

INQUIRY'S TERMS OF REFERENCE

1. When the Inquiry was established in 2004, its original terms of reference included a requirement to investigate “the events surrounding and following the deaths of Adam Strain, Lucy Crawford and Raychel Ferguson.” This was to be done with particular reference, among other things, to “the actions of the statutory authorities, other organisations and responsible individuals concerned in the procedures, investigations and events” which followed their deaths and “the communications with and explanations given to the respective families and others by the relevant authority”.
2. The Inquiry started its work on this basis in November 2004 but was hampered by the fact of an ongoing PSNI investigation into various aspects of Lucy Crawford’s death in 2000. In July 2005, the Inquiry was suspended, with the agreement of all parties, as a result of the decision of the police to conduct additional investigations into the deaths of Adam Strain and Raychel Ferguson.
3. It was not until 2008 that the Inquiry was notified that all these investigations were complete and that there would be no prosecutions. A public hearing was convened for 30 May 2008 to set out the way ahead, including the announcement of the addition to the work of the Inquiry of investigations into the deaths of Claire Roberts and (in a more limited form) Conor Mitchell.
4. Shortly before that hearing took place, the Inquiry was advised by Mr and Mrs Crawford that they did not want any investigation into the events surrounding Lucy’s death. This led the Chairman to state at the public hearing on 30 May:

“Mr and Mrs Crawford told us that they had decided that they did not want Lucy’s death to be considered in any way by the Inquiry. And they want all references to her to be removed from the work of the Inquiry. They were absolutely clear and unambiguous about this. I had discussed this development with the Minister since I met the Crawfords. He and I share the view that it would be entirely inappropriate to put Mr and Mrs Crawford and their two adult children through a public hearing into the circumstances of Lucy’s death or the aftermath against their wishes. Therefore, the Inquiry will not now be investigating the circumstances surrounding Lucy’s death in April 2000, or any of that aftermath, including the initial statement of the cause of death, the fact that no Inquest was held initially or the subsequent correction of the cause of death and the Inquest. Finally, at the request of Mr and Mrs Crawford, and on their behalf, I ask that their wishes and privacy be respected by everyone involved in the Inquiry and by the media.”

5. At that hearing, the solicitor representing the Ferguson family expressed reservations about this new development which had been announced without notice. Mr Doherty said:

“I think in all these cases there is a linkage between them all and what effect that may or may not have on the other cases and in particular obviously the death of Raychel. So I would just respectfully like to place on record that we would like to reserve our position on what is proposed in case we do wish to make any other submissions to you in the future.”

6. In correspondence subject to the 30 May hearing, Mr Doherty reinforced the position of the Ferguson family that the Inquiry could not proceed with reference to Lucy's death “in some fashion”. The Chairman emphasised in the course of this correspondence that the Inquiry would be investigating whether lessons were or should have been learned from the earlier deaths in 1995 of Adam Strain and 1996 of Claire Roberts. This might offset, at least to some degree, the absence of an investigation into the aftermath of Lucy's death, if that did not proceed.
7. While the original terms of reference in 2004 permitted the Chairman to extend the work to include additional deaths and issues, they had to be amended by the Minister if Lucy's death was to be excluded. The amended terms of reference were issued by the Minister in November 2008. The extent of the amendment was to remove any reference to Lucy but otherwise to leave the terms unaltered. This leaves the amended terms open to two possible and quite different interpretations:
 - (a) By deleting any reference to Lucy the Inquiry is to proceed on the basis that Lucy's death and its surrounding circumstances and aftermath are not to be enquired into in any way. This would mean, for example and in particular, that the initial failure to identify the correct cause of death and the alleged cover-up on the internal review by Sperrin Lakeland Trust would be excluded because to investigate them would be to continue to look at Lucy's death.
 - (b) Alternatively, the terms still permit and indeed require an investigation into the events which followed Lucy's death such as the failure to identify the correct cause of death and the alleged Sperrin Lakeland cover-up because they contributed, arguably, to the death of Raychel in Altnagelvin. This reflects the contention that had the circumstances of Lucy's death been identified correctly and had lessons been learned from the way in which fluids were administered to her, defective fluid management would not have occurred so soon afterwards (only

14 months later) in Altnagelvin, a hospital within the same Western Health and Social Services Board area.

8. The Inquiry intends to seek clarification and a decision from the Minister on how its terms of reference, as amended, are to be interpreted. Before doing so, the Inquiry is inviting written comments which it will then relay to the Minister so that he can take them into account when making his decision. It is also prepared to meet any of the interested parties at their request.
9. When making comments, parties are reminded that there have already been inquests in public into each of these deaths and that there has been substantial reporting in the media of the surrounding events, notably but not exclusively the UTV documentary "When Hospitals Kill". It should also be noted that the Crawford family have understood since May 2008 that none of the circumstances surrounding Lucy's death would be raised at all at the Inquiry. On the other hand, the Ferguson family has expressed its reservation about that course because of the consequence which this might have on the extent to which the Inquiry could investigate the circumstances which followed Lucy's death and preceded Raychel's death.
10. In order that this issue might be resolved as soon as possible, comments are invited in writing by Friday, 3rd July 2009.

14 months later) in Altnagelvin, a hospital within the same Western Health and Social Services Board area.

8. The Inquiry intends to seek clarification and a decision from the Minister on how its terms of reference, as amended, are to be interpreted. Before doing so, the Inquiry is inviting written comments which it will then relay to the Minister so that he can take them into account when making his decision. It is also prepared to meet any of the interested parties at their request.
9. When making comments, parties are reminded that there have already been inquests in public into each of these deaths and that there has been substantial reporting in the media of the surrounding events, notably but not exclusively the UTV documentary "When Hospitals Kill". It should also be noted that the Crawford family have understood since May 2008 that none of the circumstances surrounding Lucy's death would be raised at all at the Inquiry. On the other hand, the Ferguson family has expressed its reservation about that course because of the consequence which this might have on the extent to which the Inquiry could investigate the circumstances which followed Lucy's death and preceded Raychel's death.
10. In order that this issue might be resolved as soon as possible, comments are invited in writing by Friday, 3rd July 2009.