

Concord Repatriation General Hospital (CRGH) Medical Staff Council (MSC) Chair's Report for the Sydney Local Health District (SLHD) Medical Staff Executive Council (MSEC) – 24th April 2024

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One Page Summary of Key Issues

- Many departments at Concord Hospital are in significant distress. The problems at Concord are blamed on a poor staff culture, not poor decision-making by managers.
- Many experienced staff have left. Some services are not coping well. Some have scaled back.
- No one has been held accountable for the problems. These problems predate the COVID-19 pandemic.
- More immediate steps must be taken to stop more staff from leaving.
- The CRGH MSC passed a vote of no confidence in the SLHD Chief Executive in June 2023
- The CRGH MSC passed a vote of no confidence in the SLHD Board in October 2023.
- The management style of the SLHD needs to change and staff need a greater say in the governance.
- The SLHD must ensure an environment where staff can speak openly and freely about the problems they have in the workplace without fear of reprisals.
- An independent investigation, with oversight external to NSW Health, must be conducted into the allegations of bullying and harassment, and into the problems in Radiology which led to 50000 unreported images.
- A key request that the Concord MSC members be allowed to have a meeting on their own, without SLHD and Concord Executives present, has still not been granted.
- Staff numbers must be increased to address the increased workload resulting from the capital spending at Concord.
- The SLHD has increased the number of senior managers. This serves no purpose for grassroots staff except to increase bureaucracy.
- The financial state of the hospital remains unclear. If there is a current financial crisis, the financial state of the hospital needs to be clearly explained to staff and consumers. If staff positions are being cut, staff and consumers need to be adequately informed.
- There is not enough staff and consumers involvement in major governance decisions.
- There is still inconsistent and unfair use of policy. Managers are held to a different level of accountability compared to clinicians. There are concerns that the NSW Service Check Register is “weaponised” against staff.
- There is misleading communication. Portraying that all is well when the reality suggests the opposite, will not improve staff morale.
- Major improvements need be made at Concord Hospital before my significant concerns regarding patient safety, and the health and wellbeing of staff are alleviated.
- I see no convincing reason to change my views regarding the lack of confidence in the SLHD Chief Executive and the SLHD Board.

Background to Recent Events at Concord Hospital

I was elected as Chair of the Concord Repatriation General Hospital (CRGH) Medical Staff Council (MSC) in March 2022. This is the first time I have been asked to write a report for the Sydney Local Health District (SLHD) Medical Staff Executive Council (MSEC).

In October 2022, 18 months ago, I wrote a letter to the SLHD Board raising serious concerns regarding the governance, the safety of patients, and the health and wellbeing of staff at Concord Hospital.

I had been approached over the proceeding months by many medical, nursing, allied health and hospital support staff describing serious problems at Concord. Significant dissatisfaction with the governance of the hospital had reached the point that staff were resigning, and this exodus was affecting the hospital's operational capability.

I articulated to the SLHD Board that immediate action was required to stem the further loss of staff.

In late 2022, the ACHS Accreditation Report for Concord Hospital, conducted in July 2022, was released. The Executive Summary stated that:

"...Sydney LHD CRGH has robust systems in place for the governance of the organisation. This includes effective systems for governance, clinical leadership, and the promotion of a positive culture for safety and quality..."

"...The systems to provide a safe and effective working environment are in place and have been tested in recent years..."

In February 2023, a meeting was held where representatives of the Radiology, Emergency and Neurosurgery Departments, and from General Nursing, at Concord Hospital, presented to the SLHD Chief Executive and SLHD Clinical Quality Council Chair.

The presentations detailed some of the significant problems afflicting these departments. They included allegations of bullying and harassment.

Over the following months, dissatisfaction with governance at Concord Hospital continued to grow.

In March 2023, I proposed a new draft Terms of Reference for the Concord Repatriation General Hospital Medical Staff Council. This draft Terms of Reference included the following guiding principles:

- 1 *Act in the best interests of the patients at Concord Repatriation General Hospital, their families, and the Concord community.*
- 2 *Protect the health and wellbeing of Concord Repatriation General Hospital staff and students.*
- 3 *Act with integrity, and the highest ethical and moral standards.*

4 *Ensure accountability and transparency in decision-making.*

This proposed draft Terms of Reference was rejected. It was instead replaced with an alternative Terms of Reference which did not contain any of these guiding principles.

