

CHAPTER 3

THE IMPLEMENTATION OF PHARMACEUTICAL RESTRUCTURING MEASURES – ADMINISTRATION

3.1 Following the Minister's media release of 8 August 1990, the Health Insurance Commission (HIC) saw its Pharmaceutical Benefits Scheme (PBS)-related operations as affected in one respect only: any application for approval to dispense PBS prescriptions from new premises lodged after that date and claiming 'prior commitment' would require checking that arrangements had already been made prior to 8 August.

3.2 Evidence provided to the Committee indicates that the HIC failed to grasp the exact extent of its role in the restructuring arrangements. Its misunderstanding of that role, and the existing laxity of procedures in the granting of approvals, meant that the transition period of the restructuring was characterised by carelessness in relations with State Offices and pharmacists, provision of conflicting advice and implementation of contradictory procedures, confusion and inefficiency.

3.3 The Pharmacy Restructuring Authority (PRA) had a more demanding task on its hands when it took over the restructuring functions. Its operations were marred by lack of preparation time, a large number of applications awaiting consideration, unsatisfactory or incomplete information for its decision-making and limited discretion. Its part-time function, the interpretation it gave to some of the guidelines as examined at paragraphs 3.70 to 3.74 below, and the procedural complexities it was obliged to follow, all led to administrative delays, continued confusion among pharmacists and the emergence of injustices in the application of the restructuring arrangements.

3.4 The performances of both the HIC and the PRA were also affected by the views each held about their respective relationship with the Department of Health, Housing and Community Services (DHH&CS) and about their place in the restructuring program. The situation at 3 June 1991, the date of the present reference to the Committee, was still marked by confusion, contradictions and inflexibility.

The Health Insurance Commission (HIC)

3.5 Until 9 August 1990, the Health Insurance Commission had little to do with the negotiations between the Government and the Pharmacy Guild which had led to the Minister's media releases of 23 July and 8 August 1990. In evidence, HIC witnesses claimed to have had little knowledge of the thrust of the immediate restrictions being imposed and frequently told the Committee that the Minister's statement was the only 'guideline' available to them until early November.

3.6 In its submission to the Committee, the HIC wrote:

The Minister's statement concerning approval arrangements prior to the establishment of the Pharmacy Restructuring Authority was seen as limiting the number of new approvals except where a commitment had been entered into. In exercising the Secretary's delegation the Commission was required to give consideration to whether a commitment had been made but not to the impact of that decision on the number or distribution of pharmacies, issues which were intended to be the focus of the Pharmacy Restructuring Authority. The statement was not seen as limiting the relocation of pharmacies or changes in ownership of pharmacies. In both cases the overall number of pharmacies is not affected.¹

3.7 Evidence given to the Committee confirms the stance taken by the HIC that its operations were not essentially part of the restructuring: 'Our responsibility is to administer the Scheme'² said one of its officers in response to questions on the Commission's concerns about the broader ambit of the restructuring. At most, the imposition of a criterion in connection with the consideration of applications received after 8 August 1990 which claimed a prior commitment was an administrative complication.

3.8 Failure to grasp that the immediate restrictions were a stepping stone towards the intended rationalisation of the retail pharmacy industry may have resulted from the lack of directions the HIC received from DHH&CS. The Committee was told that the Commission asked the Department to assist it in defining 'prior commitment' and in determining what documentation could be useful as proof of commitment. The Department has said in evidence that it indicated to the HIC that 'the Minister wanted to provide grandfather protection to those people who had made prior commitments'³ and that the HIC had to develop criteria in the light of this.⁴

3.9 Given the standard procedures then operative, the search for a new *modus operandi* was severely handicapped. The transition period may have been envisaged as brief, preparatory to the full restructuring once the Pharmacy Restructuring Authority came into operations. But the transition period was not brief and the HIC's approach to the new arrangements prevailed long enough to leave its mark on the course of the program.

1. *Transcript of Evidence* (HIC) 23 August 1991, p. 332.

2. *Transcript of Evidence* (HIC), 27 November 1991, p. 949.

3. *Transcript of Evidence* (DHH&CS), 27 November 1991, pp. 996-97.

4. *Transcript of Evidence* (DHH&CS), *ibid.*, p. 996; (HIC), *ibid.*, p. 978.

— procedural laxity: (a) accommodating the pharmacists

3.10 Until 8 August 1990, the granting of approvals had been handled in a very flexible manner, with a minimum of bureaucratic procedures by either the relevant Department of State or the HIC.⁵ The only requirement was approached in a similar way, the guidelines giving vague instructions and stipulating only that:

Reasonable care should be taken to ensure that the intended pharmacy conforms with the requirements of and is approved by State and Local authorities before approval action is taken.⁶

3.11 In its submission to the Committee, the HIC confirmed that 'there were no special guidelines developed to handle the approval of applications'.⁷ There is no evidence that any documentation was required by the HIC in support of the application meeting State requirements. The relevant State Pharmacy Board or Council would be contacted for verification that the pharmacist and the premises were on the relevant register.

3.12 Information provided to the Committee reveals that State legislation was not always strictly enforced by the relevant Pharmacy Board, nor was there any consistency between the various States. When the Pharmacy Board of New South Wales wrote to all pharmacists in the State on 29 August 1990 to inform them of amendments to the *Pharmacy Act 1964*, it pointed out that it had 'noted that some pharmacists have not informed the Board of earlier changes to ownership, changes to trading name or relocation of premises'.

3.13 These circumstances may have enabled a pharmacist to begin dispensing PBS prescriptions on 6 September 1990 from premises which had not been approved by the relevant State Pharmacy Board. The case was the cause of a submission to the Committee by a concerned and aggrieved witness who concluded that 'the HIC operated with a blind trust of authenticity without investigation'.⁸

3.14 The Committee has heard and read much evidence which indicates that laxity continued to be the hallmark of approval operations. It may well be that this was a flow on of a long standing approach to the granting of approvals. A witness told the Committee that:

the arrangements were set to make life as simple as possible for pharmacists.⁹

5. *Transcript of Evidence* (HIC), 23 August 1991, p. 331, paragraph 2.4.

6. Department of Health, Procedure Manual, 1 July 1981, subparagraph 17.2.1.2.

7. *Transcript of Evidence* (HIC), 23 August 1991, p. 331.

8. *Transcript of Evidence* (Ms Cathro), 15 November 1991, p. 745.

9. *Transcript of Evidence* (DHH&CS), 27 November 1991 p. 1015.

