LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PUBLIC ACCOUNTS

(Reference: Review of Auditor-General's Report No 6 of 2012: Emergency Department Performance Information)

Members:

MS C LE COUTEUR (The Chair)
MR J HARGREAVES (The Deputy Chair)
MR B SMYTH

TRANSCRIPT OF EVIDENCE

CANBERRA

FRIDAY, 20 JULY 2012

Secretary to the committee:
Dr A Cullen (Ph: 6205 0142)

By authority of the Legislative Assembly for the Australian Capital Territory

WITNESSES

Privilege statement

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Amended 9 August 2011

The committee met at 4.01pm.

GALLAGHER, MS KATY, Chief Minister, Minister for Health and Minister for Territory and Municipal Services
BROWN, DR PEGGY, Director-General, Health Directorate
MARTIN, MR LEE, Deputy Director-General, Canberra Hospital and Health Services, Health Directorate
THOMPSON, MR IAN, Deputy Director-General, Strategy and Corporate, Health Directorate

THE CHAIR: Good afternoon and welcome to the second public hearing of the Standing Committee on Public Accounts inquiry into the Auditor-General's report No 6 of 2012: emergency department performance information. In accordance with the committee's resolution of appointment, all reports of the Auditor-General can be referred to the public accounts committee after presentation. The public accounts committee has established procedures for its examination of referred Auditor-General's reports. The committee considered the Auditor-General's report No 6 of 2012 in accordance with these procedures and resolved to inquire further into the audit report. The committee's terms of reference are the information contained in the audit report.

Welcome, Minister for Health, and officials from the Health Directorate. Before we go to questions, I have a number of procedural matters to highlight and ask that you please bear with me while I step through each of these matters. I remind members to keep their questions directly relevant to the context of the audit report. Questions are to be asked through the chair. I would like to maximise the opportunities for members in attendance to put their questions directly today rather than as supplementary questions. I therefore ask members to ensure their questions are concise and to the point, and witnesses can also assist by keeping their responses to questions concise and directly relevant to the subject matter of the question.

I emphasise to members and witnesses that the misreporting of data has been referred to the police for investigation. Questions and answers need to be mindful of this process and should be careful not to stray into areas which are currently under consideration by the police. In the event that misconduct proceedings are commenced or have commenced in relation to the misreporting of data, the committee does not want to prejudice any aspect of these proceedings. Questions and answers therefore need to be careful not to stray into matters which are before, or due to come before, any such disciplinary process.

I note that there are a number of members of the Assembly who, while not being members of the committee, are in attendance today. I welcome these members, and I remind these members that although the standing orders enable members who are not committee members to participate in committee hearings and question witnesses, there are some conditions attached to this participation. In particular, whilst standing order 234 relating to the admission of other members permits members of the Assembly not being members of the committee to be present when a committee is examining witnesses, it also provides that any such member shall withdraw if requested by the chair or any member of the committee.

In relation to other members' right to ask questions when a committee is examining witnesses, standing order 235 provides that members of the Assembly not being members of the committee are able to ask questions of witnesses by leave of the committee. I would remind other members to ask questions through the chair, and emphasise that if required the committee will seriously consider upholding the conditions pertaining to the participation of other members as specified in the standing orders.

Can I remind witnesses of the protections and obligations afforded by parliamentary privilege, and draw your attention to the blue-coloured privilege statement that is before you on the table. Can you please confirm for the record that you understand the privilege implications of the statement?

Ms Gallagher: Thank you, chair.

THE CHAIR: Thank you. Can I also remind witnesses that the proceedings are being recorded by Hansard for transcription purposes and being webstreamed and broadcast live. The Assembly also has Committees on Demand, which allows an audiovisual record of proceedings to be publicly accessed via the website in the future.

Before we proceed to questions from the committee, minister, would you like to make a short opening statement?

Ms Gallagher: Thank you, chair, yes, I would like to make a short opening statement. I will keep it brief, considering the time allocated for the hearing today.

My officials and I welcome the opportunity to discuss the Auditor-General's report into emergency department performance information. Since the anomalies in the ED data were first brought to my attention, I have sought to make all information available to me available to the public. My officials and I have also appeared for three hours before the estimates committee to answer questions about the Auditor-General's report. The issue has already been examined by the Auditor-General and PricewaterhouseCoopers through a forensic audit which has also been released publicly.

Whilst the issues canvassed in the report are serious, they are about data and data systems which need improvement and they are not about patient care. The issues canvassed in the report should in no way diminish the reputation, dedication and professionalism of the doctors, nurses and allied health staff within the emergency department or the broader Health Directorate. The care provided within the Canberra Hospital emergency department has not been affected by any changes to data, and it is important to understand that these data changes were made after the care provided in the ED had been completed. Everyone who came to the emergency department with chest pains or a broken leg received the highest possible quality care and nothing about their clinical care is affected by the data changes.

It is also important to be clear that no commonwealth funding has been impacted by this. Reward funding relates to the 2012 calendar year and is not due to be provided until June 2013.

We do run a very busy health system here in the ACT, of which the emergency department is a vital but small component. It is important to remember that there are many other parts of the health system here that we should be, and indeed are, very proud of, including the emergency department.