In April 2023, the Australian Salaried Medical Officers' Federation (ASMOF) informed the Concord MSC that they had held a special meeting regarding assertions of bullying and harassment at Concord Hospital.

On 29th June 2023, the CRGH MSC passed a vote of no confidence in the SLHD Chief Executive.

In the lead-up to this vote, I stated that I did not believe the management style of the Chief Executive of the Sydney Local Health District was consistent with the expectations of the Concord Repatriation General Hospital Medical Staff Council and the Concord Repatriation General Hospital staff. I did not believe the management style of the Chief Executive of the Sydney Local Health District was consistent with the expectations of our patients, their families, or the Concord Repatriation General Hospital community.

Following this vote of no confidence, in July 2023, I was informed by the SLHD Board that the Ministry of Health would:

"...commission an independent review of the workplace culture at CRGH..."

The company contracted to undertake the "review" explained their brief of process, which stated that their work was informed by the following design principles:

*Listen-in to understand
Take a no-blame approach
Assume normalcy not pathology
Access local knowledge and capacity
Recognise that governance is local and dynamic*

The company undertaking the "review" confirmed that they were not undertaking a workplace investigation, and were contracted to mediate an improvement in the workplace environment.

In July 2023, the company stated that:

"...you can be assured that we won't be saying one thing to the Ministry and another to the MSC..."

The CRGH MSC was informed that the Ministry of Health was under no obligation to provide the details of the contract with the company conducting the "review".

At the time, neither the SLHD nor NSW Health instigated a formal investigation to investigate the allegations of bullying and harassment.

On 9th August 2023, the CRGH MSC met with the SLHD Board.

At this meeting nine individuals and departments presented personal or departmental accounts of intimidation, bullying, harassment, maladministration or poor governance.

Following this meeting I requested twice in writing to both the SLHD and NSW Health that an independent investigation, with oversight external to NSW Health, be conducted into the allegations of intimidation, bullying and harassment, maladministration and poor governance raised by staff at Concord Repatriation General Hospital.

The reason for the oversight of the investigation being independent and external to NSW Health was to mitigate concerns regarding potential conflict of interests, bias, the influence of power networks and informal networks, the perceived protection of those who had engaged in these behaviours, and to ensure accountability. The Australian newspaper indicated that the company conducting the “review” at Concord Hospital was being paid more than \$300,000 dollars by NSW Health. In my view, this represented a significant financial conflict of interest, because there was a significant benefit to the company in providing a review that was favourable to the managers of Concord Hospital.

No formal investigation has been conducted to date by the SLHD or NSW Health regarding these allegations. NSW Health encouraged me to address my concerns directly to the NSW Ombudsman.

I wrote to the NSW Ombudsman in October 2023.

On 26th October 2023 the CRGH MSC passed a vote of no confidence in the Board of the SLHD.

In the lead-up to this vote, I stated that I did not believe the manner in which the SLHD Board and NSW Health had handled the grievances of CRGH Staff which led to the vote of no confidence in the SLHD Chief Executive in June was consistent with the expectations of the Concord Repatriation General Hospital Medical Staff Council and the Concord Repatriation General Hospital staff. I did not believe the manner in which the SLHD Board and NSW Health had handled the grievances of CRGH Staff which led to the vote of no confidence in the SLHD Chief Executive in June was consistent with the expectations of our patients, their families, or the Concord Repatriation General Hospital community.

At the vote of no confidence, the Chair of the SLHD Board stated:

“...We're sorry that so many of you appear to have been distressed, and I'm sure that I speak on behalf of the entire board when I say this. We were surprised by the MSC vote of no confidence in the Chief Executive, and we want to get to the bottom of what led to this decision...”

However, since the votes of no confidence in both the Chief Executive and the SLHD Board, still no formal investigation has been conducted into the allegations of bullying and harassment.

