Response I

25 August 2006

Response to extracts supplied from the Professor O'Neill review of the deaths at Leas Cross Nursing home

Dear

I have as requested set out below my response to the extracts of the Professor O'Neill report which were provided to me by letter of 6 July 2006. I have not been provided with nor have I seen the full report which was issued. I have not been provided with copies of the documentation on which Professor O'Neill based his report and as such can comment only on the specific aspects of his report which appear to refer to me or the HSE Nursing Home Inspectorate.

Professional experience:

I have set out below the positions which I have held within the HSE and my relevant professional experience.

- Director of Nursing- Nursing Home Inspectorate- Oct 2004 to Dec 2005
- Director of Nursing- Corporate Governance- Nov 2002-Oct 2004
- Director of Nursing- St Brendans Hospital Mental Health- Sep 2001-Nov 2002
- Assistant Director of Nursing- St Loman's Hospital & Tallaght Community Services Feb 1990-Sep 1991
- Assistant Director of Nursing- St Brendan's Hospital- Jul 1985-Feb 1990

Context:

The Professor O'Neill report and the conclusions and statements which he makes about the particular circumstances of the inspections of Leas Cross nursing home must be read in the context of the HSE at the time.

In 2005 there were 30 private nursing homes in the Northern Area with a bed capacity for approx 1700 residents. The size of the nursing homes varied from 20 beds to 111. There were various contractual arrangements in relation to care in these nursing homes.

- Private arrangements between the resident and the nursing home.
- Private arrangements supported by Health Service subvention.
- Contracted beds by the HSE.

Generally medical services to the private nursing homes are provided by the visiting GP.

In relation to contract beds, the Health service generally provides liaison/clinical support by consultant medical staff and nurse practitioners.

A significant number of these nursing homes were built in recent years whilst others have built on to their existing facility thereby increasing bed capacity.

In December 2004, three new private nursing homes were opened in the HSE Northern Area region with a total bed capacity of approximately 200.

The HSE Northern Area has a total public bed capacity for elderly care of approx 480. There is therefore a significant reliance on the private sector with 1700 beds for the delivery of care to this group.

The population of North Dublin city and county is estimated at 550,000 with a population growth of 3000 per month. The census of 2002 shows 48,395 persons aged 65 years and older resident in this area representing 9.93% of the total population.

Due to the increased population and the growing number of elderly persons, the private nursing home sector has a significant role to play in the provision of care to older persons. There has been a marked change in the resident group entering the nursing home sector. The resident group has changed from low dependency/retirement to medium, high and maximum dependency and this has changed the landscape in the private nursing home sector significantly.

These nursing homes are privately managed. The HSE has a statutory responsibility to inspect and regulate these premises.

The inspection of nursing homes is governed by the Nursing Home Act 1990 and the Care & Welfare Regulations 1993. The act requires the Health Service to carry out an inspection of a private nursing home at least once in a six month period.

The regulations require inspections to be carried out by designated officers. The general practice throughout the country is that inspections of private nursing homes are carried out by community care staff (medical / public health nursing) as part of their normal work schedule.

Development of Northern Area Inspectorate:

In October 2004, senior management of the HSE Northern Area set up a full time nursing home inspectorate. The team included myself and one Assistant Director of Nursing. The services of a sessional general practitioner was agreed (one day per week). The GP services were obtained as there was a marked shortage of medical officers

within the community services in the HSE Northern Area and because of other commitments were unable to assist with the inspections.

The reasons the Northern Area inspectorate was developed were:

- The large increase in private nursing home beds.
- The significant changing level of dependency.
- The complex needs of many residents in nursing homes generally.

It must also be stated that there was a serious shortfall in the number of inspections carried out in one catchment area whereby a large number of nursing homes had not been inspected for a considerable period of time. This was not in compliance with the Nursing Homes Act and left the HSE exposed in terms of its statutory obligations. The reasons for this dilemma, I was given to understand was due to 'staff shortage' and pressures from other services within the catchment area.

The first task of the new inspection team was to gauge the level of shortfall in the number of inspections and try and clear the backlog of inspections for the year 2004. This could not be done through the new team as they were trying to set up new systems. I requested assistance from other areas to conduct inspections. This was agreed and a schedule was set out for the remainder of 2004. Most nursing homes were visited by December 2004. There was no formal training ever developed for those authorised officers engaged in nursing home inspections.

In order to have a consistent approach to the conduct of inspections, I felt it was necessary to have some structured standardised approach to how inspections were conducted. Having sought and obtained approval from senior management in the HSE Northern Area, a one-day introductory training programme for inspection of nursing homes was set up and delivered on 14th October 2004. The contents of the programme centered on:

- Nursing Home Legislation
- Complaints Management
- Food Safety in Nursing Homes
- Nursing Home Inspection process.

Presentations were made by professionals engaged in these areas.

On 17th November 2004, a one-day programme on health care records and report writing was delivered by (private company) to the new inspectors and others engaged in nursing home inspections.

On 28th February and 1st-2nd March 2005, a three day programme was developed and delivered by (a member of the social service inspectorate UK). The emphasis of the training programme centered on registration, inspections and good

practice and was attended by 15 persons (medical, nursing, physiotherapy & administrative staff).
The question of announced/unannounced inspection was discussed with Dr and Mr who was conducting an investigation on behalf of the ERHA within the region. Dr advised a combination of announced and unannounced inspections while Mr was of the opinion that inspections should be announced.

It was agreed by the new inspection team that the first inspection to all Nursing Homes in 2005 would be announced. All inspections up to 31st December 2004 were unannounced and all future inspections would be unannounced. The decision was taken in order to facilitate the attendance of the proprietors of the nursing home who heretofore were not generally consulted in matters relating to the inspection process.

The reason for the attendance of the proprietor was:

(1) To appraise him/her of the changes that were occurring within the HSE Northern Area pertaining to inspections.
(2) To fully outline the new inspection process
(3) To introduce the new inspection team members
(4) To facilitate a dialogue that would enhance the co-operation of the proprietor.
(5) To agree an agenda of work going forward.

Proprietors in most cases engaged constructively with the inspectorate since its establishment in October 2004. I was personally engaged in the setting up of new offices for the inspectorate in St.Mary's. This required negotiation with the management in St Mary's Hospital for suitable space which was adjacent to the N.H section. This ensured better communication between all services interfacing with the private nursing home sector and overseeing the infrastructural changes required to the building and equipping of the offices.

It was also agreed by the new inspection team that one full day was required to conduct an inspection in a nursing home with less than 50 beds and two full days set aside for nursing homes in excess of 50 beds. A pre-inspection planning programme was set out which included the review of previous inspection reports and the assignment of tasks for each inspector during the inspection proper. This programme was set out in order to maximise the time spent in the nursing home by the inspection team and ensure that all relevant areas were covered.

It must be stated that prior to the development of the new inspection process the Inspectors were not in a position to invest the same amount of time in the Nursing Home due to the many and varied demands on their time. The inspection was usually conducted either in the morning or afternoon with little time assigned for follow up on issues identified.

It was evident from an early stage that the inspection process required to be a lot more robust and would require a significant amount of input and advice from the inspectors in order to bring many of the nursing homes up to standard. It was anticipated that it would take upward of three years to achieve this.

In May 2005, a second Assistant Director of Public Health Nursing joined the team and a part time administrative support person joined some time later. A database was set up to record all relevant issues for each nursing home including complaints.

The inspection check list in existence prior to the new inspection team set up was totally inadequate given the changing dependency needs of the residents. To this end, a new checklist was developed drawing on the expertise of a multi-disciplinary group of professionals. This checklist brought a significant number of new areas in the inspection process concentrating on care issues e.g care planning, wound management, medication management etc. This checklist was piloted in all nursing homes effective from 1st June 2005, having met with and got approval from the Nursing Home organisations. The checklists were circulated to the persons in charge of each nursing home some weeks in advance of the start date and any issues raised were dealt with by the inspectors.

It should be noted that this checklist was taken on board by the national group set up(post Leas Cross) to develop a national template for the inspection of private nursing homes. Upwards of 75% of the HSE Northern Area checklist was incorporated into the national template.

An independent steering group was established to advise and support the inspectorate. This group consisted of a mix of experienced medical and nursing staff.