I do acknowledge that there are pressures in the health system. The ED is one of them, where we have invested in more beds, more doctors and more nurses. We have also opened up new services like the free walk-in centre. At the same time, the Health Directorate is undertaking a massive infrastructure program to ensure we provide services in contemporary, cutting-edge health facilities.

We are also responding to the Auditor-General's report. I think the issues that are identified in that report show that emergency departments nationally are under pressure and it also highlights the presentations to the emergency department in the ACT are increasing at a rate that is both higher than the rate seen in other emergency departments around Australia and significantly higher than the rate of population growth in the ACT. In the past year, presentations to the Canberra Hospital emergency department have increased by six per cent. At the same time, there is significant attention on, and calls to improve, emergency department timeliness data, which increases pressure on hospital staff.

Clinicians in the ED are affected by being continually told that they work in the worst emergency department in the country. It would be wrong to say that that type of pressure does not affect people who work so hard to deliver the quality care.

Hospitals are high-pressure environments, particularly emergency departments, due to the nature of the work and the fact that they service the community around the clock. However, I will say that working in a high-pressure environment does not excuse and is not an excuse to deliberately break the rules. Many Canberrans work in high-pressure environments every day but do not choose to do the wrong thing.

Briefly in relation to some steps that have already been taken to deal with recommendations coming out of the Auditor-General's report and that of PricewaterhouseCoopers, all current data systems and their governance and reporting mechanisms are being identified and will be examined by an independent expert. I have also announced the creation of a new position of director of data integrity, which will report directly to the Director-General. Professor Mick Reid, who has decades of experience in health system management, is to conduct a robust review of governance in the Health Directorate.

I have also asked the Auditor-General whether she would be prepared to carry out a review in 12 months time, to check on implementation of the recommendations. This, of course, is a matter that is up to the Auditor-General.

On the national front, and this is a national issue, I want to see the expert panel established under the national partnership agreement come together with the AIHW and the National Health Performance Authority to develop more robust and meaningful outcome indicators for emergency department care so that timeliness becomes one of a number of measures of performance and not the only measure. Also on the national front, I will push hard with my interstate colleagues for agreed

national definitions for ED data. We need to know that we are comparing apples with apples, and at the moment we do not. I will also argue strongly for regular national data audits using a common methodology.

Finally, I would like to express my disappointment that this has occurred. However, it has highlighted opportunities for the Health Directorate and, indeed, health departments around the country to improve data integrity processes. We have a high-quality public health system here in Canberra. As Chief Minister within this community, it is my job to ensure that where problems are identified, they are fixed. And we are doing just that. I would also say that the hospital is experiencing unprecedented demand at this time and whilst these processes are important, we also need to keep focused on and support the work that is being done there right now, every day, all day and ensure that it is able to be done in a supportive environment.

THE CHAIR: Thank you, minister. Can I first clarify: you said all current data systems; that would be all current data systems within Canberra Hospital?

Ms Gallagher: And the Health Directorate. There are areas outside the Canberra Hospital in the Health Directorate.

THE CHAIR: Would that include over into Calvary as well?

Ms Gallagher: I think, considering the issues, we will work collaboratively with Calvary over any information that we get to improve our data processes here that could be shared with them. But ultimately that is a matter for them.

THE CHAIR: I guess it is particularly relevant that they obviously use the same system—

Ms Gallagher: EDIS, yes, and we are implementing ACTPAS. Have they got that now?

Mr Thompson: We are in the process of implementing the same patient administration system at Calvary hospital as well and we are currently working with them around the recommendations in the Auditor-General's report. She specifically requested that we work with Calvary, so that process is in train and we are intending, as we develop the other data integrity review processes, to work with Calvary as they are interested in working with us.

THE CHAIR: Given you clearly had received some incorrect information about the emergency department, what would you have done differently, had you known what was actually happening in the emergency department over the last few years?

Ms Gallagher: Practically?

THE CHAIR: Yes, practically. If you had had more correct statistics, would anything have actually changed? Have we had a real difference?

Ms Gallagher: I think from my point of view, practically—and, in a way, it is a hypothetical situation—

THE CHAIR: It is a hypothetical.

Ms Gallagher: We do not have the finalised data as to what the corrected data would be—how much difference we are talking about in percentage terms that that would have been. But I would not think—there are some workflow process changes which are already underway and have been underway. There are extra resources going in. I think from a practical sense I am not sure we would have done anything differently, because the focus is on continuous improvement. The timeliness results were not reaching the benchmark anyway. We have a target that we were focused on and are focused on for the four-hour rule. But in terms of the changes that have been done in the ED, they were being done anyway because we were trying to reach the target, which has not changed.

Dr Brown: Can I add to that? As I indicated at the estimates hearing, in terms of addressing the issue of timely care in the emergency department, we need to look at what happens in the emergency department but we also need to look at the options that are available to people who need health care so that they are not presenting to the emergency department. We also need to be looking at the issues that occur within the hospital that impact on the flow out of the emergency department into the hospital and out of the hospital in discharge back into the community. We have a number of initiatives underway in each of those different areas. So in terms of whether we would have done anything differently if we had known, the answer probably is no. We had a number of initiatives, as I said, underway already, with the intention of aiming to meet the target.

