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H

Hon David Cunliffe
Minister of Health

27 February 2008

Media Statement

Commissioner appointed to Hawke's Bay DHB

The Minister of Health, David Cunliffe has removed the Hawke's Bay District Health Board and appointed a Commissioner to run its affairs.

Mr Cunliffe said that he had been forced to act to end an unsustainable situation.

"I have carefully studied the Board's written response, that I asked for last week, it has become apparent to me the situation has now reached a point that action must be taken."

"This is a very serious step to take, but the information presented to me in the Board's own submission confirms that this is an organisation with deep divisions. I am not reassured that the Board has a clear plan for resolving these divisions.

"I have come to the view that I must act to stabilise the situation and to get the focus of the DHB back to providing first class health care to the people of the Hawke's Bay. "said Mr Cunliffe.

"I do not think it is necessary or appropriate for me to try and conclude where the merits lie in the various views of the disputes at the Hawke's Bay Board .However it is my clear view, whatever side one takes of these ongoing tensions, the current situation is unsustainable"

"As my primary responsibility is to ensure that the people of Hawke's Bay have a first class and dependable health service I cannot allow this situation to continue."

Mr Cunliffe said the Board had clearly admitted it had serious issues by suggesting that a Crown Monitor should be appointed, but he was not satisfied the appointment of a Crown Monitor would be sufficient to remedy the tensions and conflicts which had developed over a long period of time, and now appeared to be irretrievable.

The Minister noted that another board member Peter Hausmann had also provided a submission, which was critical of the board's performance.

The Commissioner will be Sir John Anderson and he has indicated that he will appoint accountant and partner of Price Waterhouse Coopers, Brian Roche, as a Deputy Commissioner. Sir John has also indicated his willingness to appoint two other deputy commissioners to represent community interests, including Maori.

The Minister of Health said he is confident that Sir John and his team will ensure that the Hawke's Bay DHB will be able to provide a sustainable first class health service into the future.

This is a true copy of the document marked "H" and referred to in the annexed affidavit of **KEVIN HENRY ATKINSON** sworn at Napier this 22nd day of August 2008 before me:

A SOLICITOR OF THE HIGH COURT OF NEW ZEALAND

The Minister has also decided in the interests of complete transparency to release both the Board's and Mr Hausmann's submissions and their attached papers.

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Mr Peter Hausmann
17a Homewood Avenue
Karori
WELLINGTON

26 February 2008

Hon David Cunliffe
Minister of Health
Parliament Buildings
WELLINGTON

Via courier
PRIVATE & CONFIDENTIAL

Dear Minister

RESPONSE TO MINISTER'S CONCERNS - HAWKE'S BAY DISTRICT HEALTH BOARD

1. Thank you for the opportunity to offer some brief thoughts on the concerns that you posed to the Board of the HBDHB last week. As you know, pending the conclusion of the work of the Director-General of Health's Review Panel, I am tendering my apologies for most meetings of the DHB Board and therefore I have not taken part in the development of any response from the Board to you. Nonetheless, I have a perspective informed by my years on the Board which I want to offer you - and especially as your appointed member on the Board.

2. First of all, I would like to emphatically affirm that in my opinion this Board has proved incapable of operating efficiently and effectively and is failing to manage the delivery of best sustainable value in terms of achieving population health outcomes.

3. In writing to you I will try to address the substantive and underlying issues, not the symptoms, that are affecting the Hawke's Bay District Health Board. What matters in the decision you are contemplating are the health outcomes for the people of the Hawke's Bay region. An effective, efficient and well governed Board is critical to this. I make this personal statement in my capacity as a Board member of the HBDHB. It is my belief that the question of good governance is the central and critical issue for you to consider in your decision process.

4. I would strongly assert that a board cannot operate effectively with the wrong culture. This is the situation with the HBDHB where there is a break down of trust and confidence within the Board and between the Board and management. I would invite you to carefully examine the existence of what I would call a "blame culture" that I suggest exists at the HBDHB and is dangerously coupled with a high level of confusion between the roles of governance and management. Evidencing this issue I attach :

4.1. I attach a draft letter provided to me by Mr. Chris Clarke, who has agreed that I can use the material contained in this letter to support my arguments where needed. The original signed letter is held by Mr. Clark's legal council (Mr. Peter Chemis – Buddle Findlay). I was informed by Mr. Clarke that he has agreed to wave legal privilege and confidentially of this letter and can make this available to you if this is appropriate.. **[Document(s) A]**

4.2. Copy of the Radio New Zealand interview (21 Feb, 2008) with Dr. David Grayson, the Hawke's Bay most senior hospital doctor stating that the "*DHB is in a crisis that will not be resolved until the board is replaced*". **[Document(s) B]**

4.3. The summary collage of statements provided to the DG Review Panel by past and present senior management, employee and clinicians of the DHB, and external expert consultants such as Mr. Graeme Nahkies and Dr. David George indicating an inability of the Board to govern in an effective and appropriate manner. The dysfunctionality of the Board / management relationship is not new and has been documented in previous years. **[Document(s) C]**