The inspection programme for the first half of 2005 achieved its target of having conducted a formal inspection in each nursing home. This also involved follow up visits to a number of nursing homes.

A review of the first six months work was undertaken on 20th May 2005. Nursing homes in need of major input were highlighted and follow up inspections planned. Leas Cross featured in that group.

Partnership Model:

In March 2003, a particular nursing home in North county Dublin came under new management. Two routine inspections under the Nursing Home regulations 1993 were undertaken in July and November 2003. The inspection highlighted to the management of the nursing home a growing number of concerns in a number of areas eg Hygiene, standards of care, safety concern for residents and staffing in particular clarification of the person in charge. The proprietor was informed in writing in November 2003 of these concerns and the need to address them as soon as possible.

In February 2004, the HSE Northern Area received the first verbal complaint in regard to this nursing home. By 1st March 2004, a total of five written complaints were received. I was requested by senior management to assist the Director of public health nursing in addressing the issues identified and investigating the complaints. I was at that time the Director of Nursing in a new department of corporate governance which had earlier been set up and based at headquarters in Swords.

Over the next six months, a significant amount of dialogue, formal inspections and legal communication took place

During this time, inspections of the nursing home continued in accordance with the correct procedure and the team including myself had sought to engage with the management and staff of the nursing home in a positive way to rectify the matters as outlined in the interests of the residents. These positive engagements between the HSE Northern Area and the management of the nursing home resulted in a significant improvement in the delivery of care and physical infrastructure of the building.

Based on this positive experience, the new nursing home inspectorate wished to engage with all proprietors of private nursing home in a partnership approach including the proprietor of Leas Cross.

At the meeting with the proprietor of Leas Cross during the inspection of 7th-8th April 2005, this approach was set out. This was the first formal inspection of Leas Cross by the new inspection team. There were issues identified at inspection which required to be addressed. A verbal agreement was agreed with the proprietor and the inspection team that no new resident would be admitted to the nursing home for a period of one month in order to stabilise the situation and review the workings of the nursing home during that period. Residents numbers were capped at 96 leaving the nursing home with vacancies of 15 beds.

It was agreed that a follow up progress meeting was to be held on 6th May 2005 i.e four weeks from the date of the initial formal inspection. This meeting was attended by the Director of Public Health Nursing together with the Nursing home inspection team, the proprietor and his son and the person in charge of the nursing home. This meeting of the 6th May could only be described as hostile in the extreme, so much so that on two separate occasions I contemplated withdrawing the nursing home inspectors from the meeting. However, given the experience with the previous nursing home, I decided to

continue with the meeting in the hope that we would be able to influence the management and staff in Leas Cross to deliver the standards of care that was expected. Minimal progress had been made since the April inspection. The proprietor expressed concern in relation to the delay in receiving the formal report following the April inspection. He was advised that the inspection was ongoing. The proprietor was clearly annoyed to have voluntarily agreed not to admit any new residents in the previous month and seriously criticised the methodology used in the new inspection process.

I met with the on a number of occasions prior to 30th May 2005 when the 'Prime Time' programme was relayed and afterwards when a Director of Nursing and support team were assigned to manage Leas Cross. I was requested to participate in the 'Prime Time' TV programme outlining the HSE Northern Areas response to the programme. I was also requested to appear on television and radio programmes together with newspaper interviews when the decision was reached to withdraw the residents from Leas Cross in July 2005.

I had the opportunity to meet with Professor O'Neill on 6th October 2005 and discussed with him the development of the Nursing Home Inspectorate and the issues pertaining prior to October 2004. I also met with Mr who was conducting an audit into the nursing home inspection process on behalf of the ERHA) on 15th, 21st-22nd June 2005.

I am pleased to make the following observations based on the extracts furnished to me from Professor O'Neill's report:

- **Nursing Staff:** Upwards of 80% of all nursing/care/support staff employed in the private nursing home sector are recruited from overseas. The private sector continually state that they are competing with the public sector for a very scarce resource and are finding it increasingly difficult to retain staff. There is a very significant difference in the nursing supervision/management structure between the public and private services. There are very few nurses employed in the private sector with specialist gerentological nursing qualification. It was acknowledged by the nursing home inspection team that certain issues faced staff from other countries particularly their culture and ability to communicate with older persons.

- **Person in Charge**: Nursing home regulations 1993 Article 10.2 states " the person in charge should be full time and the person in charge shall be a nurse with a minimum of three years appropriate experience within the previous six years". The term 'appropriate experience' can be open to individual interpretations.

- **Care Assistant Programme:** Most nursing homes in the private sector are reliant on 'in house' training programmes overseen by the person in charge and staff nurses. The FETAC programme is only in place in the public sector since 2003 and was initially piloted in selected areas.

- **Co-ordination of Systems**: I would agree that there was at that time very little co-ordination of the various systems as outlined in the report, however, I met with the principal social workers in the three main acute general hospitals in the region to set out a two way process for the assimilation of relevant data that could be shared between the inspectorate and the acute hospitals in relation to private nursing homes.

- **Final Inspection Report**: I contend that this report would be better termed a professional report set out by a Director of Nursing and a team of professionals (who were expert in their own field) operating in the Leas Cross nursing home for a period of nine days 24-7. I think it would be unfair to equate this report with the normal inspection report.

Letter from Consultant A

The letter from Consultant A dated 9th January 2004 addressed to me was to update me on the number of deaths from St Ita's Hospital in the nursing home. This letter was circulated to the management team in St Ita's. I was not the Director of Nursing in the inspectorate at that time but based in Headquarters in the Office of Corporate Governance.

Deficiencies in the Regulatory Process

In Professor O'Neill's executive summary he refers to deficiencies in the regulatory process at all levels. From the Inspectorate's perspective I am firmly of the opinion that the Inspection team engaged constructively and in good faith with the Proprietor of Leas Cross Nursing Home in order to effect the changes that required to made.

The Inspection team at all times were cogniscent of the challenges that were widely known to exist within the Private Nursing Home Sector. This was a new team established in October 2004 and were anxious to bring about changes in the best interest of the residents.

I have no doubt that this was the first time that Proprietors (including Proprietor of Leas Cross) were put under scrutiny in relation to their statutory obligations and hold them accountable. This was one of the primary objectives of the new Inspection team to ensure that the Proprietor was fully involved in the operation of the Nursing Home and not be what might be termed an "absentee landlord".

I contend that in the short period of time since the establishment of the dedicated Nursing Home Inspection Team (Oct 2004-May 2005) when the Leas Cross programme was broadcast, significant progress was achieved within the Private Nursing Home Sector in the region --

< New Nursing Home Inspection Team base set up
< Data base for inspections and complaints set up.
< All Nursing Homes inspected in the first six months (3 newly registered) and follow up.

< A professional training programme developed and delivered to Inspectors and Support Professionals.
< New checklist/template agreed and in operation within the sector.
< Hold Proprietor and Person in Charge accountable in relation to their statutory obligations.

I believe Professor O'Neill's report does not recognise the progress made in a very difficult and changing landscape that is the Private Nursing Home Sector.
There were many personal and professional challenges that confronted the Inspectors in the course of their duties but they always held that those challenges were met in order to improve the care delivered to the residents and the environment in which they lived.

Conclusion

In conclusion, Professor O'Neill's report fails to recognize the context in which the Inspection team was operating, the very substantive progress that had been made in formalizing the inspection process and the fact that this was anticipated to be a three year programme. His conclusions in the executive summary are completely without foundation and are invalid. The Inspection Team was working to address the very serious concerns which were known to exist about the nursing home sector generally and in accordance with the Nursing Home Regulations were working with the proprietor who has principal responsibility to address these issues. The team was working within the resources available and was approaching the matter in a systematic way. The partnership model which was being followed is consistent with best practice and was designed to ensure that the proprietor is given the support to discharge his statutory obligations. While it is acknowledged that the nursing home at Leas Cross fell below the standards which would be expected in the public sector and below the level of good practice in the private sector, the inspection team was actively working to address these concerns.