The other thing I might highlight at this point is that in terms of other indicators in the emergency department that we were relying on as informing us about the progress of those other initiatives, one was the timeliness data, which we now know was altered, and also we had data in relation to those people who do not wait, who attend the ED and then do not wait to receive care. We had actually had a reduction from 28 per cent down to eight per cent over a 12-month period. Also, in terms of the number of complaints and compliments, we do not track those for the ED specifically; we track them for the clinical division of critical care, which the ED sits in. We had seen a trend in terms of increasing compliments and reducing complaints. So in terms of the performance in the emergency department, we had other indicators that were suggesting that the timeliness data was indeed accurate. They are collected in different ways and there is no suggestion that that data has been in any way deliberately altered.

MR HARGREAVES: Chief Minister and Minister for Health and officials, I want to talk a little bit about the interstate experience as it relates to EDIS. Also, am I correct in hearing, minister, that you said that the commonwealth funding which is related to performance, which is throughput—it is not about patient care; it is about throughput—is actually going to be determined from the data reporting that will go on or before 30 June 2013 relating to 2012 and relating to the 2012 calendar year?

Ms Gallagher: Calendar year, yes.

MR HARGREAVES: Am I correct in assuming that 2011 and 2009 are not so critical in the determination of that?

Ms Gallagher: They are not linked to reward funding, no.

MR HARGREAVES: They are not linked?

Ms Gallagher: No.

Dr Brown: Not at all.

MR HARGREAVES: So any attempt to link it to that reward funding is actually erroneous in that case?

Ms Gallagher: That is right. It is the first four months of this year, because it is a 12-month calendar period from January to December. So the information that the commonwealth got for their first quarter of that report was correct.

MR HARGREAVES: And the subsequent quarters are all under the new regime, so they will be correct as well?

Ms Gallagher: That is right, yes.

MR HARGREAVES: The Auditor-General referred on page 8 to three instances of manipulation around data in EDIS. I am going to assume by that, and I would like you to tell me whether or not I am correct, that there is nothing unique about it. Regrettable as it is, there is nothing unique about a manipulation of data in the EDIS system? In fact in the United Kingdom, the four-hour rule, which is linked to all of this, was subject to "widespread gaming and fraudulent manipulation of hospital data". In 2009 the Victorian Auditor-General's Office discovered manipulation of data, and I presume that relates to the 2008 year. In 2008 Deloitte Touche Tohmatsu discovered that the same sort of thing had happened in New South Wales. Presumably this points to a systemic weakness. Am I correct in assuming that this points to the fact that this is not a unique thing; it is a systemic thing?

Dr Brown: Yes. I think the Auditor-General was making the point yesterday, when she appeared before the committee, that this has occurred in other jurisdictions and indeed in other countries.

MR HARGREAVES: In the Australian context, were the 2009 Victorian experience and the 2008 New South Wales experience brought up at all at the COAG level ministerial council discussions?

Ms Gallagher: I do not recall them being brought up but I will check. I do not recall. Every time health ministers get together to talk about data issues, because this is a particular area, there is a lack of agreement or willingness to agree on national definitions for emergency department care, that is, what stops the clock. There is also a reluctance to agree in relation to elective surgery performance as well.

The reality is that there is no measure of like with like. There is none. I have been saying that for years. That is not something I am saying just because we have got this audit report. I do not believe there will be national agreement reached because it is

more likely not in any other health system's interest, particularly those whose data is looking very good, to change the way that they are reporting their data. Without getting everyone to agree on what is like with like, no-one can say that each hospital is being measured the same way.

For a small jurisdiction, with two hospitals under enormous pressure, that will always put the ACT on the back foot. It is simply the case.

MR HARGREAVES: My understanding is that one of the recommendations from the Auditor-General is that you look at whether or not we need to go to something else, not the EDIS. There may be a Kmart version of something else out there somewhere. Am I correct in assuming that EDIS is about to get an upgrade or some treatment? Is the decision whether to stick with EDIS or go to something else related to the cost factors of such an enterprise moving from one contract to another—the exit penalties or the actual purchase of another system—or is it around consistency across the nation? What I am seeing, possibly, is a faulty system being used across the nation. If you popped out of that, would it jeopardise the discussions throughout the commonwealth around those performance measures?

Dr Brown: I think it is fair to say that cost is not the only factor. The issue really is the functionality of the system. Of course the cost and the interface with all of the other existing systems and the cost we would incur not only to replace the system but also to ensure we had that interface with all of our other IT systems certainly would be a factor that we need to consider. The inconsistency is not so much around the system that we use to collect the data; the inconsistency arises from the interpretation of the definitions.

Even in 2008, the Victorian Auditor-General had a look at this issue. They did an audit and they actually interpreted that, even within one state, hospitals were interpreting the definitions differently. It is not the EDIS system per se that is the problem; it is about having very clear definitions and guidelines in terms of how those definitions are applied.

MR HARGREAVES: Is DRG data separate?