Ongoing Problems at Concord Hospital

Culture Review

The company conducting the “review” at Concord Hospital started in August 2023. Following a request to provide a written summary of their major achievements at Concord Hospital, the company spoke to the Concord MSC on 14th December 2023. They stated that:

“...it was pretty clear to us that Concord has a very proud and impressive history. And it has had a very collegial and collaborative culture. And the point was made pretty strongly by people. There was a sense that that was being lost, and some of it had already been lost...”

“...What we saw as, or we called distressed departments. The stand out for us was Radiology. Because it's so central to the efficient, effective running of any hospital. But we've also met with staff in other departments...”

“...Communication with previous management was considered by a lot of people, not exclusively, but by a lot of people, to be difficult. The language that was often used came across, or was interpreted by people, as being heavy handed often. There was a widely held sense that decision-making wasn't transparent...”

Staff in general have been grateful that the opportunity was provided for them to raise concerns with the company conducting the “review”. Staff have been happy to be listened to.

Staff however consider the company to be “paid listeners” and do not hold high hopes that the “review” will result in any meaningful positive change at Concord Hospital.

This scepticism is illustrated in one of the MSC’s key requests which would determine whether the SLHD would act in good faith. This request was for Concord MSC members to be able to meet on their own, without SLHD and Concord Executives being present. This request has not been granted.

The SLHD Chief Executive has not attended a CRGH MSC meeting since the vote of no confidence in June 2023.

I was told by a representative of the company conducting the “review” that their contract finished earlier in the year, in March 2024. The MSC still has not been provided with a written summary of the company’s achievements during their time at Concord.

Distressed Departments

Despite the “review” process, many of the significant problems at Concord Hospital remain.

Since the “review” process started, seven Radiologists have either left or reduced their working fractions. The reasons why the Radiologists at Concord are leaving has not been adequately addressed. There remains a significant shortage of Radiologists at Concord.

The Radiology Department amassed a backlog of around 50000 unreported Radiology studies at its peak. This backlog may represent one of the biggest “incidents” of patient harm in Concord’s history. However, no formal investigation has ever been held to determine the harm that has been caused, nor examine the decision-making that led to the backlog.

No one has been held accountable for this problem.

More Junior Medical Officers have been employed in the Radiology Department. However, this followed an accreditation process by the Royal Australian and New Zealand College of Radiologists (RANZCR) for clinical radiology training, where the accreditation status of Concord Radiology was downgraded to a Level D, with continuing accreditation until December 2024.

A third CT scanner has been installed, but no new Radiologists or Registrars have been employed to manage the increased workload.

The two Information Technology Radiology staff have still not been replaced since they left in the first half of 2023.

In the Emergency Department, no further formal investigation has been conducted into the allegations of bullying and harassment in the Emergency Department. Of the ten Staff Specialists who signed a formal industrial complaint letter in 2019, only four remain.

The reasons why the Emergency Staff Specialists left has not been adequately addressed.

There are major problems in nursing.

There are simply not enough nurses at Concord to run the current services. The hospital has lost many senior and experienced nursing staff.

Nursing staff had more engagement with nursing managers after the initial action by the MSC in June last year, but since then these interactions have regressed. Little has improved, and in some respects, conditions are now worse for many nurses than 12 months ago.

Many new graduate nurses have been employed, but they lack experience. This places significant pressure on the remaining senior nurses.

On the wards, there is a lack of after-hours senior nursing support for the new graduate nurses. The previously successful trial of after-hours nursing educator support for one year finished earlier in the year. This senior nursing education support after-hours for new graduates has not been renewed despite the obvious need to support these junior staff.

This places patient safety, and staff health and wellbeing at significant risk.

There is a lack of continuing training and education of nurses throughout the hospital.

There are significant shortages of nurses on some of the wards. The problem is so dire that on some shifts all the nursing staff, including the team leader, may be seconded from other wards, and may not have familiarity with the new ward they have been assigned.

The ICU, CCU and Emergency Department are given staffing priority, but this places considerable strain on the other wards.

In the ICU there is a focus on ensuring total numbers of nursing staff are adequate, but there is little consideration for nursing skill mix. Many junior nursing staff from the wards are used to replace ICU nurses instead of asking ICU nurses to work overtime. This saves the hospital money.