Response J

Wednesday, 18 October 2006

Re: HSE Report By Professor O'Neill

Dear Sirs,

I received correspondence from the HSE Solicitors on 14th July 2006. They informed me that certain passages in the extracts from the above report may refer directly or indirectly to me in my capacity as a member of the HSE Nursing Home Inspection Team.

Following receipt of this correspondence I wrote to my General Manager (GM) on 18th July 2006 requesting a copy of the full report.

My GM telephoned me on 19th July confirming receipt of my letter; the GM informed me that my letter was forwarded to my Local Health Office Manager (LHOM).
The terms of reference were provided in addition to the extracts from the report.

To date I have not received a copy of the full report. So as such I can only respond to the extract supplied to me.

In order to fully understand the context I have set out my background and my qualifications I would particularly want to highlight the fact that on 10th March 2005, I participated in the preparation of two reports on Leas Cross Nursing Home, which were addressed to the Assistant Chief Executive (ACE) and a senior manager in the ERHA. These reports identified some serious shortcomings in relation to this Nursing Home. See Appendix One and Two.

Involvement with Leas Cross

Commenced in October 2004 to June 2005.

During my visit to the home on 17th December 2004 a number of key areas of concern were reviewed and decisions agreed. These covered a need to improve/establish the following:

- Documentation – 24 hour clock
- Policies – development of policy for dementia, further development for restraint policy, care planning and the need to develop same. A concern raised also was the need for a trips and falls policy.
- Dependency levels – in line with the urgent need for workforce planning the home agreed to measure dependency levels. A tool, Criteria for Care was provided in July 2004 but had not been utilised by December 2004 despite agreement. The tool was re-faxed to the home on the 21st December 2004 by me.

I was involved in collating two reports requested by the HSE submitted 10th March 2005, Appendix One and Appendix Two.

I carried out a pre-planned inspection to the home on 7th/8th April 2005 Appendix Three as part of the inspection team and again on Friday 6th May 2005, Appendix Four and 30th May 2005 Appendix Five.

Professor O'Neills Report

I welcome a report by the HSE in an effort to address serious issues. I hope that arising from this process resources will be put in place to support the critical role of the Inspectorate. I have a number of concerns regarding the process adopted by Professor O'Neill.

1. He did not interview me or allow me an opportunity to comment on his review before he reached his conclusions.

2. He did not supply me with the documentation in which he based his report findings.

There are a number of factual inaccuracies within the extracts provided to me.

Page 38, paragraph 1

"A further unannounced visit to Leas Cross occurred on 30th May at 2 p.m. Staffing arrangements were noted and the fact that the GP has seen 8 residents on that day. All pattents were out of bed and 5 patients with pressure sores and their condition were discussed with the Acting Assistant Director of Nursing. A sixth resident with pressure sores was admitted to hospital. The only nursing issue identified by Acting Assistant Director of Nursing was as to who would assist or relieve her when she would be deputising for the Director of Nursing on leave. The presence of the activity co-ordinator in Leas Cross doing an exercise programme was noted. Surprisingly, there was no comment in this letter on the standard or quality of care"

The visit to Leas Cross on the 30th May 2006 was scheduled in direct response to a request by senior management HSE to visit the home. I was requested to submit a status report in relation to the residents of Leas Cross on that day. The written report Appendix Five was not a routine or full inspection. Professor O'Neill's review comments on the fact that this status report did not deal with the standards or quality of care in that report. Professor O'Neill's review misunderstands the context in which the report was prepared, the scope of that report as directed by the HSE.

Page 39, paragraph 2

"What might be termed as the final inspection report written by the senior nursing officer seconded by the HSE N/A to Leas Cross and her team following the putting in place of a team from the HSE to try to run the nursing home".

To draw comparisons between a dedicated team of nursing and other specialists who are assigned to Leas Cross to that which can be done by an inspection team of two person is invalid.

The inspectorate team consisted of two (2) ADPHN's who have responsibility for the inspection of 31 nursing homes, (1,650 beds within the region).
The dedicated team of nursing specialists assigned to the 96 residents on a 24/7 basis included the following: One DON, Community Unit seconded full time, Practice Development Co-ordinator, Wound Care Specialist, Infection Control Specialist, Assistant Director of Mental Health, access to a Consultant Geriatrician, allied professionals and other HSE nursing staff.

Conclusion

The above comments outline my serious concerns regarding the process utilised by Professor O' Neill during his review of Leas Cross Nursing Home.
Professor O' Neill's report has displayed fundamental misinterpretations of the facts from my perspective.

Appendix I

10March 2005

REPORT

LEAS CROSS NURSING HOME, LEAS CROSS, SWORDS, CO DUBLIN.

Leas Cross is a Registered Private Nursing Home. It is registered (till May 2007) to accommodate 111 residents - 43 single rooms, 34 twin bedded rooms. The owner is Mr John Aheame. The present person in charge is The home was registered in 1998 for a bed capacity of 38. This was expanded in 2003 and re-registered with an additional purpose built new building to accommodate 111 residents in total.

Inspections

The statutory two inspections per year were carried out since it opened in 1998. In 2004, there was one inspection on 02/06/04.

Person in Charge

Since the opening of Leas Cross, there have been three appointed persons in charge. The third and current person was appointed in 1999.

Physical Structure

The layout of the nursing home is quite extensive and the new building tends to divide the nursing home into somewhat two separate units, which are joined by a long corridor and an original dining area.

Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

Staffing
Following a review of staffing levels over the past year to support the nursing care, Leas Cross have employed on average 10 RGNs, 46 care attendants and 11 domestic and kitchen staff.

Following the investigation of one particular complaint, the inspection team recommended the employment of an Assistant Director of Nursing. This was facilitated by the owner and Director of Nursing. It must be acknowledged the owner and Director Nursing have demonstrated a willingness to co-operate and work with the Inspection Team at all times.

Increase in Admission Levels
In the period September 2003, there was a significant increase in new admissions over a short time period to Leas Cross.
Twelve beds were contracted by the HSE Northern Area from Leas Cross, to facilitate 12 in-patients from St. Ita's Hospital. The Psychiatric Team from St. Ita's Hospital - Assistant Director of Nursing, facilitated this transfer and provided ongoing support for those residents. expressed some concerns regarding the care of these patients following admission.

Number of Deaths
In 2004, records show that there were 6 deaths notified to Senior Area Medical Officer for the period of January '04 to June'04.
telephoned Director of Nursing - in March '05, to query the number of deaths from the period June'04 to December'04. Following this, the death notifications were furnished to Death numbers for this period = 11.
Total for 2004 = 17.

Complaints
There were 4 complaints investigated in the past 12 months. Reports have been completed and forwarded to Senior Management in Headquarters. The names of residents were; and

Independent Enquiry
There is an ongoing independent enquiry headed by in relation to a person who was resident in Leas Cross for in 2000. The enquiry relates to this person who was a ward of court and was transferred from St. Michael's House to Leas Cross. He died 10 days later following admission to Beaumont Hospital A & E department.

Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

Response to Complaints at Leas Cross

As part of our response to complaints, we interviewed the Director of Nursing, the Owner and relevant residents if considered appropriate. We also reviewed operations systems.

(a) Staffing
(b) Health & Safety
(c) Medication & Administration
(d) Communication
(e) Nursing Care

Under the Nursing Home (Care & Welfare) Regulations 1993, Article 5 of the Regulations sets out the obligations on Registered Proprietor and the Person in Charge to provide:

"A level of care to maintain the welfare and well being of persons in Nursing Home, having regard to their level of dependency".

To support the above regulation Article 10.5 (c) & (d) state
"There must be a registered nurse on duty at all times and a sufficient number of competent staff on duty at all time having regard to the number and dependency of patients"

This regulation regarding suitable skill mix was emphasised in detail with the Director of Nursing and the proprietor.

Considering:

(a) The above Legislation

(b) Our findings following review of operational systems.

(c) The number and nature of complaints.

(d) The limited availability of allied professionals, i.e. Physiotherapy & Occupational Therapy.

Our Concerns:

- High number of residents at Leas Cross with increasing dependency levels.
- Staffing skill mix.
- The need for effective utilisation of care planning, and assessment tools.

- Failure to notify Medical Officer of the death of a resident. Under Care and Welfare Regulations 19933:10:1:

"Under Article 22 of the Regulations that the Medical Officer of Health Board be notified of the deaths of a resident within 48 hours of the death".