Dr Brown: To some extent, they are the things that the minister was talking about—what starts the clock, what stops the clock. To give you an example of that, one of the requirements about when you stop the clock is when definitive treatment commences. What constitutes definitive treatment? Is it treatment by a doctor? Is it any interventions by a nurse? My understanding is that, for example, the administration of Panadol, which is used to reduce temperature and as pain relief, does not constitute definitive treatment. The administration of Panadene, in some hospitals, is interpreted as representing the commencement of definitive treatment. That is the sort of subtlety that can be interpreted differently. Because there are no absolute rules, hospitals do interpret them differently, not with any malicious intent or fraudulent intent but because there is not a national definition around all these things.

MR HARGREAVES: My last question for the minute is around this upgrade or whatever you like to call it of EDIS. Is it your intention to seek to address the common log-in arrangement in that context?

Dr Brown: Just to confirm that, Calvary implemented the current version of EDIS—I forget the actual number—in January this year. The Canberra Hospital was scheduled to implement the upgraded version, the same version, shortly thereafter. However, when Calvary implemented theirs, there were some problems. That is not uncommon when you are implementing a new software system. The upgrade at Canberra Hospital has been deferred until all of those problems have been sorted out at Calvary.

We have to be a little cautious about the issue of the generic log-ons. It is ideal to have individual log-ons but we have to ensure that EDIS is able to do what it was intended to do. It is a work-flow tool. It is a question of whether the capability of the system to allow for individual log-ons, log-offs et cetera will still exist and allow the actual intent to be manifest—for the work flow still to occur in a timely way, with individual log-ons. We will investigate that as part of the upgrade but it is not a simple decision to just say, "Implement individual log-ons," because we could potentially impact very adversely on the clinical care that is delivered and everything that we do coming out of this. We have to make sure that we are not impacting the clinical care. This issue has been about the data that reports about the care, but the care on the floor has to be allowed to continue in the same way it has been.

MR HARGREAVES: When do you expect that Calvary hospital thing to be finished?

Dr Brown: Our current time line, our working time line, is October this year for Canberra Hospital to implement the upgrade.

THE CHAIR: Mr Smyth.

MR SMYTH: Minister, in the hearing yesterday, the Auditor-General and her office made much about breaches of privacy and access to patient records. Mr Stanton said:

> We have not come to a conclusion as to whether it is a breach of the legislation. We are flagging what the legislative requirement is in the act. You may have to get some legal advice on that.

Is the government seeking legal advice as to whether or not there has been a breach of privacy legislation concerning patient records?

Dr Brown: In terms of whether we have sought legal advice, I do not believe we have at this point in time. The issue is that EDIS's primary purpose, in its current format, as I have indicated previously, is a work-flow tool. It does allow us to also capture data and it does contain a very small amount of clinical information. It contains, for example, the patient's name. It records, for example, the reason for presentation, the investigations undertaken, the discharge arrangements.

By virtue of the fact that the security of the system has been found to be lacking, I think that indicates that there is the potential there for that limited clinical information to have been accessed by those people who have access to EDIS. We do need to take into account that those individuals are primarily clinicians or EDIS administrators. They are professionals who work within the health industry. They understand their

requirements in terms of the code of conduct and the Public Sector Management Act. They understand the requirements of the privacy principles under the Health Records (Privacy and Access) Act. Whilst there may well have been the capacity for a limited number of individuals to access that limited clinical information, I have to say that I think we need to keep in perspective the context of that.

MR SMYTH: Are you seeking legal advice or not? The Auditor-General made a great deal about this yesterday. A doctor had said to her, "I can look at your entire history." She seemed to think a great deal more information was available than what you have just said to the committee.

Dr Brown: I have to say that I would find it surprising if that statement was, indeed, what was said. "I can see all of your clinical information."

MR SMYTH: You might review what the Auditor-General said. She said, "A doctor said to me, 'I can look at everything we have got on you'," basically.

Dr Brown: I have to say—

MR HANSON: With regard to that presentation at ED.

Ms Gallagher: That is a little bit different than all your clinical information. I think that is a bit of a stretch.

MR SMYTH: What action has been undertaken to ensure that breaches of patient privacy are not currently occurring?

Dr Brown: As I have indicated to you, this is an issue that we are looking at in terms of the remediation of the system that we need to undertake. Primarily that will be around ensuring that access is limited to those who need to have access. Again in terms of addressing these issues, we need to ensure that we do not completely disable a functioning emergency department. This is in the context of highly trained professionals undertaking their professional role. We have not had a single complaint, to the best of my knowledge—and we have actually asked and gone back through our complaints—of any breach of privacy arising out of EDIS access.

MR SMYTH: Can you guarantee, minister, that beyond EDIS any other health systems are not at risk of breaching patients' privacy?

Ms Gallagher: What I can say, and I refer you back to my opening statement, Mr Smyth, where I have indicated that we are having a review of all data systems from a data integrity point of view. So I would draw to your attention that that work is underway. Of all the areas where privacy is at the forefront of everyone's mind, you would find it in the Health Directorate.

MR SMYTH: The other breach of privacy of course was of the executive involved, when her name was disclosed on 3 July. Have you had legal advice as to whether her privacy has been breached and that it is a breach of the legislation?