4.4. Please see the attached letter tabled with the board by Dr. Dinesh Arya (Chief Medical Advisor) on the 12th June 2006. This is, I understand, a diluted version of a letter that the clinicians had decided to table with the media expressing concerns with the board, but such action was averted by the CEO and COO. **[Document(s) D]**

5. Unlike the ill informed commentary I note recently in the press, I do not subscribe to the argument that this is one of the best performing DHB's in the country. It faces some significant and very material issues:

5.1. The Board's own research indicates that the community of Hawke's Bay has one of the worst health statuses in NZ.

5.2. The Board is facing escalating budget deficits due to in part inappropriate service models and service levels. This is a fact that has been in existence well before my appointment in June 2005. The Board has received Ministry of Health reports, internal reports (e.g. Mr. Peter Reed , CFO – HBDHB – Benchmarks against other DHB's) and external reports (e.g. Mr. John Bissett – Australian consultant) all showing the need for service reconfiguration in order to better manage within its budgetary mandate.

5.3. There have been many years of reduced investment in the Board's Capital assets (especially the Hospital). The need for more efficient service models and the aging nature of the Hospital Campus means that a significant redevelopment programme is now being considered.

6. I would suggest to you that even if this DHB had an optimally performing Board and management team, the challenges it faces are significant. Irrespective of what level of split exists between the Board, its senior management and the senior clinicians and nursing staff, the fact is that there is a real level of division. That the majority of the senior management of the DHB, and senior clinicians are stating publicly that they cannot work with this Board is material enough. The challenges facing this community and its DHB are so material that without change, they will not be resolved.

7. Let me deal with the issues under headings taken from your letter to the Board of 20 Feb 08.

7.1. Your concern at: **"Rapidly deteriorating financial performance"**

In my view, due to a culture of the Board "over reaching" its responsibility in regards the division of accountability between good governance and management, there have been a number of major creative initiatives offered by the management team that have been dismissed by the Board without appropriate consideration. These initiatives had the potential to not only improve population health outcomes but to significantly enhance the ability of the Board to better operate within its budget and clear most of its waiting lists. The reason that I raise these examples is that in order for their implementation, the Board must be willing to implement service change in conjunction with the advice of management. In my opinion, this Board is so politicized in its nature, with an unhealthy focus on constituency advocacy, that it is struggling to accept any change when the community "view" (uninformed) may be one of questioning such need for change.

This culture of reluctance to implement change has been most evident when, over the term I have been on the Board, every year we have had some form of major review conducted on existing services models by the management and clinicians seeking to see how efficiencies can be achieved. While clearly some changes have resulted, what is notable, which you have correctly identified, is that we have now started submitting District Annual Plans (DAPs) with no realistic opportunity to achieve a financial break-even position. Rather, management have in my opinion acquiesced to Board pressure and tabled budgets that have "unidentified savings" in order to gain Ministerial sign-off.

7.1.1. To name a few:

7.1.1.1. Rationalising community pharmacy contracts and models of service delivery. Significant externally advised consultancy work indicated that there was the potential for $millions of savings through the rationalisation of the then pharmacy services throughout Hawke's Bay. This was promoted by the management but unsupported by the Board.

7.1.1.2. Efficiently moving to rationalise laboratory services using an appropriate tendering process first time, as per management advice, rather than having to experience unnecessary delays with Commerce Commission intervention. Against management advice the Chairman dealt directly with the provider and pre-empting a transparent tender process.

7.1.1.3. Implementing a new rational community services model that would reduce pressure on the front door of the hospital by reducing avoidable hospitalisations, and reducing average length of stay by supported discharge back into the community.

7.1.1.4. Acting on the advice of international consultants who showed that HBDHB's hospital, according to Australian and New Zealand benchmarks, is utilising service models that are not optimal. Recent internal research conducted by the DHB suggests such suboptimal areas include: ICU, ED and Pharmacy.

7.1.1.5. Wasting huge amounts of management time and other resources through a very expensive process of Board involvement in management and clinical decision making and processes. Examples where governance authority is confused with executive governance and management, and where the resultant decision processes are inconsistent, have occurred on multiple occasions e.g. Examples of this are described by Dr. David George and Dr. Graeme Nahkies.. They continue to occur and are negatively impacting the performance of the HDDHB, and consequently on health outcomes in the Hawke's Bay.

7.2. Your: **"increasing lack of confidence in the Board's integrity"**

7.2.1. In my opinion, there have been instances where **confidential** information delivered to the Board has been inappropriately released publicly, notwithstanding that the HBDHB Media relations policy is clear and concise. There have also been examples where Board information and forums have been used inappropriately. In my opinion, issues at the HBDHB have been deliberately politicised in an attempt to be used as examples to discredit the performance of the health sector. Further, the use of the media has not only been to advance personal issues against the Minister, it is also a mechanism used to attack the Ministry.

7.2.2. I repeat my views on culture. With the challenges facing this DHB, if the Chair and the Board will not work collaboratively with the Minister, the Ministry and the management, how can the challenges be addressed?