Actions

In order to ensure that an acceptable level of care is provided, we decided:

- To work with the Nursing Management Team at Leas Cross (Director & Assistant Director) to support improved ongoing patient care.
- Measurement of resident dependency levels.
- Effective care planning and documentation.
- Development and implementation of policies, e.g. Policy on Care of Dementia residents, Pressure Care Prevention and Treatment, Wound Management.

10 March 2006

RE: LEAS CROSS NURSING HOME, LEAS CROSS, SWORDS, CO DUBLIN

What is it registered as / when was it registered?

Leas Cross is registered as Private Nursing Home to accommodate 111 residents. The Home was registered in 1998 for 38 residents. This was expanded in 2003 and re-registered with an additional purpose-built new building to accommodate 111 residents in total.

How many inspections since 2000 / dates of inspection?

Inspection dates:	15 - 02 - 2000
	16 - 10 - 2000
	25 - 03 - 2001
	18 - 06 - 2001
	20 - 05 - 2002
	20 - 11 - 2002
	09 - 07 - 2003
	17 - 11 - 2003
	02 - 06 - 2004

Total number of inspections: 9

Outcome of inspections:
Registered originally for:
Breakdown in Beds (High Medium Low) dependency:
Staffing levels:
Deaths notified:
Number of complaints:

} see attached report.

Number of Contract and Subvented Beds

March '05	12 Subvented Beds
	18 Enhanced Subvention
	20 Contract Beds

11th April 2005.

carried out a pre-planned inspection of Leas Cross Nursing Home on 7th & 8th April 2005.
joined the Inspection Team on the morning of 8th April 2005.

We met with newly appointed Director of Nursing and with proprietors Mr. John and Mr. Ray Aherne. The home is registered to accommodate up to 111 residents. There are 96 persons in residence on the days of inspection. Of these 96 residents 48 are in contract beds, 27 residents are in subvented beds, 21 residents are in private beds.
The following issues were addressed and agreed between us the inspectorate team and the nursing home management.

Staffing Levels/ Skill Mix

- New Director of Nursing
- Dependency Levels
- Communication / Continuity of Care
- Notification of Deaths
- Complaints
- Medical Care
- Review of Medical / Nursing Records
- Development of Care Plans
- Policies and Procedures
- Contracts of Care

Staffing Levels / Skill Mix

Currently Leas Cross has a total of 12 staff nurses and 45 care assistants. In view of the complexity and dependency levels of the current residents we requested and gained the approval of the proprietor for the immediate employment of 3 staff nurses as an interim measure to support essential nursing care. However in order to optimise standards of care and based on the current dependencies of residents a senior nursing structure i.e. 2 clinical nurse managers grade 2 and one clinical nurse manager grade 3 are appointed as planned by the nursing home management.

Dependency Levels

Based on the dependency tool provided to the nursing home by the inspectorate team, some time ago the Director of Nursing completed the said dependency levels on 8th April which resulted in the following;

Category One:	8 Residents (low dependency)
Category Two:	31 Residents (medium dependency)
Category Three:	42 Residents (high dependency)
Category Four:	12 Residents (maximum dependency)

See enclosed for further explanation.

Under the Nursing Homes (Care and Welfare) Regulations 1993 Section 19 1A
"where a person is in receipt of Health Board Subvention. The home is obliged to keep records of the residents level of dependency on admission and on review."

Deaths

There were 14 deaths of Leas Cross residents either at the home or in hospital during the period 1st January 2005 to 31st March 2005. We reminded Director of Nursing of the obligation of Nursing Home to notify senior area medical officer not later than 48 hours after the death occurs. As per section 22 of Nursing Home Care And Welfare.

Medical Nursing Care

Currently medical care is provided by one G.P. responsible for a potential 111 residents who also provides an out of hour service. We have requested the proprietor to engage with the G.P. to ascertain if this level of input meets current residents needs. We have been given an undertaking by the proprietor that he will provide us with this information in two weeks. Psychiatric medical input is provided by a visiting consultant psychiatrist on a weekly basis for the residents from St. Itas service. This service is further supported by a visiting psychiatric nurse.

Communication / Continuity of Care

This emerged as a significant deficit in the home in our discussions with the management team. The current Director of Nursing highlighted this gap and has taken steps to improve communication by:

- The formation of nursing teams with team leaders, the holding of weekly staff meetings.
- In house weekly training sessions for care assistance given by staff nurses.

We recommend involving medical / psychiatric service in team meetings for complex cases. We acknowledge that the Director of Nursing is currently only in the post two weeks and we are encouraged by her pro-active approach to the above.

Complaints

There were 4 complaints investigated in the past 12 months at Leas Cross and there is an ongoing independent inquiry being conducted on behalf of HSE Eastern Region. Of those five, four relate specifically to care issues. This we highlighted to the Director of Nursing and the proprietor. Under the Nursing Home Care & Welfare Regulations Article 5A to C lays down the standards of care, which are obliged to be met by the registered proprietor and the person in charge of residents.
"(a) A level of care to maintain the welfare and well being of persons in Nursing Homes, having regard to their level of dependency".

Review of Medical Nursing Records

Based on the sample of residents records which were reviewed a complete review of all records needs to be undertaken immediately. This was outlined to Director of Nursing:

- **Drug administration records:** In order to ensure safety in drug administration drug records are required to be rewritten at a minimum of six monthly when reviewed by GP or as required. Residents on multiple and frequently changing medications may require more frequent and/or rewriting of prescription. Written records on nursing signatures and initials also need to be maintained.

Outstanding Documents

As requested the following documents need to be made available to us immediately.

- Fire officer consultants report.
- Date of last fire inspection.
- Register of medical and nursing equipment.

Care Plans / Documentation

As outlined to Director of Nursing we recommended the accurate recording of the following care issues.

- Fluid balance charts where indicated.
- Wounds / pressure sores prevention and treatment.
- Documentation of residents nutritional status including weight.

We acknowledge the plans to develop care plans by the Director of Nursing.

Policies and Procedures

As outlined to Director of Nursing we recommend the development of care policies in key care issues initially. For example;

- Pressure sore prevention and treatment policy.
- Continence promotion given that Director of Nursing estimates that 80% of residents have some level of incontinence. We recommend liaison with Continence Promotion Unit Dr. Steevens Hospital to support this.
- Policies for promotion of optimum nutrition and fluid intake.
- Care of the dementia resident. It is estimated by Director of Nursing that 80% of residents have some degree of cognitive impairment.

Contracts of Care

As indicated by proprietor not all residents have signed contracts of care despite management efforts. We recommend that management would re double their efforts in order to comply with nursing home legislation.

Leas Cross One Ground Floor

Room G7 – One residents room with strong smell of smoking in bedroom / sanitizer on wall. Our concerns for safety were outlined.

- We recommended cessation of smoking in bedroom.
- Removal of sanitizer for health reasons. We advised co-operation with essential safety procedure.

Repair to Bath

We recommend repair to bath and servicing of bath seat / hoist at Leas Cross / One Ground Floor.

Following our two-day inspection of Nursing Home we acknowledge the willingness of the management team and the Director of Nursing to work pro actively with the inspection team to address the above issues.

We welcome the following initiatives that have been undertaken.

- Establishment of care teams.
- Weekly care assistant training.
- Commitment from management and proprietor to further staff training in key care areas.

Yours sincerely,

11th May 2005

Dear

and
met as previously arranged with Director of Nursing Leas Cross Nursing Home
and proprietors Mr. John Aherne. 6/5/05.

The items on the agenda are as follows:

New Director of Nursing curriculum vitae was forwarded to
Director of Public Health Nursing Her post is agreed.
On going recruitment is acting Assistant Director. This is an interim arrangement until Leas Cross recruit an Assistant Director and CNM II. As agreed to recruit three R.G.N.'s two of the three are in place. The third R.G.N. is to take up post shortly.

Dependency Levels
Dependency levels are relatively unchanged.

Notification of Deaths
As previously explained all deaths at Leas Cross Nursing Home are to be notified within forty-eight hours to Senior Area Medical Officer of relevant Community Care Area.

