



Dr Winston Cheung
Chair, CRGH Medical Staff Council

By: Hand Delivered

Dear ~~Dr Cheung~~ ^{Winston}

I refer to my previous discussions to you regarding the draft Terms of Reference of the CRGH Medical Staff Council.

The current draft of those Terms of Reference that I have been provided (version dated 3 March 2023) continue to exceed the lawful role of the Medical Staff Council under the Sydney Local Health District By-Laws (**SLHD By-Laws**) (**attached**). As required by section 39(3) of the *Health Services Act* 1997, the SLHD By-Laws in turn adopt the NSW Health Local Health District Model By-Laws published by the NSW Health Secretary. Under section 39(4) of the *Health Services Act*, an LHD may make changes to the Model By-Laws only with the approval of the Health Secretary. Any Medical Staff Council operating within SLHD must be compliant with both the SLHD By-Laws and the Model By-Laws.

You are again advised that the CRGH Medical Staff Council is established by the Sydney LHD Chief Executive as set out in Part 7 of the By-Laws.

We have now discussed the role of the CRGH Medical Staff Council on a number of occasions and I have clarified its role for you during each of those meetings.

The draft Terms of Reference that I have been provided exceed the lawful role of a Medical Staff Council in a number of respects.

First, the section headed "Function" purports to set out the functions of CRGH Medical Staff Council. However, these functions exceed those of a Medical Staff Council as permitted by the SLHD By-Laws. The following functions:

*Provide advice to the Chief Executive and Board on medical matters; and
Nominate, every 3 years from the date of issuing of the Local Health Districts - Model By-laws, a short list of up to 5 medical practitioners to be included on the NSW Health Board Appointments Register to be available to the Minister for Health when considering the appointment of a member or members of the Board...*

are copied (with some slight modifications) directly from clause 26 of the SLHD By-Laws. Clause 26 applies to the *Medical Staff Executive Council* for SLHD, *not* to a hospital level Medical Staff Council. Clause 26 clearly provides that these functions only apply to a Medical Staff Council where a Local Health District only has one Medical Staff Council. Accordingly, this wording needs to be removed from the draft Terms of Reference for the CRGH Medical Staff Council.

Second, the following text in the section headed "Function":

- A. *Efficient and economic operation of:*
 - i. *Concord Repatriation General Hospital;*
 - ii. *Industrial relations;*
 - iii. *Human resources; and*
 - iv. *Financial and asset management;*
- B. *Adequate standards of patient care and services;*
- C. *Health needs of the community serviced by Concord Repatriation General Hospital;*
- D. *Strategies to ensure an appropriate balance in the provision and use of resources for health protection, health promotion, ethics and medical research, health education and treatment services;*
- E. *Effective communication with other health services and health service providers;*
- F. *Adequate arrangements for effective communication and cooperation between medical practitioners, including, in relation to Local Health Districts, general practitioners providing medical services within the geographic area of the Local Health District.*

is copied (with some slight modifications) directly from clause 16 (2) of the SLHD By-Laws. Clause 16(2) applies to a committee of the *SLHD Board*. It is not applicable to a Medical Staff Council, and should be removed.

Third, the statement that "*Members of the Medical Staff Council do not have to be financial members*" makes no sense in the context of a Medical Staff Council (in that it implies some members may be "financial members") and should be removed.

Fourth, the statement of "*Responsibilities of the Executive Committee*" includes the following:

Managing conflicting opinions in a fair and reasonable manner, and provide final decision-making where consensus or agreement cannot be reached.

The effect of this provision is that, in circumstances where unanimity of opinion amongst members of the Medical Staff Council cannot be reached, the Executive Committee is the default decision maker. That is inconsistent with clause 11 of the SLHD By-Laws, which provides that "*A decision supported by a majority of the votes cast at a meeting at which a quorum is present is to be the decision of the Committee*" (clause 11(2)) (noting that in Part 4 of the Model By-Laws, the term "Committee" includes a Medical Staff Council, clause 7(a)). Any provision to the effect that Council officer bearers may make decisions of the Council in circumstances of disagreement amongst Council members is simply not consistent with the SLHD By-Laws. Accordingly, this provision must also be removed.

