PUBLIC ACCOUNTS COMMITTEE

INQUIRY INTO HOSPITAL TRUST ACCOUNTS

TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
ON WEDNESDAY, 29 OCTOBER 2003

Members

Mr J.B. D'Orazio (Chairman)
Mr M.G. House (Deputy Chairman)
Mr J.L. Bradshaw
Mr A.J. Dean
Mr M.P. Whitely

Committee met at 10.10 am

DAUBE, MR MICHAEL
Director General, Department of Health,
examined:

CHUK, MR ANDREW MARK
Deputy Director General, Department of Health,
examined:

KELLY, DR SHANE
Chief Executive Officer, South Metropolitan Health Service,
C/- Executive Services,
Fremantle Hospital,
examined:

CARRUTHERS, MR JOHN
Principal Policy Officer, Department of Health,
examined:

YOUNG, MR JOHN FRANCIS
Solicitor, Crown Solicitor's Office,
examined:

The CHAIRMAN: The committee hearing is a proceeding of Parliament and warrants the same respect that proceedings in the House itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as a contempt of Parliament. Have you completed the "Details of Witness" form?

The Witnesses: Yes..

The CHAIRMAN: Do you understand the notes attached to it?

The Witnesses: Yes.

The CHAIRMAN: Did you receive and read an information for witnesses briefing sheet regarding giving evidence before parliamentary committees?

The Witnesses: Yes.

The CHAIRMAN: Thank you for coming back, Mr Daube. We asked you to come back. We need more evidence and clarification on a few issues. I apologise for not asking you these questions before, but I did not have the report. The HIC report we received at the last meeting clearly states that Mr Mike Daube indicated that the state health department, rather than the individual hospital doctors, should be requested for the seeking of recovery of these funds which are inappropriately

charged to the HIC. Would you please explain to the committee on what basis you gave that commitment?

Mr Daube: First of all, I should give you three caveats that the comment we made and I made to the HIC followed discussion with the HIC, which clarified that it had not been able to justify pursuing any individual doctors.

The CHAIRMAN: You said "discussions", on what basis did those discussions occur? If sums have been illegally -

Mr Daube: We had meetings with the HIC. Secondly, there is no acceptance by the Department of Health of any wrongdoing at this stage. Thirdly, it is important to stress that what we are talking about here is not indemnification of doctors, as might be thought. Clearly, if some fault is found to have occurred that is the responsibility of individual doctors, and if the pursuit of claims against individual doctors is found to be merited, it would be appropriate for us to pursue that. However, there is no such evidence. You will be aware that the HIC's report presents a compelling case that the arrangements were established at the behest of hospital officials. They make that very clear. It is consistent with departmental conclusions in the circumstances in which the relevant arrangements were ultimately for the benefit of the hospital and in which there is no evidence of wrongdoing by the doctors. It would have been inappropriate for the doctors not to have been supported by the department and it would have destabilised the hospital system if we had not taken this approach. I think my position is fairly clearly that no evidence was found by the HIC to justify pursuit of individual doctors and the HIC had so indicated to us.

The CHAIRMAN: Can you show us where it has indicated that to you?

Mr Daube: That was in discussion with us.

The CHAIRMAN: There is no evidence to support that case?

Mr A.J. DEAN: No written evidence.

The CHAIRMAN: Yes, no written evidence.

Mr Daube: That was in meetings with the HIC at which the HIC said that to us. That is what I am telling you.

The CHAIRMAN: Are you telling me that you are totally happy that all transactions entered into by these doctors are in order?

Mr Daube: We are dealing with two or three issues. First is the HIC's assertion that it believes that it has a claim against the department in some shape or form and we discussed that with them.

The CHAIRMAN: That is for patients being charged to Medicare when they were hospital patients?

