

From: John BRAYLEY
Sent: Friday, 8 September 2017 4:25 PM
To: PEZZULLO Michael; OUTRAM Michael
Subject: Final CMO/SG Advice on current issues [DLM=For-Official-Use-Only]

For-Official-Use-Only

Sec and A/Comm,

Today is my last day in this role. I am conscious that my current responsibility for health systems, will extend to how systems continue to operate after my departure, at least until they are changed.

In this final advice I would like to raise the following topics:

(1) Immigration and health priorities.

I believe that the Department's work in the last two years has demonstrated that it is possible to have both a commitment to strong borders and national security on one hand, while also seeking to deliver safe health care on the other.

The two have not been mutually exclusive in the past, and need not be in conflict in the future.

Accepting that Australia will not be directly involved in offshore contract delivery, I know other arrangements will be put in place in the future by host countries (eg refugee health clinics, insurance).

In the interim, while we contract or influence health care delivery, this can be delivered upholding the key principles of non-maleficence, beneficence, justice and autonomy.

I understand the Department must meet the Government's national security policy objectives. Health objectives are as fundamental, and have a rich historical philosophical basis that aligns with Western democratic values, and the values of the APS. As plans are put in place in coming months, I suggest the Department can meet both national security objectives and health objectives as it has done in the past.

(2) Policy uncertainty

The policy regarding transfers remains in a state of uncertainty. This is a problem for decision makers, and health advisers.

Regardless of my opinion and advice about the new policy, whatever the settings, there is no doubt that they need to be clear and known by all those who are asked to implement the policy.

A few weeks ago there was a clear verbal policy statement and directive regarding the topic of transfers, or to be specific, the non-transfer of adults to Australia. This has not been confirmed in writing although the Department has sought to have this done. I have since been able to have one adult transferred who had a s. 47F and two other adults are to be transferred for termination of pregnancy. However, it is evident that a new threshold is being applied to considering matters as they arise at this time, with a number of likely presentations to the TPC committee to occur soon.

This policy change is so profound that it is of the type that would usually require written confirmation. I would be concerned if next week, or the week after, I learned of an adverse clinical event related to this

policy change, and the matter has still not been clarified. This is particularly concerning as I will not be around at a FAS level to address problems case by case and with the ability to raise matters directly with you both.

The fact that the new policy has not been confirmed, gives hope that on reflection, the latest directive will be changed.

I understand the doctors in HSPD will continue to give advice based on your 2015 Policy directive, until advised otherwise.

I suggest that the Departmental decision makers for transfer should also continue to use this 2015 directive until there is a written policy change.

(3) Operation Bacciform

The practice has been for the CMO to make a declaration that the temporary purpose of a person's stay in Australia is complete, and that follow up care for this and other medical conditions can be delivered in the offshore country. (Comm Quaadvlieg had set specific questions to be answered).

I believe that this declaration process has added value and managed risks for the patient and the Department. Fitness to travel conclusions of IHMS are usually not changed, however additional matters have been identified and extra follow up arrangements put in place. This process has been informed by the Post Action Review of the critical incident^{s. 47F}

Last week a person was returned to Manus without a declaration, and I learned of their departure by HIB. I am told by my Sydney branch that the taskforce was of the view that a declaration by me was not required for these cases. Instead, a few lines commenting on the IHMS report were written by a medical officer and this was the basis of the Ministerial briefing. (There are more details to this, but I am addressing the broader issue in this advice rather than the case in particular.)

I advised my Sydney branch that we should still provide formal declarations.

Given my own departure, I wish to give you the same advice to this effect.

(4) ^{s. 47F}

I have written advice about^{s. 47F} situation previously.

^{s. 47F} remains in ^{s. 47F} hospital and is ^{s. 47F} here to my knowledge.

^{s. 47F} has been affected by the recent policy change. On two occasions, I believe, this refugee would have met the threshold of the 2015 Secretary directive for transfer – a few weeks back^{s. 47F} (based on the information available to us^{s. 47F} that^{s. 47F} transfer was approved) and^{s. 47F} when^{s. 47F} after other usual options for local care were exhausted.)

Given this, and because the new policy direction has not been confirmed, I suggest^{s. 47F} case should be favourably considered for transfer.

If^{s. 47F} still needs^{s. 47F} admission, I stand by my earlier advice that^{s. 47F} not be used, which is consistent with our previous practice.

Thank you for considering these issues.

I wish you both all the best in what I know will be challenging months in the evolution of offshore processing, but also a time of opportunity with the development of the new Home Affairs Department.

Regards

John Brayley

New Phone s. 47F

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