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Wednesday, 10 October 2012

(11.00 am)

(Delay in proceedings)

(12.00 pm)

Discussion

THE CHAIRMAN: Ladies and gentlemen, I have just come out because I understand some issues have been raised about the confidentiality undertaking which is to be signed before the file containing the other patients' records is distributed. Let me explain what happened to follow-up on what I told you on Monday.

We were back in the High Court this morning before the Lord Chief Justice in relation to the three new patients who were identified by the Royal over the weekend and the variations and extensions of the original permission which had been granted to look at patients' records.

It was the Lord Chief Justice who heard this morning's application again. His ruling is that what we are seeking to do by inspecting these records and copying anonymised versions of them is an intrusion into the privacy of those patients and/or their parents. He decided, however, that that intrusion was justified in the public interest, but the disclosure of these documents would be based on a public need. But he

1 emphasised in the strongest possible terms that that
2 disclosure has to be to the most limited extent
3 possible. Specifically, he urged caution that
4 limitations are imposed on the distribution of these
5 documents and that those limitations are respected. He
6 also stated that if there is any departure from the
7 restrictions which have been indicated to the court, the
8 parties must return to the court. And if the
9 confidentiality which attaches to the documents is not
10 respected, then the papers are not to be distributed to
11 the parties.

12 The end result of that is the confidentiality
13 undertaking which you are being asked to sign today in
14 order to receive the papers. It is quite clear, if it
15 wasn't already obvious to everybody, that the
16 Chief Justice's approval is based on his recognition of
17 the fact that for an inquiry like this and for the
18 people involved in this inquiry, to see the records of
19 patients other than Claire is an intrusion which he is
20 unhappy about, but which he is prepared to recognise and
21 accept, provided that we impose strict limitations which
22 the parties respect.

23 It is against that background that the
24 confidentiality undertaking has been prepared. As
25 I understand it, the one which is causing some

1 hesitation is number 3, which says that:

2 "None of the records contained in file 150 are to be
3 copied or transmitted onwards in any way without the
4 prior written consent of the inquiry solicitor."

5 I understand that some questions have been raised
6 about who Miss Dillon might consent to copies being
7 forwarded to. So if anybody has any particular problem
8 with this, could they please identify it so we can
9 hammer it out now?

10 MR FORTUNE: Sir, as you know, representing Dr Steen, as we
11 do, we need, firstly, to understand how big the file is
12 in terms of how much ...

13 THE CHAIRMAN: It's in one of the smaller files. It's not
14 a full lever arch file.

15 MR FORTUNE: Clearly, we need to obtain instructions from
16 Dr Steen and it's the mechanics of doing that. I do not
17 know how long it will take Dr Steen to go through the
18 file and the first question we asked was whether we
19 could be allowed to produce a copy of the file for
20 Dr Steen to read and to consider. If that's not to be
21 allowed, then, turning to the mechanics of how Dr Steen
22 is to provide us with instructions, would it be
23 acceptable if she sat in a room at my instructing
24 solicitor's office, went through the file, made notes
25 appropriately in relation to each patient, so that we

1 could then have those instructions and indeed build-up
2 a picture of where she was, what she was doing and
3 whether she was contactable?

4 Clearly, we need to obtain that information to be
5 able to assist you and my learned friends and that's
6 before we get to the issue of how this evidence is to be
7 elicited. Because that does pose a problem if there are
8 to be questions asked by my learned friend as counsel to
9 the inquiry. Will that be done in open session or will
10 you exclude those members of the public or, indeed,
11 anybody else who ought not to be here?

12 THE CHAIRMAN: No, we will not be excluding members of the
13 public because that would undermine the hearings. What
14 we have said before is that we will have to consider how
15 these questions are then to be recorded in the
16 transcript or to be presented in the transcript.
17 We will be considering that over the next day or so now,
18 particularly in light of the strictures of the
19 Chief Justice, which are particularly direct and severe.

20 MR FORTUNE: But our primary concern, sir, is being able to
21 take proper instructions.

22 THE CHAIRMAN: I understand. What I want to do is I want to
23 hear what the concerns are and then come back out in
24 a few moments and allay as many of those as I can.

25 MR SEPHTON: Sir, my concern is simply this: my instructing

1 solicitor, the solicitor on the record, is not with me
2 today. I was rather hoping that I'd be able to leave
3 the jurisdiction after this hearing because we're not
4 sitting tomorrow or the next day and look at the
5 documents. So I'm not going to be able to see these
6 documents until my instructing solicitor has signed for
7 them, and that's not going to be until Monday.

8 THE CHAIRMAN: Is your instructing solicitor based in
9 England or Northern Ireland?

10 MR SEPHTON: Northern Ireland.

11 THE CHAIRMAN: We will be returning to Belfast after the
12 inquiry finishes today, which we didn't anticipate being
13 a long sitting. Can your instructing solicitor come to
14 the inquiry office, sign the undertaking and then we'll
15 see what arrangements can be made after?

16 MR SEPHTON: The answer is I don't know. The only reason
17 I don't know is that he has personal difficulties or may
18 have personal difficulties at the moment, which may
19 prevent him from doing that.

20 THE CHAIRMAN: But a solicitor in the firm could do that, he
21 or she?

22 MR SEPHTON: I was told not. Miss Conlon told me the only
23 person who could sign was the person whose name is on
24 the record.

25 THE CHAIRMAN: I understand the concern, Mr Sephton. I will

1 come back to you on that. Anybody else?

2 MR GREEN: I don't rise to make any objection or to throw
3 a spanner in the works, I simply seek some clarification
4 about a couple of matters. First of all, several
5 counsel, as you know in this inquiry, live on the other
6 side of the Irish Sea. There's the logistical issue of
7 whether or not our solicitors are permitted to copy us
8 this file so that we can look at it and get on with some
9 work over the next few days before we sit again on
10 Monday. That's the first practical or logistical issue,
11 which I would invite you to assist us with.

12 The second matter relates to the scope of the term
13 "clients". By that, I mean as follows: we are
14 instructed -- and by "we", I include my instructing
15 solicitor and myself -- by a medical defence
16 organisation. The way in which it works is that they
17 are considered, as a matter of convention, to be, if you
18 like, the institutional client and then there is the
19 individual member whose interests they represent. So
20 the instructions formally come in from the medical
21 defence organisation as the client. It's a role
22 analogous to insurers I suppose in --

23 THE CHAIRMAN: But that's the point, Mr Green. I cannot
24 agree to these documents being released to an
25 institution like an insurance company. I can agree to

1 them -- and we'll consider now how they are shared
2 between solicitor, counsel and client, but as far as ...
3 We lose control of the documents.

4 MR GREEN: I completely agree and I wasn't asking that they
5 be transmitted to the medical defence organisation. All
6 I am asking is whether or not it's going to be
7 permissible for a representative of the defence
8 organisation to sit in conferences between the legal
9 teams and the individual doctors whilst these matters
10 are being discussed. That's often what happens and
11 I simply seek clarification as to whether or not that's
12 permissible.

13 THE CHAIRMAN: That would be a normal style consultation
14 where there's a representative from the insurance
15 company there?

16 MR GREEN: Yes. That's the effect of it, yes. I'm not
17 asking for a minute that this stuff be dished out to the
18 medical defence organisations, electronically or in any
19 other format.

20 THE CHAIRMAN: Okay, I understand. Ms Woods?

21 MS WOODS: I raise a point -- I don't actually know whether
22 it's going to be a problem, obviously not having seen
23 the records. Firstly, I'm in a similar situation as my
24 learned friend Mr Sephton in that the solicitor who
25 instructs me and who is on the record is not present, so

1 I don't have a copy of the undertaking in front of me.

2 Another issue that may arise -- and this is with
3 respect to my client who is Dr O'Hare -- is that if
4 we when do look through these records, there is an issue
5 that may arise with respect to Dr O'Hare, she is in
6 Malawi. If we do need to take instructions on anything
7 in those medical records, it would of course be best --
8 I think probably necessary -- that Dr O'Hare would have
9 those records in front of her. So it's really a rather
10 knotty practical question of how we're able to transmit
11 those records to her in Malawi if that proves necessary.

12 THE CHAIRMAN: Is your solicitor a Northern Irish solicitor?

13 MS WOODS: Yes.

14 THE CHAIRMAN: Presumably Belfast based?

15 MS WOODS: Yes.

16 THE CHAIRMAN: Is that person contactable today?

17 MS WOODS: Yes.

18 THE CHAIRMAN: I have no objection to you seeing the
19 undertaking.

20 MS WOODS: I am broadly aware of the terms of it, which is
21 why I raised the point because I understand that there's
22 an undertaking that the notes will not be transmitted
23 over, for example, the Internet by e-mail.