7.2.3. For instance:

7.2.3.1. Prior to the 2005 election the Chair made media comment asserting that the HBDHB was hugely under funded. When the then Minister asked him to correct this mistake publicly he did not, rather the Minister had to do this.

7.2.3.2. Mr. Atkinson announced he would stand for the 2007 elections in front of press at the July 2007 Board meeting. As part of the same press statement, he made comments on the current Director-General review process. **[Document(s) E]**

7.2.3.3. Mr. Clarke explained to Board in July 2007 pre-board meeting that the management were clear that:

- The National party had up to 25 "some confidential" documents associated with the Community Services RFP OIA, prior to OIA material being released.

- The Herald on Sunday reporter, David Fisher, arrived from Auckland to review the Community Services RFP OIA pack in July 2007 and specifically asked for documents by name and reference before the pack was officially released.

7.2.3.4. Mr. Atkinson discussed his perspective on the conflict of interest issues affecting the HBDHB and myself publicly with Ms. J. Atkin (previous Chair of C&CDHB). Please see the attached email from Ken Douglas to Ms. Atkin and myself [14/06/07]. **[Document(s) F]**

7.2.3.5. Mr. Clarke has confirmed to me that:

- **Management Restructuring confidential information released by Chair.** Mr. Clarke confirmed that the Chair had deliberately released / discussed information with the press in regards the management restructuring being considered confidentially by the board.

- Please see attached Mr. Clarke's email dated 10th March 2006, Mr. Clarke's email dated 15th May 2006, and my email dated 17 May 2006. **[Document(s) G]**

- **Negative press for HBDHB re electives.** The CEO has confirmed that the Chair, while being extremely critical of the COO at the pre-Board meeting in 2006 where we discussed the reduction of FSA waiting lists (the criticism was aimed at the COO's email to GPs explaining the pending change of FSA process), has in fact deliberately contacted the press (Radio NZ and HB Today) so that the DHB receives maximum coverage at the board meeting. The Board and management were not notified of the Chair's actions. The Minister was, as a result, embarrassed.

7.2.3.6. The Chair has, it appears, had difficulty making accurate recollections prior to and since the appointment of the Director-General's Review Panel. For instance, he publicly asserted that he never authorised me to work with HBDHB management over the disputed feasibility study in relation to the Community Services RFP, a topic being reviewed by the Director-General's Review panel. He subsequently stated that I was authorised to work with management.

Additionally the review panel's draft report give's the panel's firm impression that, other than the Chair, no other board member was aware of my prior involvement in the development of the community services RFP until this review was underway. The panel was critical of me in the drafts for failing to draw my prior involvement to your attention. I recently received an extract from the public excluded minutes of the Board's meeting on 16 December 2004. I received this from the Director-General's Review Panel, and have not seen it before. It clearly establishes that all of those Board members listed as being present were fully aware that the Chairman and the CEO had met with me in December 2004 to discuss the contemplated

public/private partnership, and that management were instructed to develop an initial proposal for the DHB to work with HCNZ, which was to be brought to the February 2005 Board meeting. No one on the Board sought to correct the Panel's misunderstanding on this point.

7.2.3.7. As noted by Mr. Clarke in his attached letter, the Chair and the Chair of the Audit and Finance committee preferred to utilize their "own" minutes opposed to those drafted by the CEO and the HBDHB legal council of the Audit and Finance Committee of December 2007. This was in regards to the awarding to Royston Hospital [now owned by Wakefield] $600,000 worth of surgical services without an appropriate tender process. This is a hospital in which the Chair's brother, Dennis Atkinson, is a private surgeon. The Chair overrode management advice and independent probity advice to do this. **[Document(s) H]**

7.3. Your concern about: **"dysfunctional relationships"**

7.3.1. The behaviour of the Chair in particular and the Board in relationship with the management team has been an ongoing problem. The Review Panel solicited aforementioned feedback from managers, from ex managers, from governance expert Graham Nahkies, and from governance expert Dr Dave George.

7.3.2. The dysfunctional relationships that affect this Board extend to the Ministry of Health and "Wellington" which is frequently blamed for the issues facing the board. Examples:

7.3.2.1. Mr. Ritchie is a senior and experienced Board member. At the Board meeting 11/07/2007 the blame culture was evidenced in front of the media. Mr. Ritchie states that the MOH has previously **"fabricated documents"** to provide unbalanced advice to the Minister in regards the community services RFP issues and therefore the result was that the MOH was critical of the HBDHB. Previously he has had to withdraw a letter criticising the MOH in its review of this process. Mr. Ritchie also stated at that Board meeting that he does not believe the Director General appointed review would be **open and transparent.** Mr. Ritchie stated that the MOH personnel involved in the initial review are still employed by the MOH and are therefore / must be conflicted. I have included a copy of the draft public minutes which substantiate and reflects the commentary of Mr. Ritchie. (These draft minutes are still published in draft form on the HBDHB website.) **[Document(s) I]**

7.3.2.2. **Blaming the MOH:** At the same Board meeting, other Board members, including the Chair, stated that they had little confidence in the MOH to adequately conduct the Director-General's review. Comments included:

"....very little or no support from the MOH.....Ministry comment had in fact verged on criticism.....Board had been considerably let down by the Ministry.....the Ministry she believed, continued to challenge the Board's Governance....."