Communication / Continuity of Care
Director of Nursing has initiated three care teams with R.G.N. as team leader. Director meets care staff, R.G.N. and kitchen staff on a weekly basis.

Medical Care
Provided in the main by one G.P. who visits 5 days per week, for one to three hours. This G.P. provides seven-day emergency medical cover for Leas Cross.
has accepted invitation to meet regarding medical care/cover.
Review of medical/nursing records (i.e.) documentation, care plans, core care policies. Work is in progress with these.
review those in four weeks time. This date to be notified and agreed in advance to Director of Nursing

Contracts of Care

Management at Leas Cross Nursing Home have continued to endeavour that contracts of care are signed and have put in place a procedure when contracts of care are not signed by relatives.

1st June 2005

Re: Leas Cross Nursing Home.

Dear

Director of Public Health Nursing and Assistant Director of Public Health Nursing visited Leas Cross on 30th May 2005 at 2.00p.m. During the visit we were accompanied by Registered General Nurse who was deputizing for the Director of Nursing.
The Nursing Home has ninety-four residents including two people in for respite care. There was also one respite admission planned for the 30th May and one booked for 2nd June 2005.

Staffing Arrangements
Registered General Nurses on 30th May 2005
5 Registered General Nurses - 8.00a.m. to 2.30p.m.
4 Registered General Nurses - 2.30p.m. to 6.00p.m.
3 Registered General Nurses - 6.00p.m. to 8.00p.m.
1 in Leas Cross 1
1 in Leas Cross 2
3 Registered General Nurses - 8.00p.m. to 8.00a.m.

Nursing Assistants on duty
8.00a.m. to 2.30p.m. - 18 Nursing Assistants
2.30p.m. to 5.00p.m. - 9 Nursing Assistants
5.00p.m. to 11.00p.m - 11 Nursing Assistants.
11.00p.m. to 8.00a.m - 5 Nursing Assistants.

We were informed by that eight residents had been seen by their General Practitioner 30th May 2005 they included:

- Urinary Tract Infection.
- Urinary Tract Infection.
- - Blood Disorder.
- - Chronic Obstructive Airways Disease.
- - Chest Infection

Pressure Sores

Five patients had pressure sores and their condition and progress of healing was discussed with the residents were:

- who had pressure sores had been admitted to hospital.

All the residents were out of bed with the exception of who was in bed because of the seriousness of his Obstructive Airways Disease and being on continuous oxygen expressed satisfaction to us with his care.

We offered the opportunity to identify nursing issues and if we the Nursing Inspectorate could be of help. The only issue that had was who would assist / relieve her when she would be deputising for the Director of Nursing who was going on leave in June 16th.

The activity coordinator was in Leas Cross and doing an exercise programme.

Yours sincerely,

Response K

Private and Confidential

Response to extracts of Professor D. O' Neill's report on Leas Cross Nursing Home provided to the Director of Public Health Nursing (DPHN)
Note : comments on factual accuracy of document outlined in appendix B

I received correspondance regarding the above report on 19th July 2006 with extracts of Professor O' Neill's report. I did not receive the full copy of the report (although requested). As part of this process I have not been provided with nor have I reviewed the documents on which Professor O'Neill based his review. This may limit the completeness of my response in the context of Prof. O' Neill's full report.
I was not interviewed by Professor O'Neill as part of this review process and he has drawn extensive conclusions without reference to me or to the other HSE personnel who are identifiable to me from the report. Accordingly my response is confined in respect of the passages I received (listed in Appendix a). I received the terms of reference on 21st July 2006.

I have set out below by way of introduction some information about the context in which the HSE and the Inspection Team were operating at the time. This background and context is not reflected in Professor O'Neill's report.

Present Post: DPHN, HSE Dublin North East- December 2002 to date.

- Responsibility for Community Public Health Nursing service provision for North Dublin (CCA8), HSE Dublin North East (approx 110 staff)
- Participates & contributes to strategic planning for all services planned, implemented and evaluated in North Dublin

- The population of the area is 221,771 (2006 initial census). The old Northern Area Health Board (NA) discussed in the report represents approximately 500,000 populations in total (Community Care Area 6, 7, 8). This demonstrates the size of the North Dublin area within the old board boundaries (160,571 (Area 6), 122,423, Area 7).
- Today, North Dublin is considered one of the largest local health offices in the country. The ranges of population throughout the other 32 national local health offices vary with examples of Longford / Westmeath 113,764 and Wexford 131,615. There is one DPHN assigned to each CCA.

- The area transcends 52 district electoral divisions (ED's), and covers areas that have significant deprivation and other areas of affluence. This includes Darndale, Artane, Edenmore, Kilbarrack, Howth and Malahide. Staffing levels have been a major issue for the area since 2004. This lack of staffing impacted on the inspection of nursing homes. I wrote to management on 1/3/04 to express my concern regarding this resource issue.
- Service provision is provided from 16 Health Centres in the area throughout North Dublin. This is significant as some community care areas provide services from as little as three health centres.

The Public Health Nursing Service

The Public Health Nursing (PHN) service provides nursing services to all age groups within the home and clinic setting. The 1996 census shows the following: births, 3,600 per annum 44,000 (0-14 age group), 34,117 (15-24 age group), 63,895 (25-44 age group), 44,317 (45-64 age group), and older persons population 18,000. We provide both a preventative and curative service. The curative service covers a broad range of service activity including: clinical nursing to the sick / dying including family support / counselling, wound care, case / care management, rehabilitation etc. Our service covers all age groups. We have an increasing number of complex infant cases which also require intensive care & support in the home. In addition we also have an increasing demand from patients to facilitate hospital discharges. There has been no provision for extra nurse staffing levels to enable this to happen. In addition

increasing complex cases coupled with patient preferences has increased the need for services requirements.

Our preventative service covers health promotion / education with objectives to ensure the maintenance of optimum health for our geographical population by empowering populations to maintain their health and / or identify as early as possible potential health difficulties and refer to relevant services. Unfortunately due to shortages of staff (PHNs) our preventative service is reduced. We have advertised both locally and nationally without success in the last six months.

I also oversee the management of:

- A number of respite beds (nursing homes) which are managed by two Assistant Directors of Public Health Nursing (ADPHN). These beds facilitate respite services for under 65s.
- The PHN service oversees / case manages 200 packages of care for older persons which enable individuals to remain within their own homes if they are deemed suitable and so wish. There are approx 100 under 65 packages also requiring management. In the last 6 / 8 months both an ADPHN post and a Care co-ordinator post (including extra administration) has been put in place to manage / review / evaluate this service. This reflects the workload of the generic public health nursing service. This initiative is to be welcomed.

- I am also involved with two primary care traveller projects (steering committee member on both) and chair the Area Traveller Committee care group.

- We have two district care units (DCU) which provides a step down facility for discharge of the over 65 age group which provides intensive therapy / nursing care for up to 12 weeks and patients are then discharged to the generic service. This service is generally provided by nursing, occupational therapy (OT) and physiotherapy with some input from speech and language.

- North Dublin also provides a home first service (35 patients) to facilitate patients mainly in the older age group who require up to 4 home visits (Nursing / support services) per day. Prior to this patients had to go into long stay care. This is a tripartite multidisciplinary, multi-agency approach with Beaumont Hospital, a voluntary agency and North Dublin. The voluntary agency provides out of hours services that are unavailable from the community statutory service at the present time.

Responsibility in relation to Nursing Homes

- The area has 16 private nursing homes (815 beds). Our area has a significant number of private beds relative to public beds compared to other areas. There are only approximately 500 public beds in the whole of the old NA Health Board (areas 6, 7, 8). In North Dublin we have only one 50-bedded public unit available to our clients.

  Statutory responsibility for twice yearly inspections of private nursing homes rests primarily with the PHN Service in North Dublin (up to Oct 2004) when two ADPHN were released to work with the DON, Nursing Home inspection team who had been in post since November 2002. The majority of inspections up to October 2004 were carried out by the PHN Service. An Area Medical Officer or Senior Area Medical Officer covered 6 homes with one ADPHN. An independent team is now in place to cover the private nursing homes. The second independent ADPHN did not start till May 2005. She was seconded from another area.

