



EASTERN HEALTH BOARD

**Minutes of proceedings of Special Meeting
held in
Board Room, St Mary's Hospital, Chapelizod, Dublin 20
on Thursday 29 January 1987**

PRESENT

Mr N Andrews TD	Cllr A Groome
Mr F Beale	Cllr W J Harvey
Dr J D Behan	Dr M Henry
Mrs B Bonar	Cllr P Hickey
Cllr M Carroll	Cllr F Hynes
Mrs D Clune	Dr D I Keane
Cllr J Dillon-Byrne	Dr P McCarthy
Cllr P Dunne	Dr B O'Herlihy
Mr P Finegan	Cllr J Reilly
Cllr Dr D Fitzpatrick	Cllr J Sweeney

APOLOGIES

Cllr B J Durkan TD

IN THE CHAIR

Mrs D Clune

IN ATTENDANCE

Mr H Colley, Law Agent

OFFICERS IN ATTENDANCE

Mr K J Hickey, Deputy Chief Executive Officer
Mr M Walsh, Acting Programme Manager, Special Hospital Care
Mr S O'Brien, Acting Programme Manager, General Hospital Care
Mr F J Donohue, Programme Manager, Community Care
Mr L Kavanagh, Personnel Officer
Mr J N McNee, Management Services Officer
Prof B O'Donnell, Dublin Medical Officer of Health
Mr M J O'Connor, Senior Executive Officer, Secretariat

14/87

RESOCIALISATION PROJECT, ST BRENDAN'S HOSPITAL

The Chairman informed the members that the meeting had been arranged to deal with the motion which Dr Behan had tabled at the December meeting of our Board as follows:

"That the Board, having regard to the complaints made by the proposer of this motion about the operation and closedown of the Resocialisation Project, convene an enquiry into the reasons therefor".

The Chairman stated that in the course of putting his motion Dr Behan had made two profoundly serious charges against the Management Officers of the Board. The Chairman further stated that, following the making of these two charges legal advice was taken on the situation and, arising out of that advice, she had asked the Secretary to the Board to write to Dr Behan on 7 January asking him to supply detailed particulars of his charges and, on receipt of those detailed particulars, the Deputy Chief Executive Officer would be requested to prepare a detailed response. No response had been received from Dr Behan.

The Chairman also informed the members that further consultations had taken place on 28 January 1987 with Senior Counsel and requested the Secretary to read the following letter dated 28 January 1987 which she had received from the Law Agent.

Re: Special Meeting of the Eastern Health Board scheduled for Thursday 29 January 1987.

Dear Chairman,

Following our recent discussions with Mr Vincent Landy, SC. and my letter to the Deputy Chief Executive Officer, Mr Kieran Hickey, on the 29 December last in which I outlined that the Board would be unwise to respond to the allegations made by Dr Behan at the meeting of the Eastern Health Board held on 18 December 1986 until such time as full and detailed particulars of all the allegations against the officers of the Board had been formulated in writing.

It is a principle of natural justice that a person, or persons, accused of serious offences, or other allegations of impropriety, would be entitled to receive, in writing, full details of the allegations made against them and the accused person, or persons, would be permitted the opportunity of preparing a defence to the allegations.

In the event of a tribunal, or court, or other enquiry team, coming to a decision concerning allegations against an accused, without having afforded the accused the rules of natural justice, the decision, or final outcome of such enquiry, is open to challenge and would probably be overturned.

The position with regard to the special meeting to be held on the 29 January is that an outline of allegations of negligence and fraud has been made by Dr Behan against the management team of the Eastern Health Board with the exception of Mr Fred Donohue. My own earlier advice, and that of Vincent Landy, SC., is that these outlines of allegations cannot be properly considered to be charges and will not be so considered to be charges until detailed particulars of each and every allegation is furnished by Dr Behan to you as Chairman of the Eastern Health Board in writing.

Any consideration of this matter by the Eastern Health Board, without the formal production of the necessary allegations or charges in writing, may well render such a decision and enquiry invalid and would leave the way open for any concerned person, either an accused member of the management team, or another member of the Eastern Health Board, in a position to seek an injunction from the High Court restraining the consideration of these matters pending the production of the necessary documentation in support of Dr Behan's allegations. It is important to refer to the particular decision of the Board taken on the 18 December last to hold a special meeting of the Board in committee to consider this matter further. It is therefore inappropriate and unsafe on the part of the Eastern Health Board to take any particular decision which may pre-empt its ultimate duly processed investigation, despite articles in the newspapers and radio interviews given by or on behalf of those persons who have sought to have the Board consider this matter.

I understand that at the January meeting of the Eastern Health Board, Dr Behan sought to have facilities to call and cross-examine under oath up to fifty witnesses together with the power to demand the discovery of documents. Such powers would only be afforded to a judicial enquiry or other statutory based enquiry. Neither the 1970 Health Act nor the Standing Orders of the Eastern Health Board would, in my view, confer on the Board the power to hold such a sworn enquiry. Any attempt to proceed on such a basis would again leave the Eastern Health Board open to a possibility of an application for an injunction to restrain the holding of the enquiry in such terms.

This does not, however, prevent the Eastern Health Board from making its own investigation into the matter in the manner that you have outlined in your letter to Dr Behan, dated 7 January 1987, namely, that Dr Behan would furnish written details of his allegations specifying the particular allegations he has against each member of the management team and that the management team either individually, or as a group, will produce a written response to each of the allegations made. This matter can then be considered by the Eastern Health Board. Discussion, including the questioning for clarification purposes of matters contained in the allegations or the response, could take place at a meeting scheduled to consider these matters.

Standing Order No. 53 sets out the conditions in which officers of the Board may refuse to answer questions put to them by the Chairman arising out of the business before the Board. The options available to the Board, in the event of them coming to a decision that inappropriate or fraudulent activities have been pursued by senior officers of the Board, are to take the appropriate action under Section 21 of the Health Act 1970 in respect of the Chief Executive Officer and, in respect of other officers, the suspension and/or removal of officers as set out in Sections 22 and 23 of the 1970 Health Act".

Yours sincerely,

Harry Colley'

The Chairman then stated that the position was that it would be unwise for the Board to consider the matter further at that time; that a further opportunity of two weeks, expiring on 12 February 1987 would be afforded to Dr Behan to furnish detailed particulars of his allegations in writing. If Dr Behan produced detailed particulars of his allegations before the 12 February 1987 the Deputy Chief Executive Officer would be required to provide a detailed response to those allegations. A further meeting of the Board would be arranged to consider both documents following which the members would then decide on the procedures to be followed. Unless a detailed response was received from Dr Behan, no further meeting for this purpose would be convened.

The Chairman then stated that, having regard to the legal advice, she proposed to adjourn the meeting.

The meeting concluded at 6.25 pm

CORRECT: K J Hickey
Deputy Chief Executive Officer


Chairman