
27 remember where that came - I know it has come out of the
28 meeting, but I can't confirm whether it was a particular
29 person's opinion. To me, it looks like it was a general
30 consensus out of the meeting.

31

32 Q. Does that suggest that at the meeting the concerns
33 being expressed weren't about his clinical ability, but
34 questions of communication which were relevant to patient
35 care?

36 A. It could suggest that, but, as I said before, I cannot
37 remember - how it came to that. These were the notes that
38 I compiled at the time about a meeting.

39

40 Q. Do you see the last entry on the page:

41

42 Staff unhappy with the way GR reacts to
43 questions re patient care.

44

45 A. Yes, I do.

46

47 Q. Looking back on that period, Mr Toft, was it the case

1 that Dr Reeves often became highly indignant if staff
2 raised questions about patient care which he may have
3 thought were critical of him?
4 A. My recall of the time is that was the case.
5
6 Q. And was the staff worried about patient care because
7 they couldn't have a reasonable conversation with Dr Reeves
8 about their own concerns about patients?
9 A. My recall at the time and from reviewing my notes here
10 would indicate that to be the case.
11
12 Q. On page 14 you will see there is a meeting on 6
13 November with Dr Reeves?
14 A. I do.
15
16 Q. Who are the others present at that meeting?
17 A. Robert Arthurson, Maree Wetherstone, Graeme Reeves and
18 myself.
19
20 Q. Would the meeting have occurred at the initiative of
21 Dr Arthurson, or of someone else?
22 A. It was at the initiative of - it followed straight on
23 from that previous meeting with the nursing staff that was
24 recorded on pages 12 and 13. It followed straight on
25 afterwards.
26
27 Q. Dr Reeves complained about the meeting being held when
28 he was on his afternoon off; do you see that?
29 A. Yes, I do.
30
31 Q. That would suggest, I take it, that it was arranged by
32 the hospital management or the Area management?
33 A. I cannot remember the exact details on how it was
34 arranged on that day, but it followed straight on from the
35 previous meeting with the staff.
36
37 Q. You see "Outcome" at the bottom of the page?
38 A. Yes.
39
40 Q. Did it get to the position where it was Dr Reeves who
41 was saying that he would down tools and leave if he didn't
42 like the way the operating theatre staff were performing?
43 A. That's what the notes there would indicate. I do not
44 remember the detail of that.
45
46 Q. Next page, on 15, you'll see there's the events of 14
47 November?

1 A. Yes.
2
3 Q. We took you to this on the last occasion. You
4 recollect that, do you not?
5 A. I do.
6
7 Q. And that was when Dr Reeves told you that his rights
8 to perform LSCSs had been suspended by the Medical
9 Registration Board; do you see that?
10 A. I do.
11
12 Q. When you wrote this, I take it that was close to the
13 time of that contact from Dr Reeves?
14 A. I would believe it would have been very close to the
15 time, but this was another tense moment when I was - yeah,
16 I've got my notes written here, that I have got written
17 down, but I can't tell you exactly when I wrote it down.
18
19 Q. You see where you have framed it? You say that
20 Dr Reeves advised you that "his rights to perform LSCSs had
21 been suspended by the NSW medical registration board"?
22 A. Yes.
23
24 Q. When did you understand that that suspension had been
25 ordered, or had taken place?
26 A. Well, I clarified that, because - and "I asked from
27 when and he said immediately". So my understanding was
28 that it had been suspended that day.
29
30 Q. Your understanding was, in effect, that it had just
31 happened; is that right?
32 A. That was the understanding I had, yes.
33
34 Q. The briefing note or briefing report was then sent to
35 Chris Dwyer on the morning of 15 November; is that right?
36 The line immediately above of heading "Briefing sent to
37 Chris Dwyer approx 0830 15/11/02" yes.
38
39 Q. And I think we went through this on the last occasion,
40 did we not?
41 A. I think we did.
42
43 Q. I have just been corrected, Mr Toft. I took you to
44 the memo that you sent announcing the suspension of his
45 clinical privileges?
46 A. Oh, okay, yes.
47

1 Q. Could I ask you about this report that you sent to
2 Chris Dwyer?

3 A. Yes.

4

5 Q. The first part of it, I think, is dealt with in that
6 earlier file note that you had prepared. It goes on to
7 say - he said that he had been immediately suspended.

8

9 He said that he has not had registration
10 for deliveries and that is why he only
11 consults with the VMOs re deliveries. He
12 advised me this had been a condition of his
13 registration and he had advised the area of
14 this prior to his appointment. This had
15 been the result of action some 5 years
16 ago. I asked him if he had registration
17 for gynaecological surgery and he said that
18 this has and this has not been affected.

19

20 Do you see that?

21 A. I do see that.

22

23 Q. I did question you perhaps to the contrary a few
24 moments ago you, but would it appear from this briefing
25 note, would it not, that he did tell you at this time that
26 there had been a problem at least five years old which had
27 precluded him from deliveries; is that a fair deduction to
28 make?

29 A. I cannot remember the conversation, but my record of
30 what I wrote down at the time would indicate that.

31

32 Q. Then the action that you set out under the heading
33 "Action" was to ensure, was it not, that there was cover
34 for all the patients who may have been booked in for
35 treatment by Dr Reeves?