- **Complaints:** Prior to taking up my post in North Dublin there were few complaints recorded regarding nursing homes. The situation was similar in other DPHN's areas. Approximately 2-3 per year represented the norm. Following the increasing number of complaints received in 2004 (re: Nursing Homes) I wrote to Ms. X and Ms. X on 13/7/2004 outlining the lack of staff to investigate them.
- **Responsibilities / Accountability as a Nursing Home Inspector**: Nursing Homes are defined in Ireland through primary legislation (Nursing Home Act

of 1990) and regulated through subordinate legislation (Care & Welfare Act 1993). The code of practice for Nursing Home (Dept. of Health 1995) was published to assist nursing home proprietors/ staff officers of Health Boards and the general public to understand what constitutes good quality of care in nursing homes. Policy guidelines for nurses and midwives are provided through our registration board An Bord Altranais.

The CEO holds statutory responsibility for nursing homes within his / her remit. Inspectors inspect the nursing homes in their area utilising a warrant of authority which can only be given by the CEO. The present level of authority for inspectors is to carry out the work on behalf of the CEO who maintains full statutory responsibility / accountability for nursing homes. The work responsibility cannot be delegated although the inspection function has been delegated to an Inspector.

Registration involves a number of staff other than the inspectorate team. The system in place 2002-2005 includes:

- **Registration** is issued by the Nursing Home Manager, Nursing Home Section. This office based in St. Mary's Hospital, Phoenix Park sends out details to each local area (6, 7, 8) when the registration and or inspections are due. All relevant completed documentation is returned to the nursing home section prior to confirming and issuing a registration certificate which is required under the legislation to be displayed in a prominent place in the home for the public / inspectorate to view. A senior executive administrator in HQ signs off all registrations. The nursing home section ensures the inspector recommends registration, the fire officer's & engineers reports are signed and recommended, the person in charge signed off prior to issuing them with a registration certificate.

- **Shortage of Medical Staff:** Due to a reduction in medical staff numbers from 2003 to 2005 there was little medical availability for nursing home inspections or complaints. The investigation of complaints was significantly delayed. Complainants were very dissatisfied about this. I wrote and spoke to Ms. X. on 1/3/2004, 13/7/2004, 15/3/2005.

Prior to November 2002

Up to the appointment of DON with responsibility for all nursing homes in the old NAHB and for a short time afterwards, I took responsibility for both routine inspections and the investigation of complaints in private nursing homes in the area. The inspections of Leas Cross Nursing Home from its opening were carried out by our local team which included the Co-ordinator of service for older persons prior to 2002, the DPHN in post at the time and a number of ADPHNs from 2002 to 2004.

Following the appointment of DON, Nursing Homes

The appointment of DON, Nursing Homes as DON Head of the Inspectorate Team resulted from a resource difficulty. There was also a significant increase in complaints in the area at this time. In October 2004 I released an ADPHN, for Nursing Homes from the generic service to work with the DON, Nursing Homes. Her post was not replaced for 6 months. I wrote to my MS. X on 7th November 2004 stating that I needed her to return to her substantive post as she had not been replaced. This letter was copied to Ms. A and Mr. X.

I worked closely with Mr. X in respect of all inspections, complaints and decisions relating to nursing homes and in particular Leas Cross from the appointment date. As head of the inspectorate reporting to Mr. X he had full responsibility for the nursing homes. Mr. X reiterated on the few occasions we met that all information, complaints, inspection issues were to be sent to DON, Nursing Homes.

There was a senior manager in HQ to whom all completed reports were forwarded to.

Following my first investigation of a complaint in Leas Cross Ms. X responded to the complainant using my report. The DON, Nursing Homes took over this responsibility and responded directly to all subsequent complaints.

As the DPHN I continued to investigate all private nursing home complaints within my area of responsibility with the Senior Area Medical Officer (SAMO). We had 16 complaints in 2004 and 27 complaints in 2005 in North Dublin (letter sent to Ms. X 2/6/2005). Due to staffing resources, (medical officer unavailable & ADPHN not replaced) there was a delay in the investigation of a number of complaints.

Due to concerns relating to nursing homes within North Dublin I continued to work closely with DON, Nursing Homes regarding many aspects of the inspection and complaints process.

Leas Cross

My active involvement in the above nursing home commenced on 9th July 2003 when I carried out a routine inspection with one of my local ADPHN. The home had been re-registered in November 2002 for 111 beds. This registration followed an inspection and recommendation by the former A/ DPHN. The 73 bedded extension was approved with some recommendations. Registration is for 3 years unless otherwise stated. There was no evidence in the documentation / information available to me to indicate that this home had any difficulties at this time.

During my inspection of 9th July 2003 (unannounced) the person in charge on the day was in an acting capacity (RGN). She was unable to provide us with many of the statutory requirements on the day. I subsequently wrote to the DON on 22/7/03 and a copy was sent to the proprietor. My local ADPHN followed up with the home in relation to these requirements. The DON's reply to me was dated 15/8/2003.

I have listed work regarding Leas Cross in my diary on 25 occasions / days between July 2003 and May 2005. This number of visits and related office hours was significantly higher compared to other nursing homes (except one other) due to the number of complaints to be investigated and our concerns regarding the need to inspect and investigate the home.

The purpose of the visits included:

- Routine inspections, 9th July 2003, 7th November 2003, 2nd June 2004.
- Two visits to the home regarding the independent enquiry.
- To investigate complaints
- Meeting with the owner and the DON

Complaints

I completed the investigation of six complaints from January 2004 to January 2006. Following a review of all files in relation to Leas Cross I identified two (2) complaints since it opened prior to my appointment. Both were investigated and closed.
My first visit to Leas Cross in respect of complaints was 12th December 2003 to investigate a complaint. A SAMO investigated the complaint with me and the DON, Nursing Homes accompanied us.

I attended 3 meetings with the Proprietor, Leas Cross and the DON and or ADON, Leas Cross.

- **4th August 2004.** (Chaired by DON, Nursing Homes). A meeting was arranged for 2.30pm but delayed until 4pm to facilitate the proprietor attending. The meeting was initiated following a recommendation in one complaint outcome to meet formally with the proprietor and DON. The issues discussed at the meeting included the following:
    - Staffing – both management and front line staff
    - Health and safety
    - Recent complaints
    - Medication management
    - Nursing Care - – care planning, wound care
    - GP attendance to home
    - Dependency levels –the need to use a measurement tool - copy and education 5th July 2004 by the ADPHN Nursing Homes and myself (Copy on file)

- **8th April 2005** Meeting with the home and the inspectorate team chaired by DON, Nursing Homes. The following was discussed:
    - Staffing levels
    - Nursing / front line and management/ nursing structures
    - Dependency levels
    - Complaints
    - Reporting of deaths

- Verbal Agreement to cap beds at 96 in the interest of patient care
- Date set to review in 4/52. appointment made for 6th May 2005

Following the meeting I contacted Ms. X and informed them that no admissions should take place as of the above date. The DON, Leas Cross phoned me two days later to say a patient who attended regularly for respite had arrived for admission and had no where to go. The DON, Nursing Homes and I agreed to admit this patient in the circumstances. A few days later Ms. X again wanted to admit another patient. The DON Nursing Homes and I refused and advised them to source alternative accommodation.

6th May 2005 Attended with inspectorate team chaired by DON, Nursing Homes. The capping of the beds was not formally recorded.

- The following was discussed:
  - The appointment of DON. The DON, Nursing Homes informed the proprietor we would agree to appoint her in the interest of continuity in relation to patient care. Her CV provided suitable experience of 3 years over a 9 year period.
  - All items as of the meeting of 8th April 2005 were further discussed.
  - The proprietor complained that in relation to an inspection carried out on 7th / 8th April 2005 he had only received the report a few days ago and had little time to act on it.
  - The new ADON had declined the post.
  - For review again in 4 weeks

Person in Charge

In relation to the Person in Charge, I received a letter from the proprietor informing me that the DON had resigned her post as of 25th March 2005 (dated 14th March 2005) and that he had appointed the ADON as "Matron" (DON). This letter was receipted in the HSE on 29/3/2005. I wrote on 8th April 2005 asking for her CV. Following discussion with DON, Nursing Homes and further consultation with Ms. X

and Ms. X a decision was made to confirm the appointment on 6th May 2005. The DON, Nursing Homes and I made the decision to confirm her appointment. She was informed verbally by the DON, Nursing Homes at the meeting in Leas Cross on 6th May 2005. Her appointment was confirmed by letter on 10th May 2005. We considered the capping of the beds and the confirmation of her appointment would support the home in consolidating good patient care. We agreed to support her in her new appointment. Leas Cross had advertised for an ADON post and had interviewed to replace the ADON. However the successful applicant turned down the post.