This characteristic of relations between the HIC and pharmacists was corroborated by a number of witnesses. A witness placed the pre-9 August 1990 arrangements in perspective when she told the Committee that the Department to 1989 and then the HIC had always tried to accommodate the pharmacists.¹⁰

3.15 Procedural laxity relating to State requirements did not cease with the beginnings of the restructuring. Thus on 14 February 1991, HIC Central Office wrote to the PRA suggesting that:

it would be unwise to insist on Pharmacy Board approval until the time comes for formal granting of the Pharmaceutical Benefits approval.¹¹

The ground given for this was that seeking State approval was a costly undertaking which no pharmacist should be expected to face until he/she was certain of being granted an approval.¹²

3.16 A concern for the pharmacists is a recurrent theme in correspondence from HIC Central Office, even at the risk of running counter to established principles. Information provided to the Committee shows, for example, that the HIC Central Office, concerned at the delays likely to occur when the PRA would begin operations, particularly when a sale/purchase of existing premises was involved, advised its officers in State Offices in the following terms:

Inevitably situations will arise, as they already have, where an existing pharmacy transfers ownership in expectation of instant approval by the Commission. In order to deal with these cases, the following procedure should be adopted:

. . . Finally, an applicant should come to a formal agreement with the existing approved pharmacist relating to the transfer of monies paid by the Commission. One method of doing this would be by the approved pharmacist authorising the applicant's bank to accept these cheques directly. For their own protection, the parties should make an agreement in a legally binding way, although of course that is a matter for their own discretion.¹³

3.17 Evidence provided to the Committee in this regard did not confirm the part played by the HIC in initiating this practice, but noted its existence:

10. *Transcript of Evidence (Ms Mihulka)*, 6 September 1991, p. 379.

11. HIC, Policy and Compliance Section to the PRA, 14 February 1991, HIC Correspondence.

12. *ibid.*

13. HIC Policy and Compliance Section to Manager Pharmaceutical Benefits, All States, 3 January 1991. HIC Correspondence.

What has happened is that sometimes pharmacies change hands; there is a sale and a purchase takes place which precedes the formal approval under the Act. In that situation, a pharmacist will say to the other pharmacist "Look, to make sure I get the right amount of money, would you please change your bank account details so that when I lodge my claim the Health Insurance Commission will pay the monies into my bank account, that is the purchaser rather than the vendor".¹⁴

3.18 The memo quoted at paragraph 3.16 above raises several questions:

- (i) had the pharmacists been properly briefed they would have known that there were new rules in place and that delays may occur;
- (ii) it is doubtful whether the advice given is legally acceptable; and
- (iii) it shows the point to which the HIC was prepared to bend the rules, albeit to 'accommodate the pharmacists'.

— procedural laxity (b): tentative approvals

3.19 One of the common practices followed for many years to accommodate pharmacists was to issue a 'tentative approval number' to any pharmacist who expressed the intention of opening a pharmacy from which he/she wished to dispense PBS prescriptions so as to facilitate the beginning of operations¹⁵. This practice became one of the controversial side issues of the restructuring. For that reason it will be examined in detail.

3.20 Neither the legislation nor the Procedure Manual in use contained any directions/instructions on the issue of tentative approvals. In evidence to the Committee, the HIC confirmed that:

it has been common practice to issue the approval number to a pharmacist in anticipation of State approval so that the pharmacist can organise stationary etc. prior to beginning operations. This is then followed up by a letter of approval once State approval has been given.¹⁶

3.21 This practice was adhered to in some of the applications which the HIC considered 'on a case by case basis'. Evidence given to the Committee shows that, in three instances, pharmacists who had applied for an approval were told that:

14. *Transcript of Evidence* (HIC), 27 November 1991, p. 954.

15. *ibid.*, p. 963.

16. *Transcript of Evidence* (HIC), 23 August 1991, p. 331, paragraph 2.7.

From the information supplied I have determined that you have met the criteria stated by the Minister for Aged, Family and Community Care/Health Services and an approval number will be issued to you.¹⁷

Similar advice provided orally to another pharmacist led to even more protracted processing of an application for approval.¹⁸

3.22 This practice should not have posed any problem as long as the HIC was responsible for the issue of both the tentative and the final approval. Because the practice:

was based on automatic approvals . . . no one was ever challenging whether the provisional number was valid or not, because it did not have any purpose or meaning in the same way that it had when the rules were changed.¹⁹

3.23 Complications arose when a pharmacist was given a tentative approval number on 14 November 1990. His application for approval was not finalised by the time that the HIC could no longer handle these applications, and the PRA was preparing to consider it. The PRA was not certain whether the letter advising that an approval number would be allocated meant that approval had been granted. The departmental legal section expressed the opinion that the wording used in the letter meant that an approval had indeed been given, effective from the date of the letter.²⁰

3.24 The Committee noted that information gathered during the inquiry revealed that this advice could raise the issue of the validity of an approval which had been granted before the relevant Pharmacy Board's approval had been obtained. Yet, as explained above, this practice was well entrenched in the procedures associated with the granting of approvals.

3.25 On 30 November 1990, the HIC Central Office wrote to its State Offices requesting that tentative approvals issued after 1 November 1990 be reviewed and cancelled as new guidelines were coming into effect on 3 December 1990. Yet, on 5 December 1990 the HIC Central Office itself issued a tentative approval to each of two pharmacists claiming prior commitment. It would appear that the availability of guidelines²¹ – notwithstanding the fact that these would in fact not be operative

17. HIC Correspondence.

18. See Appendix 3, Case F.

19. *Transcript of Evidence* (DHH&CS), 27 November 1991, p. 1015.

20. See Appendix 3 – The Port Macquarie case.

21. See examination of this term at paragraphs 2.52 to 2.58 above.

until 1 January 1991²² – was of consequence to State Offices but not for Central Office. Yet, the Committee has been told several times that, during the transition period, all applications for approval to dispense PBS prescriptions from new premises were to be referred to Central Office.²³ State Offices continued to provide information to pharmacists and continued to ensure that applicants provided the correct information.