36 A. That's right. That was my action. Immediately - and,
37 as I said before, I can't remember which was written - or
38 did, but that was the action I did on that afternoon when I
39 found out that he could not provide cover to ensure
40 patients' safety from then.

41

42 Q. And then under "Current position" you were setting out
43 to ensure that there was an alternative from the Bega
44 District Hospital; is that right?

45 A. That's correct.

46

47 Q. The memorandum on 15 November --

1 A. What page?
2
3 Q. We are on the top of page 17. It is dated 4 November.
4 You have got it under the heading "15/11/02" in this
5 compilation.
6 A. Yes.
7
8 Q. You said that you put that up, I think, in the
9 maternity ward?
10 A. My recollection is that it was maternity, the general
11 ward, and faxed it to the participating doctors, I believe.
12
13 Q. Are they the general practitioners in the area that
14 would have worked with Dr Reeves?
15 A. They are. I cannot remember for sure if I only sent
16 it to the ones who participated in maternity or GPs, VMOs
17 for the place. I'm not sure which ones I sent it to but I
18 would have sent it to the ones who participated in
19 maternity.
20
21 Q. Then at the bottom of 17 on 21 November you sent an
22 email to Dr Mortimer about Reeves assisting with LSCSs?
23 A. Yes.
24
25 Q. What lay behind that note?
26 A. I don't know. That's where I have done a search
27 through my written diaries from the time, and I must have
28 wrote in that I'd sent an email. I think that's where that
29 one came from. I think I had a note somewhere to say that
30 I sent an email, but I can't find that email and my emails
31 from that time I can't access. I did have a note that I'd
32 sent an email.
33
34 Q. Between 14 November and 21 November were there any
35 occasions, as far as you know, when Dr Reeves was
36 performing Caesarean sections notwithstanding the
37 information from the Medical Board?
38 A. I don't know. I haven't got anything written in my
39 notes and I haven't done an actual check of the theatre
40 register to see if he was. I do not know and can't recall.
41
42 Q. See on the next day, 22 November, you received a call
43 from Dr Reeves to say that he was going to help
44 Dr Simonson, who he said was in poor health, with the LSCSs
45 in the list. I take it it was for the Monday, is that
46 right?
47 A. That would be an assumption, but I can only go on my

1 notes that are written here.

2

3 Q. Were you concerned at this stage that Dr Reeves was
4 proposing to perform LSCSs contrary to the limitations on
5 his practice that the Medical Board had informed the Area
6 of?

7 A. I have no record to say that I was, and this is a
8 number of years back, but I would assume that I was.

9

10 Q. It would be significant that you seemed to have called
11 Dr Arthurson. See at the bottom of page 17?

12 A. My notes there would indicate that that was the case,
13 but I don't - I didn't take any further record. Well, I
14 can't find any further record of this time, but my calling
15 and putting a note "RT called JM" - Jon Mortimer - "not
16 available. RT called RA would" indicate that I had some
17 concerns, to me.

18

19 Q. Who was the person that you would take those concerns
20 to in the ordinary management arrangement at the hospital?

21 A. It would depend on who is available. You could go to
22 the general manager who was Chris Dwyer, or if it was to do
23 with clinical privileges, or what a doctor was doing, it
24 would be to medical administration.

25

26 Q. Would that be Dr Arthurson ultimately in the area?

27 A. It would be Dr Mortimer or Dr Arthurson. I'm not sure
28 why Dr Mortimer wasn't available. It would be one of them.
29 I found that in my notes, but I can't find any memo from
30 around that date, I'm sorry.

31

32 Q. Could you look at page 18, Mr Toft. There is a letter
33 there which has on the top of it "19th December, 2002". It
34 appears to be from your computer records, does it not?

35 A. It must have been a file that I had that I --

36

37 Q. Would you have drafted the letter up for Dr Arthurson?
38 I'm referring to this letter before you.

39 A. I cannot recall whether I did or didn't. I'm just
40 trying to see if it looks like my wording. I cannot
41 confirm if I drafted that, but it seems to be the same
42 points that have come up from the summaries of the meetings
43 held on 6 November.

44

45 Q. You prepared the notes of those meetings, did you not?

46 A. I believe I did.

47

1 Q. That would suggest, would it not, Mr Toft, that at
2 least you would have provided Dr Arthurson with the
3 information that is contained in those various notes of
4 yours?
5 A. It would seem that way. It looks like the same
6 information, or similar information.
7
8 Q. Would you look at tab 53 of your bundle.
9 A. Yes.
10
11 Q. Do you see a meeting there on 25 November 2002?
12 A. 25th, no.
13
14 Q. It has got a handwritten notation under the heading
15 "Perinatal Review Committee. Bega Valley Health Services"?
16 A. I do, yes.
17
18 Q. You attended that along with Dr Reeves; is that right?
19 A. The record would indicate that.
20
21 Q. Who else from the Area was present; I don't mean the
22 VMOs, but who --
23 A. I am just running this through here. It doesn't
24 appear as though anybody else was there from the Area, but
25 Professor David Ellwood from Canberra was there.
26
27 Q. Were you surprised that Dr Reeves was present at the
28 Perinatal Review Committee, notwithstanding what the
29 Medical Board had decided?
30 A. I don't have anything to say that, but I do know that
31 Dr Reeves was attending a number of meetings through this
32 time after this, and it was very surprised and unusual.
33
34 Q. This one is called the Bega Valley Health Service; do
35 you see that?
36 A. Yes.
37
38 Q. Would that be a meeting open to both the Bega Valley
39 and the Pambula practitioners?
40 A. That is a combined meeting that goes through all
41 deliveries in both hospitals since the previous meeting.
42 It is the clinical review meeting and it's held every three
43 months and all deliveries since the last meeting are
44 reviewed. There is an apology here from --
45
46 Q. Did you or anyone else take the point that Dr Reeves
47 was not to be involved in obstetric services?