Dr Brown: I had legal advice prior to that event in relation to the issue of whether the

individual's name could or should be disclosed. I have indicated to the estimates committee that that legal advice was that it was preferable during the investigation period for the name not to be disclosed. The law is actually quite grey in relation to some of these matters. But the advice given to me was that it was from a legal point of view highly desirable not to disclose the name during the course of those two investigations, the Auditor-General's and PwC. Our own preference was to try and also not disclose it during the conduct of the disciplinary matter that followed. However, my clear legal advice was that there is no breach of any law. It was, as I have previously indicated, however, not intended to disclose it at that point in time. It was an error for which I take full responsibility. But it was not a breach of any law.

MR SMYTH: Minister, in the lead-up to calling for the A-G to inquire into the data manipulation scandal at the hospital, you received a phone call from Dr Brown on the morning of Saturday, 21 April, and apparently, before you spoke to your relative later that day, she already knew about the manipulation that had occurred. This was in an article that Ross Solly wrote in the *Canberra Weekly* in the 12-18 July edition. Who provided that information to Ross Solly and is it a correct reflection of the events that occurred?

Ms Gallagher: I note that it has taken 35 minutes to head back into the mud where you have last left yourself. I—

MR SMYTH: Well, if the pursuit of truth is mud, I will go there.

Ms Gallagher: I will answer your question, Mr Smyth. I provided that information to Mr Solly when he asked me the question directly.

MR SMYTH: So is it a correct reflection of the events of 21 April?

Ms Gallagher: Yes.

MR SMYTH: How was your relative informed of the fact, given that Dr Brown has just said it was desirable to keep the executive's name out of—

Ms Gallagher: I am not sure that that is necessarily relevant to this inquiry.

MR SMYTH: Let me finish, Chief Minister.

Ms Gallagher: Well, I am answering you.

MR SMYTH: I have not finished the question, so I do not know what you are going to answer. How was it that your relative had been informed of the fact that the executive had admitted to the manipulation and who told her?

Ms Gallagher: I will seek your direction, Chair, but I am not sure that is relevant to the report that is before the committee.

MR SMYTH: Well, it is because—

Ms Gallagher: No. Mr Smyth—

THE CHAIR: Mr Smyth, one moment.

Ms Gallagher: you dragged my family into this last time—

MR SMYTH: No, I did not.

Ms Gallagher: You and Mr Hanson. And I am not allowing you that again today.

MR SMYTH: So we are saying we can openly discuss this in a magazine—

Ms Gallagher: It is not relevant to the audit report.

THE CHAIR: Mr Smyth!

MR SMYTH: but it cannot be discussed in the committee.

Ms Gallagher: I was asked questions by Mr Solly and I answered them, and I have said they are correct.

THE CHAIR: Mr Smyth, our terms of reference are quite clear. They are just about what is in this report. I do not believe that is in the report. What Ms Gallagher says in her own time is something else.

MR SMYTH: The Chief Minister said to the committee when she started, "I sought to make all information available." Clearly not all the information has been available. There are differing stories about what happened before Anzac Day and what happened after Anzac Day. There are differing stories about when the degree of the conflict of interest was known, what the nature of that conflict of interest was, and which ultimately led to the Chief Minister standing aside. If we are going to get to the bottom of this, are you seriously saying that this matter can be discussed in a magazine published in Canberra but it cannot be discussed in a committee of the Legislative Assembly of the ACT?

THE CHAIR: Yes, I am seriously saying that our terms of reference are this audit report.

MR SMYTH: Yes, and it goes to that. It goes to the heart of—

THE CHAIR: Magazines can talk about whatever they so choose.

MR SMYTH: We just had questions on privacy, yet even before the Chief Minister had travelled apparently a short distance, other people were aware of the identity of the executive. Is it not reasonable to understand how that became public?

Ms Gallagher: It is not relevant to the audit report.

THE CHAIR: It is not—

MR SMYTH: It is not for you to determine what is relevant, Chief Minister.

Ms Gallagher: It is, because I have to provide you with the answer, and I am saying it is not relevant to the audit report, Mr Smyth. I have learned a lesson from appearing before you before, and I am not going to allow my family to be dragged into this. And that is the end of it.

MR SMYTH: All right. Dr Brown, who else was told on that day who the executive was and why were they told?

Dr Brown: I spoke with Mr Martin and I spoke with the Chief Minister. That was on the Saturday, I think 21 April. On Sunday evening, 22 April, I rang the executive director of our HR and advised her that I had stood down an executive. I did not provide the name to her at that point, until I met with her first thing the next morning. So that was the information that was provided from me. Mr Martin took some steps, following my conversation with him, appropriate steps in terms of appropriately managing or disabling access to buildings, computer systems et cetera. He would have needed to provide the identity of the individual to the head of security to do that. But it was clearly a matter that was dealt with with great sensitivity.

MR SMYTH: Clearly not if it was publicly available and people apparently outside the circle that you had just spoken with were aware of the identity.

Dr Brown: I am not sure how you can draw that conclusion, Mr Smyth.

MR SMYTH: According to Mr Solly's article, which the Chief Minister confirms is an accurate representation of what happened, people outside the circle that you just spoke of knew quite quickly after these events unfolded as to the identity of the individual.

Dr Brown: There was another person who actually knew the identity of the individual who could well have spoken to other people. That is the person themself. I do not know how you can clarify one way or the other. We can certainly tell you who we dealt with. I cannot say who the individual themself actually informed.