3.26 The issue of tentative approval numbers by the HIC became incompatible with new arrangements for the granting of approvals when the PRA began operations, since an approval could only be granted upon a recommendation of the PRA. To have issued a 'tentative approval' would have pre-empted the decision of the PRA. The HIC was aware of this fact when it advised its State Offices to cease the practice:

Now that new approval arrangements have been put in place, and as these are largely dependent upon the determination of an outside agency (the Pharmacy Restructuring Authority), this practice is causing difficulties. The problem is that some applicants are assuming, notwithstanding clear explanations to the contrary, that the issue of a tentative approval number is the same as granting approval. This has the potential to cause embarrassment to the Pharmacy Restructuring Authority. Accordingly it has been agreed between the Pharmacy Restructuring Authority Secretariat and this Branch that no new tentative approval numbers are to be granted.²⁴

– procedural laxity (c): careless communication style

3.27 Correspondence from the Central Office with State Offices and with pharmacists was deficient both in form and content. On 9 August 1990, HIC Central Office advised its State Office managers of the new arrangements in the following terms:

As from this morning any application to dispense pharmaceutical benefits will be in accordance with criteria presently being developed. Applications already(sic) lodged will be approved on current procedures. Pharmacists who have entered into commitments with the expectation that approval would be dealt with on a case by case basis(sic).

22. These 'guidelines' were in fact an extract from the Agreement which, on 20 December 1990, the Pharmaceutical Benefits Remuneration Tribunal determined would take effect on 1 January 1991. The Guidelines referred to in section 99L of the *National Health Act* did not come into effect until 23 January 1991.

23. *Transcript of Evidence* (HIC Qld), 2 October 1991, p. 585; (HIC NSW), *ibid*, p. 621.

24. HIC Central Office to State Offices, 25 February 1991, HIC Correspondence.

... For those pharmacists who have entered into commitments to open/buy/develop a pharmacy they should lodge with you documentation to support that activity. This is merely designed to let us know what's happening at the present time.²⁵

3.28 This was the only written advice distributed to HIC officers Australia-wide until 30 November 1990. The Committee has been told that during the transition period, 'the delegation and decision-making process in relation to approvals had been taken over by [HIC Central Office]'.²⁶ But State Offices remained the first point of contact for pharmacists seeking information on the restructuring.²⁷ Although there were numerous telephone conversations between Central Office and State Offices²⁸, there is abundant evidence that poor communications marred the course of the restructuring operations during the transition phase.

3.29 The Committee heard with some concern evidence that:

- Directions provided to State Office personnel on the restructuring between 9 August and 30 November 1990 were almost entirely by telephone, but it was not common practice among HIC personnel to keep records of telephone conversations or inquiries.²⁹
- Consequently, in a number of instances incorrect or contradictory advice was given to pharmacists on a number of critical points (e.g. whether or not a new approval number was required when relocating or whether there had been any inquiry about opening a new pharmacy in a given area).³⁰

The absence of written records of conversation meant that there was a gap in the gathering and distribution of information by the HIC.

3.30 The Commission's resistance to seeing itself as part of the restructuring only added to the general confusion. Letters sent to pharmacists inquiring about the restructuring were ambiguously worded:

The Minister for Aged, Family and Health Services announced on 8 August 1990 that temporary restrictions would be placed on the issuing of approvals to dispense PBS prescriptions. Pharmacists who have entered into commitments with the expectations that approvals

25. HIC Central Office to State managers, 9 August 1990, HIC Correspondence.

26. *Transcript of Evidence* (HIC Qld), 2 October 1991, p. 585.

27. *ibid.*, p. 585. See also *Transcript of Evidence* (HIC NSW), 2 October 1991, p. 612.

28. *ibid.*, p. 618.

29. *Transcript of Evidence* (HIC), 27 November 1991, p. 968.

30. See Appendix 3.

would be issued will have their expectations deal[t] with on a case by case basis . . .³¹

3.31 The message was neither well presented nor clear and failed to highlight the distinction between the three categories of applications of the Minister's announcement. This failure was of more consequence when it affected the manner in which the HIC dealt with applications. There is evidence, for example, that applications lodged before 9 August 1990 were treated as if lodged after 9 August.³² This development was formalised when HIC Central Office advised that, in view of the omission of a provision covering pre-9 August 1990 applications in Ministerial Determination No. PB1 of 1991, such applications had to be dealt with on the basis of prior commitment.³³ This point is covered at paragraph 3.66 below.

– lack of training

3.32 Because the HIC had a rather limited perception of its role in the restructuring process, it also had a limited and at times even confused understanding of the whole program. On both accounts, it failed to find it necessary to put in place a strategy which would enlighten either staff or pharmacists. Failure on the part of the HIC to devise procedures which would have ensured that the new arrangements were understood by all relevant persons and that the program run smoothly soon gave rise to a number of contradictions compounded by carelessness.

3.33 When restructuring operations began on 9 August 1990, State Office personnel who had always handled applications for approvals did not receive a briefing which would have ensured a co-ordinated approach to applications for approvals received from that date. On the contrary, the memo which State Offices managers received from Central Office on that day did not even correctly refer to the distinction which had to be made between applications at hand or applications received from that day in line with the Minister's statement.³⁴

3.34 This memo was not an accurate rendering of the Minister's announcement, already imperfect as the basis of new administration practices as highlighted at paragraph 2.19 above, nor was it providing any directions for the new procedures expected. The position in which the HIC was placed has also been highlighted. In the circumstances, it is not surprising that personnel in the operating areas were not better prepared for the new procedures.

3.35 At no time were any seminars or workshops organised to ensure that officers responsible for passing on information on the new arrangements were adequately

31. HIC Correspondence.

32. State Office to Central Office, 17 January 1991, HIC Correspondence.

33. HIC Central Office to State Offices, 21 January 1991, HIC Correspondence.

34. See paragraph 3.27 above for extract from memo, and paragraph 2.19 above for different categories of applications.

briefed.³⁵ The Committee was concerned to hear that officers held the view that such training was inappropriate until the PRA was established³⁶, a statement which revealed the extent to which the administration of the restructuring was poorly understood.

3.36 The memo sent to State Offices on 9 August merely reflected the brevity of the Minister's announcement of the previous day and the lack of light it shed on the program. Considering that the responsibility for the first stage of the restructuring fell to the HIC, the Committee was concerned to find out how little was done to ensure that this first stage operated efficiently.³⁷ Evidence on file suggests that during the transition phase, the HIC was flooded with complaints about almost every new approval which was granted.³⁸ It would have become obvious that steps needed to be taken to fully inform pharmacists.

– lack of briefing

3.37 The Committee heard that the HIC made no attempt to inform pharmacists who had expressed interest prior to 9 August 1990 that the rules for granting approval had changed.³⁹ As a result some pharmacists who had been in contact with the HIC before that date remained unaware that the rules had indeed changed. The fact that there was often inconsistency in the information provided to pharmacists was an added cause of confusion and frustration.