This perspective is based on the views of Board members of the previous treatment received by the DHB, and therefore the Board resolved to seek a more expansive process led by the OAG. At Board meetings the MOH is frequently blamed for the "inadequacy" of the PBF funding model, the lack of Board governance authority due to DHB Board structures and other topics. These views have been stated publicly and have been recorded in various Board minutes. [**Document(s) I** - this is one example of such board minutes.]

7.3.3. The Chair and Board regularly discussed managerial performance inappropriately. Mr. Clarke frequently appeals to the Board to work together, and has emphasized to the Board his and the management's desire to have an effective working relationship with the Board. Alternatively he has been required to apologize on multiple occasions to the Board for what the Board considers communications and actions that reflect poorly on the Board. In pre-Board discussions the Chair and Mr. Ritchie have made on multiple occasions personally derisive comments of the CEO and / or management or express doubt and a lack of trust in management. For example the Chair discussed the performance appraisal of the CEO with the Acting CEO, Dr Win Bennett twice before it was even shown to the CEO. [**Document J** - filenote of conversation between myself and Kevin Atkinson on 13 December 2006]

7.3.4. The CEO's issues are summarised in the attached copy of the letter that the CEO wrote to his lawyer. These are all issues that the CEO has discussed with me and that I have observed as a Board member to a greater or lesser extent and can vouch for. [**Document A**]

7.4. Your concern about: **"the Auditor-General's report of 28 January 2008"**

7.4.1. The Auditors were recently misled by the Board in relation to the management of conflict of interests issues. I have written to you previously explaining this issue.

Trying to define and then document examples of culture within an organisation that are impacting on the performance of the organisation is always difficult and I readily acknowledge is subjective and open to a variety of interpretations. Usually there will be two or more views and perspectives for each issue and for each perspective advanced. In isolation, each example that I have provided may or may not be regarded as substantive, **but as a consistent pattern of behaviour,** I believe the organizational culture operating is very concerning for anyone who cares about the quality of health outcomes in the Hawke's Bay.

The damage caused by the behaviours and current culture of this Board affects not only the staff of the DHB, but also the health outcomes of the people of the

Hawke's Bay. Strategic ideas and the potential progress that could and should have been made have been lost. Already, senior health managers have lost or abandoned their careers in the public health service.

Culture is an acquired body of behaviour. In an organisation, it is evidenced through the repeated actions of its leaders. I believe that the HBDHB board has operated and developed as a group for such a long period of time that many of these behaviours are both entrenched and systemic. In my opinion, without significant change, the chances of this DHB improving the health of a community that has the worst health status of any in New Zealand is very remote.

As a final point of interest, I find it interesting that such DHB's as Mid Central (150k's away) and Nelson Marlborough, which are of comparative size, as a result of operating with what appears to be an effective Board and management team are able to achieve excellent results both in terms of health outcomes and financial performance.

Regards

Pete Ha

Peter Hausmann

13 February 2008

PRIVATE AND CONFIDENTIAL LEGALLY PRIVILEGED

Peter Chemis
Partner
Buddle Findlay
WELLINGTON

Dear Peter

HAWKE'S BAY DISTRICT HEALTH BOARD GOVERNANCE

You will be aware that I have received medical advice that I must take a minimum of two weeks leave from the Hawke's Bay DHB. This is especially hard advice for me as I have never had a sick day in my life and I am conscious of the added strains this places on my immediate team.

As I will be away from the DHB at a critical time when the Board is considering its response to the 2nd draft report, I want to set out why I consider governance change is imperative in the event that you are required to represent my views in my absence.

The advice I have given the Review Panel regarding the Board stands, namely:

- inconsistent decision making
- highly personalised attacks on staff
- a toxic culture between board and management,
- a clash of values and the absence of trust
- poor judgement and an absence of strategy.

I now want to comment on recent events that further confirm that governance change is necessary. In fairness to my Board, however, I have only commented on items that I have already raised with the Board and are evidence based. My comments are in four areas, germane to the role of a Board:

- Staffing
- Resourcing and Priorities
- Accountability
- Judgement

Staffing

a) Staff Resignations – I have been separately advised by 5 of my 7 senior leadership team members, my Chief Legal Advisor and my Chair of the Clinical Board that they are considering resigning in the event there is not significant governance change, or I am forced to leave the organisation. I have strongly

counselled them against this course of action, as it will ultimately harm the organisation. Knowing my team, however, and their mounting frustration that they are unable to perform at their best, I think it is quite probable that resignations will immediately follow if the governance/organisation interface is not dramatically improved.

b) Mounting Clinical Disquiet – to date, despite the local media debate, we have been successful in keeping the Review from spreading too far into the organisation. This is proving more and more challenging and earlier this week the Minister received a letter from my Chief Medical Advisor, Director of Nursing, Chair of the Clinical Board and Associate Director of Nursing urging the Minister to resolve the issues and ensure 'good' governance at Hawke's Bay.

c) Threatened Disciplinary Action against the CEO – the Board are meeting on Wednesday 13 February 2008 to consider my written response to their letters threatening disciplinary action because I asked Dr Penny Andrew (Chief Legal Advisor) to contact Michael Wigley of the Review Panel regarding the Chairman's request to meet with my senior staff to find out what they had said in confidence to the Review Panel.

