

BARRETT ADOLESCENT CENTRE COMMISSION OF INQUIRY

**SUBMISSIONS ON BEHALF OF METRO NORTH HOSPITAL
AND HEALTH SERVICE AND METRO NORTH HOSPITAL AND
HEALTH SERVICE BOARD (“METRO NORTH”)**

Introduction

1. These submissions are in response to paragraphs 582 to 626 of Assisting Counsels’ Closing Submissions regarding [REDACTED]
2. Metro North has not been provided by the Commission with any other notice of allegations or possible adverse findings and proceeds on the basis that such submissions reflect the totality of issues concerning Metro North under consideration by the Commission.
3. The subject matter of paragraphs 582 to 626 of Assisting Counsels’ Closing Submissions and of these submissions is such that these submissions should not be published.
4. These submissions respond to three issues identified at paragraph 587 of Assisting Counsels’ Closing Submissions.

- [REDACTED]
5. Metro North refers to the evidence summarised at paragraphs 594 to 596 of Assisting Counsels’ Closing Submissions.
 6. Neither Dr Williams or Dr Emmerson were called as witnesses. Their evidence is unchallenged.
 7. There is no basis for any other conclusion on this issue than that submitted at paragraph 597 of Assisting Counsels’ Closing Submissions.

“(b) the apparent administrative alteration of [REDACTED]
[REDACTED]

8. It is implicit in the submissions at paragraphs 603 to 604 of Assisting Counsels’ Closing Submissions that it is acknowledged that the evidence before the Commission and the requirements of procedural fairness do not permit any adverse finding on this issue.
9. Further, any contravention of the *Mental Health Act 2000* of the type faintly posited by Counsel Assisting could not be one, having regard to the evidence, as one “with regard to patient safety and confidentiality” within the terms of Term Of Reference 3.i. and is thus outside the scope of the inquiry by the Commission.
10. The Commission should decline to adopt the suggestion of Counsel Assisting that consideration be given to the Commissioner referring such matter to the Director of Mental Health. The issue should not be the subject of consideration in the report of the Commission.

“(c) the reduction of the level of supervision provided to [REDACTED]
[REDACTED]

11. The submission at paragraph 625 of Assisting Counsels’ Closing Submissions “that this issue remains one worthy of concern” is at odds with all the evidence before the Commission and should not be accepted.
12. It is premised upon the mere fact that the level of supervision was reduced at an earlier time than that originally contemplated by the plan drawn up prior to the transition of [REDACTED]. It is not supported by any evidence that the level of supervision was, as a consequence, inadequate. Indeed, all evidence is to the contrary. It leaves open the possibility of the Commission making a finding in circumstances where those who might be affected have not been provided with procedural fairness.

13. The evidence of all witnesses involved in the care of [REDACTED] is that the level of supervision [REDACTED] required was continually assessed in light of [REDACTED] circumstances as they presented at the time of assessment and with the purpose of providing the most appropriate level of supervision for [REDACTED] needs. The level of supervision at any time was what [REDACTED] treating team, led by a consultant [REDACTED] considered to be in the best interests of [REDACTED]. There is nothing to suggest that any changes in the level of supervision were influenced by anything other than clinical assessment as to what was in the best interests of [REDACTED]. To slavishly follow the terms of a plan based upon a prediction of [REDACTED] treatment needs, rather than a current assessment of [REDACTED] treatment needs, would be contrary to good clinical practice as well as common sense.
14. In addition to the evidence of [REDACTED] treating team summarised at paragraphs 614 to 619 and 621 to 623 of Assisting Counsels' Closing Submissions, the Commission has a statement of [REDACTED]. [REDACTED] The content of such statement confirms that the level of supervision of [REDACTED] was decreased **and increased** according to clinical assessment of [REDACTED] needs from time to time [REDACTED].
15. Neither [REDACTED] were called to give evidence. They were not challenged as to their clinical opinions that affected the level of supervision of [REDACTED]. Those members of the treating team who did give evidence, Ms Betson and Ms Northcote, gave cogent evidence as to the reasons for changes in levels of supervision of [REDACTED]. There is no reason why their evidence should not be accepted without qualification.
16. In addition, the only expert evidence on the topic, that of Professor Kotze, contradicts the submission of Counsel Assisting. In the absence of expert evidence to the contrary, there is no proper basis for discounting the opinion of Professor Kotze.

17. The evidence is all one way. It provides no basis for any criticism of the clinical decisions made by the treating team as to the appropriate level of supervision of [REDACTED]

Conclusion

18. The evidence before the Commission shows that Metro North responded appropriately to requests for assistance in the transition of patients necessitated by the closure of the Barrett Adolescent Centre. It engaged fully in negotiating and managing the best transition arrangements that circumstances permitted. The clinical care provided to transition patients was faultless. There is no basis for any adverse findings in relation to Metro North or any of its employees.

J J Allen QC

Counsel for Metro North

23 March 2016

[REDACTED]

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