3.38 In a particular instance, summarised at Appendix 3 (Case E), the giving of incomplete information led to protracted negotiations between the pharmacist and the PRA and significant loss of revenue due to the delay encountered in the finalisation of the application.

3.39 The Pharmacy Guild distributed some information on the 'criteria being established' in the September and October 1990 issues of its monthly journal, the *Pharmacy Review*, but this was made available only to its members. On 12 December 1990 approved pharmacists were sent a copy of the Agreement signed a few days before by the Minister for Aged, Family and Health Services and the Pharmacy Guild. On 20 December 1990, the recently appointed Secretary to the yet-unconstituted PRA wrote to pharmacists outlining the new arrangements. Pharmacists were made aware of some procedural arrangements regarding lodgement of applications and eligibility:

35. *Transcript of Evidence* (HIC NSW), 2 October 1991, p. 619.

36. *ibid.*

37. *Transcript of Evidence* (HIC), 27 November 1991, p. 972-73, 979.

38. HIC Correspondence.

39. *Transcript of Evidence* (HIC NSW), 2 October 1991, p. 630.

- applications for approvals to supply pharmaceutical benefits were to be obtained from and returned to the HIC;
- applications for EPA and closure/amalgamation payments were to be obtained from, and returned to, the PRA;
- applications for EPA and closure/amalgamation could only be made in respect of pharmacies trading at the time of application.⁴⁰

3.40 In view of the joint nature of the Agreement, the Government relied on the Guild for distribution of material on the restructuring. Even as late as March 1991, the PRA issued its first Newsletter through the Guild. The prominence given to Guild members has been a cause of concern to the Committee⁴¹ as well as to a number of pharmacy organisations and individual pharmacists.⁴² The Isolated and Essential Pharmacy Association (IEPA) and the Extended Hours Pharmacy Association in particular have voiced their objection to the partisan nature of the Agreement, the latter successfully challenging in the Federal Court the validity of the Pharmaceutical Benefits Remuneration Tribunal's determination ratifying the Agreement. The IEPA argued that the ratification of the Agreement had been carried out without due and proper consultation with interested groups other than the Guild. The Government and the Guild are challenging the finding of the Court and the appeal against the decision setting aside the determination by the PBRT, which gave effect to the Agreement, is set down to be heard in June 1992.

Recommendation

The Committee RECOMMENDS:

5. That negotiations affecting all approved pharmacists include consultation with representatives of all existing pharmacists' organisations as relevant.

-- conflicting or inadequate advice

3.41 Lack of proper briefing and misunderstanding of the new arrangements had a number of repercussions on pharmacists. The lack of preparedness of officers in HIC State Offices led to a number of instances where advice given was not in line with the new restructuring arrangements or even with internal arrangements proposed by HIC Central Office. In one instance, for example, an aggrieved pharmacist, one member of a joint application, told the Committee that when she lodged an application on 26 September 1990, claiming that initial arrangements had been made prior to 9 August 1990, she was advised that her application would be

40. PRA to pharmacists, 21 December 1990, PRA Correspondence.

41. *Transcript of Evidence* (PRA), 23 August 1991 p. 300.

42. See Submissions No 2 (Isolated and Essential Pharmacy Association), No 8 (Natoli) and No. 9 (Manley).

set aside until the lease for the new premises had been signed. On 4 March 1991, she was informed by another officer that:

it would now be possible to have [your] approval application considered without actually having signed the lease agreement.⁴³

3.42 The Committee noted that the application should have been referred to Central Office, as all similar applications were supposed to be. It is likely that if the pharmacist's application had been forwarded to Central Office, it would have been treated as a number of similar applications, some of which had not even the same convincing documentation showing prior commitment: a tentative approval number would have been issued pending approval by the State Pharmacy Board.⁴⁴

3.43 By March 1991, the PRA was handling all applications under the restructuring program and had adopted new definitions with regard to 'prior commitment'. This was an added complication for pharmacists whose applications lodged between 9 August and 18 December 1990 had not been finalised by the time the PRA took over from the HIC.

3.44 In another instance, the Committee has noted that HIC Central Office and HIC NSW Office each wrote on the same day to a pharmacist giving contradictory advice regarding his dispensing of PBS prescriptions pending issue of a new approval number.⁴⁵

– relocation of premises and unauthorised dispensing

3.45 The issue of inadequate advice acquired new dimensions when it was compounded by the cumulative effects of the laxity of long established procedures, lack of precision regarding the HIC's role in the restructuring, lack of precision in the Agreement, and the adoption of strict guidelines by the Pharmacy Restructuring Authority.

3.46 Guidelines in place prior to the restructuring of the retail pharmacy industry for the relocation of premises reflected the casual approach taken to the granting of approvals to dispense pharmaceutical benefits.

Normally the approval number should be changed in all cases where a variation occurs in either the name of the approved person(s) or the approved premises. However, in cases where the change in location is of a relatively minor nature e.g. next door or across the road, it may be considered frivolous to vary the approval number.⁴⁶

43. *Transcript of Evidence* (HIC NSW), 2 October 1991, p. 633.

44. A summary of the case is at Appendix 3 – see Case E.

45. HIC Correspondence. See Appendix 3, Case F.

46. Department of Health, Procedure Manual, *op.cit.*, subsubparagraph 17.2.3.2.

3.47 This was not strictly in line with the legislative requirements of subsection 90(4) of the *National Health Act 1953* as amended by the *Community Services and Health Legislation Amendment Act 1990* (henceforth the Act), but was the accepted practice. The issue of a tentative approval number became a confused issue in the context of the restructuring arrangements.

3.48 In its submission to the Committee, the HIC described its understanding of the role it had to play in the early days of the restructuring:

The [Minister's] statement was not seen as limiting the relocation of pharmacies or changes in the ownership of pharmacies.⁴⁷

3.49 The relaxed approach which had characterised several aspects of the administration of the PBS by a Government agency – be it Department of State or the HIC – continued during the transition period. Pharmacists were not properly briefed about the impact of the new arrangements in respect of relocation. In addition, the new arrangements lacked clarity. Thus paragraph 8.5(d) of the Government/ Guild agreement states that:

existing approvals can be relocated within their business centre, which is defined as the area within 500 metres of the existing approved site;

and paragraph 8.5(e) states that:

existing approvals can be relocated to a new business centre where the new location is between 500 metres and 5 kilometres of the original site and a closure or amalgamation payment has not been made for a site within 5 kilometres of the new site and a public need can be demonstrated.