1 A. Do you mean did we take the point? I haven't written
2 any notes about this particular meeting, but my memory of
3 the time is that it was very - "Why was he there?" It was
4 a very - yeah, "Why was he there" was a concern.

5
6 Q. By this stage you, I think, indicated that you had
7 told both nursing staff at Pambula and some of the medical
8 practitioners about his unavailability for obstetric
9 services?

10 A. I need to check my notes on when that was put out. My
11 original memo was put out that we just didn't have someone
12 who could do caesars. That was the 14th. There was a
13 further memo put out, which I can't see at the moment - oh,
14 on 9 January - that was put out saying that Dr Reeves does
15 not have clinical privileges.

16
17 Q. When you said that people were surprised on 25
18 November when he attended the Perinatal Review Committee --

19 A. I can't say that people were surprised but I was
20 surprised.

21
22 Q. Oh, you were surprised?

23 A. Yes, I was surprised.

24
25 Q. I thought you said that there was some feeling of
26 concern at that meeting, but was that limited to yourself?

27 A. Myself and Rosemary Hamilton, who is the NUM of
28 maternity across the two sites. We had - it was a - I'm
29 trying to think of the word. It was sort of - that it
30 was - I'm trying to - that it was odd - yes, something was
31 a bit - yeah odd.

32
33 Q. This list of people attending the committee, the
34 Perinatal Review Committee, included medical practitioners
35 of course, did it not?

36 A. Yes.

37
38 Q. And some of those operated at Pambula, did they not?

39 A. They did.

40
41 Q. Was it made known to them in the period between 14 and
42 22 November that Dr Reeves was not available to perform
43 caesarean sections?

44 A. My understanding is that they were aware that he could
45 not perform caesarean sections.

46
47 Q. How did you understand them to have obtained that

1 information?

2 A. From the memo on 14 November. It said, "This is due
3 to the unavailability of a surgeon for caesarean sections."
4 I assume that they would have known, but I can't definitely
5 say that, but my assumption was that they knew.

6

7 Q. Would you not have had conversations with one or more
8 people explaining the unavailability of the surgeon for
9 caesarean sections was as a result of the fact that
10 Dr Reeves couldn't do those caesarean sections?

11 A. I have a record there on 15/11 where I was "contacted
12 by Dr Watterson re 41-week plus patient" - I have not
13 written what I have said to her, but I could assume that it
14 was because Dr Reeves wasn't available - but I do not
15 remember exactly.

16

17 Q. It was not exactly a secret, was it? Perhaps it was,
18 but from your point of view, was it something that was a
19 secret that Dr Reeves was not to do obstetric cases at
20 Pambula?

21 A. It was not something that was being advertised, that
22 he could not do it, I believe, but I cannot answer on how
23 far out that knowledge was. I cannot remember who knew
24 what at that stage.

25

26 Q. Had you been notified by anyone other than Dr Reeves
27 that the Medical Board had a restriction on his right to
28 practice obstetrics?

29 A. Prior to the 14th, no. And I know definitely up until
30 2.30 on the 14th - I had no notifications that there were
31 any restrictions or anything. After that I know there were
32 emails and phone calls happening, and I cannot tell you
33 definitely what was said. Where it's only got - my notes
34 that I have taken that you have in front of you is my
35 memory of the time.

36

37 Q. But as best you can do now, is it a fair assumption
38 that within the Area Health Service managers at your level
39 knew that Reeves had no right to practice obstetrics?

40 A. From information I've received since this event, this
41 time, I'm led to believe that they had information on that.

42

43 Q. I'm not asking that. I'm asking a different question,
44 really, Mr Toft. Was it known among senior managers at
45 your level and above from 14 November that Dr Reeves
46 couldn't do obstetric cases because the Medical Board said
47 he couldn't do them?