24 THE CHAIRMAN: Yes. Okay. I understand that point. Your
25 solicitor's signature can be obtained this afternoon,

1 all being well. Your real issue is about Dr O'Hare in
2 Malawi.

3 MS WOODS: That's the main issue, sir, yes.

4 MR FORTUNE: Sir, I might just come back on the issue of
5 taking instructions. Having heard my learned friend
6 Mr Green say that he's likely to return to England, I'm
7 going to stay here for the rest of the week so I intend
8 to take instructions from Dr Steen either tomorrow or
9 Friday. As far as the jurisdictional point is
10 concerned, it doesn't affect us. We shall be here and
11 we are anxious that Dr Steen gives us the instructions
12 so that she can begin her evidence on Monday.

13 THE CHAIRMAN: I'll ignore the irony that I very much
14 suspect that Dr Steen has seen a lot of these. We'll
15 set that aside for a moment, Mr Fortune. I assume that
16 Mr Green's point about counsel returning to England and
17 their solicitors being here with their client might
18 apply beyond Mr Green to some others. Okay, thank you
19 very much.

20 Let me consider those issues in conjunction with my
21 team and I'll sit again in the next few minutes.

22 Thank you.

23 (12.14 pm)

24 (A short break)

25 (12.32 pm)

1 THE CHAIRMAN: Could I preface what I'm about to say by
2 explaining the context in which these documents were
3 originally inspected. I think it will help you
4 understand and hopefully help your clients understand
5 why we have been so tight about this and why the
6 Chief Justice was also very tight about it. When the
7 documents were being inspected, they were inspected by
8 Ms Anyadike-Danes as the inquiry's senior counsel,
9 either one of the two trust senior counsel, Mr McAlinden
10 or Mr Simpson, and with assistance from Dr Scott-Jupp.
11 Nobody else was allowed to see them.

12 For instance, if Ms Anyadike-Danes hadn't been
13 available, no one of our junior counsel and none of the
14 inquiry solicitors were entitled to take her place. And
15 on the DLS side, if either of their two seniors were not
16 available, Mr Lavery, the junior counsel, was not
17 allowed to take their place, nor was the DLS solicitor.
18 So there has been an extraordinary restriction of access
19 to these documents and it is that which we have to
20 continue.

21 We have now considered the various issues which have
22 been raised and the position I want to outline is as
23 follows: no files are to be copied to clients. In terms
24 of the counsel representing those clients, the inquiry
25 will provide a second copy of the file and they can be

1 given today if the undertaking is signed. We will
2 provide another, so it is not the solicitor of the
3 client who is copying the file to counsel, it is the
4 inquiry which is providing a second file, and that will
5 be covered by the solicitor's undertaking. So the
6 solicitor's undertaking extends beyond the file which
7 the solicitor receives and extends to the file given to
8 counsel.

9 If counsel, as has been known to happen, loses or
10 mislays the file, that cannot be replaced with the copy
11 provided by the solicitor; that can only be replaced by
12 contact being made with the inquiry and the inquiry
13 providing a replacement or choosing not to provide
14 a replacement.

15 Mr Sephton and Ms Woods, so far as you are
16 concerned, you share the same solicitor, Mr Wilson;
17 is that right? If it's possible to make contact with
18 Mr Wilson to get him to e-mail Miss Dillon now,
19 authorising a named solicitor present to sign on his
20 behalf, we will provide files on that basis. Can that
21 be done, do you know?

22 MS WOODS: Perhaps I can speak on behalf of both of us
23 because I have someone who is privy to Mr Wilson's
24 movements. I suspect that is going to be very difficult
25 because Mr Wilson's wife is, I believe, very close to

1 labour.

2 THE CHAIRMAN: Okay. I don't need any more. I fully
3 understand the position. Let me come back to that in
4 a moment.

5 In terms of the point raised by Mr Fortune about
6 a client making notes, clients will not have a copy of
7 the file, but the client can see a copy of the file
8 at the solicitor's office. I am perfectly content for
9 the client to make notes, but those notes are to be kept
10 by the solicitor. They are not to leave the office
11 because otherwise the confidentiality disappears; okay?

12 So far as, Mr Green, the medical defence
13 organisations are concerned, I'm content that they are
14 covered in paragraph 5 of the undertaking, which is that
15 the information contained in the file is not to be
16 otherwise shared with any person without the prior
17 written consent of the inquiry solicitor. So if there
18 is to be a consultation at which the insurance
19 representative is present, we have to be notified in
20 advance of that fact, and Miss Dillon, in those
21 circumstances, is most likely to give approval.

22 MR GREEN: Thank you.

23 THE CHAIRMAN: Ms Woods, back to you again. Dr O'Hare --
24 I can't say this for sure, but our impression is that
25 because of the timeline of Dr O'Hare's involvement, she

1 is less likely to be interested in these documents than
2 some other people who were on duty on 22 October are
3 likely to be concerned. But if you and your solicitor
4 look at them and identify some extracts from the records
5 which you believe need to be forwarded to Dr O'Hare,
6 then that will have to be arranged.

7 But you understand, because of the timeline, it's
8 almost certain that she won't need to see all of them
9 and it's quite possible she may not need to see any of
10 them, but I would like you to look at them with your
11 solicitor first before any question is taken forward of
12 sending anything to the client. Your client's in
13 a particular situation because she is in Malawi.
14 I understand that and we'll make allowance for it if
15 it is necessary to do so.

16 Our inclination is that if it is absolutely
17 necessary to do so, we will find a way for the inquiry
18 to provide a hard copy and we're making enquiries at
19 present about things like FedEx delivery and so on. But
20 that's something which will have to be developed over
21 the next day or two. I think the immediate problem
22 you have is that Ms Anyadike-Danes is ready to explain
23 what the contents of the files are, but the reality is
24 that you will not be able to contact Mr Wilson.

25 MS WOODS: I think it's unlikely. We certainly can't

1 guarantee that.

2 THE CHAIRMAN: Okay.

3 MS WOODS: Mr Chairman, just in relation to Dr O'Hare's
4 position specifically, I'm grateful for the indication
5 that it may be unlikely that it's going to greatly
6 affect her, the contents of that file.

7 THE CHAIRMAN: I am only saying that because of the timeline
8 of her involvement.

9 MS WOODS: Indeed. I should perhaps raise this point well
10 in advance: given that Dr O'Hare is going to be giving
11 evidence by video link from Malawi, if it were to be the
12 case that any of those records were going to be
13 specifically referred to within the oral evidence in the
14 questioning to her, it would of course be necessary that
15 she has a copy of that document in front of her.

16 THE CHAIRMAN: Okay. Yes, you're making the point that she
17 can't be questioned without seeing the document she's
18 being questioned about. Okay.

19 MS WOODS: Yes.

20 THE CHAIRMAN: Given the particular circumstances of
21 Mr Wilson, is there another partner who could be
22 contacted quickly? I'm sure there must be; there's
23 hundreds of partners in Tughans.

24 MS WOODS: I don't know about the number, but I think they
25 probably can.

1 THE CHAIRMAN: Can you do what you can in the next few
2 minutes? In the absence of Mr Wilson to do this, if
3 a partner in Tughans indicated to one of the solicitors
4 here today that they could sign on behalf of Mr Wilson,
5 we can do that in a matter of minutes and push on with
6 what Ms Anyadike-Danes has to say. Does that cover all
7 the issues? Mr Fortune?

8 MR FORTUNE: Sir, having heard you deal with the question of
9 how we can take instructions, my instructing solicitor
10 will now sign the undertaking.

11 THE CHAIRMAN: Thank you very much. I will sit again as
12 soon as possible once the Tughans issue is sorted out.
13 Thank you.

14 (12.42 pm)

15 (A short break)

16 (1.10 pm)

17 THE CHAIRMAN: That's everything sorted out, I understand.
18 Thank you all for your co-operation in bringing that
19 particular issue to a conclusion.

20 What I should now just confirm for you, though you
21 may already know this, is that there are now three
22 further files to be inspected. It's anticipated that
23 that inspection will take place later today. These are
24 the files of the three patients who were identified by
25 the Royal last weekend.

1 The process which will be followed is the same as
2 before. The files will be inspected. If they are
3 relevant, they will be redacted, copied and distributed
4 on the basis of the same undertaking as has been given
5 by the solicitors this morning. Dr Scott-Jupp will
6 assist in that process later today with
7 Ms Anyadike-Danes and with Mr McAlinden for the Trust.