3.50 Nowhere in the provisions is there a reference to the need to obtain a new approval number in these instances. In the event, the PRA took the view that any relocation required a new approval number. A particular problem soon became evident: a number of pharmacists had relocated their premises over the last few years and not advised the HIC. In addition a few pharmacists who relocated in 1990-91 who were not given clear instructions about the need to apply for a new approval number or had been given out of date advice, relocated and carried on business as usual with the old approval number.

3.51 When a number of these pharmacists, becoming aware of the new requirements, applied for a new approval number they were advised that:

any pharmaceutical benefits purportedly dispensed from these [relocated] premises prior to the date of approval was without authority. Under the Act, the Commission is not authorised to pay claims submitted in respect of this period and, accordingly, the

47. *Transcript of Evidence* (HIC), 23 August 1991, p. 332, paragraph 3.2.

payment of such claims received since we became aware of your relocation has been suspended.⁴⁸

3.52 In one instance it was even proposed to recover monies paid between the relocation and the issue of a new approval number as having 'been made outside the Act'.⁴⁹ This development caused much embarrassment and confusion among pharmacists. It also reflected badly on the previous administration of the Scheme, since some of the pharmacists affected had in fact relocated long before 9 August 1990.

3.53 The suspension of payments and threatened recovery of monies already paid because there had not been a strict adherence to legislative requirements in pre-restructuring days, and pharmacists had not been properly briefed on the new arrangements, were not sustainable actions. In order to overcome the impasse, discussions were held with the DHH&CS and the Pharmacy Guild. As a result, the Minister for Finance was approached so that monies owed by the Commonwealth could be paid as *ex gratia* payments to all pharmacists unduly affected by the confusion between old and new procedures and the involvement of two authorities in the administration of the PBS.

— absence of remedial action

3.54 Failure on the part of the HIC to identify its operations regarding the granting of new approvals as part of the restructuring meant that the Authority was oblivious of any untoward effect the granting of approvals was having on the anticipated aims of the restructuring. The consequence was that pharmacists became perturbed when confronted with, for example, the opening of a fifth pharmacy where four were already struggling.⁵⁰ Again, failure to brief the pharmacists on the exact nature of the first stage of the restructuring created some backlash among the pharmacists and ensuing complaints clogged up the administrative channels of the Commission.

3.55 In summary, the Committee has found that the activities of the HIC during the transition stage of the restructuring were adversely affected by its failure to perceive that the initial restrictions were part of the restructuring, by the casual approach it had followed in the granting of approvals, and by its failure to brief pharmacists and staff members and to maintain clear communication with all concerned. At the end of the four months' interregnum beginning with the Minister's statement on 8 August 1990, the pharmacy retail industry was in a state of confusion and perplexity.

48. HIC Correspondence.

49. Various HIC correspondence. See also, *Transcript of Evidence* (HIC), 27 November 1991, and Appendix 3, Case F.

50. HIC Correspondence.

The Pharmacy Restructuring Authority (PRA)

3.56 Provisions for the constitution and functions of the Pharmacy Restructuring Authority were contained in the Community Services and Health Legislation Amendment Bill 1990, introduced in the House of Representatives on 20 September 1990. Had the legislative program not been affected by a Federal election earlier in the year, it is likely that the transition period would have been shorter. The Bill was passed by the Senate on 17 December 1990 and received Royal Assent the following day. In the intervening period, a minimum of preparation was made for the Authority to take over the restructuring functions allocated to it under the Bill. The Authority was not finally constituted until it was about to begin operations in February 1991.

– the membership and mode of operations of the PRA

3.57 Subsection 99N(1) of the Act provides that:

The Authority shall consist of:

- (a) a Chairperson;
- (b) 2 persons who are to be chosen from 4 persons nominated by the Pharmacy Guild of Australia;
- (c) one person (other than the 2 persons chosen under paragraph (b)) having experience in matters relating to the pharmacy industry;
- (d) 3 other persons.

Subsection 99N(2) provides that all the members be appointed by the Minister.

3.58 All these persons' involvement with the PRA is on a part-time basis. The Authority meets usually once a month, although on occasions it has held additional meetings. Nevertheless, the Committee is concerned at the working foundations of the Authority itself, which seems to place undue responsibility on the Secretary.

3.59 The duties of the Chairperson under subsection 99N(1) were to 'convene such meetings of the Authority as [he/she] considers necessary for the efficient performance of the Authority's functions'. The Committee noted that the Authority's first Chairman resigned from his position within a few months of his appointment and a second Chairman has now been appointed.

3.60 The Committee was very concerned by the attitude adopted by the present Chairman of the PRA and by the narrow view of his responsibilities as head of the Authority:

I have been asked to be Chairman, I am Chairman and I have no views whatsoever about its [the PRA] need or otherwise . . .

I have no idea about the authority of officers . . .

I have no idea about the lines of communication and who amongst the staff is given authority to look at documents and who is not . . .

It is not my function to work out what goes on within the office . . .

The Act makes it clear that my responsibility is to make sure that meetings are conducted in an efficient manner. That is what the Act says and I stick to it strictly.⁵¹

3.61 In brief, the Committee was given the strong impression that the Chairman of the PRA was not in the least concerned to give a sense of purpose and direction to the activities of the Authority, nor was he interested in bringing to the attention of the Minister any matter which may need rectifying.

3.62 The Authority's functions were to make recommendations whether or not an applicant:

- (i) would be granted a new approval number;
- (ii) would be eligible for an Essential Pharmacy Allowance;
- (iii) would be eligible for a closure payment; or
- (iv) would be eligible for an amalgamation payment.

The legislation stipulated that in making its recommendations, the PRA would have to comply with the relevant guidelines determined by the Minister under section 99L [of the Act].

3.63 The Committee received a Progress Report of the PRA's activities to 31 August 1991. Between February and August, the Authority met ten times. Of the 971 applications received, it considered 933 or 92.6 per cent. This represents an average of ninety applications per meeting. Such a ratio makes it difficult to accept that each application is thoroughly examined and would seem to indicate that the PRA may be rubber stamping the data it is given by the HIC. It is arguable whether this manner of operating is consistent with quality performance. In addition, it is evident that some major aspects of the restructuring, particularly those touching the rationalisation in the distribution of pharmacies and continued public access to pharmaceutical benefits, have not been prime considerations in determining the outcome of an application.⁵²

51. *Transcript of Evidence* (PRA), 15 November 1991, pp. 849-850.

