

The Inquiry into Hyponatraemia-related Deaths

Chairman: Mr John O'Hara QC

Note to all parties

1. The public hearings of the Inquiry will start on schedule on Monday 20th February with an opening by Ms Anyadike-Danes, Senior Counsel to the Inquiry. By reason of the matters set out below that opening will be a general one and will not then continue with a specific opening about the care and treatment of Adam Strain.
2. Any other legal representative who wants to give a general opening on behalf of his/her client and who has notified the Inquiry of that fact will be welcome to do so.
3. The parties will have received yesterday a report from Professor Fenella Kirkham, consultant paediatric neurologist. The necessity for this report was one of the primary reasons for the postponement of the hearings which were scheduled to start in November 2011.
4. Until now none of the experts reporting for the Inquiry has raised doubts about whether Adam died from hyponatraemia, the finding reached by the coroner in 1996. The belief that he did so is fundamental to Adam's death being included in the Inquiry in the first place.
5. It is clear from Professor Kirkham's report that she does not believe that finding to be correct. While her detailed report obviously has to be read in full, she has given the following as her opinion at paragraph 54 :

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“...on the balance of probabilities the rapid development of fatal posterior cerebral oedema was secondary to acute on chronic cerebral venous thrombosis, probably with the additional development of posterior cerebral oedema similar to that seen in cases of PRES.”

6. This finding is clearly significant, or potentially so. As a starting point it is hugely important for Adam’s family to know how and why he died and whether the inquest verdict was correct as they have believed it to be for the last 16 years.

7. It is also of fundamental importance to this Inquiry, to the interested parties and to all of those witnesses who will give evidence to know the extent of agreement, if any, between expert witnesses on the cause of death. To the extent that there has been consensus the report from Professor Kirkham changes that. This is also directly relevant to the questioning of witnesses and the evidence which they will give. On what basis are witnesses to be questioned?

8. On Monday after the openings are complete I will invite the parties to comment on the following proposed way forward:

- I have already asked the Inquiry’s expert witnesses to have their initial written comments on Professor Kirkham’s report with the Inquiry by close of business on Monday 20th if possible.
- Those initial responses will be shared with the other experts including Professor Kirkham.
- I will arrange an experts meeting next week, w/c 20th February. Professor Kirkham has already expressed her willingness to attend such a meeting as have the other experts. Those who cannot physically attend will link in by telephone. The meeting will be led by Inquiry counsel and will be for the purpose of clarifying the extent, if any, to

which the experts agree with each other and whether they each maintain or alter their positions in light of the contribution of the Professor. It will also clarify the extent to which she maintains her position after seeing the responses from the others and discussing matters with them. It is definitely NOT the purpose of the meeting to drive the experts to reach agreement. That will be made clear to them.

- A record of the meeting will be prepared, agreed with those present and circulated to the parties along with the initial written responses of the experts to professor Kirkham.
- I will also allow the experts a short time, by which I mean a few days, to add anything in writing which they feel they want to add in light of the discussion. Any such additional contributions will also be circulated to all the parties.
- I will reconvene the public hearings during w/c 27th February to report back on progress and discuss with the interested parties how the oral evidence of witnesses will now be given.

9. For the avoidance of doubt, I confirm that, as has been planned already all, of the experts will also give oral evidence at the public hearings. Accordingly each of them can be questioned about their reports and any changes which they make to their positions.

10. The report of Professor Kirkham is one which the Inquiry needs a little time to absorb and work out the consequences of. I anticipate that some time is similarly needed by various parties and witnesses. It is however still my intention to start the oral evidence on what we have called "Adam Clinical" within the next few weeks and certainly before Easter. I expect the maximum cooperation from all concerned to achieve that end. It

is in the interests of everybody that the hearings start as soon as possible.

11. This development will have some knock on effect on the Inquiry timetable. Within the published schedule there is some room for flexibility without over-running the end date of w/c 12 November. I intend to take advantage of that flexibility so that we do everything possible to complete the public hearings on schedule.

12. I obviously regret even this limited delay in resuming the public hearings after Monday's opening. I believe however that the report from Professor Kirkham illustrates the depth of the Inquiry's rigorous and independent investigation into the deaths of these children.

John O' Hara

17th February 2012