8 And before I move on from this, I should once again
9 thank the patients and, in some cases, the parents of
10 those who were being treated in October 1996. We have
11 had to contact them more than once now, as it turns out,
12 and none of us here can know what memories have been
13 refreshed or how difficult this must have been for at
14 least some of those who were involved. And whether
15 those patients and their families consented or not, I am
16 grateful to them for their consideration for the
17 inquiry.

18 In terms of the way forward, since those remaining
19 three patients' files cannot be inspected until this
20 evening and therefore could not possibly be distributed
21 until tomorrow, we cannot now in fact start the evidence
22 tomorrow, as we had anticipated. Accordingly, what is
23 proposed is set out in the schedule for hearings, which
24 was distributed earlier this morning. And if you have
25 that to hand for a moment, what you will see from

1 that is that we will start on Monday 15th, and the first
2 few days of next week will be taken up with Dr Steen,
3 Dr Sands and Dr Stevenson.

4 Next week will be a five-day week in terms of the
5 inquiry sitting. We will then move on to deal with some
6 of the other doctors who were involved in Claire's
7 treatment on 21 and 22 October 1996.

8 The following week is, as you're all aware, the 16th
9 anniversary of Claire's death. We had originally
10 proposed it would be a complete break, then, with Mr and
11 Mrs Roberts' agreement, we had decided not to sit on the
12 Monday and Tuesday, but to sit on the Wednesday,
13 Thursday and Friday. I think as it now turns out, with
14 the distribution of the governance papers at the end of
15 last week, we think that the cleanest way to do this, to
16 achieve the inquiry making the progress it has to make,
17 is for us to take that as a complete break rather than
18 sit for part of that week.

19 So we will get through as many doctors as possible
20 that we can on the week of 15 October. In the week of
21 29 October, we will finish off the remaining doctors,
22 we will hear from the nurses who were involved and
23 we will move into the inquiry's expert witnesses. Then
24 we will go straight in without a break into the
25 governance part of Claire's hearing on 12 November.

1 The week of the 26th is listed there as a break. If
2 we haven't finished "Claire governance" during the week
3 of 19 November, I will sit on in the week of the 26th so
4 that "Claire governance" does finish that week.

5 We will then go on in the week of 3 December to deal
6 with the preliminary issue in Raychel Ferguson's death,
7 which is what happened at and after the time of
8 Lucy Crawford's death in 2000. The interested parties
9 in "Claire governance" will be notified of that fact by
10 this Monday, the 15th October and Salmon letters will
11 then follow next week.

12 So far as the Raychel preliminary segment is
13 concerned, witness requests have gone to all of those
14 who we regard as relevant. In the past, I have allowed
15 some leeway to the witnesses in returning those
16 statements. Some people, for good reason, have been
17 unable to comply with the original deadlines that we
18 imposed and we have repeatedly extended deadlines.
19 Unfortunately, some witnesses have delayed in the past
20 for no apparent good reason. Given the time pressure
21 which we're now under, if statements are not returned in
22 time without any good reason being advanced, I will
23 require the individuals who have yet to make their
24 statements in writing to us to attend here in Banbridge
25 to explain why not, because we can continue to be

1 knocked back, waiting for witness statements.

2 Let me make two further points before
3 Ms Anyadike-Danes explains the files which have now been
4 distributed. One is that I was asked to go back to
5 remind you about the closing submissions which are to be
6 presented in Adam's case. I asked for them to be
7 provided to me within six weeks of 11 September.
8 That is by Tuesday, 23 October. I won't -- and anyway
9 I couldn't -- dictate the format.

10 But I should say that I think it's a bit unlikely
11 that I would be assisted by particularly long reviews of
12 the evidence. What would help me is if the
13 representatives of the interested parties focused on
14 their particular client's cases and made concise
15 submissions about the way in which the evidence, as it
16 has unfolded, has left their clients.

17 Beyond that, the only other point to make -- and
18 it's relevant to Claire's case -- is, in the next 24 and
19 48 hours, we will circulate some other correspondence
20 which we've had, particularly with DLS, about other
21 enquiries which we made about what was happening in the
22 Royal in October 1996. Part of that, Mr Green, came
23 from a letter which Mr McMillan wrote asking for some
24 more details.

25 We have some limited answers and we're hoping for

1 some more over the next day or so. The reality is that
2 we cannot reconstruct exactly what happened 16 years
3 ago, especially on 22 October. We're doing our best to
4 reconstruct it within the limitations which are
5 available, which are imposed on us for a variety of
6 reasons and balancing the right to the privacy of the
7 other patients.

8 The approach of Mr Justice Gillen and the Lord
9 Chief Justice to our request for access to patients'
10 records made it clear to us that if we had gone in on
11 the very broad request which had been mooted, albeit
12 diffidently, by Mr McMillan, we wouldn't have got that.

13 MR GREEN: I follow.

14 THE CHAIRMAN: What I can say now is that I will bear in
15 mind when I'm considering the evidence and when the
16 witnesses are remembering as best they can that we will
17 not have a complete recollection of 1996.

18 MR GREEN: I'm very grateful.

19 THE CHAIRMAN: Ladies and gentlemen, I will now ask
20 Ms Anyadike-Danes to give us a short summary of the
21 contents of file 150. Hopefully, that will assist you
22 in understanding why these records have been extracted
23 and help identify some issues, at least, which you might
24 want to raise with your clients.

25 MR FORTUNE: Sir, before my learned friend does that, just

1 arising out of what you've told us: can you give us some
2 indication as to when those who are the subject of the
3 requests for statements in the Raychel Ferguson part
4 might receive an indication that they are to be granted
5 interested party status?

6 THE CHAIRMAN: The short answer to that, Mr Fortune, is that
7 I have an outline idea because the work which has been
8 done within the inquiry gives us an outline idea of
9 people who are most likely to have questions to answer.
10 Some are reasonably clear, others are less clear and
11 will only emerge when the statements are taken as
12 a whole.

13 I presume you're making the point that they need to
14 know sooner rather than later, and I acknowledge that.

15 MR FORTUNE: Yes. Bearing in mind, of course, that they
16 will belong to one of the organisations and it may well
17 be that they would want to know whether they're going to
18 still be represented by the Trust or by solicitors
19 nominated by the protection body.

20 THE CHAIRMAN: Yes. I'd almost be inclined to indicate some
21 of those who are likely to be interested parties, but
22 for the fact that I'd then be accused of prejudging.

23 MR FORTUNE: There's an element of the Catch 22 about that,
24 sir.

25 THE CHAIRMAN: Exactly. Ms Anyadike-Danes?

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Address by MS ANYADIKE-DANES

MS ANYADIKE-DANES: Before I start, I wonder if I can reiterate something that was said to the Lord Chief Justice this morning when I was making the application. And that is that senior counsel for the Trust, Mr Simpson, communicated to the Lord Chief Justice some of the impact on the families of being contacted after such a long time to be asked to provide consent to disclosure to either their or their children's files, medical notes and records.

Some of those children are now deceased, so that is a difficult thing for a parent to have to contemplate. Others of those children are actually still minors themselves, so that's a difficult thing for them perhaps to have to discuss with their parents. This is part of the reason why there's such a great sensitivity about this and such a high request, on our part and my part, to my fellow counsel that one treats all these things with respect and, so far as we absolutely can, maintain the privacy of all these people.

So if I can just leave that with you as I take you through it.

THE CHAIRMAN: Thank you.

MS ANYADIKE-DANES: I have provided three further documents, really just in ease of explaining. One is -- and this

1 can be called up -- 310-018-001. That's the result of
2 the inspection. If we can put that to one side and put
3 next to it, as it were, something which I'm then going
4 to take down as soon as it goes up, but I hope will help
5 you. It's 310-017-001. That's October 1996. Sometimes
6 these are done in actual days, not just the numerical
7 date, to assist you in bearing these things in mind as
8 to where all these things relate to each other. If
9 I can take that one down and put up 310-016-001, which
10 is a slight variation of something you've seen before.

11 You'd seen this before. This is the Claire Roberts
12 timeline. What I've had highlighted there is the actual
13 day of 22 October when Dr Steen was on duty. So
14 although she wasn't on duty for all of that day in the
15 Royal, nonetheless that was her duty day, from 0900
16 until 1700 hours. Then you can see, therefore, in terms
17 of Claire's case, the level of activity, the things that
18 happened in relation to Claire over that period, as
19 compared to any other period.

20 If we get rid of the 310-018-001 document for the
21 moment so we can blow this up a little bit. Then you
22 can see that with the exception of the antibiotic type
23 of drugs or antiviral medication, most of the
24 anticonvulsants were actually given or at least started
25 in that period. So you can see it covers the span of

1 the ward round, the three visits by Dr Webb, and you can
2 see where the Glasgow Coma Scale is. If you look above,
3 of course, you see, as you did before, who was on duty
4 in terms of nurses, junior paediatric team and
5 consultants.