As we have discussed, the Board's threatened disciplinary action is ill advised, ill timed and intimidatory and the assertions are easily rebutted. As we have also discussed, it would be unwise to view this action in isolation from a growing pattern of closed meetings without the CEO present, requests for the CEO to provide answers to a range of issues 'in writing' and the Chairman's decision to conduct his own review into management. As you are aware the Chairman has authorised his own legal costs but has repeatedly declined to meet my own costs. Thank you for your forbearance on this matter.

Resourcing and Priorities

a) Deteriorating Financial Position – after some years on standard monitoring the DHB has been down graded to performance watch. I consider the underlying deficit to be some $10 – 11 million. A recovery plan is being considered by the Board at its February meeting. The time, energy and resources that are being expended by the Board responding to the Review is, however, at the expense of the significant financial, clinical and workforce issues we are facing. By way of example, I am typically spending around 40 hours a week simply managing the Review Process – ie 'static' from Board members, requests for information from multiple sources and maintaining motivation in the senior team. This must not be allowed to continue.

b) Ongoing Reviews and Legal Action - The Chairman advised me on 4 February 2008 at a Remuneration Committee meeting that at the completion of the review he will be recommencing his own review into management conduct (minutes of meeting still in draft and to follow). The Board first commenced its

own review of management conduct in January 2006 and it has been ongoing since then. I have advised the Chairman that a further review is not in the best interests of the organisation, will be costly and destructive and will further encourage senior staff to leave.

On 12 February the Chairman orally advised me that the Board will be legally challenging the Review now he has had the opportunity to read the 2nd draft of the Review report.

c) Resourcing the Review – My team is alarmed at the considerable financial resources the Board is committing to this review and there appears to be no end in sight particularly if the Board does proceed with further legal action. Under the DHB's Delegations Policy I am responsible for authorising all legal advice. The Chairman, however, has been authorising all legal advice relating to the Review, without reference to the CEO, despite repeated requests. The Chairman considers he has the authority as the Audit and Finance Committee has powers to seek independent advice.

Accountability

a) Political and Media Engagement– for some time I have been very concerned at the level of information that the media and some political parties have about my organisation, particularly as the DHB is appearing before the Health Select Committee in early April.

I cite in the attachments two examples of the challenges I am facing:

a) an email from **(REDACTED)**

b) last week my Chairman met with Craig Foss and Chris Tremain (local National MPs) in response to their request to discuss "progress on the Review and related matters". I offered to attend that meeting but the Chairman considered that was not necessary. Attached is a news clipping (Dominion 13 February 2008) citing the Chairman and Craig Foss commenting that proceeds from the sale of Napier Hospital may be used to break even financially and asserting that Hawke's Bay has been treated unfairly

c) I also understand that some Board members have declined to sign the confidentiality agreement regarding the release of the 2nd draft report. I can only assume this is because they are unwilling to be fettered in their contacts with third parties.

We have very clear organisational policies relating to media and political party contacts and I have often had to remind the Board of these policies.

Judgement

a) Poor Judgement – this has been a repeated theme in my advice to the Review Panel. Unfortunately I do not believe the lessons have been learned. By way of recent example I cite the December meeting of the Audit and Finance Committee that agreed to award up to $600,000 elective services to Royston Hospital without a tender, against the advice of management and independent probity advice. My concern is that the Board has exposed itself to external criticism, particularly as a number of board members were conflicted yet participated fully in the discussion if not the vote. Unfortunately I am not in a position to attach the minutes of that meeting as the Chairman and Chair of Audit rejected the minutes prepared by my Chief Legal Advisor and myself in favour of minutes drafted by my Chairman. The Audit Committee will be considering whether to adopt the Chairman's minutes at its meeting next week. The Chief Legal Advisor and I have asked that our objection to the minutes be recorded.

b) Unwillingness to Engage on Governance/Management Interface - despite repeated requests to meet with the Board to discuss board/management issues, I last had the opportunity to discuss these issues for 10 minutes in December 2006. As recently as this week I met with the Remuneration Committee who seemed more interested in finding evidence to rebut the Review Panel's assertion that staff felt ' battered, bullied and bruised" than seeking to understand what may be underlying those concerns (minutes of the meeting to follow);

Where to From Here

The Issues are beyond Facilitation - In a letter last year to the Board from the Executive Management Team we proposed a facilitated process to identify the issues and move forward. We saw this as preferable to a highly publicised debate in Parliament, which would do considerable damage to the organisation's reputation and would almost certainly see some of our clinicians engaging in the subsequent media debate. We proposed this course of action to reduce the likelihood of on going legal action by the Board which would cripple the organisation and tie up resources for a further two years.