1 A. I believe that was the case. I knew and people above
2 me knew because I sent a memo to them.
3
4 Q. And from your earlier answer I think you said it was
5 likely that you would have told that to Dr Watterson; is
6 that correct?
7 A. I could have. I can't confirm or not confirm that
8 from my notes, but the content of that conversation, I'm
9 not sure. I could imagine she would have been - my
10 question is to why we couldn't do this case.
11
12 Q. Going back to the notes of the Perinatal Review
13 Committee, was there something that impeded you from saying
14 at the meeting that Dr Reeves was under an instruction not
15 to do obstetric cases from the Medical Board?
16 A. Again, I don't have records of what my thoughts were
17 at the time. My memory is that I didn't think it was the
18 appropriate place to bring it up and make a scene, and it
19 wasn't as though there was any patient care occurring at
20 this meeting.
21
22 Q. Going back a little bit as to the contact you made
23 with Dr Arthurson; you remember you contacted Dr Arthurson
24 in the circumstance where Dr Mortimer was unavailable?
25 Remember giving that evidence?
26 A. That was 22/11.
27
28 Q. Yes.
29 A. Yes.
30
31 Q. In the organisation within the Pambula and Bega
32 hospital system, who was, as you understood it, the doctor
33 in charge there between Dr Mortimer and Dr Arthurson?
34 A. Dr Arthurson was the more senior of the two.
35 Dr Mortimer was our usual contact, but then Dr Arthurson
36 was above him.
37
38 Q. Does that mean that for the day-to-day running of
39 things and the management of Dr Reeves, or his direction of
40 him within the hospital system, Dr Mortimer had that
41 responsibility, but in his absence you might contact
42 Dr Arthurson?
43 A. That was my understanding.
44
45 Q. And that's the way it worked in fact, isn't it?
46 A. It is.
47

1 Q. If you wouldn't mind, would you go to the last sheet
2 in tab 53 which you will see is a roster for the Bega
3 District Hospital, and the roster was issued on 31 October?
4 A. Tab 53.
5
6 Q. The last sheet in tab 53.
7 A. The one I have is 54, okay.
8
9 Q. It is called "Roster"?
10 A. Yes, Bega District Hospital. Yes.
11
12 Q. You will see that Dr Reeves' name is mentioned under
13 the heading "LSCS"?
14 A. Yes.
15
16 Q. He's mentioned for Monday the 4th and Wednesday the
17 6th, Friday the 8th, Saturday the 9th, Sunday the 10th?
18 A. No, I haven't got Reeves against the 4th.
19
20 Q. Tab 53. It's a roster for November 2002.
21 A. Tab 53 for me has that perinatal meeting.
22
23 Q. If you would find "roster November 2002", that might
24 be the short way home.
25 A. I have got December 2002 but I don't seem to have
26 November 2002. I am checking back either way.
27
28 Q. We will go to December 2002, then, if you have that
29 one?
30 A. Yes, I do have that.
31
32 Q. You will see that is also issued on 31 October?
33 A. I do.
34
35 Q. How frequently were the rosters issued?
36 A. These were Bega Hospital rosters, which I was at
37 Pambula at this time, but I think they normally come out
38 about three-monthly.
39
40 Q. Was Dr Reeves' name on both the Bega and the Pambula
41 rosters?
42 A. Okay. Dr Reeves' name wouldn't be put on the Pambula
43 roster because he was only covering caesarean sections at
44 Pambula, and that was Dr Simonson and Dr Reeves would cover
45 the roster between them, and they would notify the
46 maternity unit as to which one would cover it.
47

1 Q. That is Pambula?
2 A. That's Pambula.
3
4 Q. Would you go back to what you were saying about the
5 December roster. The December roster that you have before
6 you is for Bega; is that right?
7 A. That is correct.
8
9 Q. You said that for the Pambula roster it would be
10 Dr Simonson's name that would appear and not Dr Reeves?
11 A. The Pambula roster - we did not have - we would not
12 run that fourth column saying who was actually working. It
13 would be either - because there was only the two that would
14 cover LSCSs at Pambula we didn't write down to notify the
15 maternity unit which one of them was covering it.
16
17 Q. What were the LSCSs, then, that Dr Reeves was booked
18 for up to two months in advance, looking at this December
19 2002 roster, for Bega?
20 A. That is the emergency roster, because when you have a
21 maternity service, one of the requirements is that you have
22 to have the ability to be able to carry out an emergency
23 lower segments caesarean section, and that is the roster of
24 who I have called to be doing the LSCSs for that service
25 for that day.
26
27 Q. And that would mean, I take it, that the doctor may or
28 may not indeed need to carry out an LSCS?
29 A. That's right. Mostly with the numbers of emergency
30 caesars that happen, they don't occur. They don't do any
31 on their days. From Pambula there's about 11 a year
32 average emergency caesars that occur, and Bega would be
33 similar.
34
35 Q. And Bega would be similar?
36 A. Yes.
37
38 Q. Who would draw up these rosters?
39 A. The rosters for Bega are done up by - I just have a
40 blank. It's one the participating VMOs. I cannot think of
41 his name at the moment.
42
43 Q. Is it one of the doctors identified on this list at
44 all?
45 A. Yes, Mark Oakley. I remember the name now.
46
47 Q. Would he prepare it in consultation with the standby