52. *Transcript of Evidence* (PRA), 23 August 1991, p. 302. See also paragraphs 2.75-2.80 above and 3.88 below.

3.64 Although the PRA and the HIC operated within a totally different framework and with quite different tools, they both faced common problems in the administration of the restructuring. The Agreement and the Ministerial Guideline No. PB1 of 1991 were, relatively speaking, as deficient as the Minister's statement. A new dimension arose from the legislative limitations imposed on the PRA, as opposed to the HIC history of *laissez-faire*. Whilst the HIC had only one criterion to struggle with – prior commitment – the PRA had to fill in a number of gaps and ‘interpret various aspects of the guidelines’.⁵³ The limited accuracy of these interpretations within the wider ambit of the restructuring may be a measure of the lack of briefing the PRA received on assuming the functions allocated to it. The Committee is nevertheless concerned that the presence on the Authority of a Pharmacy Guild member who had been involved in the negotiations drafting the restructuring agreement did nothing to prevent some distortions in the implementation of the restructuring measures by the PRA.

– misreading of guidelines

3.65 On 8 February 1991, with limited knowledge of its tasks and the means of fulfilling them, the PRA held its first meeting. It was immediately faced with a significant backlog of applications for approval to move into new premises or to relocate, for Essential Pharmacy Allowance and for closure/amalgamation payments.

3.66 Evidence given to the Committee showed that the Authority operated under a number of misconceptions. The following statement is revealing on this subject:

The PRA applied the Minister's PB1 guidelines of January 1991 to all applications. Applications received after 9 August were handled as new applications by the PRA. The applications received prior to 9 August [1990] were handled according to the guidelines with prior commitment. There was no distinction.⁵⁴

3.67 The Minister's guidelines were quite different: applications received prior to 9 August were to be dealt with according to the rules which applied at that time; and there were two ways of handling applications received after 9 August.⁵⁵

– disregard of legislation

3.68 The PRA seems to have been oblivious of the fact that no provisions for applications received before 9 August 1990 were included in Ministerial Determination No. PB1 of 1991⁵⁶ and that therefore they could not handle them until Ministerial Determination No. PB4 of 1991 corrected the omission. Evidence

53. *Transcript of Evidence* (PRA), 15 November 1991, p. 816.

54. *Transcript of Evidence* (HIC) 27 November 1991, p. 981.

55. See paragraph 2.19 above. See also paragraph 3.31.

56. See paragraph 2.91 above.

on file suggests that these applications were in fact dealt with as if having to meet the 'prior commitment' criterion. All applications which proceeded were recommended for approval, but a number of applicants withdrew.⁵⁷ The Committee is concerned that the inappropriate application of the 'prior commitment' criterion to these applicants may have disadvantaged at least one of them who did not proceed after he was asked for additional information.

3.69 In another statement, lack of knowledge of the parameters within which the PRA was working was illustrated when the former PRA Chairman told the Committee

that all applications lodged before a certain date will be considered by the HIC and not by the Authority.⁵⁸

The Committee considers this statement to be contrary to the legislative provisions, since once the PRA was legally empowered to fill its functions, it had a mandatory obligation to deal with all applications which had not yet been finalised by the HIC.

Recommendation

The Committee RECOMMENDS:

6. That legislation awareness courses be mandatory for officers of the Australian Public Service whose duties require a knowledge of that legislation.

– guidelines

3.70 The Committee has highlighted in the previous chapter the various deficiencies of the restructuring arrangements in legislation, Agreement and guidelines. Some of these are re-examined to highlight the consequences of the manner in which the PRA administered the restructuring program.

– changed definition of criteria: prior commitment

3.71 Although the bulk of applications claiming prior commitment were received in the early days of the restructuring, some of these had not been finalised by the time the PRA began operations. The HIC had dealt with these applications in a rather informal and at times inconsistent manner. The PRA not only operated within more rigid boundaries set by the legislation but also had to improvise in the light of certain developments. Its decision-making was not always in line with the terms and/or intent of the restructuring agreement.

3.72 The 'guidelines' specified that in order to substantiate 'prior commitment', an applicant needed to provide:

57. HIC to the Committee, December 1991.

58. *Transcript of Evidence (PRA)*, 23 August 1991, p. 306.

- (i) a bank statement, supported if necessary by an affidavit by the pharmacist's solicitor or accountant; or
- (ii) details of any contractual arrangements together with an affidavit by the pharmacist's solicitor or accountant attesting to the correctness of the date that commitment was entered into.⁵⁹

3.73 The Committee was told that the orderly administration of the restructuring was being affected by the unscrupulous actions of a variety of persons: in particular developers were prepared to provide such documents in return for an undertaking to lease, particularly in a new development.⁶⁰ As early as November 1990, the Pharmacy Guild advised the Department that:

The Guild has received many calls from developers and other parties who request details of the criteria and advice on "how to get around them".

Anecdotal evidence has been received since the criteria were announced that some applicants have been attempting to obtain approval outside the agreed conditions. The main loophole being exploited is in the production of 'evidence' of a financial commitment which existed before 9 August 1990. Cheque butts and receipts can be backdated and some statutory declarations have been refuted by other statutory declarations.⁶¹

3.74 Whether this development played a part in the subsequent redefinition of 'prior commitment' or not is not relevant to this inquiry. What has concerned the Committee is the number of injustices which have flowed from the definition adopted by the PRA on 10 May 1991 that 'financial commitment':

is of a binding and irrevocable nature in the form of an agreement which means that the economic consequences of failing to honour the commitment leaves the enterprise with little, if any, discretion to avoid outflow of resources, eg - the existence of a substantial penalty.⁶²

3.75 This represents an interpretation which goes beyond the intent of the Minister's statement and is seen by the Committee as having seriously disadvantaged a number of pharmacists whose applications lodged with one authority have had a decision made by another authority under different guidelines, with the result that serious discrepancies have been evident in the treatment of

59. Ministerial Determination No. PB1 of 1991, paragraph 3(g).

60. *Transcript of Evidence* (HIC Central Office), 27 November 1991, p. 971.

61. Executive Director, Pharmacy Guild of Australia to DHH&CS, 29 November 1990, HIC Correspondence.

62. *Transcript of Evidence* (Mrs James), 15 November 1991, p. 723.

pharmacists.⁶³ In one particular instance, it led to protracted legal proceedings and the possibility of an appeal to the Federal Court to determine whether the PRA had, or had not, acted in accordance with law.⁶⁴ In this instance, the application has dragged on for more than one year before being finalised. These cases are related in more detail at Appendix 3.