However, senior experienced ICU nurses simply cannot be replaced one-for-one with junior nursing staff from the wards. This places considerable pressure on senior ICU nursing staff because they have to manage their own patients while still ensuring the safety of the other patients looked after by junior nurses.

Patient flow is affected because of the variable availability of appropriate nursing staff.

The additional ACCESS nurse position to provide help for nursing staff still has not been approved.

Overtime is either being not approved, or nursing staff are finding it difficult to have this approved.

Nursing concerns are still being dismissed by managers and not addressed.

There has been no significant consultation with nursing staff on how to implement the new safe staffing ratios.

The company conducting the “review” organised a “COVID reflections” session to discuss ongoing nursing concerns regarding the handling of the COVID-19 pandemic at Concord Hospital. The concerns, however, had already been summarised in a document written by the nurses in 2022.

Immediate steps must be taken to retain staff and stop more staff from leaving.

Financial Constraints

The staff at Concord Hospital colloquially call the financial constraints a “death by 1000 cuts”.

Staff at Concord have been told that they are not on budget, yet in four of the last five financial years the SLHD had a financial surplus. The accumulated funds have grown, not decreased, over the last 5 years.

There has been no adequate explanation to the MSC on how hospital activity and funding has changed in recent times.

The budget for Concord Hospital is not transparent. Despite a presentation by the Finance Department at the CRGH MSC many of the MSC members, including myself, still do not understand the budget figures.

Temporary staff are not having contracts renewed.

There are significant delays in replacing staff who retire or resign.

Many staff who take leave do not have their leave backfilled, or the leave is not backfilled in time.

The financial state of the hospital remains unclear. If there is a current financial crisis, the financial state of the hospital needs to be clearly explained to staff and consumers. If staff positions are being cut, staff and consumers need to be adequately informed. If services are being cut, the reasons need to be explained to staff and consumers.

Inconsistent and Unfair Use of Policy

The SLHD must ensure an environment where staff can speak openly and freely about the problems they have in the workplace without fear of reprisals.

Many staff have raised concerns with me about clinical adverse events or the “Code of Conduct” being “weaponised” and used against staff. Many staff believe that this has occurred disproportionately against people who have been vocal in raising concerns regarding patient safety, or staff health and wellbeing.

Many staff have complained to me about being subjected to unfair disciplinary procedures, and policy being inconsistently applied when deciding which staff should be subjected to disciplinary action.

This has not been adequately addressed in the “review” process. These problems require an independent external investigation.

I have raised this matter with the NSW Ombudsman.

Different Levels of Accountability

Managers have a different level of accountability compared to clinicians in the SLHD.

Under normal circumstances, if a clinician (a doctor, nurse or allied health staff) has an adverse event that causes significant harm, and a large proportion of staff voiced no confidence in the clinician, then that clinician would be subject to a major investigation. There could be disciplinary ramifications. This could include referral to the Health Care Complaints Commission (HCCC), Australian Health Practitioner Regulation Agency (AHPRA), and being placed on the NSW Service Check Register (the “Blacklist”).

However, at Concord Hospital, if managerial decision-making has adverse consequences, the adverse consequences have the potential for significant harm (such as over 50000 patients not having imaging reported), and 109 senior doctors have no confidence in a manager, then only a “culture review” is initiated, and this response is deemed adequate.

This is a clear example of unfair and inconsistent use of policy.

The degree of patient harm caused by the poor decision-making leading to this backlog has the potential to adversely affect hundreds of patients, and potentially result in patient deaths. Yet no investigation has been performed.

These system “problems” at Concord Hospital are attributed to a poor staff culture, and not poor decision-making by managers.

Managers make decisions that can be harmful to patients. Therefore, managers must be held to the same level of accountability as clinicians.

I have raised this matter with the NSW Ombudsman.

NSW Service Check Register

Another example of the “weaponisation” of policy against staff is the use of the NSW Service Check Register. The NSW Service Check Register is used to ban staff from working in NSW.

The NSW Service Check Register states:

“...Service Check Register records... may only be created, when the Chief Executive / Secretary suspects on reasonable grounds that the staff member may have engaged in serious misconduct and specific risk management action has been taken to mitigate related risks; or when a finding of serious misconduct has been substantiated and a decision to take specific action as a response has been made.”