6 So it's really just to highlight why it is that
7 22 October is a day that we are paying particular
8 attention to as we look through these notes and records
9 of other patients. Thank you.

10 Then if we go back to that 310-018-001. This is
11 a document that was provided to the Lord
12 Chief Justice really to explain the variation that
13 we were seeking. If you see those coloured in that
14 light blue colour, they are all outside the strict terms
15 of either the notice or the order because you will see
16 that the admission is either on Monday or some day
17 preceding that, or there is a different ward from Allen,
18 so you see the two Musgrave wards there. You see which
19 consultants are involved, so for Dr Steen there are nine
20 patients involved there, three of whom were within our
21 time frame. One is excluded as being outside the time
22 frame.

23 For Dr Webb there's one. For Dr Reid there's one.
24 And for Dr Hill there's one also. For Dr Redmond, there
25 are two that are within the time frame. I'm not

1 entirely sure about the 19th. We have to check that.
2 Then there is one file I have seen, but for some reason
3 hasn't come forward on the photocopy, and I'm going to
4 see what's happened to that file this afternoon.
5 Therefore you don't have it in your pack, but I'm going
6 to see why. There may be a reason for that. Then there
7 are two which we've not seen at all and we understand
8 that they are still being chased from storage. So
9 obviously they're not in your pack either.

10 That's the breakdown, but I'll go through now and
11 tell what you we did and what happened, or rather what
12 I did, more to the point.

13 The inspection started on Wednesday and it continued
14 into Thursday, when in the evening we were joined by
15 Dr Scott-Jupp. That inspection continued on with him
16 until Friday. The first task was to identify and
17 separate out Dr Steen's files, of which there were ten.
18 And then there were three of Dr Webb's, three of
19 Dr Reid's, two of Dr Hill's and five of Dr Redmond's.
20 Once we had done that, then we started to look through
21 those files to -- that produced 14 -- identify which of
22 them were within our time frame.

23 When we did that, we got down to 14 within our time
24 frame, nine for Dr Steen, one each for Drs Webb, Reid
25 and Hill, and two for Dr Redmond. There was a file

1 which looked potentially relevant of Dr Redmond's, but
2 when we examined it, it turned out that that patient
3 hadn't been transferred to Allen Ward until the 23rd,
4 and so actually came after the point of interest because
5 by that time Claire, unfortunately, suffered her
6 terminal collapse. So we excluded that file even though
7 prima facie it looked as if it was an appropriate
8 admission.

9 In the course of that, we realised that there
10 weren't any Cherry Tree ward files at all and there were
11 these two files in relation to Musgrave Ward from
12 Dr Steen. Plus there remained three files that we had
13 not seen and these are three files that we are still
14 trying to get access to that appear to be relevant. We
15 don't know because we have no details for them. They
16 are still in storage somewhere.

17 Then in terms of the process of redaction, what we
18 did was we went through them, we examined them.
19 Anything which went to show either where Dr Steen was on
20 Tuesday the 22nd, what she was doing and how accessible
21 she was to her junior doctors, and Dr Webb, and the
22 nurses who were all involved in Claire's care on that
23 day. That's what we were looking for.

24 Dr Scott-Jupp, the inquiry's consultant paediatric
25 expert, was present throughout the redaction process and

1 he examined all those 14 files. The principal documents
2 he was looking at, for those who have seen files like
3 this before, were the white A&E note, the yellow
4 admissions slip, any referral correspondence, the
5 clinical notes since admission, the prescription and
6 drug charts, any observation and fluid balance charts,
7 the nursing notes and then the pink discharge summary.
8 So that's what he was primarily looking at.

9 He advised that it was important to gain an
10 appreciation of the seriousness of the patient's
11 condition, or the level of concern of the patient, going
12 into Tuesday 22 October if you wanted to try and reach
13 any conclusions or make any deductions as to the
14 significance or not of a failure to see Dr Steen's name
15 in those notes and records. As he said, if that
16 condition wasn't particularly serious then it may be
17 that the fact you don't see Dr Steen's name in there
18 doesn't mean anything other than the fact that they
19 wouldn't have been seeking to make contact with her
20 anyway and that doesn't help you in understanding
21 whether she was there and whether she was available and
22 accessible to them. So that is why Dr Scott-Jupp wanted
23 to retain some of the information about the condition of
24 the patient.

25 Sometimes that was necessary for some of the

1 post-discharge documents. They also, some of them,
2 indicated a level of concern. In one or other case,
3 there was correspondence with specialists, and that
4 might have told you something about how concerned they
5 were about that patient on the 22nd.

6 So when we had done all that, a copy was made of the
7 relevant original files with the guidance of
8 Dr Scott-Jupp and the following things were
9 redacted: the names and contact details of the patient
10 and their next of kin, the date of birth of the patient,
11 the names and contact details of the patient's GP, and
12 all reference to the medical condition, save to show
13 those three things that I mentioned before. And that
14 redaction was primarily carried out by the Trust. Once
15 that had happened, I took the original redacted copy
16 with me. Two copies remained in the Trust and it's
17 those original redacted copies, copies of which you now
18 have. So that's what happened.

19 In some cases, the discharge summary sheet, which is
20 this pink thing which is almost like a carbon copy --
21 the writing on that was very poor, and it just didn't
22 come out, even in the first photocopy, let alone the
23 multiple photocopies. So Dr Scott-Jupp assisted in
24 having a typed version and you'll see that in the back
25 of some of those files. So that's his assessment as to

1 what that writing is.

2 You know about the developments and why we had to go
3 back, so I won't take you into all of that. But I will
4 take you now to the files themselves to see if I can
5 assist you with it. And before that, I will give you
6 a little bit of a summary as to what we found.

7 Of the 14 patients' notes and records we looked at,
8 we could find none which related to other consultants
9 where we saw a reference to Dr Steen. The purpose of
10 including the medical notes and records for the patients
11 of those other consultants was just as in the same way
12 as Dr Webb, for example, was called to see Claire, it
13 may have been possible that Dr Steen was called to see
14 another consultant's patient as an urgent matter or for
15 some other reason and that we would see a reference to
16 that, and that might assist as to what she was doing and
17 how accessible she was. But so far as we could tell, we
18 could see no actual reference to her name.

19 It doesn't mean that didn't happen, and when one
20 looks at it and people give evidence, maybe one sees the
21 evidence of it, but so far as I could see there was no
22 reference to her for any of the other consultants.

23 In relation to her own, there were nine patients.
24 So far as we could tell, her name was actually recorded
25 only in relation to S4 and S7. There was an initialled

1 note in relation to S8. And I will take you to those
2 places.

3 All in all, it would appear that ten ward rounds are
4 recorded as having been carried out by the junior
5 paediatric team on 22 October and Dr Sands carried out
6 most of them. He carried out ward rounds in relation to
7 patients S1, S3, S4, S5, S6, S8, S9 and one for Dr Hill,
8 H1. Dr Stevenson carried out ward rounds in relation to
9 two patients, S2 and MR1, which is Dr Reid, a patient of
10 Dr Reid. Both Dr Stevenson and Dr Stewart attended the
11 ward rounds and they made notes. They weren't both
12 there for all of them, so Dr Stevenson was in attendance
13 on Dr Sands for S3, S4, S5 and S9. And Dr Stewart was
14 in attendance S1, S2, S6, S8 and H1. And that is just
15 to help you as to where people were.

16 So far as we could tell, there is no ward round
17 record for one of Dr Steen's patients, which is S7. S7
18 is one of the patients in which her name is associated.
19 The admission sheet, and we'll go to it, shows that the
20 patient is being sent to Allen Ward on 22 October at,
21 it would appear, 13.33. And that is at reference
22 150-007-002. And you can see the nursing note, which is
23 150-007-007. That will be a matter of evidence, but it
24 may be that that patient arriving on the ward at some
25 time after 1.30 in the afternoon may have been too late

1 for a ward round.

2 The clinical record, first entry for 22 October, is
3 a note at 1700 hours that Dr Stevenson makes. There is
4 a ward round in relation to that patient on 23 October,
5 which is a ward round I believe that Dr Stewart makes,
6 but in any event we'll go to that.

7 If we go to the files themselves. If we go to S1,
8 by the admission sheet, you see this patient comes in on
9 the 21st. These files are in roughly the same format.
10 Unless there are referral letters or something of that
11 sort, they start with the prescription sheet, they go
12 into the clinical notes and records, they go into the
13 nursing notes and records and they end with the
14 discharge summary. Sometimes there are some added
15 documents, but that's the general format of them.

