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4 July 2008

Mick Prior
Advocate for DHBs
DHBNZ
PO Box 5535
WELLINGTON

By post and fax: 04 803 3870

Dear Mick

RMO MECA Negotiations – RMO Workforce Commission

Since receipt of your letter of 30 June, we have received also Mr Meates' letter to the Director-General of Health dated 1 July, and a copy of the Ministry's press release of 3 July.

NZRDA considers that by approaching the Ministry of Health unilaterally to establish an RMO workforce commission, the DHBs have committed a serious breach of their duty of good faith to NZRDA. In summary:

1. One element of the second option tabled by the DHBs at negotiations on 29 April was the establishment of an independent Ministry commission. The offer was accompanied by a letter from the Director-General of Health to Mr Meates dated 29 April. In that letter Mr McKernan recorded that the concept had been proposed by the DHBs and that:

"The DHBs envisage this could form part of the DHBs' proposed settlement with the New Zealand Resident Doctors' Association (RDA) in the current bargaining."

2. The RDA's rejection of both offers, and specifically the proposal to establish such a commission, was recorded in your letter to NZRDA of 4 May, (para 5).
3. Notwithstanding our rejection of the proposal, the DHBs have continued to progress the concept with the Ministry, to the point that the Ministry has now announced its intention to create such a commission. As you are no doubt well aware, NZRDA has not been consulted by the Ministry about this initiative. Nor did the DHBs inform NZRDA that they were continuing to explore and progress the

initiative with the Ministry. In short, this has been going on behind our backs.

4. The very existence of such a commission is bound to have a significant influence on the bargaining. Indeed, depending upon matters such as the structure and composition of the commission, its processes and powers, there is the distinct likelihood that the commission would cut right across the bargaining, rendering it virtually redundant.
5. The effect then of the DHBs progressing this initiative, without the agreement or involvement of NZRDA, undermines or is likely to undermine the bargaining and/or the authority of NZRDA in the bargaining.

This letter serves to put you on notice of such breach pursuant to clause 22 of the Code of Good Faith for the Public Health Sector. NZRDA reserves all of the rights and remedies available to the union and its members in that regard. Without prejudice to those rights and remedies, we remind you of the DHBs' obligations under clause 23 of the Code.

Pursuant to s. 12 of the Official Information Act 1982, NZRDA requests copies of all documents held by any of the DHBs, and/or by their agent DHBNZ, 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 of Health, and the Minister of Health) concerning or relating to the establishment of the proposed commission. 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 according to its press release of 3 July, the Ministry of Health intends to consult with NZRDA on the terms of reference for the proposed commission and to announce the terms of reference by the end of this month. One of the reasons the information is requested, is to enable NZRDA to engage in any such consultation.

Yours faithfully

A handwritten signature in black ink, appearing to read 'PP A 7 Paton', written over a horizontal line.

Dr Deborah Powell
General Secretary