As I explained to the Review Team at the time, in reality the issues are beyond facilitation. This would have been quickly revealed by a facilitation process. As CEO, nonetheless, I have to minimise the risk to my organisation and ensure that we can continue to do our real work. Thus the facilitation option was proposed as a way of taking some of the heat out of the debate and allowing the organisation to continue functioning rather than being torn apart by an increasingly acrimonious and expensive governance dispute.

Given that the majority of my board have been returned to office, it is critical that a facilitated process is commenced as soon as possible after governance decisions have been made.

Recovery Plan - Governance change of itself will not automatically secure financial and service sustainability and the requisite culture change. The three recent cardiac cases highlight there is much work to be done on clinical engagement and models of care, while our deteriorating financial situation is a cause of real concern to me.

I am working on a recovery plan that will hopefully involve the use of external advisors such as Graham Nahkies (on governance), Ray Naden and Ian Brown (on models of care) and a senior independent financial advisor. I am also keen to explore using these appointments to strengthen our links with Capital and Coast DHB at a governance, monitoring or advisory level.

Position of CEO - I wish to be clear – the current situation is intolerable. While I am committed to remaining the CEO of Hawke's Bay DHB beyond the completion of this review, I am also a realist. In the event there is not substantive governance change and an end to the legal processes, it will remain impossible for me to do my job and be effective. While there are many able people who can do my job, my concern is that my successor will face the same challenges my predecessor and I have both faced.

While it is for others to determine the DHB's governance, it will be my job to help 'win the peace' in a very small community, where for example the Chairman's property backs on to ours, the Chairman's brother is one of my senior clinicians and friendships date back to childhood. I know you understand the parochial, personal and political sensitivities of provincial New Zealand. I also accept, however, you may need to share this with others and I trust your judgement on this matter.

While I am now on leave and out of Hawke's Bay, I can be contacted via the office, via Karen at home (06)877 9934 or mobile (0275) 336 996

Yours sincerely

Chris Clarke
CEO
Hawke's Bay District Health Board

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Transcription

Date: 25 February 2008

The Minister of Health has threatened to sack the entire

Item code : RNZ20080221092712BC0
Job name : Comp CASUAL CLIENTS (CASC)
Radio New Zealand 21 February 2008
Nine to Noon
Time : <09:27:12 - 09:38:30>
Duration : 677 seconds

PRESENTER (KATHRYN RYAN): Well let's stay in a hospital that certainly does seem to be having its ah, issues at ah, the moment ah, which is ah, Hawke's Bay ah, Regional Hospital. As you know, the Health Minister has threatened to sack the entire board, as soon as next week. It [sic] has asked the board to write to him and tell them [sic] why it should not be sacked. Since ah, the story broke yesterday ah, local body leaders ah, other clinicians ah, the Medical Association have all come out and said the Minister has got it wrong. This morning we're starting to hear from more clinicians at the hospital saying the Minister has got it right. One of those is with me now. Dr David Grayson is clinical director of surgery at Hawke's Bay Regional Hospital. He joins us now and thank you for being with us.

DR DAVID GRAYSON (HAWKE'S BAY REGIONAL HOSPITAL CLINICAL DIRECTOR OF SURGERY): It's, that's fine Kathryn.

PRESENTER: So a whole bunch of people have said the Minister's out of kilter here ah, we've got confidence in this democratically, or partly democratically, elected ah, board. What is your view.

GRAYSON: Well it's kind of interesting because ah, I've just had a little chance to think about things ah, my flight up to Wairoa. I'm doing a clinic up here in Wairoa and I've had a bit of an epiphany really because if you look at what's happened in the ah, the quality improvement committee that ah, work that you have just been talking about, what, what [sic] we've done there, because I'm involved in that as well obviously, and, and [sic] what we've done there is, is [sic] we've acknowledged there's a problem and we've said, you know, let's be upfront and let's be open about this and what can we do about it. The issue for us here in Hawke's Bay has been going on for a very long time and it is, it is [sic] finally come to a hilt and it, and I have, up until now, I have resisted any sort of temptation to get out in the public ah, arena because I wasn't sure and I didn't think that it was appropriate for clinicians to be ah, getting involved in the politics side of things. But, unfortunately that's, that's [sic] gone and so in, I'm really, fuelled by my principles, that I have to make, make [sic] a stand and the, the [sic] issue is, comes down to this thing. We need to, we know there's a problem. We need to acknowledge that and we need to look at why that is and the big, what the bottom line is that hasn't been in the ah, public domain yet is that the real issues here are issues of governance and how things are done. How things are done in our particular DHB and this is the whole DHB, not just the hospital and it's so important that we are spending large amounts of public money, that when we're spending that money, the decision making of how that money is spent ah, has to be done in total transparency, that it can be looked at from objective point of view and from ah, independent assessors, if you like, ah, that money has been well spent and has been appropriately spent.