1 specialist who would be prepared to do caesarean sections
2 as required on the nominated dates?
3 A. He consults with other doctors and they draw up a
4 roster against when they are available, when they are
5 rostered for other things. Some of these are the surgeons
6 covering the caesars, because they are on as the surgeon
7 for the rest of the hospital, so they cover for emergency
8 LSCSs as well.
9
10 Q. Who were the general surgeons?
11 A. General surgeons - Dr Thomson, Dr Hertemink, and out
12 of that list, that's - they're the only general surgeons.
13
14 Q. If I could just go to your running diary, or what we
15 have called MFI for the timeline of interactions with
16 Dr Reeves. On page 19 you record there for 10 March - it
17 says "2008" - do you see that? Would you look at that one
18 at the top of page 19?
19 A. Yes.
20
21 Q. Is that a correct date?
22 A. That is a correct date. This person came to me in
23 March this year with concerns. So I put it in there just
24 so it didn't get - that was where it belonged, and she came
25 with these concerns to me.
26
27 Q. So did you report them to someone else within the
28 system?
29 A. I'd need to check back through my notes, but I believe
30 I forwarded that on to the chief executive's office at the
31 time, earlier this year is my memory of that.
32
33 Q. So this is a report some years after the event that it
34 refers to; is that correct?
35 A. That is correct and this is when the media about
36 Dr Reeves has come up, and Patricia Hards came to me with a
37 concern that she had from back then.
38
39 Q. Then the next incident report - I think there are a
40 couple that deal with non-emergency obstetrics, 3 January
41 2003. Did you prepare this report?
42 A. I did.
43
44 Q. What prompted the report?
45 A. What prompted the report was the person who was acting
46 as manager at the time, because the usual nurse manager was
47 on leave, was actually a mid-wife, and she came to me with

1 - not - she came to me and told me about - or the comment
2 was normal - the specialist, being Dr Reeves, go -
3 intervenes, puts in an IV, and does an artificial rupture
4 of membranes, and commenced syntocinon infusion. She
5 actually came in and said, "Is that usual?" And that was
6 the incident that I put in.

7
8 Q. The patient was under Dr Pentin, was she not -
9 2 January

10 A. My notes would indicate that, yes.

11
12 Q. So in the ordinary course would it not be the case
13 that Dr Reeves would have no need and indeed no right to
14 intervene in her treatment?

15 A. That would be my normal understanding.

16
17 Q. In the ordinary course of practice at the Pambula
18 Hospital, would it be in a non-emergency situation
19 something that had ever happened previously in your
20 experience, that another doctor in the position of
21 Dr Reeves, a VMO, would treat as patient as he had treated
22 Dr Pentin's patient in January?

23 A. I have no memory of that happening before.

24
25 Q. Well, it would be very unusual and indeed a cause for
26 some adverse comment, would it not?

27 A. It was.

28
29 Q. You say, you see, on 6 January 2003 you became aware
30 of it - page 20, under "Action taken". Do you have that?

31 A. I do.

32
33 Q. And did you then report that to Dr Mortimer?

34 A. I'm not - I just need to see --

35
36 Q. Under "Recommendations"?

37 A. Oh, yes, I did. According to my records that is what
38 I did, and I was - yeah.

39
40 Q. Up to that stage had you had any information of
41 Dr Reeves carrying out any obstetric services at the
42 Pambula Hospital up until 6 January 2003 from the date when
43 he was told he shouldn't do it?

44 A. My records would indicate that no, I hadn't had an
45 indication that he was doing anything.

46
47 Q. You make another note on 8 January 2003 where you

1 report that you understood Dr Reeves assisted Dr Simonson
2 in two LSCSs; see that?

3 A. Yes, in assisting with - I was just going to clarify
4 that point. In regard to the - with the actual
5 intervention with the management of labours, I don't
6 believe there's any records, but then my records would
7 indicate that there had been a concern about him assisting
8 with LSCSs through that time as an assistant.

9

10 Q. You understood, did you not, that Dr Reeves was not to
11 assist in LSCSs?

12 A. My notes on 8/1/2003 say:

13

14 I understand that Dr Reeves assisted
15 Dr Simonson ... haven't got the details of
16 the other patient ... Concerns were raised
17 through the period 14th November ... when I
18 became aware that Dr Reeves was not
19 registered as an obstetrician and the 8th
20 Jan concerns were raised by myself re what
21 Dr Reeves could do. My understanding was
22 that he could not provide any care to
23 pregnant patients. I remember there was
24 uncertainty as to when the letter from
25 Dr Arthurson above was actually sent to
26 Dr Reeves.

27 When the RFA for the LSCSs came in there
28 was concern about Dr Reeves being involved
29 and this was challenged with the doctors
30 involved.

31

32 Q. When you made this note, it was in the context, was it
33 not, of action that was subsequently taken against
34 Dr Reeves?

35 A. I believe that might be the case, that I tried to get
36 notes from wherever - I cannot tell you when I wrote that
37 one.

38

39 Q. Is it likely to have been this year?

40 A. It could have been. I could have put that in while I
41 was putting my notes together to try and get my head around
42 what was happening.

43

44 Q. At the bottom of page 20 you record - do you see the
45 last sentence on page 20?

46 A. I do.

47

1 Q. What is the RFA that you refer to there?

2 A. Request for admission.

3

4 Q. So when the request for admission for the caesareans
5 came in, you say there was "concern about Dr Reeves being
6 involved and this was challenged with the doctors
7 involved"; do you see that?

8 A. I do.

9

10 Q. Do you mean by that that when the GPs booked in
11 patients for caesareans and you said that Dr Reeves could
12 not do them, the doctors challenged that?

13 A. They did. But what it was actually there was when the
14 RFAs came in, it came in under the doctor concerned, in my
15 memory, but it had with Dr Reeves to assist. My
16 understanding was that he couldn't assist and I would
17 question that with the doctors involved.