Fifth, the section headed "*Appointment and term of Members of Executive Committee*" provides for three year terms of office-bearers. That provision is inconsistent with clause 28(2) of the SLHD By-Laws, which provides that elections for the chairperson and other office bearers of a Medical Staff Council "*are to be held at an ordinary meeting of a Council once each calendar year*". Please amend this provision so it is consistent with the SLHD By-Laws.

Sixth, the provision headed "*Caretaker Appointments*" is inconsistent with the SLHD By-Laws and should be removed. In accordance with clause 28(2) of the SLHD By-Laws, office bearers (including the chairperson) remain in office until there is an election at which a new chairperson and other office bearers are elected (which is to be once each calendar year). There is simply no requirement for the concept of a "caretaker" appointment.

Seventh, generally the draft Terms of Reference refers throughout the document on a number of occasions to "*majority vote*" or "*majority of Medical Staff Council members' vote*". These provisions are unnecessary, and liable to cause confusion, as the rules for voting at a Medical Staff Council meeting are set out in clause 11 of the Model By-Laws. Please remove them.

Eighth, the section headed "Meetings" contains some provisions that are not consistent with the SLHD By-Laws. For example, the provisions dealing with what are called "Extraordinary meetings" are not consistent with the provisions dealing with "Special meetings" in the SLHD By-Laws, including with respect to who may call such a meeting. Please ensure these provisions are amended to align with the SLHD By-Laws.

Ninth, the section headed "*Quorum...Medical Staff Council Members Meeting*" contains provisions that are not consistent with clause 10 of the SLHD By-Laws with respect to quorums. Please ensure these provisions are amended to align with the SLHD By-Laws. Similarly, the section headed "*Election or Removal of Medical Staff council Executive Committee Members*" is also inconsistent with clause 10 of the SLHD By-Laws with respect to the quorums, and should be removed.

Regarding the proper scope and purpose of a Medical Staff Council, I refer you to clause 22 of the SLHD By-Laws, which states the objectives of clinician engagement structures under the By-Laws (including Medical Staff Councils) are to:

- (a) *facilitate effective patient care and services through a co-operative approach to the management and efficient operation of public hospitals between hospital executive management, clinical staff (including medical practitioners, nurses, midwives and allied health practitioners) and clinical support staff; and*
- (b) *provide a forum for information sharing and to support feedback to staff on issues affecting the administration of the hospital(s) through the members of the councils.*

These objectives establish the general limits within which the Terms of Reference for CRGH Medical Staff Council are to be developed.

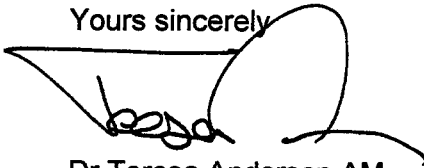
As Chief Executive, I am responsible for ensuring that Medical Staff Councils are established and operate in accordance with the SLHD By-Laws and, in turn, the NSW Health Model By-Laws. It is simply unacceptable that a situation be allowed to continue in which you are seeking to put forward Terms of Reference that are outside the scope of the lawful role of a Medical Staff Council. Regrettably, I feel compelled to write to you to direct you to withdraw the current draft Terms of Reference, and to re-submit to me, within 14 days of this letter, a further draft that makes the modifications set out in this letter.

Related to the issues raised above, I understand that the CRGH Medical Staff Council is proposing to commission an independent investigation into allegations of bullying and harassment raised by CRGH staff at a meeting hosted by ASMOF on 23 March 2023. Consistent with my advice above, the undertaking of any such investigation is outside the jurisdiction of a Medical Staff Council and is matter that CRGH/SLHD management.

I wish to assure you that CRGH/SLHD management are currently actively looking into these allegations. I seek your written undertaking that no such investigation will be undertaken by CRGH Medical Staff Council.

I remind you that you are an employee of Sydney Local Health District and are required to abide by the NSW Health Code of Conduct. Those requirements include an obligation by staff members to comply with lawful and reasonable directions given to them (**attached**). Please treat this letter as such a direction, failure to comply with which may give rise to disciplinary action against you under the Code of Conduct.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Teresa Anderson', written over a horizontal line. The signature is stylized and includes a large loop at the end.

Dr Teresa Anderson AM
Chief Executive

Date: 21.4.23

cc: Mr Joseph Jewitt, General Manager, CRGH