PRESENTER: So what is it...

GRAYSON: ...and we have a lot of ah, evidence or experience of ah, occasions where that hasn't been the case and, and I've had personal experience of ah, attempts to distort what is an open

and public ah, transparent, you know, way of um, awarding contracts, you know, and, and, because this is what we're dealing with. We're dealing with large sums of money ah, that have to be awarded appropriately and so because it's public money, it must be done in the, you know, in a fully transparent way.

PRESENTER: Are you saying that financial management and the openness of that fimanat [sic] financial management is what, at the heart of this.

GRAYSON: Course it is. Yeah. Exactly and so obviously, a lot of that is going to come out in that review ah, that has been ah, started but hasn't...

PRESENTER: This is the Director-General of health is currently doing a review into what, the awarding of one particular major contract or the process of running that.

GRAYSON: No well the review, the, the [sic] and this is where it's, again, it's, everything's been distorted and, and, and [sic] you know, there's been misrepresentation on, on, on [sic] views and, and [sic] certainly some commissions will support the status quo and, and [sic] the incumbent board but there are other clinicians who see it differently because they have had more sort of involved experience and, and [sic] in my role as a clinical director, I'm obviously a clinician and first and foremost clinician, but I am involved in that task of trying to help the management and, and we have had ah, and certainly, you know, um, experience of ah, the um, decision making has not been done in an open way and it's not being ah, transparent and has, and there's been questions asked around that for a very long time.

PRESENTER: This just about the one contract currently under scrutiny or others.

GRAYSON: No what, the issue there is that it is not just about that one contract...

PRESENTER: Uh-huh.

GRAYSON: ...and that one person. It's, it's other members of the board ah, the issues around, the questions around ah, their conflicts of interest ah, on the table as well and so that's, it's all been distorted and, and it's become political, obviously, and it's become personal. But my issue, in terms of, you know, and I respect ah, the Minister's stand because he recognises and he has a lot more information, obviously, than I do but, from what I know of, he has the information there that tells him that things are not right and that if there's going to be any sort of change to how we're doing things, any improvement, that he has to make the stand and obviously that's a huge political call for him ah, but he's standing by his principles and I, and I respect him for that.

PRESENTER: How does he have that information of whatever nature that he has that has led him to believe this is serious enough to potentially sack a board and bring in a commissioner.

GRAYSON: The ah, the draft, there has been a draft ah, report of that review that has done [sic]. I haven't seen that myself...

PRESENTER: Well he says he hasn't seen that.

GRAYSON: He won't have seen it but he will have ah, he will have, you know, had information that's ah, from that because ah, that has been ah, certainly ah, given to the, to the board and ah,

so, you know, the, the sort of content, if you like, will be ah, will be around.

PRESENTER: Are you suggesting that there are potentially matters of illegality that need to be investigated...

GRAYSON: Well...

PRESENTER: ...or improper management or what.

GRAYSON: Well I think ah, I think obviously you've seen the legality side of things come into it, definitely and again, it comes down to, this is a problem for us ah, because we are getting it, you know, increasing legal bills being sent ah, being spent um, when that money, you know, should be being spent on healthcare. And so we have to take, take a stand and stop this and ah, and I think that's, that's why I think the, the best solution, at this stage is what the ah, the Minister has done to suggest that we need to just stop having the board in, in control and have the ah, have a commissioner in, in place. Obviously it's only temporary. It's not a long term solution but I think, at the moment, it's, it's important that it's done.

PRESENTER: What impact is it having because we know that the chief executive is effectively off...

GRAYSON: Yeah...

PRESENTER: ...on, on what, on stress leave currently.

GRAYSON: Well, well as Ian Powell you see ah, from the ASMS ah, pointed out that you, you cannot run an organisation when you have a ah, ongoing standoff between your board and your management and the trouble, I, I understand, from our management's point of view, is that they feel ah, the effects of the board trying to be involved, trying to get, get involved in management issues and micro-managing them ah, and that just means they, they don't, you know, they're not acting in the true sense of good governance. And good governance is that you have your members of a board dealing with large sums of public money, making decisions that are seen to be fair and open and can be analysed and looked at and that those, those decision then, you know, are, are the right decisions with everybody's agreement.

PRESENTER: What is your position then on, on news that, that, that [sic] the board is now ah, expecting, what is it, a, something like a $7 million deficit. Was that a, a, a [sic] surprise, a shock to clinicians.

GRAYSON: Um, I think we've always known that there's certainly ah, we, we [sic] never be able to be operating ah...

PRESENTER: The $5 million cut that was proposed was never...

GRAYSON: Yeah.

PRESENTER: ...going to happen.

GRAYSON: No I think, I was, the trouble, we know that there has been a historical problem of perceived under funding but again, just throwing more money at it is not going to change, change

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Office of Hon Pete Hodgson
MP for Dunedin North
Minister of Health

- 9 JUL 2007

Mr Kevin Atkinson
Chair
Hawke's Bay District Health Board
Private Bag 9014
HASTINGS

Dear Mr Atkinson

Hawke's Bay District Health Board: 2007/08 District Annual Plan

I am pleased to advise that I have signed Hawke's Bay District Health Board's (HBDHB) 2007/08 District Annual Plan (DAP) for three years, and that the Board has my full support for implementing this plan.