16 For S1, admitted on the 21st. This patient is
17 admitted to Allen Ward. You can see that on 001-003.
18 Then if one goes over a couple of pages to 005, you will
19 see that that is a ward round which is taken by Dr Sands
20 and that initial there is an initial by Dr Stewart, he's
21 the SHO. Dr Stewart's form seems to leave some space
22 between his note and his signature. That may be
23 relevant when you see later on another file that there
24 is that space. But in any event, I just draw that to
25 your attention.

1 If you then look a little bit further down you'll
2 see "Ward round, Dr Hill". Well, "W/R" is "ward round,
3 Dr Hill", that's Dr Hill. That is another consultant
4 coming to see this patient. It may be that this was
5 a long-standing patient of Dr Hill, we don't know. But
6 in any event, I simply draw that to your attention, that
7 that is a consultant, for a patient of Dr Steen's, other
8 than her, seeing that patient. And the circumstances of
9 how that came to be, given that we know another
10 consultant was involved in Claire's case, which is
11 Dr Webb, that will be a matter for evidence.

12 Over the page, we see at 006, we see "Ward round,
13 medical SHO".

14 MR FORTUNE: Sir, can I just interrupt my learned friend
15 when she says that, on page 005, Dr Hill as a consultant
16 came to see this patient and it's unknown as to whether
17 this patient had previously been a patient of Dr Hill.
18 On 003, the past medical history is in fact redacted;
19 is that relevant?

20 MS ANYADIKE-DANES: I don't believe so because, if you bear
21 with me and I take you to 011, you will see that's the
22 discharge summary. And you see:

23 "Review arrangements as per Dr Hill."

24 And then if one goes forward to 009, which is the
25 nursing note, this is the nursing note at 12 midday.

1 There's a record of the saturation levels. I think this
2 is Nurse Linsky. Then:

3 "Seen by Dr Hill. To commence physio."

4 And some other thing that I can't quite work out
5 what it means.

6 MR FORTUNE: [Inaudible: no microphone.]

7 MS ANYADIKE-DANES: It does look like that.

8 Then if you go to 008, this is the details that the
9 nurses take. You can see:

10 "Outpatients appointment as per Dr Hill."

11 Do you see that? So this may indicate that this may
12 have been a Dr Hill patient and that might have been why
13 Dr Hill came on the ward to see the patient, but
14 nonetheless the patient was admitted under the name of
15 Dr Steen.

16 THE CHAIRMAN: And you get that at 002.

17 MS ANYADIKE-DANES: Exactly.

18 So if one then moves on to patient S2. We can see
19 from the admission sheet that this patient is also
20 admitted on 21 October, admitted to Allen Ward. This is
21 a patient in respect of which a little bit more
22 information is given than the standard. If you see at
23 012, this is a letter that is written by Dr Livingstone,
24 an SR, senior registrar, on 21 October. It's a letter
25 to Dr Bartholome thanking her for accepting this child,

1 who had attended the Cupar Street clinic. This is the
2 same clinic that Dr Steen was attending on the afternoon
3 of the 22nd or at least was rostered to do so.

4 There is quite a bit of detail about why
5 Dr Livingstone is referring this child to the hospital.
6 Then if one sees over the page, 002-013, "On
7 examination", and the details there. And then the
8 queries:

9 "Query myocarditis, query cardiomyopathy."

10 It'll be a matter for evidence how serious those
11 conditions are that are being queried there. But that
12 in any event indicates why the child was coming to the
13 hospital.

14 Then if one goes to 014, you see that that's a note
15 there for the 21st, which is trying to provide the sort
16 of information that Dr Scott-Jupp thought might be
17 important in order to put in context this child's
18 condition.

19 Then if we go forward to 018, you see the ward round
20 there, "medical SHO". That is unsigned, as it starts,
21 and then as that note continues, it's signed by
22 Dr Stewart. So it may be that that first part of the
23 writing seems to be writing by Dr Stevenson, but that'll
24 be a matter for him. But in any event, it's concluded
25 by Dr Stewart, which may suggest that one or both of

1 them were there for that ward round on the 22nd. It
2 certainly doesn't make any reference to Dr Steen
3 in that.

4 Then if one goes forward to 023, this is a letter
5 that is going to another consultant. It's a letter sent
6 by Dr Sands to Mr Cinnamon, who's a consultant ENT
7 surgeon, a letter dated 5 November 1996. And it's
8 redacted as far as Dr Scott-Jupp thought that we could.
9 But if you look, "On admission", which is that sort of
10 third paragraph, there is a description of the condition
11 of the child. Then it seems that the admission has not
12 actually resolved, although that will be a matter for
13 others to say. The queries that originally caused the
14 child to be admitted to hospital, it'll be a matter for
15 others how important and significant that child's
16 condition was.

17 The discharge sheet there, which you see at 024, is
18 signed by Dr Stewart.

19 So then if we go to S3, this child is admitted again
20 on the 21st to Musgrave Ward this time. If we move
21 forward to 005, you see this is a four-week old child
22 coming in at 2.20 in the morning. Over the next few
23 pages there is quite some description as to the
24 presentation in detail. In fact, you can see who signs
25 off on that, 007, that's Dr Volprecht, senior SHO

1 signing off, and then after that you have the ward round
2 taken by Dr Sands. There's no date there, but if one
3 goes over the page, you see there's another entry, which
4 I'll take you to in a minute, also on the 22nd, and
5 that's timed at 4 pm. And then the note after that is
6 a ward round on the 23rd. So it would appear that
7 although it's not dated, because it comes under the 22nd
8 date right at the top, that that is intended to indicate
9 a ward round that Dr Sands took on the 22nd.

10 Then if one goes to the page 008, you see what the
11 plan is:

12 "Discuss with cardiology re further opinion."

13 And what happens, it would appear, at 4 pm is the
14 further opinion by the consultant cardiologist. I have
15 sought the nursing note for this, for some reason that
16 didn't come through with this file. I don't know why
17 that is, but I've already asked for them to be provided,
18 which I think makes the involvement of the cardiologist
19 a little clearer, and you will have those when they
20 come. In any event, the relevance of that is that
21 that is another occasion with Dr Sands seeking expert
22 opinion and that note is signed off by Dr Stevenson.
23 There appears to be no reference to Dr Steen in doing
24 that, nor does there appear to be any reference to
25 Dr Steen in the note that seems to have been made by the

1 cardiologist when he attends at 4 pm. So that's patient
2 number 3.

3 MR FORTUNE: Before my learned friend moves on to patient
4 number 4, is it accepted or is it suggested that the
5 reason for this child's admission to Musgrave Ward is
6 because the beds in Allen Ward were all occupied?

7 MS ANYADIKE-DANES: I've no idea. That will be a matter for
8 evidence.

9 MR FORTUNE: I'm just asking at this stage, bearing in mind
10 how my learned friend has gone through this matter with
11 Dr Scott-Jupp.

12 THE CHAIRMAN: I'll be corrected by Ms Anyadike-Danes, but
13 this is one of the reasons we had to go back to the
14 High Court because we were originally told Allen Ward
15 was full and then Cherry Tree ward was the overflow.
16 And then it turns out there were some other references
17 to Musgrave Ward, so we're not entirely sure what the
18 picture was and I'm not sure if we ever will be entirely
19 sure what the picture was.

20 S4?

21 MS ANYADIKE-DANES: Yes, thank you. In fact, when we see
22 the nursing notes, I think one will see that the
23 cardiologist who attended was Dr Mulholland, and I think
24 he attended at 4.

25 S4 now. That's an admission also on the 21st to

1 Allen Ward. You see at 003 the entry there at 16.30,
2 the description on admission. Over the page at 004, you
3 see that's signed off by Dr Stewart. Then at 005 you
4 see the ward round. It says:

5 "Ward round, Dr Sands."

6 And because the following page, 006, is the 23rd,
7 "Ward round, medical SHO", we have interpreted that
8 that is a ward round that took place on 22 October. If
9 we're wrong on that, somebody will give evidence, I'm
10 sure, to correct that.

11 MR COUNSELL: With respect, pretty unlikely I'd have thought
12 given that it's 16 years ago.

13 I wonder if I could ask whether any of the redacted
14 writing at the top of page 005, which looks to me as
15 though it's in a different hand, helps to indicate
16 whether the ward round for Dr Sands at the bottom half
17 of the page was indeed on the 22nd.

18 MS ANYADIKE-DANES: No, it doesn't. It looks as if that
19 ward round was on the 22nd, but in answer to you: no,
20 I don't think that does help. As it turns out, as we
21 went through these, there were a number of admission
22 details taken by, for example, fifth-year medical
23 students. It would appear that they were being marked
24 on them, and quite often the doctor, the SHO or the
25 registrar who took the ward round then, then would

1 actually record their own details of it, if you like, so
2 I'm not sure that takes us very much further forward.
3 Because we're only trying to have in here what we really
4 have to have, we have got rid of the medical students'
5 details unless they tell us something that the
6 clinicians' notes doesn't.