I put my concerns regarding complaints and staffing issues in writing to Ms. X. The report of the 10th March 2005 for Ms. X clearly sets out our concerns and an action plan. These reports and actions are not reflected in the Professor O'Neill report.

My overall view regarding the passages I received is that

1. The report contains a significant number of factual inaccuracies (see Appendix L). While I have addressed certain of the mis-statements and inaccuracies which have appeared in the report I have not addressed each statement and ask that my general comments would be taken as my response on these issues. I would comment that Professor O'Neill's conclusions based on documentation reviewed by him (documentation not provided) and in the absence of interviews with relevant personnel are not valid.
2. There is an overstated view in the report that the X section continually informed all involved in Nursing Homes regarding their significant concerns. This is not a full reflection of events from my perspective. The letters referred in Professor O' Neill's report were not "widely circulated" as described. Increased communication links were developed with other sections by me when I initiated the establishment of a clinical group to ensure appropriate placement for patients in Nursing Homes. Information regarding staffing levels in Nursing Homes was supplied by me to the clinical group from the inspection reports. This was the only quantitative measurement available to us during that time. All members of the group benefited by meeting regularly and sharing relevant information with respect of patients and concerns in nursing homes. We hoped to develop a research based tool to support the appropriate transfer of patients from hospital to nursing home. The concerns

of the PHN service is evidenced in the number of letters to Ms. X regarding nursing home issues and also staffing and this is not stated in the report. It may be possible that the author did not have access to all these letters or reports. He documented one comment in relation to staffing issues (PHN service) and did say this may reflect difficulties due to lack of resources within the PHN Service.

3. Inspectorate: There are a number of assumptions in the report that the inspectorate had the ability to take action where in fact they did not have this level of authority. As stated the role of the inspectorate is to provide reports with requirements and recommendations following routine inspections and investigations of complaints.
4. I would hope that this report would result in a full review of the nursing home inspection process. This report focuses mainly on care and welfare issues. A full review of all necessary requirements for registration should hopefully evolve from this report. The service quality gap model (Parasuraman et al, 1985) has been used for evaluating the inspection process. The total quality management process (TQM) (Ovretveit 1994) which embraces key principles such as customer focus, teamwork and breaking down professional barriers and better management of resources would also be useful.
5. Person in Charge: The assumptions / comments made in the report with reference to the inspectorate role in appointing the person- in-charge are not accurate. Professor O' Neill may not understand how DON's are employed in Nursing Homes or the role of the HSE staff. Proprietors employ the DON and then (legislative requirement) inform the HSE within one month of the appointment (see regulation). Upon receipt of the CV the HSE respond in keeping with regulation 10.2 of Nursing Home Care and Welfare Regulations 1993. The new process promoted by the current national group on nursing homes should support the inspection team in ensuring suitable people are employed by Nursing Homes. A number of proprietors already contact the HSE Inspectorate to discuss potential candidates. However this will require that proprietors are educated in how to select the most suitable candidate and remunerate them appropriately.

Conclusion

I have outlined above some of the serious concerns I have about the process adopted by Professor O'Neill in carrying out the review of Leas Cross nursing home. As he reviewed only certain documents, Professor O'Neill has not reflected the context and constraints in which the PIIN Service was operating and the steps which I took as DPIIN to ensure the care and welfare of the residents in Leas Cross Nursing Home. As part of the inspection team, I together with the DON, Nursing Homes and others, endeavoured to put in place a mechanism where shortcomings in Leas Cross could be addressed and to support the proprietor and the person in charge in remedying the issues identified. Professor O'Neill's report draws wide ranging conclusions from a limited documentary review and does not present a balanced and accurate picture of the work and expertise which I brought to the HSE Inspection process.

In submitting my response I do not do so in a defensive manner. I believe it is very important that the full facts are on record lest the obvious incompleteness of Professor O' Neill's report detracts in any way from the development of robust inspection mechanisms that I and my other colleagues have worked to advance.

Date_____

Appendix B

Factual accuracy of document

Definition of Inspection team? This term needs re-defining throughout the document

The term *"Inspection Team"* used throughout the document does not represent one specific group of staff headed up by DON, Nursing Homes.

This review covers 2002 – 2005.

Prior to the setting up of the independent inspectorate team (DON, Nursing Homes and two Assistant Director of Public Health Nursing, ADPHN) a number of other staff carried out inspections.

Page 26, paragraph 3

"There is no evidence that the nursing home inspection team or HSE had expectations of experience with specialist nursing of older people as a prerequisite of approving Directors of Nursing of residential care for older people".

Proprietors employ the "person in charge" and then informed the HSE. Under the legislation the proprietor must inform the HSE of the appointment / or change of person in charge within one month of taking up the post. This is a clear gap with the essential need for expertise and knowledge prior to employment being essential and available to nursing home proprietors.

We have always tried to work with proprietors in advising them of the necessary skills / competencies essential for this very important role. At every opportunity we offer them job descriptions / job specifications to ensure a suitable person is appointed. As DPHN we sit on interview panels for many senior posts throughout the area. As we provide services to many older persons in the community setting we are well placed in identifying suitable candidates.

We are aware that some proprietors may have lack of expertise in deciding the competencies necessary for this important role. In review of some nursing homes many DON's do not having similar qualifications to those who work in the public setting.

Personally I not only see the need for expertise in Gerontology but also management and leadership skills (qualification). It is important to note also that a significant number of nursing homes today facilitate acquired brain injury residents and young chronic disease residents. In this situation expertise in these areas will be required. Therefore the skill mix and expertise required must reflect the residents within each particular home.

The only way this can be achieved is that new legislation should ensure a process that the inspection team has input prior to an appointment being made. It may require interview as carried out in other jurisdictions.

Page 26, paragraph 4
"The lack of Assistant directors of Nursing, apart from a late temporary promotion of a member of staff meant that it appears that nursing staff and care assistants had to relate directly to the Director of Nursing for any substantive decisions".

This is an inaccurate statement. There was an Assistant Director of Nursing Post put in place in November 2004 in Leas Cross. This post was created following a recommendation in a complaint report dated 13/7/2004. We also recommended a formal meeting with the proprietor. The post was agreed at this meeting. She took up post in November 2004.
With reference to suitability we discuss and offer job descriptions and competencies when discussing staff appointments. Anecdotal evidence from some DON informs us that pay scales are not similar to public jobs.

Page 27, paragraph 1.

"There was no evidence of the use of any recognised measure for the calculation of required numbers of qualified nursing staff proportional to the numbers of residents and their dependency. Using any of these ratings would have given a significantly higher level of qualified nursing staff, and this was also the finding of the nursing home inspectorate team".

Also referred to in page 37, paragraph 4

"The Nursing Home inspectorate team proposed a possible model for matching dependency, a dependency classification adapted from one based on medical and surgical ward models. Although the formula used gives a multiplier for increasing levels of dependency it does not translate this into numbers of staff required on the ground or indeed have any comment about their training requirements or needs".

With reference to no evidence of the use of any recognised measure, I spent the afternoon of the 5th July 2004 in the home with the DON, Leas Cross showing her a simplified version of patient dependency workload index and how to use it. The agreement was for her to carry out same on a monthly basis.

Criteria for Care (patient dependency classification system) was introduced in the Mater Hospital in 1995 manually in all wards. It now forms the basis for an automated integrated nursing system which when further developed in 2000 resulted a nurse rostering system. It is also being used in Beaumont Hospital as a dependency tool but not as a workforce planning tool.