However, one of the definitions of “serious misconduct” is:

“...conduct by any staff member that presents a serious risk to the safety of patients, other staff or visitors”.

This definition is non-specific and is open to interpretation.

I have raised this matter with the NSW Ombudsman.

Inaccurate Communication

There are many occasions where communication to staff from managers is inaccurate and misleading. There are many examples provided by staff where communication is misleading, deceptive, exaggerated, and viewed as “spin”. This is a major continuing cause of frustration to staff.

Morale amongst staff at Concord Hospital is low. Constant “marketing”, portraying that all is well when the reality suggests the opposite, will not improve staff morale.

I have raised this matter with the NSW Ombudsman.

Governance and the Involvement of Consumers

The SLHD Corporate Governance Plan 2023 outlines 7 corporate governance standards applying to organisations as a part of NSW Health. Standard 6 states to involve stakeholders in decisions that affect them.

Few if any of the issues raised by the CRGH MSC have been discussed with consumers or the community.

There is no involvement of consumers with the CRGH MSC currently. No consumers have been asked to engage with the “review” process nor have been asked to provide input into how the problems at CRGH should be addressed.

Bureaucracy

The problems at Concord were not caused by a lack of managers. However, we now have more Stream Directors employed.

The Concord Medical Staff Council membership was not consulted regarding these new managerial positions, nor did the membership have any direct involvement in the recruitment process.

NSW Ombudsman

As indicated earlier, in October 2023, I wrote to the NSW Ombudsman requesting that they investigate some of matters at Concord Hospital.

I have had email correspondence from them but have not had any further indication on how this matter has progressed.

Special Commission of Inquiry into Healthcare Funding

In March this year, I gave a presentation to the Special Commission of Inquiry into Healthcare Funding. I suggested many reforms that I believe will significantly improve the governance of our health system.

My suggestions include:

Establish an NSW Health Ombudsman

An external and independent body to investigate and manage complaints regarding the healthcare system in an unbiased, fair, and objective manner.

This would be consistent with the recommendations from the 2022 Inquiry into Health Outcomes and Access to Health and Hospital Services in Rural, Regional and

Remote New South Wales, and the 2018 Inquiry into the Emergency Services Agencies.

New Regulatory Oversight Body for Healthcare Managers

A new body with similar function to the Australian Health Practitioner Regulation Agency (AHPRA), to ensure that healthcare managers are held to the same level of accountability as clinicians.

Changes to the Health Services Act

The creation of “Nursing Staff Councils” and “Allied Health Staff Councils” to give nursing and allied health staff a greater voice.

The introduction of independent “Code of Conduct Committees” to provide greater objectivity, transparency, and fairness in disciplinary processes.

Establishment of a Parliamentary Inquiry into Bullying and Harassment in NSW Health

The People Matter Survey demonstrates that bullying and harassment is a major problem in healthcare services in NSW. The magnitude of this problem and the effects on the healthcare workforce needs to be examined.

This approach is supported by the findings of the 2022 Inquiry into Health Outcomes and Access to Health and Hospital Services in Rural, Regional and Remote New South Wales, and the 2018 Inquiry into the Emergency Services Agencies.

Changes to the Fair Work Act

Making bullying and harassment unlawful, and therefore a criminal offense.

Giving more power to the Fair Work Commission to manage bullying and harassment matters.

Changes to the Hospital Structures

The removal of Stream Directors to reduce bureaucracy.

The introduction of Department “Chairs” for large departments, who are elected by the department staff. The “Chairs” would sit alongside the Department Directors in the reporting structure. This allows the “top down” approach for the operational aspects of a department, but also a “bottom up” approach to give staff a greater voice.

Changes to the NSW Service Check Register and other policies

To refine definitions and prevent the misuse of the disciplinary process.

Establishment of an Independent External Oversight Body for Quality Improvement and Other Measures to Improve Quality Improvement Systems

This would have prevented the unreported radiology images at Concord from reaching 50000 before significant action was taken.

Sydney Local Health District Medical Staff Executive Council

To date, the SLHD MSEC has refused to allow the matters arising from the votes of no confidence in the SLHD Chief Executive and the SLHD Board at CRGH to be discussed at the SLHD MSEC meetings.