– inadequate decision-making and administrative delays

3.76 The backlog created by the complete standstill of restructuring operations between 18 December 1990 and 8 February 1991 affected all applicants, but had particular after-effects in respect of applications for the Essential Pharmacy Allowance (EPA).

3.77 The legislation required the PRA, when recommending an approval for EPA, to set out the rate at which the allowance is payable and any conditions subject to which the allowance is payable.⁶⁵ But Ministerial Determination No. PB1 of 1991 contained no directions regarding the rate of allowance payable, nor did it indicate the date of effect of this allowance. The PRA determined that payment of this allowance where granted would be 10 per cent of the new dispensing fee and would begin from the first day of the month following the recommendation that the pharmacist was eligible for EPA. There are two issues of concern to the Committee: one relating to delayed advice that the allowance would be payable, the other relating to the intent of the allowance.

3.78 Given the limited information concerning the restructuring which was made available to pharmacists in the wake of the Minister's announcement, the Committee considers that the undue delay placed pharmacists in isolated areas at a disadvantage. Although there had been an Isolated Pharmacy Allowance in place, the EPA's criteria were quite new, as were the arrangements for its allocation. The number of applications received by 21 January 1991 – 173 – shows a significant response to the availability of the allowance. The undue delay must have added to the climate of uncertainty among pharmacists in the light of the unexpected developments which were occurring under the restructuring banner.

3.79 The reason advanced by the PRA for the delays incurred is not convincing:

The absence of lead times normally available for the establishment of application based funding programs did lead to some initial delays in the processing of applications and the offering of payment.⁶⁶

63. *Transcript of Evidence* (DHH&CS), 27 November 1991, p. 994.

64. *Transcript of Evidence* (Ms James), 15 November 1991, p. 726.

65. *National Health Act 1953*, subsection 99ZA(4).

66. *Transcript of Evidence* (Pharmacy Guild of Australia), 23 August 1991, p. 245.

3.80 With regard to the intent of the allowance as agreed between the Minister and the Guild, the Committee was told that payment of the allowance was meant to have commenced at the same time as the new remuneration arrangements which became operative on 1 January 1991.⁶⁷ The PRA was therefore not respecting the intent of the Minister/Guild Agreement by making payments operative from a date subsequent to its decision to grant an allowance. Although it must be acknowledged that this intention was nowhere clearly spelt out, the Committee is concerned at the evident lack of communication between the architects of the Agreement and the PRA.

– procedural complexities

3.81 From the moment the PRA became a key player in the restructuring, the procedures followed became quite complex and involved both the PRA and the HIC. When considering each application whether for approval, EPA or closure/amalgamation payments, the PRA needed detailed information on the applicant, his/her number of years as approved pharmacist, the relative location of his/her pharmacy within a 10 kms radius, etc. Much of this information was readily available on the HIC data bases. Implementation of the restructuring measures came to depend on two sets of administration instead of one and on the cooperation and coordination between these two sets.

3.82 In some instances, applications go directly to the PRA, in others they go first to the HIC; in all instances, at some stage of the procedures there is a need to check against data already available. There are also movements of applications between State Offices and Central Office of the HIC as well as between HIC Central Office and the PRA. In some instances, applicants are advised by the PRA, in others by the HIC; depending on the outcome of applications for new approvals, it is either the State Office or Central Office of the HIC which contacts the applicant. It is no wonder that pharmacists could not keep track of the movements of applications.

3.83 In its submission to the Committee, the DHH&CS has presented a detailed flow chart which reveals the intricacies of the processing of applications under the restructuring.⁶⁸ A briefer outline of movements of applications, given by the PRA, is reproduced here and illustrates the procedural maze involved.

– closure/amalgamation payments:

- application is received [by the PRA], date stamped and checked for signatures and completeness;

[If application is incomplete, it is sent back to the pharmacist. Application is also checked for a redundancy agreement and amalgamation agreement (if

67. *ibid*, p. 227, 228; also see p. 251.

68. *Transcript of Evidence* (DHH&CS), 23 August 1991, pp. 32-38.

applicable), if there is no agreement attached, a redundancy agreement form is sent for applicants' signatures, and an amalgamation requested.]

- application is given a reference number and manually registered;
- returned applications are checked for completeness and relevant paperwork, if still incomplete the applicant is contacted (by phone or mail) and requested to send information;
- acknowledgment card is sent to applicant with reference number;
- application is keyed into computer;
- application is photocopied and sent to the HIC for verification of number of pharmacies within a 5 kilometre radius, number of years in operation and years of approval;
- photocopied applications are sent by HIC to relevant State offices for verification in those cases where the information is not available in Central Office – this process can take anything from 1 week to 6 weeks;
- verified copies are returned from HIC; any alterations made to applications by HIC are keyed into computer;
- once verified, application is scheduled for the next meeting [of the PRA];
- decision is made by PRA on application;
- approval of the Secretary or delegate is requested;
- letter advising applicant whether application was approved or rejected is sent to applicant;
- applicant is required to apply to the HIC for a revocation of approval number or send proof that the approval number has been revoked;
- where necessary, a letter is sent requesting a forwarding address for cheques, as applicants may have only submitted a pharmacy address which by this stage is no longer open;
- once HIC's revocation notice is received, a claim for payment is raised:
 - Secretariat raise Claim for Payment only when the Secretary of the Department (or the delegate) has approved and the Secretariat has proof that the pharmacist has revoked his/her approval;
- claim for payment form is sent on to Department of Finance officers who send cheque to applicant;

- applications, when complete, are filed with copies of all correspondence etc.⁶⁹
- approval to supply
- application is lodged at [HIC] State Office;
- State Offices prepare the summary sheets, issue an identifying number, check that all information is provided and verify all factual data;
- application is then sent to HIC head office in Canberra;
- application is registered, checked, HIC Canberra keep a copy of application and then send the file to the PRA;
- content of application is again checked, then application is given a reference number and keyed into the computer;
- application is scheduled for the next meeting;
- decision is made by the PRA on application;
- letter of approval or rejection is prepared for the file by the PRA Secretary and the file is returned to HIC Canberra;
- applications that have been recommended are returned to the respective State Office where approval by HIC's delegate is granted only after State Pharmacy Board approval is granted;
- the delegate of the Secretary in HIC Canberra exercises that delegation where the application is not recommended by the PRA and State Offices are notified;
- State Offices notify applicants as to whether application was approved or rejected.⁷⁰

3.84 The Committee has been concerned at the PRA's lack of consistence in describing the procedures associated with its functions. Evidence presented to the Committee is somewhat at variance with this outline. The Committee was told that once it has verified the data relating to an application, the HIC 'does not get involved any further in that application for closure payment'.⁷¹ This evidence is also at variance with information provided to pharmacists in the PRA Newsletter No. 2 of August 1991.⁷²

69. *Transcript of Evidence* (PRA), 15 November 1991, pp. 830-31.