The Department of Health Report of September 2005 (working group on measurement in determining staff skill mix) found that 68% (of those who responded in relation to what systems are used in Ireland) do not use any tool at all. Staffing is determined by historic measurement. I contacted two local community units for older persons and they had no tool in use at that time.
We chose criteria for care, a recognised researched based tool:
Firstly, because I needed to be able to measure the staffing levels utilising a researched based tool

Secondly, a number of key hospitals were already using it.
Thirdly, it required little training for use. The RCN tool is highly recommended but is very complex and requires a significant training input prior to use.

With reference to it use in medical and surgical wards only page 164 of the work tool recommends it use in nursing homes.

Page 37, paragraph 2

"The report mentions that while they had provided a dependency tool previously, the dependency calculations were performed by the Director of Nursing on the 8th of April, i.e. the second day of the inspection".

As described above I spent the afternoon of the 5th July 2004 in the home with the DON showing her a simplified version of patient dependency workload index and how to use it. The agreement was for her to carry out same monthly.
However by December 2004 she had not done so.

Page 39, paragraph 3

"For example, no patient who died was admitted after the date where he stated that changes had been made in admission practices such as the use of the Waterlow score for pressure sore risk assessment".

A number of overlay and replacement mattresses were provided during this period as the nursing home had "none" available at the time. Our policy for all applications for pressure relieving mattresses including nursing homes is that staff, (community and private homes) provide a waterloo score plus a clinical assessment of the patient's condition prior to agreement to purchase of any mattress.

Page 40, paragraph 1, 2

"Mr. Hynes also notes that the Inspection Team reports do not state what criteria is used for reaching the conclusion that patients appeared well care for".

I am unable to comment on the above statement as I was not furnished with a copy of this report.

Page 41, paragraph 3

"Perhaps the most worrying aspect of the documentary review of the Nursing Home Inspection team process (including senior Management) was the apparent absence of any documentation to counter the perception that they failed to address the very serious concerns raised by various inputs other than the routine inspection process and to incorporate these into executive decisions on nursing homes. These include:

- *Serious complaints by relatives about deficiencies in care*
- *Oral and written communications from mental health professionals at around the time of the transfer of patients from St. Ita's Hospital*

"It is not immediately apparent that the HSE or the Inspection Team understood the significance of such communications given that a, it is difficult for relatives to make such complaints as they often feel that the resident is vulnerable should a complaint be made"

It is important to note that no correspondence from mental health professionals (except for 1 letter dated 22nd April 2005) was sent to me or my ADPHN Nursing Homes. We were not informed of the placement of patients from St. Ita's Hospital to Leas Cross and were not asked for our professional view. We were not invited to any meetings regarding such placements. Our first knowledge was seeing the patients in the home during a routine inspection. We were informed of the arrangement by the home.
Secondly, all other correspondence as discussed in page 42, "circulated widely" did not include me.
On discussion at one of our clinical group meetings in 2005 the letters were mentioned and I asked for a copy. I saw two letters a few weeks later. I explained to Ms. X that I did not attend senior management meetings where decisions were made but I would forward all correspondence addressed to me to the DON, Nursing Homes who was heading up the inspectorate team.
In the case of the letter of " 2nd April 2005 (page 46, paragraph 2 this letter was dated 22nd April and was sent by me to the DON, Nursing Homes who was attending the meetings with the CEO in respect of nursing homes

Page 44, paragraph 3

"A memo of meetings between Psychiatry of Old Age and the nursing home inspectorate documented as occurring on 26th May, 23rd September and 5th November 2004"

Page 46, paragraph 5

"In response to their concerns and complaints received by the nursing home inspectorate group set up a working group involving PIIN's, themselves and the Old Age Psychiatrists to discuss the situation regarding nursing homes and the department of social work in Beaumont Hospital was kept appraised of any current happenings or concerns"

The above group was set up by me and the ADPHNs of North Dublin. I chaired this group. The increasing number of complaints and the difficulty of patient mix and skill mix highlighted the need to look at how patients were admitted to nursing homes. I discussed it with Ms. X and suggested a clinical / management group which commenced on 26th May 2004.
The clear objective for the group was to ensure appropriate placement for patients in nursing homes. We hoped to identify a research based tool that would facilitate suitable placements to meet individual patient's needs.

The group composition was comprised of the SAMO, Manager for Services for Older Persons (MSOP), Consultant (1), Consultant (2), ADON, ADPHN's and DPHN.
We invited Ms. X from Beaumont Hospital to join the group and I sent details of meetings to date in time for the November meeting. Unfortunately although agreeing to attend none did. A change of personnel in this post occurred at that time and I was unaware of this. No further correspondence was sent after November 04.
Subsequently it would be unfair to state they were appraised of *"current happenings or concerns"*.

Mr. X was appraised of the group and invited to attend. A short while later he informed us he was setting up another group which would look at standards for nursing homes. I suggested an amalgamation of the two groups would be beneficial but this did not happen.
I wrote to Mr. X of the HSE, Mr. X and Ms. X of Beaumont Hospital to try and set up a pilot to advance the use of this tool.

Specific comments on executive summary conclusions? Finding of institutional abuse as defined by Professor O'Neill.

Profession O' Neill's does not set out the evidence on which he based his findings of institutional abuse. He states his definition as: "Institutional abuse can occur which may comprise of poor care standards, lack of a positive response to complex needs, rigid routines, inadequate staffing and an insufficient knowledge base within the service" but he does not confirm the areas (some or all in the definition) he considers supports his findings. I consider it is vital to confirm such a serious finding with direct or original evidence by interviewing the residents and the staff.
It is important to point out that as an inspector I tried to measure the dependency of the patients (including patient mix) utilising the criteria for care tool which would ultimately have provided us with the necessary information to confirm the skill mix of staff required to provide suitable standards of care for the patients in the home. Standards will inevitable fall if inappropriate placements of patients are placed into an environment that does not meet their needs.

Appendix A

Pages of report received

Page 5 Executive summary

Page 24 Incomplete, medical cover 2 paragraphs

Page 25 Bottom 3 lines

Page 26 / 27 Full Page

Page 28 first paragraph

Page 34-46 full pages

Page 47 first 2 lines

Page 48 first 3 paragraphs

This totals 20 pages

Response L

Re: Prof.O'Neill review into Review of Deaths at Leas Cross Nursing Home

In Professor O'Neills report on Leas Cross he refers to an unannounced visit to Leas Cross on the 30th May 2005 at 2pm.Included in his reference to this visit is the statement "Surprisingly,there was no comment in this letter on the standard or quality of care".

This visit was carried out by myself and

As I had no opportunity to meet with Professor O'Neill I wish to clarify that this was not an Inspection visit and that we did not intend to examine/review the standard or quality of care in Leas Cross.

The reasons for the visit to Leas Cross which was requested by the H.S.E. (in light of the impending Television Documentary that night) were to establish with the Person in Charge at time of visit.

- If there were enough staff on duty to care for the residents bearing in mind their dependency levels.
- If Person in Charge was satisfied that she would be in a position to provide the nursing care required.

We established that there were enough staff on duty (we did not look at staff compentencies).
The Person in Charge at time of visit did not identify that she had any nursing care problems.

The only problem that the Person in Charge identified was as previously stated who would relieve her when she was deputizing for the Director of Nursing who was going on leave.

Response M

Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

Health Services Executive,
Local Health Office,
Dublin North Central,
1st Floor Ballymun Health Care Facility
Ballymun Civic Centre,
Main Street,
Ballymun,
Dublin 9
Tel: (01) 8467128
Fax: (01) 8467524

11th August 2006

STRICTLY PRIVATE & CONFIDENTIAL

BCM Hanby Wallace Solicitors,
88 Harcourt Street,
Dublin 2.

Re: Prof. O'Neill's O'Neill Review of Lea's Cross.

Dear BCM Hanby Wallace,

I wish to comment on the above review. He made a comment about my role as Senior Area Medical Officer which I request to have deleted.

It is clear from his comment that he does not have knowledge of the role of the Senior Area Medical Officer with regard to nursing sources. The Senior Area Medical Officer **cannot** comment on the medical care provided by the medical officer attached to a nursing home. To do so would invite a legal response from this Medical Officer. Therefore Prof O'Neill's comment is inaccurate and most be removed. Furthermore, such a major error would not have been made if Prof O'Neill had taken the time to discuss the matter with me before writing the report.

Yours sincerely,

Senior Area Medical Officer.