MR SMYTH: Mr Martin, can you tell us the process you undertook when informed of this individual's identity?

Mr Martin: Following the phone call from Dr Brown, I spoke to the head of security. I asked the head of security, as we do with normal processes in situations where we might have a HR issue with staff, for the IT to be terminated. That means they cannot log on to their IT system. Their password has changed. I asked for the locks on the particular person's office to be changed. We used an outside contractor to change the locks on the office. That was to help protect the person's name.

There was one person who was on call for IT within Shared Services who was contacted and who was asked not to discuss the person's name but who needed the person's name to actually turn off the password. They were not told any issues, what had happened. My instruction was that we just needed to say it was a request from me to protect that particular person. It was not against an HR issue. We were doing protection.

MR SMYTH: Perhaps this is a question for the Chief Minister. Were you concerned when you arrived at your relative's home and found out that this name was common knowledge?

Ms Gallagher: It was not common knowledge. I do not believe, again, that your question is relevant to the Auditor-General's report.

MR SMYTH: It is about getting to the truth.

Ms Gallagher: I am not going to allow you to drag the name of my family member through the mud, like you did last time. That is that. I am here to answer questions on the Auditor-General's report, and your question is not relevant to that.

MR SMYTH: So you are willing to talk to the media about what followed but you are not willing to tell the committee?

Ms Gallagher: I answered directly questions from a journalist, as I always do. I answered them honestly. The information that appeared in that article was correct.

MR HANSON: Why will you answer questions that Ros Solly asks but you will not answer the same questions when they are put to you by members of this committee?

Ms Gallagher: I have answered the same questions. I have. You asked whether the article is an accurate reflection. It is. I have answered for you the same questions that were asked of me by the journalist. What you are asking now is an additional layer of detail that I am not prepared to disclose.

MR HANSON: This is trying to establish whether you have told the truth with regard to this matter. In relation to that, the article states that you were assured that your relative was "unable to access the computer system where the numbers have been changed". That is a direct quote. At the estimates hearing of 5 July you stated that members in the area where your relative works "have limited access to the system". The Auditor-General found that the system management was so poor that anyone working in the areas near the emergency department would understand the log-ins. With those facts in mind, was it correct to state that your relative was unable to access the system?

Ms Gallagher: That is my understanding.

MR HANSON: Do you stand by that? Given the evidence that has been provided to this committee, do you believe that your statement to Mr Solly was correct?

Ms Gallagher: Yes, in relation to whether timeliness data could be changed.

MR HANSON: They would be unable to access that system?

Ms Gallagher: Yes.

THE CHAIR: Ms Bresnan.

MS BRESNAN: I want to go back to a point that was raised earlier in your opening statement, minister, about the concerns with EDIS, which is used across the country. The Auditor-General said yesterday—obviously it is in the report—when I asked her, that she was quite concerned that this was a measure which was used across the country. She said that there were issues in Victoria, New South Wales and the ACT. I asked her whether this could be addressed. It had come up at a meeting of state, territory and commonwealth AGs. Dr Cooper said that she thought it would be best dealt with at a national level.

Minister, you have already said that you cannot get agreement at the national level about it. You also said that you would be pushing for the expert panel and the AIHW to examine it. Given we have got all these significant concerns being raised and we are hearing that we cannot get agreement at the national level, are we going to get resolution? Even if it happens through the expert panel and AIHW, would that then be taken up? I know it is a hypothetical question. Given we have got these significant concerns being raised, how are we going to make sure that it can be changed?

Dr Brown: The minister wrote to her ministerial colleagues subsequent to the reports being available. I have written to my directors-general colleagues. We both raised it with our colleagues when it occurred, prior to the reports being available. We have also written to the chair of the expert panel, and we will be following this up. I think what the minister is indicating is that historically it does prove very difficult to get national agreement around some of these matters. In the wake of this, we are raising it again. Certainly my letter—Mr Thompson signed it for me on my behalf while I was away—to my directors-general flagged that I wanted to discuss this at the next meeting of the CEOs. We will be actively pursuing this as a national issue.

Can we guarantee that will succeed? We are certainly going to give it our best shot in terms of getting support from the other jurisdictions and then engaging with the other relevant bodies such as the AIHW, the National Health Performance Authority and the expert panel.

MS BRESNAN: I was interested to hear you say that even though we had the 2008 report and the New South Wales and Victorian reports going back a number of years, you cannot recall that they came up with a solution whether through AHMAC or COAG. Do you think that potentially having someone like the expert panel and the AIHW might be the way of raising this to another level? This is an outside body without politics coming into it.

Dr Brown: I think that the involvement of the external agencies will help that. Certainly the expert panel, in the report that they delivered, indicated that there is a need for a broader suite—

MS BRESNAN: They raised that issue?

Dr Brown: Yes. I think that they have foreshadowed this. Then we have yet another example. It provides a greater impetus to actually get this right, particularly when there is some reward funding attached to it.

MS BRESNAN: The letter has just gone out. Has there been any indication from the expert panel or the AIHW that this is something they might consider?

Dr Brown: Not as yet, I do not believe. Mr Thompson might have something. I have had a few days leave.

THE CHAIR: Mr Hanson.