7 THE CHAIRMAN: But one of the reasons why the best guess is
8 that the ward round was on the 22nd is that this is
9 a patient who wasn't admitted until after 4 o'clock on
10 the 21st.

11 MS ANYADIKE-DANES: Exactly.

12 THE CHAIRMAN: At the top of page 3, there's an entry,
13 "21 October, 16.30".

14 MS ANYADIKE-DANES: Yes.

15 THE CHAIRMAN: And then we do not believe that on the
16 information we have that Dr Sands was on duty overnight.
17 So it's most likely that his note relates to the 22nd.

18 MS ANYADIKE-DANES: Yes. Just to help, as you were there,
19 Mr Chairman, on 003, very often when these earlier
20 histories are being taken, what is there is actually the
21 patient's history in terms of family history. We've
22 just redacted that. So what we have tried to retain is
23 only those things that relate to the examination. So
24 that shouldn't be interpreted as maybe that's another
25 day slipped in there or anything of that sort. It's all

1 the same day, we just don't see for the purposes that we
2 are requiring to look at these notes that it really
3 matters or is relevant and appropriate to have their
4 family details indicated there. So that's why that
5 happens in that way. So that's all one note, which is
6 signed off by Dr Stewart.

7 Then you get that ward round note and then the page
8 immediately after that is the 23 October ward round. So
9 that is why I believe that to be a ward round by
10 Dr Sands on 22 October.

11 Then if one goes to the nursing note, this is,
12 I think, the first of the ones where ...

13 THE CHAIRMAN: Page 7 you're going to, I think.

14 MS ANYADIKE-DANES: Yes. If one is at 007 and you see
15 a note that is taken by Staff Nurse Reid [sic], who is
16 a witness in these proceedings, and you see 8 am to
17 2 pm:

18 "Seen by Dr Steen. To continue regular nebuliser
19 today, plus steroids."

20 I think that's what that says. That, I think, is as
21 much indication as we have on that.

22 MR FORTUNE: Can I correct my learned friend? We think it's
23 Staff Nurse Field, not Reid.

24 MS ANYADIKE-DANES: I'm so sorry, Field, yes.

25 Then S5 then. That's a patient admitted on the 22nd

1 to Allen Ward. One of the things that may be of note --
2 this patient is seen on the ward just a little after
3 1 am by Dr Volprecht. This is quite a lengthy note that
4 Dr Volprecht makes of this patient. If you see at 005,
5 the summary is given there:

6 "Summary. Three year-old with febrile convulsions."

7 And so on. Then one sees the plan, "U&Es". Then
8 you see the choice of fluids and the rate of it. That
9 may be relevant.

10 Then on the 22nd, immediately thereafter,
11 22 October, "Ward round by Dr Sands". And he makes his
12 own note in relation to the febrile convulsions and,
13 over the page, his own plan. It's not his own note;
14 that note is signed by Dr Stevenson, which you see at
15 006. You see that child is examined again by the
16 medical SHO, who may be Dr Stevenson, as he signs that
17 note:

18 "5.30. Well over that day and advice being given."

19 If one goes to page 008, which is the nursing note,
20 you see just below the third redacted part:

21 "Alert and oriented. Has had meningitis in 1994 and
22 can become very chesty. Asthmatic at times."

23 That might indicate any level of concern there might
24 have been:

25 "Presenting with febrile convulsions. To be seen by

1 doctor."

2 It doesn't say which doctor, but the records that
3 we have are the ones I've taken you to as to which
4 doctors are actually recorded as having seen that child.

5 The discharge note is by Dr Stevenson.

6 Then if we go to S6, that child was also admitted on
7 the 21st to Allen Ward. This was a transfer,
8 apparently, from the Mater. Then if one goes to 004,
9 it is the ward round by Dr Sands on the 22nd. That
10 writing, I think, indicates a note by Dr Stewart.
11 Unfortunately, it had actually fallen off the page so
12 you can't see the completed bit. It does exist in the
13 medical notes, it's just the way the thing has been
14 photocopied. I've asked for another copy of that page
15 so you can see what's actually written there and
16 I understand that's going to be provided to me this
17 afternoon.

18 Then the nursing note, I think, indicates that the
19 child was seen by Dr Sands. You can see that at 007.
20 8 am to 10:

21 "Both parents in attendance. Continues to feed
22 well. Seen by Dr Sands, registrar."

23 Then S7. This is a child who is admitted on the
24 22nd to Allen Ward. If one goes to 003, you see the
25 22nd, medical SHO, and then a note at 5 pm, "Problems".

1 Actually, it's worth looking at that admission sheet.
2 If you look back at the admission sheet at 002, this was
3 the yellow flimsy that is preceded by the note on the
4 ward as to when the patient actually arrives on the
5 ward, but there it shows the patient being despatched,
6 if I can put it that way, to Allen Ward, 13.33. The
7 first note we have on the 22nd is this note at 5 pm, the
8 medical SHO taking it.

9 And then if you go just above where the redaction
10 is, you can see that this is actually a child with
11 cerebral palsy and so forth, epilepsy. And just above
12 that redaction:

13 "Seen by Dr Steen. Admit for further assessment and
14 management."

15 So that is all part of the note recorded at 5 pm.

16 The next note we have is actually the next ward
17 round, which is the next day, and it's taken by the
18 medical SHO. It appears to be Dr Stewart's note. The
19 note at 5 pm is signed off by Dr Stevenson. You can see
20 that just above the 23 October note.

21 MR COUNSELL: I wonder if I might just enquire if on those
22 two pages whether, from the parts that have been
23 redacted, it's clear that the note which begins at 5 pm
24 on 22 October and, on our copy, appears to run over into
25 page 004, is all one entry, so to speak --

1 MS ANYADIKE-DANES: Yes, it is.

2 MR COUNSELL: -- and that there isn't a page in between
3 which has been left out?

4 MS ANYADIKE-DANES: Not that I have seen. When I was
5 explaining to you before, when these notes are made
6 there is a section invariably inserted called "Patient's
7 history". That is a section very often that has
8 particular details of the family. Those details, the
9 inquiry's expert has said, don't relate to the
10 condition. They don't assist with the exercise we're
11 engaged in, so those have been redacted.

12 If you go to page 007, you see at 2 pm, this is
13 a note, it would appear, by Staff Nurse Spence:

14 "2 pm. Mum phoned Dr Steen this morning,
15 concerning ... Reflux, brought down to Allen Ward at
16 1.30 for admission."

17 Which sort of ties in with the yellow slip.

18 Then it records what the mother had done. Then you
19 see at 8 pm a note:

20 "Seen by doctor."

21 No indication who that might be:

22 "Medication written up."

23 So this is one which also refers to Dr Steen.

24 THE CHAIRMAN: But the specific point here is that this was
25 apparently, according to the note, a mother who

1 contacted Dr Steen directly by phone --

2 MS ANYADIKE-DANES: Exactly.

3 THE CHAIRMAN: -- and that led to the child being admitted

4 around lunchtime, having the contact from the mother,

5 the contact from the mother having been some time over

6 the previous few hours.

7 MS ANYADIKE-DANES: That's correct.

8 MR FORTUNE: Before my learned friend moves on, could my

9 learned friend assist you? If you look at 002, the

10 patient was admitted on to Allen Ward at 13.33. So

11 effectively half past one in the afternoon of the 22nd,

12 the Tuesday.

13 THE CHAIRMAN: Yes.

14 MR FORTUNE: Yet if you look at 003, the note made by

15 Dr Stevenson, which refers to 5 o'clock, has the entry:

16 "Seen by Dr Steen. Admit for further assessment and

17 management."

18 Admit to where? Is this a note made in relation to

19 an examination in A&E? Because "admit "-- the child's

20 already been admitted.

21 MS ANYADIKE-DANES: That's not something I'm in a position

22 to help with. I can go back and extract the A&E

23 admission white copy if that helps. I doubt that it

24 will shed light on that, but if it does, I can do that.

25 MR FORTUNE: Well, I'm just trying to understand how this

1 child --

2 THE CHAIRMAN: It doesn't look like an admission through A&E
3 if the contact is made by the mother of the child
4 ringing Dr Steen. It doesn't necessarily exclude it,
5 but it doesn't suggest that that's the route of
6 admission.

7 MR FORTUNE: But obviously subject to taking instructions,
8 this child has been admitted at half past one and yet
9 there is a note saying the child is to be admitted later
10 on that afternoon.