Mr Daube: We have not accepted there was any wrongdoing. We are currently, as you will be aware, in negotiations with the HIC and I must ask that if we go to the detail of that, some specific issues be handled in confidence because negotiations are on going. I note that although the HIC came to us with an initial claim, when we came back to it, it very promptly reduced that claim significantly, which argues clearly that the matters are not straightforward and perhaps there is not the certainty even with the HIC about this that we might have thought, otherwise it would be hammering in with the full extent of the claim. That is very clearly not the case. Even as a first shot, it has reduced its claim significantly. There is no evidence of wrongdoing by individual doctors. There have been no prosecutions by the HIC. It has told us that it has not been able to justify any prosecutions and there is clear evidence from its report, its own documentation and from it that the arrangements were established at the behest of hospital officials. Therefore, it is appropriate to say to the HIC that if there is still a claim to be made on the basis of action taken at the behest of the hospital, it should take its claim to the Department of Health. If, however, it turns out from its investigations that there is anything that an individual doctor has done wrongly or

inappropriately, there is still ample scope for us to pursue that and we would pursue it. I further add that in the discussions I said we had with the HIC, there is considerable uncertainty, even from my reading of the negotiations and discussions, as to the certainty of its case.

The CHAIRMAN: That being said, the bottom line still is that the doctors have made the actual claims on Medicare, not the health system. The fact that you condone something that is inappropriate is neither here nor there. The facts are that if the HIC is saying that claims have been made on the HIC that were inappropriate, in other words charging could have been on the hospital, doctors are at least technically liable for those costs. You were indemnifying them without even checking your own paper work.

Mr Daube: We have also written to the HIC to ask if it has any further evidence. As you know, the HIC has done a very thorough investigation, and it advises that it has found nothing on which it believes it is appropriate to prosecute individual doctors.

The CHAIRMAN: It also makes the comment that in 45 per cent of its claim it cannot find any paper work one way or the other.

Mr Daube: I have already said that if there is evidence of wrongdoing by individual doctors that does not preclude our taking the action that we could and should take. However, we are saying that where there is not only no evidence of wrongdoing but advice from the HIC that it does not have the evidence with which to prosecute, it is appropriate to say that these arrangements are established at the behest of hospital officials. Therefore, I suspect there is an argument that could become a little circular.

The CHAIRMAN: It will not become circular. We brought you here to present us with some evidence that the actual hospital administrators have indicated. Documentation we have here from a previous Minister for Health, the Commissioner of Health and the Chief Executive Officer of the Metropolitan Health Board is that those practices that were inappropriate were told to cease, but they did not. We are trying to ascertain what documentation is in place in which your senior people have continually condoned inappropriate charging of patients to HIC. You are saying it was at the behest of officers. Please give us evidence to support what you just said. Is there any documentation at all to indicate that hospital A said to Dr B, "You do it this way and we will support it" or is there some arrangement in the contracts with the doctors that says they have private practice rights on a certain basis, so that we can all be comfortable with what happened?

Mr Daube: I do not have details of all the communications between the hospitals and the doctors on their contractual arrangements. However, there is clear evidence from the HIC report that the services were rendered and "under an arrangement with PMH" and the HIC itself concludes that "the arrangements were established at the behest of hospital administrators". That comes from the HIC report. I am perfectly willing to chase that further back and get from the HIC and from us the further evidence on which it based that. That is the HIC's conclusion let alone our conclusion. I am content, I must say, to rest with the HIC's conclusion after its thorough investigation that the arrangements were established at the behest of the hospital administrators. I will not second-guess the HIC's investigation and I am content to accept that as good evidence.

The CHAIRMAN: These doctors who were not working at special clinics were putting the HIC money into special purpose accounts and using it for things that may or may not be for the benefit of the health system. Did someone understand that if they were being used for the individual benefit of those doctors that there might have been fringe benefits for which the State might be liable?

[10.20 am]

Mr Daube: At the time?

The CHAIRMAN: Yes.

Mr Daube: I cannot tell you what was happening in the hospitals then. That being said, there is a caveat here that we are talking about events that occurred during a time in which I cannot tell you what was precisely happening.

The CHAIRMAN: I understand. That is why I was surprised that you took ownership of them when it occurred much before your period. However, this committee, which is examining events that occurred during that period, wants to know what safeguards and guarantees are occurring. For example, one of the doctors mentioned - we will not mention his name - was paying his wife for secretarial services supposedly at his clinic. Unfortunately, one of his claims is for secretarial services that did not occur for two months. He claimed for two months before and two months after the claiming date. That to me seems inappropriate and as though we approved it. It is out of one of the special purpose accounts you are saying we are liable for.