This year your Board and management have put tremendous effort into successfully managing what was a challenging 2006/07 plan. I can see from your 2007/08 plan that you intend to continue this effort. I am really appreciative of this.

Service Change and Reconfiguration
May I remind you that my approval of your DAP does not constitute approval of proposals for service changes or service reconfigurations. You will need to comply with the requirements of the Operational Policy Framework and advise the Ministry where any proposals may require my approval.

Health Targets
The introduction of the new Health Targets was designed to provide an increased focus on my continuing priorities. They provide the sector with a solid platform for measurable progress in the coming year. I am delighted with the emphasis that your Board plans to give to these priorities. I look forward to receiving updates from you as the year progresses.

Reducing Burden of Chronic Disease
Although variable across DHBs, many DAPs this year are showing an increasing commitment to health promotion and illness prevention strategies. Healthy Eating Healthy Action (HEHA) initiatives are developing well and the progress the sector plans on oral health and tobacco control is very pleasing. Keep up the good work on establishing the cancer control regional networks. The work you are doing on cancer services is so important because it impacts on the lives of so many New Zealanders.

Parliament Buildings, Wellington, New Zeala

This is a true copy of the document marked **"I"** and referred to in the annexed affidavit of **KEVIN HENRY ATKINSON** sworn at Napier this 22nd day of August 2008 before me:

A SOLICITOR OF THE HIGH COURT OF NEW ZEALAND

The manner in which HBDHB has developed the value for money diabetes case study is particularly noteworthy. I am aware that this work has been cited as a model for other DHBs.

Primary Care

This year I will be looking for the progress you have signalled in primary care. Primary Health Organisations (PHOs) are not new anymore. You should be expecting a solid contribution from them towards both your promotion and prevention strategies (especially for children and youth), and in their management and support of patients with chronic disease.

Primary care also has a tremendous contribution to make to the management of elective services. I encourage you to give full support to your General Practitioner (GP) liaisons so that we can continue to achieve real improvement in the interface between primary and secondary services.

Electives

Meeting Elective Service Patient Flow Indicators (ESPI) remain an area of high priority. I do realise the challenges inherent in the management of elective services but will reiterate my message to you from last year. People have a right to know when they have been promised surgery that they will get it within a specified timeframe, or if they cannot be offered treatment what their options are. I am pleased to note that HBDHB has put ESPI "buffers" in place that will assist in ensuring that your ESPI compliance is maintained and that your commitment to additional volumes is achieved.

Achievement of increased elective volumes could be a tangible demonstration of productivity gains and a contribution to value for money strategies. Please frequently review your productivity levels as the year progresses.

Health of Older People

Your plans to advance the implementation of the Health of Older People strategy shows a strong commitment to this age group in your community. I am very pleased to see the work you plan on developing community based services and on supporting workforce enhancements.

Mental Health

I note that again you have taken up the opportunity of Blueprint funding. I am keen to see that you have in place mental health services, using this funding (and as much as possible of your previous mental health surpluses) as early as possible in the new year.

As a nation we need to make more progress in building and broadening services to support people with mental health or addiction illnesses. This year I am expecting to see real improvements in services for children and young people.

Financial and Risk Management

I hardly need to remind you of the need to continue to manage your services within your allocated funding. I note the risks outlined in your DAP and the mitigation strategies you have identified have my support. I expect robust financial performance and that you continue to keep the Ministry of Health (the Ministry) informed of emerging risks.

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Capital
My approval of your DAP does not mean approval for any capital projects requiring equity or new lending, or self-funded projects that require the support of the National Capital Committee. Approval of such projects is dependant on both completion of a sound business case, and evidence of good asset management and health service planning by your DHB. Approval for equity or new lending is also managed through the annual capital allocation round.

Monitoring Intervention Framework
I am pleased to note that HBDHB has maintained the status of standard monitoring on the Monitoring and Intervention Framework (MIF). This is a reflection of your ongoing positive performance and is rewarded by the benefit of receiving early payment of your funding. I am confident that you will be working to retain your MIF status throughout 2007/08.

Inequalities
Lastly, but most importantly, there remains within our community population groups whose health and well being is significantly lagging behind the majority. I ask that you continue to focus on reducing inequalities.

In conclusion I know that as you enter this new year you and your Board will have in the front of your minds improving service quality, meeting fiscal imperatives and managing industrial challenges. All this in the context of impending Board elections. It is a tremendous contribution that you are making to the lives of New Zealanders. Thank you. Best wishes with the implementation of your 2007/08 DAP.

Could I ask that a copy of this letter is attached to the copy of your signed DAP held by the Board and to all copies of the DAP made available to the public.

Yours sincerely

Hon. Pete Hodgson
MINISTER OF HEALTH