11 THE CHAIRMAN: Okay. We'll see.

12 MS ANYADIKE-DANES: Well, I suspect that's one of the things
13 that we thought your client might be able to help us
14 with.

15 MR FORTUNE: Bearing in mind, of course, I haven't had the
16 opportunity to take instructions.

17 THE CHAIRMAN: Yes.

18 MS ANYADIKE-DANES: So then if we go to S8, this child is
19 admitted on to Allen Ward on the 21st. There's quite
20 a long note signed at 004 by Dr Stewart. If we go to
21 005, we see the ward round for the 22nd. The ward round
22 is taken by Dr Sands. This is the one that I mentioned
23 appears to have -- and I think Dr Steen has confirmed
24 it -- her initials. So this is worth looking at.

25 The ward round is taken by Dr Sands on the 22nd.

1 The note of it, rather, is signed off by Dr Stewart.
2 And in between the end of whatever he was writing and
3 his signature, there is some notation in relation to the
4 prescription. There is actually a colour version of
5 this because some of these things are in different inks.
6 I'm sorry, I had intended you to have the colour version
7 of it and somehow that hasn't happened. I will make
8 sure that we get a colour version so that you can see
9 the different inks. The reason for that is that it
10 helps to clarify what within that body of the note that
11 Dr Stewart has made would seem to be his ink, if I can
12 put it that way, and what seems to be the ink associated
13 with the person who initialled, which is Dr Steen.

14 THE CHAIRMAN: And just for confirmation for people who
15 haven't seen these before today, we're at the top of
16 page 5. It's the entry for 22 October, "Ward round by
17 Dr Sands", signed at the end, Dr Stewart below that,
18 SHO, but in the line above Dr Stewart's signature, the
19 last few letters, "HSS". And that is confirmed as
20 Dr Steen?

21 MS ANYADIKE-DANES: In fact it could be "HJS", but in any
22 event Dr Steen has confirmed it.

23 MR FORTUNE: It's "HJS" because those are Dr Steen's
24 initials. In fact, the writing, as we understand, on
25 the two lines above Dr Stewart's writing ...

1 MS ANYADIKE-DANES: I think it starts with a dash, then
2 "on".

3 THE CHAIRMAN: "On pulmicort"; is that it?

4 MR FORTUNE: Pulmicort.

5 MS ANYADIKE-DANES: "Medication by inhaler [and so forth]
6 one to four clicks, four-hourly."

7 And so forth. That would appear to be Dr Steen's
8 addition. The only issue is a matter of timing, which
9 is when that was added to it. And that is why it's not
10 necessarily clear that it was added to it at ward round,
11 and you yourself will have seen, as I've gone through
12 these things, that when Dr Stewart writes his ward round
13 note, he quite often has a gap between the last bit of
14 his entry and his signature. So that is a note that
15 could have been added at any time that day. So since
16 what we're actually trying to do is trying to find out
17 if these notes help us with where Dr Steen was and what
18 she was doing, one looks at that with a degree of
19 caution in terms of trying to figure out what that
20 implies about when the note was actually written.

21 MR FORTUNE: One question: bearing in mind the likelihood
22 that we will be able to pick up the file relating to the
23 extra three patients tomorrow, would we be able to pick
24 up a colour copy of this particular page?

25 MS ANYADIKE-DANES: That's what I'm going to try and

1 arrange.

2 THE CHAIRMAN: Mr Green?

3 MR GREEN: I just wondered if the next entry, which has been
4 redacted, had a time in the left-hand column, which
5 might help further in trying to identify when this
6 earlier entry was made?

7 MS ANYADIKE-DANES: I don't think it does, which is why it
8 has been redacted.

9 MR GREEN: Thank you.

10 THE CHAIRMAN: Okay. S9?

11 MS ANYADIKE-DANES: Yes. If we then go to S9. This is
12 a patient admitted on to Musgrave Ward on the 22nd.
13 This patient is seen at 3.20 in the afternoon. And the
14 note is taken by Dr Volprecht, which you can see at 004.

15 Then in a way that's not entirely clear about the
16 timings, there is at 005 -- what is blacked out there is
17 actually a delivery sticker with a name and address and
18 so forth. That's why all that is blacked out. In any
19 event, you see on the left-hand side what looks like
20 "22 October 1996", and then immediately underneath
21 that is "Ward round, Dr Sands".

22 So it's not quite clear when that ward round was
23 being taken. But I think it may be that Dr Volprecht
24 has got the timings wrong because if you look at the
25 admission sheet on 002, although this child is

1 definitely admitted on 22 October, she's to go to the
2 ward at 1.58 in the morning, and it may be that that
3 3.20 is actually an am rather than a pm. We don't know.
4 In which case, if that's the case then that all makes
5 sense with a ward round at a normal time in the morning
6 on the 22nd by Dr sands.

7 THE CHAIRMAN: Because, as far as we know, Dr Volprecht was
8 not on duty at 3.20 pm on the 22nd.

9 MS ANYADIKE-DANES: Yes, that's correct.

10 Then, Mr Chairman, if you see at 007, which is the
11 nursing note, you can see then:

12 "8 am to 12. In for observation. Waiting to be
13 seen by medical staff query ... 2 pm. Seen by doctor
14 from Allen Ward for discharge home."

15 With the advice given to the mother.

16 The doctor might be Dr Sands. That's the only
17 record that I could see of a doctor seeing that child
18 before. And if one looks at the discharge sheet at 008,
19 you see that child is discharged on the 22nd. So
20 it would seem that the child came in in the early hours
21 of the morning, was discharged later that day, and there
22 doesn't appear to be a record of Dr Steen. There is
23 a record of Dr Volprecht taking the initial examination
24 and there is a record of a ward round by Dr Sands.
25 Whenever that ward round was, it would have to have been

1 at some point on 22 October because she's discharged on
2 22 October.

3 THE CHAIRMAN: On page 5, is that Dr Sands or Dr Stevenson
4 who signs it?

5 MS ANYADIKE-DANES: That is Stevenson.

6 THE CHAIRMAN: But the last two lines are:

7 "Plan home, advice to mother".

8 MS ANYADIKE-DANES: Exactly.

9 MR FORTUNE: It's most unlikely that, given the age of the
10 child and given the presenting complaint, that the child
11 would have been left for at least 12 hours without being
12 examined by a doctor.

13 THE CHAIRMAN: Let's hope not.

14 MS ANYADIKE-DANES: Yes. So then the last few, Dr Webb.

15 THE CHAIRMAN: Is this W1?

16 MS ANYADIKE-DANES: W1. This is a child that is admitted on
17 15 October to Allen Ward. This is one of these children
18 where Dr Scott-Jupp felt it was important to have some
19 of the earlier records there. So he has advised that we
20 retain -- and we have -- the note by Dr Webb himself,
21 which you see at 003. That's his note at 16 October.
22 It's quite a detailed note. Over the page, 004, what is
23 taken out is the patient history. You see this child
24 had developmental delay.

25 Sorry, if we go back again, just so that you see

1 what this child came in with:

2 "Having episodes from six weeks. Brief extension
3 spasms [and so forth]."

4 Then over the page at 2, "Developmental delay".
5 Then quite a bit of description about the extent of
6 control and so forth that Dr Webb gives. Then if you
7 look at 005, firstly, you can see that's his note, he
8 signs it. But then you see the plan. The first part is
9 to book an MRI scan and then the second is EEG. This
10 may be relevant to consider to what extent there were
11 EEG facilities available. And if you look over the page
12 to 006, you see this is 19 October, and this has been
13 retained because there is a reference to the EEG. You
14 see, just two lines above Dr Webb's signature, so he's
15 seeing this child again and making a note:

16 "Will be having MRI on Thursday, EEG Monday."

17 That will be Monday 21st:

18 "Could go out afternoon, leave over weekend."

19 So that's the plan. Then you see the 21st, that's
20 a note -- it doesn't really matter, it's not any of the
21 SHOs or registrars involved here.

22 The 21st, you see:

23 "Full EEG/MRI."

24 On the 22nd you have a note:

25 "No more seizures. Sleep deprived. EEG today."

1 So that child was going in for an EEG on the 22nd.

2 Then if one goes over the page at 007, you see the
3 nurse's note, 21 October, the note from 8 am to 2 pm:

4 "EEG to be done tomorrow morning at 10.45 am."

5 Then you see the note for the 22nd. And just above
6 the 2 pm to 8 am, you see:

7 "EEG this am."