I find this disappointing but not entirely unexpected.

The SLHD MSEC is a forum where the MSCs in the SLHD can freely and openly discuss the problems faced by their own organisations. The matters relating to the votes of no confidence in the SLHD Chief Executive and the SLHD Board at CRGH are discussed at the SLHD Board and the CRGH MSC meetings.

Therefore, I see no legitimate reason why these matters cannot be discussed at the SLHD MSEC meeting but can be discussed at other meetings.

Summary

In summary, this is the first MSC Chair's report that I have been asked to table at the SLHD MSEC.

I raised serious concerns with the SLHD Board 18 months ago regarding the governance, the safety of patients, and the health and wellbeing of staff at Concord Hospital.

My warnings were not heeded.

Many departments at Concord Hospital are in significant distress. The problems at Concord are blamed on poor staff culture, not poor decision-making by managers.

Many experienced staff have left. Some services are not coping well. Some have scaled back.

No one has been held accountable for the problems. These problems predate the COVID-19 pandemic.

More immediate steps must be taken to stop more staff from leaving.

In June 2023, the CRGH MSC passed a vote of no confidence in the SLHD Chief Executive. I did not believe the management style of the Chief Executive of the SLHD was consistent with the

expectations of the CRGH MSC and the CRGH staff. I did not believe the management style of the Chief Executive of the SLHD was consistent with the expectations of our patients, their families, or the CRGH community.

In October 2023, the CRGH MSC passed a vote of no confidence in the Board of the SLHD. I did not believe the manner in which the SLHD Board and NSW Health had handled the grievances of CRGH Staff which led to the vote of no confidence in the SLHD Chief Executive in June was consistent with the expectations of the CRGH MSC and the CRGH staff. I did not believe the manner in which the SLHD Board and NSW Health had handled the grievances of CRGH Staff which led to the vote of no confidence in the SLHD Chief Executive in June was consistent with the expectations of our patients, their families, or the CRGH community.

Since the votes of no confidence, the governance and management style in the SLHD has not changed significantly. This needs to improve and staff need a greater say in governance.

The SLHD must ensure an environment where staff can speak openly and freely about the problems they have in the workplace without fear of reprisals.

There have been significant allegations of bullying and harassment at Concord Hospital, but no formal independent, external investigation has been conducted. No formal independent, external investigation has been conducted into the problems in Radiology which led to 50000 unreported images, or the harm that has resulted.

A “culture review” has been conducted instead.

This is not acceptable. An independent investigation with oversight external to NSW Health must be conducted into these matters.

A key request, which would determine whether the SLHD would act in good faith, was for Concord MSC members to be able to have a meeting on their own, without SLHD and Concord Executives present. This request has still not been granted. This is unreasonable and not acceptable.

There has been capital spending at Concord, but no significant increase in staff numbers to manage the increased workload. Staff numbers must be increased to address the workload problems.

Instead of substantially increasing the number of grassroots staff, the SLHD has increased the number of senior managers. This serves no purpose for grassroots staff except to increase bureaucracy.

The financial state of the hospital remains unclear. Budgets are not transparent and difficult to understand. Staff do not understand the reasons behind changes in funding and activity. The financial state of the hospital, and the reason for this state needs to be clearly explained to staff and other stakeholders.

If there is a current financial crisis, this needs to be clearly explained to staff and consumers.

If staff positions are being cut, staff and consumers need to be adequately informed.

If services are being cut, the reasons need to be explained to staff and consumers.

There is not enough staff and consumer involvement in major governance decisions.

There is still inconsistent and unfair use of policy. Managers are held to a different level of accountability compared to clinicians. There are concerns that the NSW Service Check Register is “weaponised” against staff.

There is misleading communication. Portraying that all is well when the reality suggests the opposite, will not improve staff morale.

I have significant concerns regarding patient safety, and the health and wellbeing of staff at Concord Hospital.

Major improvements need be made at Concord Hospital before my concerns will be alleviated.

I see no convincing reason at this time to change my views regarding the lack of confidence in the SLHD Chief Executive and the SLHD Board.