18

19 Q. What would they say?

20 A. I remember - I found this in notes I had somewhere
21 that Dr Watterson actually:

22

23 ... remember a conversation with
24 Dr Watterson around how dare I question the
25 ability of Dr Reeves to participate in the
26 care of patients and criticism of the Area
27 Health Service for raising any questions or
28 putting a slur on the professionalism and
29 practice of Dr Reeves.

30 In regard to him assisting with the LSCSs I
31 recall being advised by the local Drs that
32 it was quite appropriate for Dr Reeves to
33 be assisting with an LSCS as he had the
34 skills and knowledge and an explanation
35 that we could have a junior resident as the
36 assistant or even a nurse --

37

38 and I remember that very strongly in my mind --

39

40 so that there should be no need to even
41 question the appropriateness of Dr Reeves
42 assisting and that I was being very
43 inappropriate.

44

45 Q. Did you tell them that what you were doing was
46 consistent with the direction from the Medical Board?

47 A. I don't believe I did, because I hadn't been told

1 whether he could assist with a caesar or not.

2

3 Q. See the memorandum, 9 January 2003, by that time it
4 was quite clear in your mind, was it not, that he could not
5 at the Pambula Hospital carry out any obstetric services
6 for patients over 20 weeks gestation?

7 A. My memory through this time is I couldn't get a
8 definite answer on what he could and couldn't do, and I was
9 being challenged and I had insufficient information to back
10 me up to say, "Yes, you can assist" or, "No, you can't
11 assist", and this memo was the outcome of clarification
12 that no he couldn't care for anyone over 20 weeks.

13

14 Q. Were you yourself in the position to have obtained
15 that clarification or did you rely upon others?

16 A. I had to obtain that clarification from others. It
17 was through - I can't remember whether it was through the
18 general manager to Jon or Robert or whether I went
19 directly. I can't remember.

20

21 Q. You mean Dr Mortimer or Dr Arthurson?

22 A. That's right.

23

24 Q. When you say "through the general manager", do you
25 mean that you would have to go to Christine Dwyer as the
26 first port of call, or could you go directly to
27 Dr Arthurson or Dr Mortimer?

28 A. I can't remember which way I went at that time. That
29 is the line of command that you should go through, through
30 the GM and then to the others, but I can't remember which
31 way I went at the time. I do remember, though, that I
32 wanted a response because there were concerns as to what he
33 could and couldn't do, and I couldn't get an answer.

34

35 Q. Do you see at the bottom of page 21, 13 January 2003,
36 there is an incident report of a return to theatre of an
37 obstetric patient post caesarean section on 8 January; do
38 you see that?

39 A. Yes, I do.

40

41 Q. Was that the same patient that is referred to on page
42 20 at the bottom of the page, the last paragraph - her
43 initials are DB? Is that under the heading 8 January 2003?

44 A. 8 January 2003?

45

46 Q. Bottom of page 20.

47 A. Yes, it is the same - I believe it is the same person.

1 I would need to check the medical records.

2

3 Q. And the incident report is of a kind that you told the
4 Commissioner of earlier today in your evidence, is it not,
5 a return to theatre?

6 A. That's right.

7

8 Q. Was it your information that Dr Reeves performed an
9 elective tubal ligation in the context of the LSCS
10 performed Dr Simonson?

11 A. That is my understanding. That is information that I
12 put in this incident at the time and there would be no
13 reason I would have changed that.

14

15 Q. Would this incident report then have gone to Chris
16 Dwyer for her to deal with, by sending it on to someone at
17 Queanbeyan?

18 A. That would be my understanding, yes.

19

20 Q. I think you have told the Commissioner that the
21 incident reports as a matter of course were reported to
22 your manager; is that correct?

23 A. That is correct.

24

25 Q. If you would go to 27 March 2003, page 22, you will
26 see there is a diary entry you've made or a notation about
27 Dr Reeves and perforated gloves?

28 A. That's right.

29

30 Q. Was that notation made in the context of
31 gynaecological procedures conducted by him?

32 A. My understanding was that it was in regard to
33 gynaecological surgery that he was doing.

34

35 Q. I think there is one other matter that you have in
36 your notes that I would like to ask you about on page 24.
37 Do you see, to put it in context, that on 15 May 2003 under
38 the heading "Emergency Surgery at Pambula Hospital" you are
39 writing the memorandum in the context of complaints by
40 Dr Reeves as to the unavailability of the operating theatre
41 between 14 and 27 April; do you see that?

42 A. I do.

43

44 Q. Over the page in the middle of page 24 there is a
45 discussion of emergency and non-emergency cases; is there
46 not?

47 A. Where it says "Emergency theatre cover was available"?

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Q. Under "Response" after "Issue" and the dot point - the "Response".

A. I found that.

Q. Have you taken that from some guidelines that were available to you at the time as to what constituted emergency treatment as distinct from non-emergency treatment?

A. I cannot remember where I've got that from.

THE COMMISSIONER: Q. Mr Toft, I wonder if you would go back to page 20 of 31?

A. Yes.

Q. Down the bottom, Mr Tobin asked you about the note of 8 January '03?

A. Yes.

Q. And in particular the line where there was a request for admission form?

A. Yes.

Q. It noted, you told me, that Dr Reeves was to assist in these caesarean sections. Do you recall saying that?

A. I do. I didn't say that it was on the RFA - well, I believe it came in that there was indication that Dr Reeves was to assist.

