



NEW ZEALAND

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4 July 2008

Stephen McKernan
Director-General of Health
Ministry of Health
PO Box 5013
WELLINGTON

By fax: 04 471 2360

Dear Stephen

RMO Workforce Commission

I refer to the press release sent to us under cover of Cath Jackson's email of 3 July.

Our initial response is two-fold. First, whatever the intended powers of the commission might be – whether to recommend or otherwise – the very existence of the commission is likely to have a substantial influence upon the bargaining between the parties. Indeed, it will cut right across the bargaining, (perhaps the DHBs' real agenda here).

Secondly, for the reasons set out in the enclosed letter to the DHBs' Lead Advocate, in our view the DHBs' unilateral approach to the Ministry to establish such a commission, amounts to a very serious breach of the employers' duty of good faith in the bargaining. In substance, it amounts to a deliberate undermining of the bargaining and of the authority of the union in the bargaining. We would have expected the Ministry to be anxious to avoid being implicated in such a breach.

We are alarmed therefore that the Ministry should announce its intention to establish such a commission, without first having consulted NZRDA. We note your undertaking to consult us about the "terms of reference", but that of course ignores the absence of consultation with regard to the establishment and structure of a commission. Given the consultation which quite obviously has occurred between the Ministry and the DHBs, the failure to consult with NZRDA raises from the outset, a substantial concern about the objectives, integrity, and neutrality of the commission.

If you were to consult genuinely with NZRDA not only about the "terms of reference", but all aspects of the proposal, including whether and when such a commission might be established, its possible influence on current and future bargaining etc, then NZRDA would be prepared to keep an open mind about it,

including whether NZRDA would participate in a commission process. For now however, given the points made above, I must record that:

- NZRDA does not agree to the establishment of a commission.
- Should the Ministry establish such a commission, NZRDA will reserve not only all of the legal rights and remedies available to it, but reserve also its right not to participate in the commission's proceedings.

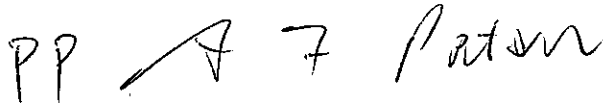
In the meantime, if there is going to be any meaningful consultation, we require *urgently* answers to the following:

1. Precisely what kind of commission is proposed, and under what statute or authority would it be established?
2. What is the proposed structure and make up of the commission, and what (if any) role would the DHBs and NZRDA have in terms of the composition of the commission?
3. In substance, what processes are envisaged? For example:
 - Who would be parties to the process and/or be consulted/heard?
 - What would be the proposed time frame for the commission's enquiry and report?
 - Would the commission conduct hearings, would they be in public, and would the commission's report be released publicly?
 - To what extent would NZRDA be provided access to information and data within the possession of the DHBs, DHBNZ, the Ministry, and the Minister which may be relevant to the commission's deliberations, to enable NZRDA to participate meaningfully in the process?
 - Precisely what would be the powers of the commission?
4. What are the proposed "terms of reference"?
5. Any other information you consider may be relevant to the proposed commission.

Furthermore, NZRDA requests copies of all documents held by the Ministry and/or the Minister, such as reports, minutes of meetings, and written (including electronic) communications (including internal communications and communications by or between all or any of the DHBs, DHBNZ, the Ministry, and the Minister), concerning or relating to the establishment of such a commission. This request is made under s. 12 of the Official Information Act 1982.

Pursuant to s. 12(3) of that Act, we ask that this request for official information be treated as urgent. The reason for seeking urgency is that, as indicated in the Ministry's press release, "consultation on the terms of reference will commence shortly" and the terms of reference are expected to be announced by the end of the month. The information is required for the purpose of any such consultation.

Yours faithfully

A handwritten signature in black ink, appearing to read "PP A 7 Paton". The signature is written in a cursive, somewhat stylized font.

Dr Deborah Powell
General Secretary

cc. David Meates