Mr Daube: You probably know more about this than I do.

The CHAIRMAN: One of the eight doctors in the HIC report that received HIC funding. You are saying that we did not find anything. If I was an accountant at the hospital and suddenly I received a bill for secretarial services that had not even occurred, I would be rather worried.

Mr Daube: I think we are dealing with two very different issues here.

The CHAIRMAN: They are the same accounts and same money.

Mr Chuk: There are two specific issues. One relates to the appropriateness or otherwise of the billing arrangements. The second issue that you introduced is the use of funds in hospital trust accounts. It is quite likely that in the cases you are alluding to the same dollars are involved. Can I clarify your question in relation to the second issue?

The CHAIRMAN: There is no second issue. We have taken responsibility supposedly for the actions of these doctors in these accounts. The money came from Medicare, went into a special purpose account and was supposed to be donated back to the hospital for wonderful things. Out of this account was paid secretarial expenses for the doctor's wife and rent for his office. You might argue about the rental space in his office, although I am not sure how, but I am sure you will give me a logical argument. The more important concern from our point of view is that one of the bills paid out of that SP account was for secretarial services to his wife two months before and two months after. We paid for things we had not even got. More importantly, there is no paperwork to support that that legitimately occurred.

Mr Chuk: I refer to the comments made by the director general concerning the HIC report. Its first recommendation was that the health department be approached to repay inappropriately claimed Medicare benefits in accordance with the request of Mike Daube. You have that. That statement relates only to any agreed or approved claim of inappropriate billing arrangements. The assurance the director general has given in that case does not relate in any way or form to any guarantees in terms of any inappropriate use of the funds from special purpose accounts. If there is evidence that any staff member or any person has accessed or used funds from the special purpose accounts inappropriately, that is not covered whatsoever by the statement of recommendation in the HIC report.

The CHAIRMAN: If those HIC claims had gone into his personal account and he did what he liked, that would not be a problem, but to donate it back to the hospital for the purposes of the hospital, which is what we said happened and that is why we have taken on the liability, how can paying for secretarial services for his wife be for the benefit of the state health system?

Mr Chuk: I cannot give you a categorical answer to that. I can give an opinion if you are interested.

The CHAIRMAN: How come we have paid her in advance?

Mr Chuk: I cannot answer the second question. I can only assume that in the case to which you alluded - I think you referred to the wife - the wife or relation of a clinician -

The CHAIRMAN: Yes, wife.

Mr Chuk: - was employed by the clinician or appropriately within the clinic. I do not have all of the detail on matters of the past. I can, if you choose, give assurances to the committee on current practices. You have asked separately about changes in procedures and for an update of what has changed over the past 12 months - if and when we choose to give details of that.

The CHAIRMAN: The committee is concerned that a commitment was given to protect individual doctors on the basis of a nod and a wink and something was happening. We are saying there was no evidence to support that. Firstly, we have not seen any evidence yet although everybody keeps saying it was at the behest of the doctors or the hospital administrators. Secondly, some of the transactions do not gel. Can you explain how it is for the benefit of the health system when it is paying for things that it appears on the surface are unrelated to the state health system?

Mr Chuk: Would you like a response?

The CHAIRMAN: Yes.

Mr Chuk: I am sorry; I am going to repeat myself. The assurances the director general has given are in relation to the billing arrangements. When any member of staff has acted inappropriately in the use of funds from the trust accounts the director general has given no assurance or any protection to such actions.

The CHAIRMAN: Okay. The HIC has direct contractual arrangements with the doctors. Why would we take that responsibility of trying to chase them up after. I am intrigued about that. If you said that it was because you did not want the hospital to be destabilised, I could understand that as a more logical view. However, if you are saying that you are trying to protect people who might have been involved in wrongdoing, I have greater difficulty.

Mr Daube: I need to be crystal clear on this. We are not trying to protect anyone who might have been involved in wrongdoing. What we are talking about first of all in terms of the money, if you like, is that there is a claim to the HIC and we get the money. If something is done wrongly with the money that is our responsibility and we would pursue. I do not know the details of the specific case you are talking about. I suspect that it occurred before our corporate time.

The CHAIRMAN: It was back in 1999. It is before your time but it is the period we are looking at.