Q. Yes, but you would only get an RFA, wouldn't you, for a planned or elective caesarean section?

A. Yes, and this was an elective caesarean section - although, if my memory serves me correct, it was for elective and tubal ligation, I think.

Q. There does seem to be two patients, one of whom had a tubal ligation?

A. I would need to check the books for that, the theatre register for that day. I can't tell you that precisely.

Q. I understand that, but my point is that you would only ever get a request for admission form for a planned or elective procedure; you wouldn't get it for an emergency procedure, would you?

A. That's correct.

Q. So we can take it that these two patients to which

1 your note refers were for elective procedures?

2 A. That is my recollection from my notes.

3

4 THE COMMISSIONER: Thank you, yes, Mr Tobin?

5

6 MR TOBIN: Q. I wonder if I could take you back, Mr Toft,
7 to your 31-page document, MFI4. You will see at the top of
8 page 25 there is a reference there to the booking in of two
9 patients of Dr Reeves. Do you see that?

10 A. Is that in the "Response" part?

11

12 Q. Yes.

13 A. Yes. What is the question?

14

15 Q. About halfway down the paragraph that begins "The 21st
16 April was Easter Monday" - do you have that one?

17 A. Yes.

18

19 Q. Then about a third of the way down it says:

20

21 I did ring back to the hospital to confirm
22 what procedure Dr Reeves was performing
23 (due to my concerns about him working
24 outside the restrictions on his
25 registration) ...

26

27 Do you see that?

28 A. I do.

29

30 Q. It goes on:

31

32 The patient had an ectopic pregnancy, and
33 even though she was pregnant that this was
34 not a viable pregnancy and that his caring
35 for this patient was appropriate.

36

37 Is that your conclusion about the appropriateness?

38 A. Can I just get myself back into context on this?

39

40 Q. Yes. The possibilities are that the person in charge
41 may have said that, or you may have said it. I just
42 wondered if you were able to elucidate that.

43 A. I am quickly reading when it was in regard to -
44 according to my records, I would have been on call. I
45 wasn't at work. It was over Easter. Dr Reeves must have
46 been having a theatre case. I obviously had concerns about
47 him working outside the restrictions on his registration

1 and remind the person in charge of his restrictions re care
2 of patients. So that was my interpretation - that was my
3 thoughts there. Patient had an ectopic pregnancy.

4
5 Q. So you think that may have been your judgment at that
6 time?

7 A. No, my judgment was that it was not appropriate -
8 well, that's my interpretation of my notes, and that
9 Dr Watterson told me that I was being inappropriate and
10 Dr Reeves was a very clever man who knew what he was doing
11 and that it was appropriate for that case to go on. I'm
12 just trying to read the way I have written it here, but my
13 concerns are that he shouldn't have been doing it.

14
15 Q. Was there any system in place, as far as you were
16 aware, to ensure that Dr Reeves didn't conduct obstetric
17 surgery notwithstanding the order from the Medical Board?

18 A. Yes, there was that memo that I put out to say that he
19 was not to treat any patients over 20 weeks which is what I
20 got clarification on on that date we spoke about earlier
21 that I can't remember. It was in the previous notes. And
22 at this date I must have got a message that there was a
23 theatre case, and I was checking up to see who was doing it
24 and what it was as to whether it was appropriate, because
25 there hadn't been a clarification made on - I don't believe
26 there had been a clarification made on ectopic pregnancies.

27
28 Q. Well, do you see the reference then on page 26 to
29 caesarean sections - for example, the second-last
30 paragraph, and the first paragraph under the heading
31 "Response"?

32 A. "Response" - second paragraph, yes.

33
34 Q. The first paragraph of "Response", you will see there
35 are two mentions of caesarean sections. The next
36 paragraph, it is in the first line, a reference to
37 caesarean section?

38 A. I am lost which paragraph we are in. I am under,
39 "Response".

40
41 Q. The first paragraph of "Response", second last line
42 refers to the caesarean. Then the first line of the next
43 paragraph?

44 A. Yes.

45
46 Q. Second-last paragraph on the page, the first line?

47 A. Yes.

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Q. Are you satisfied that at this time - and we are dealing with April 2003 - Dr Reeves was not performing any caesarean sections at Pambula Hospital?

A. I don't believe he was, but I do need to - I don't have a recollection of him doing any through there.

Q. Was it the case, as far as you know, that he was not assisting at caesarean sections at Pambula?

A. I can't answer that at the moment. I would need to check with the notes. It didn't get raised as a concern that I had at this time that he was doing it.

Q. If he were doing them, you would have taken the position, would you not, that that was contrary to the Medical Board instruction?

A. That is my recollection of how I would have acted at the time. I was aware that he wasn't to do them, and from my notes I was concerned as to what he was and wasn't doing.

Q. Then, is it your evidence, Mr Toft, that with regard to ectopic pregnancies you were at this time unsure as to whether that was something that he was not allowed to involve himself in the treatment of?

A. Yes, I was uncertain as to whether he could or couldn't do ectopics, because they weren't 20 weeks pregnant, but, yeah, I wasn't sure whether he could or couldn't.