8 And it's signed off by Nurse Linsky. If you go over
9 the page to 008, that is the EEG report. Although
10 we have tried to exclude the names of people not
11 otherwise concerned, but this is the reader and it may
12 be relevant to know what technicians were actually
13 available for EEGs on the 22nd. So on that particular
14 circumstance, we've left the name of the reader in
15 there. You see the diagnosis, it's the date of
16 22 October, and there's Dr Webb.

17 And the discharge summary, that was a 14-week old
18 child.

19 So Mr Chairman, the reason why that was left in and
20 that level of detail is lest be there any issue as to
21 the availability of EEG services on the 22nd, that at
22 least establishes that a child had an EEG on the morning
23 of the 22nd. We are trying to find out what was
24 available on the afternoon of the 22nd, and we're still
25 awaiting a response to that. In particular, what we've

1 asked them is: is there any evidence that there were,
2 for example, any outpatients who had EEGs on the
3 afternoon? There may therefore be an issue where, if
4 it is the case that you can't arrange for an emergency
5 EEG, maybe there is a facility of replacing or putting
6 higher up in the priorities a child whose condition is
7 more serious than another that is a planned EEG when
8 that child's condition perhaps is less serious.

9 So that was Dr Webb's patient. Then H1 is Dr Hill's
10 patient. He's a paediatrician.

11 THE CHAIRMAN: I think she's a paediatrician.

12 MS ANYADIKE-DANES: Sorry, I beg your pardon. It's
13 Dr Nan Hill. Her patient was admitted on the 19th to
14 Allen Ward. You see that at 003. And then if we move
15 through the pages to 005, you see that on 22 October,
16 Dr Sands took the ward round. So he took a ward round
17 for that patient of Dr Hill's. That would appear to be
18 Dr Stewart's writing, recording that.

19 Then over the page at 007, you see the nursing note:

20 "Seen by doctor and discharged home."

21 And that's Nurse Spence who makes that note. And
22 the doctor who seems to be referred to there is
23 Dr Sands. If one looks at 008, one sees that it's
24 Dr Stewart who signs off on the discharge summary and
25 that child was discharged on the 22nd.

1 THE CHAIRMAN: And this is illustrating the way in which
2 junior doctors were moving apparently between the
3 patients of different consultants?

4 MS ANYADIKE-DANES: Yes. Consultants did too, but junior
5 doctors were apparently -- well, the evidence there is
6 that they were taking ward rounds for other consultants,
7 which is one of the reasons why we wanted to include
8 some of these other patients to try and assist with the
9 availability of Dr Steen. But it also has had
10 a by-product of saying something about the availability
11 of some of these junior doctors.

12 MR FORTUNE: Going back to 005, Dr Stewart is usually good
13 about signing his notes. There doesn't appear to be
14 a signature on 005, but there are three lines redacted.

15 MS ANYADIKE-DANES: That's correct. I don't think that
16 helps us with that. If there had been a signature,
17 I think that would have been retained, but I will check
18 that.

19 MR FORTUNE: Yes, it's just that Dr Stewart normally signs
20 his notes.

21 THE CHAIRMAN: He does, but I think the redacted lines look
22 like they start with a different entry. That's why it
23 runs into is the left-hand column.

24 MS ANYADIKE-DANES: Yes:

25 "Re home if appetite improves."

1 That was his ward round on the 22nd. And over at
2 008, he is signing that the child is discharged and he's
3 the person who signs the discharge note on the 22nd, but
4 I will check that.

5 Then Dr Redmond's patients. Dr Redmond's patients
6 whose notes and records we've seen, they all relate to
7 patients with a particular condition. That is
8 a condition that the Trust expressed some concern about,
9 might actually be an identifier for these children.
10 We are trying very hard not to refer to that in a way
11 that can be further disclosed, if I can put it that way.

12 MR FORTUNE: Well, my learned friend can assist you, sir,
13 because if you go to 004, to the entry "Ward round,
14 Dr Redmond", you can see what is set out in the next
15 line. That's the condition.

16 MS ANYADIKE-DANES: It is the condition. That's why I'm not
17 reading it out. But it's there because it is relevant
18 to how serious the child's condition may or may not have
19 been. But these documents are not going up on the
20 website, so it is here for your use and for you to see
21 how serious that child might have been.

22 But in any event, one sees on 003 that the child
23 comes in, a six-week old baby, to Allen Ward. One sees
24 at 004 it's Dr Redmond's patient and Dr Redmond who
25 takes the ward round. That's his SHO who signs that

1 note.

2 MR FORTUNE: Dr Redmond is a her.

3 MS ANYADIKE-DANES: Her patient. I'm very grateful, sorry.

4 So the only relevance of that is to show that

5 Dr Steen does not appear in that note at all for

6 somebody else's patient.

7 Then if we go to the second one, that patient is

8 admitted on the 15th and comes to Allen Ward.

9 MR FORTUNE: On the 16th.

10 MS ANYADIKE-DANES: Sorry, the 16th. I beg your pardon.

11 Then if one looks at 004, you see that at that stage

12 it's day 7. Apparently in relation to this condition,

13 they are sometimes on the ward for some considerable

14 period of time, and so typically there is a note of the

15 day that the note refers to, the day of their admission,

16 not just the date of examination. So you see the 22nd,

17 that's day 7, and the ward round is being taken by

18 Dr Redmond and signed off by either his registrar or

19 SHO. And there you see the discharge note summary.

20 I should just say that there are two of Dr Redmond's

21 cases that we've been told are potentially within the

22 time frame. These are two of the ones that are being

23 chased.

24 Then Dr Reid, the final one. This is a child

25 admitted to Allen Ward on the 22nd. Up at the top, you

1 see at 003:

2 "Medical SHO."

3 This is quite a lengthy note also, and it's signed
4 off by Dr Stevenson on 005. He sets out the plan. The
5 child is discharged on the 28th, which you see at 009,
6 and that is signed off by Dr Stewart.

7 THE CHAIRMAN: But this gives some idea of Dr Stevenson on
8 the 22nd and what he's covering.

9 MS ANYADIKE-DANES: Exactly.

10 Mr Chairman, that completes the 14. There is, as
11 I say, a 15th that we're looking for, and there are some
12 nursing notes, a page that's fallen off the edge where
13 we need a better photocopy and a colour copy of the one
14 that refers to Dr Steen with her initials, and I hope to
15 be in a position to provide those along with the other
16 three.

17 THE CHAIRMAN: Thank you very much indeed.

18 MR FORTUNE: Sir, before my learned friend closes the file,
19 can I take both you and my learned friend back to
20 patient S8, back to page 005? My learned friend
21 questions when the two lines were written by Dr Steen.
22 With 005 open, if my learned friend turns over to 006,
23 there is the regular prescription chart. What is
24 missing is the nursing kardex as to the administration
25 of any of these drugs. Could a search be made of the

1 file, bearing in mind you're looking for the colour
2 copy, to see whether there is a nursing kardex and, if
3 so, could it be copied?

4 MS ANYADIKE-DANES: Yes, actually this is one of the very
5 few that retained the regular prescription because
6 we were trying to see if we could do the very thing that
7 I suspect you're interested in, which is to try and work
8 out when it is likely that was to have been prescribed
9 and therefore if that helps us with when that notation
10 was added. We couldn't pursue it much further than what
11 you have here, but I'll look again to make sure there's
12 no nursing note or nursing kardex that helps us with
13 that.

14 MR FORTUNE: Because, quite clearly, we're looking for the
15 timing of the prescription.

16 MS ANYADIKE-DANES: I understand that and we were looking
17 for that at the time, but I will have another look.

18 MR FORTUNE: I'm grateful. Thank you.

19 MR COUNSELL: Can I raise one query relating to the very
20 last patient -- that's MR1 -- that very long entry from
21 Dr Stevenson, which has been partly redacted? If you
22 turn to page 005, my question is simply this: there is
23 an entry which has been completely redacted apart from
24 his signature on that page. I wonder whether counsel to
25 the inquiry can indicate whether the date which has been

1 redacted is the 22nd or 23rd?

2 MS ANYADIKE-DANES: I suspect it's another day and that's
3 why it is. As you'll have appreciated as you go through
4 them, these clinical notes have multiple days on the
5 same page, but I will check that just to make sure
6 that is the case.

7 THE CHAIRMAN: Thank you very much indeed. You'll have got
8 some understanding of the extent of the exercise which
9 has been gone through over the last two weeks. It helps
10 to fill in the picture a bit further and how much
11 further we'll get, we'll see when we start with the
12 witnesses on Monday. So until 10 o'clock on Monday when
13 we'll at last start the evidence. Thank you.

14 (2.27 pm)

15 (The hearing adjourned until 10.00 on Monday

16 15 October 2012)

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I N D E X

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3	Discussion1
4	Address by MS ANYADIKE-DANES22
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