



**Queensland  
Government**  
Queensland Health

# MEMORANDUM

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**To:** All Queensland Health Staff

**From:** Steve Buckland – Director General      **Contact No:**  
**Fax No:**

**Subject:**

- **Bundaberg Hospital Commission of Inquiry - Queensland Health Representation**
- **Indemnity issues for Queensland Health staff - Bundaberg Hospital Commission of Inquiry, Forster Review, CMC Inquiry**

**File Ref:** 0201-3000-

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## **Bundaberg Hospital Commission of Inquiry - Queensland Health Representation**

At the Bundaberg Hospital Commission of Inquiry (“BCI”) last week, Mr Morris QC the chairman of the BCI, granted Queensland Health (“QH”) leave to appear in its own right and also to represent any past or present employee where the name of that person was notified in writing to the BCI.

What this means in practical terms is that our legal team lead by Mr David Boddice QC represents the department and will also represent any witnesses that we put forward in support of our submission to the BCI or the position of QH generally.

## **Indemnity issues for Queensland Health staff - BCI, Forster Review, CMC Inquiry**

Since the commencement of the three inquiries into QH, our legal unit has had a number of requests by employees for clarification of their rights. I have tried to address this issue in the context of my weekly broadcasts to staff. The last page of this memo summarises the status of each of the inquiries and how each one effects staff..

*All staff should be take comfort from the fact that they are covered by the scope of the normal employer - employee indemnity that exists within the relationship of employment you have with QH.*

There may be issues arising from the terms of reference of the BCI or the CMC, that staff may require confirmation of an indemnity or an indemnity for separate legal representation. Any staff member who has such concerns about indemnity should in the first instance consult the indemnity

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policy IRM 3.8-4 for clinical staff or IRM 3.8-3 for other staff that is administrative and nursing staff.

These indemnity policies were developed to cover situations where an employee was 'named' in court proceedings or separate allegations were made against the employee individually in addition to allegations made against QH.

If after reading this memo and the IRM indemnity policies you still have some doubt about your position and would like clarification please contact Peter Crofts QH General Counsel on 3234 0826.



Dr Steve Buckland  
**Director-General**

31 6/7/2005

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## **The Forster Review**

- This is ongoing and is scheduled to finish in September 2005.
- It has been resourced with QH staff and staff from other government departments
- An administrative review of QH systems, policy and procedures not an investigation into the roles of individuals;
- The co – operation of QH staff with the review is encouraged and is within the scope of employment;
- There should be no issues arising during the review that staff would require confirmation of an indemnity or separate legal representation;
- Mr Forster is not an investigator appointed under Part 6 of the Health Services Act 1991 – he has no power to compel someone to give evidence or to produce documents;
- A public interest declaration has been made pursuant to Sec 62F of the Health Services Act 1991 to allow staff to discuss confidential clinical issues with Forster staff who are not employees of QH
- Mr Forster has been declared an investigative agency for the purposes of IRM 3.8-4 the indemnity policy for clinical staff.

## **Bundaberg Hospital Commission of Inquiry**

- This is ongoing and is scheduled to finish in September 2005;
- A judicial review established by the Governor chaired by Mr Tony Morris QC, Sir Llew Edwards and Ms Margaret Vider are deputy commissioners.
- The co – operation of staff with the BCI is encouraged and is within the scope of employment;
- Any staff member who cooperates with the BCI is legally protected from prejudice or dismissal by QH because of that cooperation;
- Mr Morris has the power to compel the production of any document and to compel witnesses to give evidence;
- A witness before the Commission is not able to refuse to answer questions even where the answers may be self incriminating;
- Self incriminating evidence can't be used against the witness in either a civil or criminal claim;

## **The Crime and Misconduct Commission Inquiry**

- This is ongoing and is scheduled to finish in September 2005;
- A public inquiry under the Crime and Misconduct Act pursuant to terms of reference into the handling of complaints against Dr Patel
- The co – operation of staff with the CMC is encouraged and is within the scope of employment;
- The CMC has the power to compel the production of any document and to compel witnesses to give evidence;
- A witness before the CMC is not able to refuse to answer questions even where the answers may be self incriminating;
- Self incriminating evidence can't be used against the witness in a civil or criminal or administrative claim;

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