Q. I don't have any further questions about that document, Mr Toft, so you could put that to one side. Perhaps if you would look at the area policy for the management of a complaint or concern about a clinician?

A. Yes.

Q. Your evidence, Mr Toft, is that you took this to be not introduced in May 2002 within the area; is that correct?

A. I don't know that. I went from looking at this document where I see the signature, to me it looks as though it was signed in August '04. But that was only the first I'd seen that. It was just before this --

Q. Mr Toft, I think you will find that is 7 August 2002, the last letter is a 2. Dr Robinson had moved from the area, had she not, by 2004?

1 A. I don't know. My only comment is just what I read
2 there when I received this fax just before.

3

4 Q. You will see in the top right, the version number for
5 this document which is a leadership and management manual,
6 ends with an 02; do you see that?

7 A. Yes.

8

9 Q. You did tell the Commissioner that by this stage there
10 was a policy with regard to reviewing of clinician's
11 performance, even though you weren't sure that this was the
12 actual document in question. Do you remember giving that
13 evidence at the beginning?

14 A. I can't definitely say I remember saying that earlier.
15 Is that earlier today?

16

17 Q. Yes, that's right.

18 A. I can't remember saying that, but I believe there was
19 an area policy at the time.

20

21 Q. And, Mr Toft, if this were the Area policy - I will
22 not debate that with you - in your senior position there
23 you would have been aware of its terms, would you not?

24 A. Maybe not the details of it, but know that it exists.

25

26 Q. May I finish by putting this to you, Mr Toft: in the
27 circumstances where you had a concern about whether the
28 clinical performance of a surgeon at the hospital was up to
29 standard or not, what was your practice if that came up as
30 to whom you should report to?

31 A. If there was concern about the practice - and this is
32 at that time --

33

34 Q. Yes, clinical practice.

35 A. It would be to put my concerns either into an incident
36 report or a brief, and pass it on through, if it was normal
37 times, the general manager to the director - well, it all
38 depends, to area or director of medical services - it
39 depends where the concern was, but my thing would be to do
40 an incident report.

41

42 Q. Did you have anything else you wanted to add to the
43 evidence you gave on Thursday and again this afternoon?

44 A. What I would like to add here is - and this is to do
45 with what I believe this inquiry is looking into, looking
46 at processes in NSW Health - my concern in this is that -
47 and it has been portrayed through this investigation -

1 information about Dr Reeves, that was available, what I
2 have seen in retrospect is from the Deirdre O'Connor
3 report, which I received a copy of the other week, is that
4 information was available about concerns about this doctor,
5 and none of that information was even hinted to the people
6 out at the sites, who was myself, like the eyes and ears of
7 the health service, to even know that there had been
8 concerns about the actions of this doctor. I found that
9 very difficult through this time when there wasn't any - we
10 had been given no hint that there was a problem, but you
11 had to pick it up as incidents occurred.

12
13 I think my notes would show that as I went through,
14 you had to check that it wasn't a problem with our local
15 facility or with the staff there. That information just
16 didn't come through even up to 14 November, was the first
17 time that I got notified that there had been any issues
18 with this doctor's previous registration and performance.
19 The Deirdre O'Connor report says that it was well known by -
20 confirmed the day before by the Area that none of that
21 information had been forwarded through, and I think that is
22 high risk for patient safety and for - to perform my duties
23 was - made it very difficult.

24
25 I know there's concerns with confidentiality, and what
26 information you can tell, but when you are in the position
27 and there is nobody else in a medical administration
28 position down, you know, nearby, and not to have that
29 information was high risk practice. It was very difficult
30 to do.

31
32 The concerns I also had through this is that it would
33 have been much easier not to have done anything about
34 concerns about the interactions between this doctor and
35 staff and the outcomes on patients, but nothing - it wasn't
36 really made that easy to do, to raise those concerns. It's
37 not seen as complaints that I found through this whole
38 dealings with this doctor.

39
40 Q. You have put pretty exhaustively in your running
41 diary, have you not, your dealings with Dr Reeves in that
42 31-page document, the evolution of these complaints and
43 what you did with them?

44 A. I have put them in there. Have I expressed to the
45 Commission that it wasn't easy to put that up and it was as
46 though you had to really push outside your boundaries as to
47 what information, what you should do to actually do

1 anything about this, and from personal feedback it wasn't
2 easy, but I had a moral conviction that you have to do the
3 right thing and be honest - that is caring for patients,
4 but it has not been an easy journey through this. The
5 system, I don't believe, facilitated doing the right thing.

6
7 MR TOBIN: I have no further questions, commissioner.

8
9 THE COMMISSIONER: Do you have any questions of your
10 client?

11
12 Mr McGHEE: I don't have any questions. He just mentioned
13 a point that we wanted to raise.

14
15 THE COMMISSIONER: Thank you very much for making yourself
16 available again for finishing your evidence. Your evidence
17 has been very helpful to the Commission, thank you.

18
19 MR TOFT: Thank you very much.

20
21 THE COMMISSIONER: I will adjourn the hearing to a date
22 and time to be fixed.

23
24 AT 5.42PM THE COMMISSION ADJOURNED ACCORDINGLY

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