Mr Daube: You asked me why it happened, and, as you would appreciate, I cannot tell you. If someone has done something wrong, once the money has become our money, it is for us to pursue. That is not the issue that we discussed with the HIC. That is not what we said to the HIC that we would take any kind of liability for. What we specifically said is that - it is in the HIC report - we believe that the arrangements in terms of the billing were made at the behest of the hospital administration and we believe that to pursue the doctors, therefore, would have been both inappropriate and destabilising. We said that, but with the caveat again, that if the HIC finds anything that means that any doctor should be individually pursued, it should go for it.

The CHAIRMAN: How can you pursue somebody three years after the event who gives you an invoice to pay salary for secretarial services, which contains no details other than March, $1 152; April, $1 152; May, $1 152; and June, $1 152. Please explain how you can chase up that money when there is straight out lack of documentation and process? There is no other documentation here to cover that. If you have something else, tell me.

[10.30 am]

Mr Daube: I cannot tell you why there was no documentation in 1999 or whatever. However, I can tell you that if I get information that merits somebody being pursued, then I will take legal

advice and we will pursue that. I have done that in a range of areas, miles away from this sort of issue. There is a very clear position that if we believe that someone in the department has been involved in wrongdoing we will pursue it. That can relate to financial wrongdoing or a patient getting violent with staff.

Mr M.P. WHITELY: It seems to me that the net effect of this is that you are accepting responsibility for payment for practices that were inappropriate in 1999 and 2000, predating the last Minister for Health, but in the time of the one before - John Day. You are accepting responsibility for reimbursing the money to the HIC.

Mr Daube: Yes.

Mr M.P. WHITELY: That money has gone into special purpose accounts that may or may not have been used for the benefit of individual doctors rather than to delivering a proper benefit to the health system. Because it is a grey area - even with the invoices in front of us, which were obviously inappropriate because they were issued in advance of delivery of service - those services may or may not have been delivered, so there is a grey area there.

It is very difficult to claim that money and to prove it had been inappropriately delivered. The doctors, if you like, are getting the benefit of the doubt. They are being removed from the liability at the front-end and they will have the benefit of the doubt in terms of the payments that come from the special purpose accounts. The burden falls eventually on the taxpayer.

Mr Daube: There are two issues, and thank you for separating them out. There is the issue at the front-end, if you like, and that is correct. That is something that was done at the behest of administration and so on. If there is evidence that once that money is in there someone acted inappropriately, we will follow it up. It is exactly the point the chairman has made: if the documentation is not good - that is something we can have no control over retrospectively - and the information is not there, it is very difficult to pursue people. If we had the evidence we would.

Mr M.P. WHITELY: If there is any doubt, the liability is likely to fall against the taxpayer rather than the doctor. Doctors will receive the benefit of the doubt.

Mr Chuk: I think the point is that we cannot pursue someone over any case without good documentation. The matters you are alluding to here in relation to use of funds from special purpose accounts and whether there is adequate documentation in these grey areas to clarify the black and white, albeit one of those is not appropriate to pursue an individual - the issue at hand now is that both documentation and the passage of time make it extremely difficult.

The CHAIRMAN: Have you currently signed agreements with each doctor who works under these private arrangements? Do you have the paperwork trail in place so that that situation does not occur again? It is unacceptable to you, the doctors and the state system to have innuendo clouding the process due to lack of paperwork and accountability. Do you have the process in place now to stop this happening ever again?

Mr Chuk: I believe there have been major improvements over the past 12 months.

The CHAIRMAN: That is not what I asked. Do you have the processes in place to stop it?

Mr Chuk: I believe we have adequate processes in place to manage these arrangements. We have industrial agreements with the medical practitioners, the classified provision of and access to private revenues. Coming back to your recent questions over the past 12 months, we have undertaken perhaps even hundreds of actions against the range of recommendations that came out of the Auditor General's report. I would have to remind myself exactly how many recommendations he provided in his report. We have pursued a great number of actions as a result of his recommendations, which total 31. We provided in a paper only this morning a short summary of those actions.