MR HANSON: I would like to refer to the editorial in the *Canberra Times* on 7 July titled "Gallagher needs to explain". That editorial refers to "revelations this week that the Chief Minister failed to disclose to the Legislative Assembly the full extent of a familial link to" the executive involved. Chief Minister, do you agree with the statement in the editorial that you failed to disclose the full extent of that link?

Ms Gallagher: No. But it is not unusual for me to disagree with the *Canberra Times* editorial from time to time, as I am sure you have. The scathing ones written about the Canberra Liberals, I am sure you have disagreed with.

MR HANSON: Moving to the previous estimates hearing, I read out from the transcript of 5 July regarding the statement that someone in the executive was told to fix the numbers. Mr Smyth asked:

> … who would have been in a position to give these directions to the officer involved?

Dr Brown, you said:

> I think it is very clear that Mr Martin was the supervisor of—

the executive involved. Can you confirm whether the statements alleged at page 88 of the Auditor-General's report, the statement from the executive involved, were made by Mr Martin?

Dr Brown: I think we could ask Mr Martin that.

Mr Martin: Just like other people, when we saw the statements that were made, I felt a bit shocked and surprised at the statements. I cannot really give a black and white answer of "yes" or "no" as to whether I made those statements. I do not think I can do that. With respect to the context of those statements, in my role as the DDG, Canberra Hospital, I am expected to give direction, just like my executives. The language does not sound like mine and I cannot interpret how somebody else is going to interpret what I am saying. In normal management you check what people think you are saying when you are giving statements, when you are giving instructions. This was to an executive member of staff. We are pretty clear with expectations at that level. All I can say is that when I give out instructions I do check that they are clear with what I am saying. It is not delivered in a way that would be punitive or confrontational; it is delivered in a way that is supportive. So I was surprised when I saw those.

MR HANSON: The Auditor-General also found, at page 89 of the report, that "some staff asserted that the executive's supervisor"—and I assume that is you—

"demonstrated inappropriate managerial behaviours". Indeed when the Auditor-General appeared before this committee yesterday she confirmed that there were a number of staff members who had echoed the sentiments of the executive and what the executive said on page 88. Are you aware of those allegations that have been made and what has been done internally to resolve those allegations or complaints?

Dr Brown: I can speak to that. Yes, I have had, on a couple of occasions, issues brought to my attention in relation to Mr Martin's management approach. On those occasions I have spoken directly to Mr Martin. In response to that he took immediate action. On one occasion he actually took the action to meet with all of his executive staff and to directly address the issue of his managerial style and how people may perceive and experience that—a very clear message that if there are any concerns that they are to raise them either with him or with myself. That meeting was facilitated by the executive director of HR. So it was a very clear and overt process. I have also spoken to Mr Martin and we are working with his executive coach in relation to matters that have been raised. I would like to be able to sit here and say that there is never an issue in terms of behaviour or style. I do not think anybody in any room anywhere could say that they are beyond criticism on occasions.

MR HARGREAVES: Dr Brown, could I ask you to look at page 89 of the Auditor-General's report, paragraph 4.70, which says:

> Other staff gave credit to the executive's current supervisor—

Mr Martin, I believe—

> as having made a valuable contribution to the Canberra Hospital and the Health Directorate …

Would in fact this not be a counterpoint to paragraph 4.69 and have you had compliments regarding Mr Martin's style and his achievements around the strategic direction of the hospital given to you?

Dr Brown: Indeed I have, Mr Hargreaves, and I think that there are a number of achievements. I do not, however, necessarily think that that completely dismisses the fact that there have been some issues raised. I do not think Mr Martin would dismiss it. He is very keen. He has shown an eagerness to actually work with me and to work with his executive coach and the executive director of HR to ensure that we address these issues, and we are doing that very actively.

Ms Gallagher: Can I also add here that we are, and I am, seeking significant change from the Canberra Hospital in its processes, in the way it deals with the demand that we are seeing, and change is hard. When you are changing and asking people to change, there will always be some turbulence attached to that. But the hospital has to change. It has to grow. And within that, the workplace needs to change as well. That work is underway and it is difficult, hard work to do, particularly when people have been there for a long time and have a particular view about the way systems need to be managed. But that change is underway and it is important change. We need to bring staff with us as that change occurs.

MR HANSON: Ultimately though it is still not clear why a senior executive felt it was necessary to change the performance results at the Canberra Hospital to make them look better—why they did that. Can someone explain that to me?

Ms Gallagher: I think we have. You cannot actually get into the mind of someone. This is not a registered nurse on the floor. This is a senior executive at the level of, often, in charge of the hospital itself, earning a very large salary, with a lot of trust. This is a leader in the directorate. So I do not think you can get into the mind of an individual who has taken a particular path. What I would say also is that the decision to alter data occurred long before this staff member's current executive. Those decisions had been taken. With respect to the pressure, if you could imagine you are going to work in a high-pressure environment where there is a whole range of competing issues for you, and at the same time you are doing something that you should not be doing, on top of your normal day-to-day work, the amount of pressure that places on an individual must have been immense.

MR HANSON: Do you think that statements—

Ms Gallagher: It must have been immense, Mr Hanson, and I think we need to get a bit of perspective around it.