70. *ibid*, p.832.

71. *ibid*, p. 872.

72. *ibid*, p. 845.

3.85 Before a closure payment can be initiated, the PRA must be certain that the approval number has been relinquished, and this is done by the HIC as the PRA clearly explains in its Newsletter No 2. The contradictory information given to the Committee is further indication of the poor management of the restructuring and poor understanding of its functions by the PRA.

3.86 The Committee is also concerned at the lack of efficiency which appears to result from these complex procedures. There have been unnecessary delays in finalising applications, particularly those relating to sale and purchase, with resulting difficulties for the pharmacists involved; this situation has led to the adoption of unsound practices as described at paragraphs 3.16 and 3.17 above. In some instances, applications have gone astray and have not surfaced for long period; there is much duplication in paper work as each movement of files from one agency to the other involves copies.

Recommendation

The Committee RECOMMENDS:

7. That streamlined procedures be adopted to enable the implementation of restructuring measures to proceed without unnecessary duplication of resources.

– lack of monitoring

3.37 Evidence presented to the Committee shows that neither the HIC, the PRA or the DHH&CS have been concerned to monitor the impact of the restructuring measures. As argued above, the HIC did not see its operations as fitting within the restructuring. Consequently, it did not consider the immediate or long term impact of its decisions granting new approvals. This was stated clearly in its submission:

... the Secretary's power under section 90(1) is discretionary and has not been exercised in a way intended to limit the number or location of pharmacies.⁷³

This attitude was confirmed in a number of statements to the Committee: for example, 'we are not required to monitor at all'.⁷⁴

– lack of evaluation

3.88 The PRA has not put in place any systematic evaluation process. The Authority is advised on a monthly basis of the number of applications finalised, but no attempts have yet been made to assess the impact of these on the rationalisation of the retail pharmacy industry. The Committee has noted on several occasions that

73. *Transcript of Evidence* (HIC), 23 August 1991, p. 330.

74. *ibid*, p. 339.

there is a tendency on the part of the key players to place the ball in someone else's court.

Recommendation

The Committee RECOMMENDS:

8. That evaluation procedures be set in place immediately to assess the effects of the restructuring on the pharmacy retail industry and on the Australian community.

3.89 In summary, the Committee considers that, in a number of instances, the operations of the PRA have created unnecessary hardship to pharmacists as a result of the imprecise notion it has of its position, the inadequate exercise of its functions and the complex procedures it follows.

The Department of Health, Housing and Community Services (DHH&CS)

3.90 The exercise of their respective functions by both the HIC and the PRA have been affected by the notion each entertains about their relationship with the DHH&CS.

3.91 Although the HIC is a statutory authority established by the *Health Insurance Commission Act 1973*, its initial independence was eroded when it was given responsibility to perform certain functions on behalf of the Secretary of the DHH&CS under the *National Health Act 1953*. The advent of the restructuring of the retail pharmacy industry placed it in an even more ambiguous position. The HIC viewed itself as 'administering the Scheme' with no input in policy-making. This accentuated the effect of the perception it had of its role in the restructuring. It did not consider that it was its place to advise anyone, Department or Minister, of any early signs of problems in the implementation of the restructuring measures.⁷⁵

3.92 The PRA's position as a statutory authority was even more ambiguous, since its secretariat is provided by the Department and some of its members are departmental officers. The Committee has been told that these persons are not on the Authority as departmental representatives. The PRA stated in evidence that DHH&CS 'was the instructing department'.⁷⁶ In both instances, the attitude taken was seen as exonerating the agency from making authoritative decisions about the restructuring. This situation was exacerbated by the attitude of the Department itself towards each agency.

75. *Transcript of Evidence* (DHH&CS), 27 November 1991, p. 998.

76. *Transcript of Evidence* (PRA), 27 November 1991, p. 986.

3.93 DHH&CS stated in evidence that 'the Department cannot issue instructions to the HIC. The HIC is a separate statutory authority reporting to the Minister'.⁷⁷ Yet, in another statement, the Committee has been told that the HIC:

was not directly involved in negotiations over the Government/Guild Agreement because it was policy development, not processing issues.⁷⁸

3.94 Such a statement acknowledges the existence of a nexus between the HIC and the Department. In another statement to the Committee, DHH&CS expressed the opinion that:

the HIC was administering the requirements in relation to approvals at that point in time. One could take the view that the HIC should have looked at the criteria.⁷⁹

Recommendation

The Committee RECOMMENDS:

9. That the Department of Health, Housing and Community Services establish appropriate liaison units for any program implemented through several agencies.

3.95 Evidence given to the Committee shows that when the Pharmacy Guild complained about the level of approvals granted, it was the Department which directed the HIC not to issue further approvals.⁸⁰ The overall impression of these conflicting statements is that neither the HIC nor the Department have a clear view of their relative position, a situation which naturally impinges on the HIC's performance of its functions.

3.96 DHH&CS' view of its relations with the PRA was given to the Committee at the conclusion of its public hearings:

There is nothing to stop the PRA making representations to the Minister about any problem they perceive with the guidelines they are operating under . . . Because the PRA has no resources of its own the Department provided the Secretariat service and the Department also provides the legal assistance.⁸¹

77. *Transcript of Evidence* (DHH&CS), 27 November 1991, p. 992ff.

78. DHH&CS to the Committee, 18 December 1991.

79. *Transcript of Evidence, op.cit.*, p. 996.

80. DHH&CS to the Committee, 18 December 1991.

81. *Transcript of Evidence* (DHH&CS), 27 November 1991, p. 1017.

3.97 The conflicting perceptions prevented proper communication between the key players and may be seen as having contributed to the particular course which the implementation of the pharmaceutical restructuring measures followed. Opening channels of communications – a process which the Committee believes has been assisted by this Inquiry, has enabled some remedial measures to be taken where necessary.