We are talking specifically about special purpose accounts but you have asked on other occasions about trust accounts. You understand the distinction between them. Trust deeds are prepared for each formal trust account. They have been provided to Treasury for formal approval. That process is not complete, but as far as I am concerned, it is nine-tenths of the way through. Again responding to each of the Auditor General's recommendations for special purpose accounts, there is a policy framework, an upgrade to the accounting manual and staff training. An internal audit process has been implemented so that each year an audit is done of the last 12 months transactions and processes. A large range of initiatives have been undertaken over the past 12 months, which give me assurance sufficient to say that the department has in place now appropriate arrangements to manage the situation.

The CHAIRMAN: Last week we received evidence from one of the doctors, who shall remain nameless because the evidence was closed, that the reason special purpose accounts were used - in his case - was that if he used the university special purpose account he had to pay fringe benefits tax. When he used your accounts, he did not have to pay fringe benefits. We queried the fact that 90 per cent of the expenditure was for - in my opinion - personal, non-government beneficial operations such as registration fees and memberships etc. Has that angle been covered in your changes; in other words, stopping the ability for the State taking on the liability that we may not even be aware of?

Mr Chuk: A comprehensive audit has been undertaken over the past four to five months of the tax implications of these issues. That work has not been completed. A draft report has been received, but it is not finalised. I understand that work will be finalised before Christmas in the next month or so and we will provide recommendations to the director general, again, looking back over the past term liabilities, but, more particularly, providing recommendations to the department to ensure we avoid liabilities in the future.

The CHAIRMAN: Is that by setting up committees rather than having individual doctors oversee those accounts? The person who put the money in was resolving to spend the money. There was no other controlling feature in relation to that.

Mr Chuk: I understand that the situation you described of a clinician putting money in and having the opportunity to take it out with limited due processes or without checks and balances for others has been shored up. I understand committees are overseeing each special purpose account and our approvals for drawing from those special purpose accounts have been much improved. For instance, in past years, as you are aware, the capacity to draw from those accounts has been dealt with in different processes to those that we use for accessing our normal operating account moneys such as appropriations and the like. The expenditure and authorisation controls now required for special purpose account moneys are exactly as required for our general purpose account. All of the requirements of the Financial Administration and Audit Act in terms of incurring certification etc are now applied to special purpose funds.

[10.40 am]

The CHAIRMAN: Is the use of those special purpose accounts now specifically for the benefit of the health system?

Mr Chuk: The use of the SP accounts is in accordance with the statement related to the special purpose account. My clinician colleague might be able to say more on some of the research funds.

Dr Kelly: Andrew Chuk is correct. I can talk about Princess Margaret Hospital for Children because from August 2002 to August 2003 I was the chief executive officer there. All the special purpose accounts had established committees, so it was not a case of individual doctors deciding utilisation of funds from special purpose accounts. That has been in place now for some time.

Mr M.P. WHITELY: Regarding the culture of the organisation rather than the technical accountability measures, it seems to me that pre-2000 within that culture doctors regarded money

going into special purpose accounts as trust accounts for which they had total discretion. I think I remember doctors referring to funds in special purpose accounts as their money over which they had control. It seems that when the Auditor General did his report for the 2001 financial year, from memory, things had tightened up possibly in response to this committee's inquiry. Although accountability measures have been implemented, has there been a change in culture? Do doctors still regard the money as being their money, which they have a legitimate right to control or do they understand we must have proper accounting processes with proper authorisation processes?

Dr Kelly: I will finish answering the other question first. Each of the special purpose accounts has paper work that defines what the utilisation of funds in the special purpose account will be for and the committee that oversees that ensures that the funds are distributed or utilised in accordance with the definitions of what the special account is for. They vary depending on what the special purpose account is. As Andrew Chuk indicated, a number are specific research projects for undertaking research from grants. A range includes specifics about enhancing education for a range of staff within that department, within that organisation, for example. However, each of the special purpose accounts has defined criteria against which they are utilised and determined by the committee.

To answer Mr Whitely's question, I cannot speak of the culture at PMH pre-2000. However, from my involvement with the staff there during the period I outlined - August 2002 to August 2003 - they are very clear that the special purpose accounts are funds of the health service and are there to be distributed in accordance with the rules on the special purpose account and by the committee.