MR HANSON: Do you think that statements like "I have told the minister that we will be at 70 per cent of patients being seen on time by December so make sure it happens" might have added to the pressure?

Dr Brown: That particular comment I am sure is a reference to the government's statement of priorities. ED timeliness is one of those priorities and the target set was 70 per cent. We regularly report back to government in terms of our progress against that. So I think that statement needs to be put in that context. Yes, we indicated in that that we were almost there and that we were expecting to make the 70 per cent by the end of the year. That is the context of that particular comment, I have absolutely no doubt, without having that specific conversation with Mr Martin.

I have to say that our activity and performance at the hospital and in the rest of the health service are under a lot of scrutiny all the time. In all the reports that we provide to the various external agencies, through to the Assembly, it is the subject of a lot of commentary in the Assembly, in the media et cetera. I cannot say how individuals experience that. This particular individual appears to have, for whatever reason, internalised that pressure perhaps more than some others, to the extent where they have made a decision to actually change the data. That comes from a whole range of different areas. It is not from one particular supervisor.

MR HANSON: But the Auditor-General yesterday said that this was not just one individual that considered that sort of pressure was there; there were a number of individuals that she interviewed that confirmed the same sentiment as the individual that did this. This was not just one individual who felt like this; the Auditor-General said there were a number of individuals—

Dr Brown: That felt pressured?

MR HANSON: Absolutely, that felt the same sort of concerns that the individual did. How do you respond to that?

Dr Brown: I would say two things in response to that. One is that Health is a very challenging environment. We have to deliver across a broad range of service delivery areas, and we have to aim to meet challenging targets. The ED and the elective surgery are particularly challenging targets with a lot of scrutiny. But if you want an easy job, don't come and work in Health. That is what I would say in the first instance. All of our executives have performance accountabilities. They do not get paid the big dollars to sit around and have a good time. It is a challenging environment and, yes, there are pressures attached. That is not to say that that would in any way condone changing data. We certainly do not condone that at all.

Ms Gallagher: Mr Hanson, this whole sorry tale gives us the opportunity to examine all of our own behaviour. Having regard to the churn out of the Canberra Liberals that this is the worst emergency department in the country, the glee that you take in saying that and putting out your press releases, there is I think the opportunity to reflect on one's own behaviour in this instance. I am not trying to shelve responsibility on to anyone. I am here to take it all. But what I am saying is: do not think, when you put out media releases like that, that it does not affect people. It does. They do not think they work in the worst emergency department in the country. They are proud of the work that they do, and you diminish them every single time you say it. I am sure you will have had the opportunity in the last little while to reflect on that as well.

MR HANSON: The Auditor-General found:

> … it is apparent that there has been an overall decline in performance—

of the emergency department—

> over the last ten years.

How do you respond to that decade of decline under your government?

Ms Gallagher: That is presuming the data when we came into government was correct, which nobody can presume at that point in time.

MR HANSON: The Auditor-General thinks that the fabrication started—

MR SMYTH: In the last 10 years—

THE CHAIR: Gentlemen, one at a time.

Ms Gallagher: I would also say, Mr Hanson, the issue of emergency department performance is closely linked to the number of beds you have. We had the lowest, I think, per capita, hospital beds in the country when we came to office, thanks to the previous Liberal government, which closed beds.

MR SMYTH: And some of the best health outcomes.

Ms Gallagher: And it has taken us a significant amount of time. Your ED performance is contingent on the rest of the hospital's performance.

MR HANSON: Are you trying to say this is someone else's fault?

THE CHAIR: Mr Hanson!

Ms Gallagher: And it is contingent—don't put words into my mouth, Mr Hanson—on the performance of the primary healthcare system overall. If you read the Auditor-General's report you will acknowledge that the growth in the ED presentations has far exceeded growth that has been seen nationally. We have two hospitals here that are under enormous pressure, and growing pressure. So I think there are reasonable and rational explanations for it. We have increased resources into the emergency department by about 140 per cent. Resources have gone into the hospital. We have done what we can to support primary health care. But it is a complex area. There is not a "snap your fingers and everything is going to be fixed" kind of scenario.

Mr Hanson, if you were health minister one day—I am terrified at the thought—these would be the same issues, because they are not about a political party. They are about the genuine hard work that needs to be done and the reform that needs to be done in the hospital. It takes a long time. Health ministers have a very short life expectancy, and I have hung around perhaps too long in this instance, and at times I think that.

MR HANSON: Hear, hear.

Ms Gallagher: But I have hung around because I genuinely want to see the reform and I support the work that is being done.

THE CHAIR: We are over time. I understand that there may still be more questions. In relation to supplementary questions, the committee has agreed that written supplementary questions from members will only be accepted for three working days following this public hearing. Therefore I would ask members to provide supplementary questions to the secretariat by COB on Wednesday, 25 July 2012. Answers to questions taken on notice at this hearing and supplementary questions that will be forwarded by accompanying correspondence from the committee are due with the committee secretariat by Friday, 3 August.

On behalf of the committee I would like to thank the minister and her officials from the Health Directorate for attending today. When available, a proof transcript will be forwarded to witnesses, to provide an opportunity to check the transcript and suggest any corrections. I now declare this public hearing adjourned. Thank you, members.

The committee adjourned at 5.02 pm.