The CHAIRMAN: In relation to research grants, it has come to this committee's attention that many of the researchers were doing research using the State's facilities - the hospitals - but the intellectual property and the research grant seemed to stay with the doctor with no benefit to the state system. Is there now a system in place so that we get benefit for that intellectual property we are providing for in terms of the use of all our facilities and, in some cases, our patients?

Dr Kelly: Intellectual property in relation to research conducted by our staff members belongs to the health system not individual doctors. That is government policy.

The CHAIRMAN: I understand that but, clearly, according to the evidence we heard last week, that did not happen. There was no charge to those research funds. Is there some formal process to make sure that actually happens now?

Dr Kelly: If there is a utilisation of resources in the health system for a particular research project for which a research grant has been provided - for example, I presume in this case a university academic attached to one of the hospitals - it is a requirement that they pay for those facilities, the consumables or the staff time out of that research grant.

The CHAIRMAN: What sort of paperwork trail is in place to confirm that that has happened?

Dr Kelly: It is on a case-by-case basis.

The CHAIRMAN: I understand, but is there some formal documentation so that three or four years down the track, someone can walk in and see the paper trail; for example, someone got $200 000 from a drug company for research and the state health system got $50 000 because they used the facilities and the patients of the State?

Dr Kelly: To the best of my knowledge there is, but I cannot talk for every hospital. When there is utilisation, for example, of pharmaceuticals or other consumables specifically in relation to a research project, paperwork is involved to ensure that charges by the health service are made against that account.

The CHAIRMAN: I was not talking about payments for pharmaceuticals. Drug companies pay a lot of money for the information, not for the use of the drugs. The information is generated by the hospitals so there should be some benefit. That seemed to be a gap we picked up. It is nothing to

do with trust accounts but there is an opportunity for the State to be recompensed for services rendered.

Dr Kelly: The most common example is when there is a requirement for a staff member to be employed to undertake the nuts and bolts or the grunt work associated with the research, and there are very clear paper trails in place and processes to ensure that if a staff member is employed by the organisation, the organisation recoups the funds for the cost of that staff member from that research.

The CHAIRMAN: This update you have given us today indicates that the children's hospital has only 163 special purpose accounts. That is better than the 1 200 I think it was when we started, was it not?

Mr Chuk: I believe that the 1 200 related to the four teaching hospitals.

The CHAIRMAN: What has occurred with the number of special purpose accounts from when this inquiry began to now?

Mr Chuk: The total we have today is close to 1 054. I think the number you referred to was a high number provided previously, which I think was around 1 300. There has in some cases been a rationalisation process. You are aware of the Auditor General's report that refers to classifying and bringing together accounts where appropriate. That process has been underway. It has not reduced the number of trust accounts from 1 300 to 300. In some cases we have increased the number of special purpose accounts. For instance, in those numbers you have today, we have included some special purpose accounts that were not reported against the teaching hospitals previously. The figures you have are for the North Metropolitan, South Metropolitan and East Metropolitan Health Services, which now bring into those financial management arrangements Rockingham, Osborne Park etc. Any relevant trust that existed previously at Armadale and Rockingham, for instance, but were not reported as part of Fremantle teaching hospitals, where the focus was before, are incorporated in the figures you have today. That is one reason the number has increased a bit. Another reason they have gone down a bit is rationalisation.

[10.50 am]

The CHAIRMAN: Do you think we should have 1 200 accounts when an overarching body can make decisions on a pile of different issues? Why do we need all those accounts?

Dr Kelly: One of the drivers for having separate special purpose accounts is that each new separate research program for which there is specific funding from, say the NHMRC or somewhere else, is much easier to manage. If it is defined as a special purpose account set up purely for the purpose of that research project, it can be closed at the cessation of that project.

Mr M.P. WHITELY: They are line items in a recording system. They are not separate bank accounts.

Mr Chuk: Absolutely. We could collapse them into very few accounts. We would have as much detail at the 1 000-odd level the next year. That would make presentation look different or better. They are line items, as Shane Kelly indicated, for management purposes. It is good practice to have these things clear.

The CHAIRMAN: How many trust accounts do you have?

Mr Chuk: I have that information with me.

The CHAIRMAN: I am referring to proper trust deeds and the rest of the processes.

Mr Chuk: I understand that in total we have 57 true trust accounts.

The CHAIRMAN: Are they spread among the four main hospitals?

Mr Chuk: It is fair to say that they are spread. However, I must indicate that Royal Perth Hospital has 51 of those. I understand there are two at the women's and children's hospitals, two at Sir Charles Gairdner and three at the South Metropolitan Health Services.

The CHAIRMAN: What is the purpose of these proper trust accounts?

Mr Chuk: I could almost read from our accounting manual, which defines trust accounts. They are for holding moneys that are not owned by the department. They are patient moneys - moneys that are not in our control.

The CHAIRMAN: Can you give this committee a guarantee that the moneys in the special purpose accounts are for the benefit of the state health system and not for individuals?

Mr Chuk: I am assured that the processes undertaken over the past 12 months, the provision of framework, the clarification of processes, the education processes, the specification in the accounting manual and the development of committees can allow me to assure the committee that the money in the special purpose accounts is for the purpose of the health system.

The CHAIRMAN: How long will it take you to put in place all the checks and balances to make sure that we can say that everything is okay? Before you answer the question let me warn you that the committee might have a mind to review this situation in the not too distant future. How long will it take before you can categorically say that this committee and the Parliament, to the best of your ability, can be given a guarantee that the processes in place will stop the inappropriate processes of the past?

Mr Chuk: The management letter the Auditor General provided us after his audit contained 31 recommendations. Judgmentally, I think we are eight-tenths of the way through implementing actions to respond to those recommendations. You are seeking from me a date on which, judgmentally, the last two tenths will be complete. That is a difficult thing to respond to. I would like to think that in 12 months it would be 99 per cent complete.

The CHAIRMAN: I think 12 months is a bit rich for a process that has been going on for a year and a half. I would like to make sure it is earlier than that so that we can check that it is okay. We have given most agencies 12 months and you have had two years since we have been inquiring, obviously getting your house in order. With another 12 months, it will be three years. I do not think it could take that long to sort out the processes.

Mr Chuk: I am stumbling a little on your request for a guarantee.

The CHAIRMAN: We may choose not to have another look at this process. If we do, I would like to be reassured we will not have another two-year inquiry.

Mr Chuk: I can assure you that should you further investigate this, our internal audit process that will be put in place to annually review both the performance of transactions and of the framework, will make your task much easier.

The CHAIRMAN: We have issued the Director General with a summons for the presentation of the document in relation to the HIC stuff you said you could not give us; namely, a computer disk. We have the summons here so we can serve it now or at an appropriate time. We need that information ASAP to finish this inquiry.

Mr Daube: I have two observations: one is to tidy up exactly the situation regarding the earlier matter we discussed and to update you on it. I want to be clear that our agreement about discussions with the HIC does not preclude our taking action against any doctor who may have done wrong nor does it preclude the HIC from prosecuting if that is its approach. There is nothing whatever to preclude that. Secondly, it is appropriate that the department take responsibility for the repayment of any inappropriately received Medicare benefits paid into SPAs because that money became the property of the hospital not of the doctor. If the account was abused by the doctor, action could be taken against the doctor only if the money was indeed the property of the hospital.

Repayment of the HIC would be compatible - not incompatible - with any right of action against the doctor. The hospital could not recover money from a doctor that was not the property of the hospital. I want to be clear that our agreement or discussions with the HIC do not preclude any action against any doctor who may have acted inappropriately, and it is certainly also nothing that precludes the HIC itself prosecuting if it believes the evidence is there and that it is appropriate to take action. In terms of the HIC on the other issue, as you know we have sought that CD containing the information from the HIC. I have spoken with the HIC because we have not yet had a response from it. I called the HIC yesterday to ascertain whether a response would be forthcoming. I am told that its reply will come shortly. I do not think I can be sanguine about what is in the reply. When we receive your summons - receiving a summons is always a fairly terrifying prospect -

The CHAIRMAN: You have received a few so I am sure this will be no different from the others.

Mr Daube: This one is even worse than some of the parking ones I have had. Clearly we will seek legal advice about the summons and respond appropriately.

The CHAIRMAN: Thank you very much for your evidence. I am not sure whether we will need you to appear again but if we do I will let you know.

Committee adjourned at 10.54 am