

**PROTOCOL No.2**  
**DOCUMENTS PROTOCOL**

**1. Evidence for the Inquiry**

- 1.1 The evidence for the Inquiry includes both documentary evidence and the testimony of Witnesses.
- 1.2 The basis for the evidence for the Inquiry is first and foremost relevance to the issues arising out of the Revised Terms of Reference. The Inquiry's documents titled 'List of Issues', 'Inquiry Terms of Reference', together with the Revised Terms of Reference issued by the Minister, can all be viewed at the Inquiry website at [www.ihrdni.org](http://www.ihrdni.org).
- 1.3 The Inquiry has already received a considerable amount of material in response to its requests, including:
  - Medical notes and records of the children who are the subject of the Inquiry;
  - Correspondence, Reports and other contemporaneous documents generated by or for the hospitals and authorities concerned
  - Depositions from the Inquests and Reports commissioned by the Coroner
  - Statements from the PSNI investigations and Reports commissioned by the PSNI
  - Statements and transcripts from the GMC proceedings
  - Documents held by the families of Adam, Claire, Raychel, Lucy and Conor
  - Correspondence and Transcripts from UTV plc
- 1.4 The Inquiry is continuing to seek documents and commission further reports.
- 1.5 Anyone who considers that they have relevant documents should send them to the Inquiry by e-mail at [inquiry@ihrdni.org](mailto:inquiry@ihrdni.org) or post at The Inquiry into Hyponatraemia-related Deaths, Arthur House, 41 Arthur Street, Belfast BT1 4GB. Alternatively, the Inquiry can be contacted by telephone on 028 9044 6340.

## 2. Compellability of Evidence

2.1 The Inquiry was established under the Health and Personal Social Services (Northern Ireland) Order 1972 and continues by virtue of section 23 of the Interpretation Act (Northern Ireland) 1954 (as amended). The Chairman has the very broad discretion, now set out at Schedule A1 of the Interpretation Act (Northern Ireland) 1954 (as amended) to compel the production of documents. The Chairman's powers are reinforced by the fact that it is a criminal offence to fail to respond appropriately to his notice to produce documents and/or furnish information:

*Powers to require persons to give evidence etc.*

4 (1) Subject to sub-paragraphs (2) and (3), the **person appointed to hold the inquiry may by notice require any person—**

(a) to attend at the time and place set forth in the notice to give evidence or **to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry;** or

(b) to furnish, within such reasonable period as is specified in the notice, such **information relating to any matter in question at the inquiry as the person appointed to hold the inquiry may think fit,** and as the person so required is able to furnish.

...

(3) Nothing in this paragraph shall empower the person appointed to hold the inquiry to require any person to produce any book or document, or to answer any question, which he would be entitled, on the ground of privilege or otherwise, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

...

*Offences*

6 Any person who—

(a) refuses or wilfully neglects to attend in obedience to a notice under paragraph 4, or to give evidence; or

(b) **wilfully alters, suppresses, conceals or destroys or refuses to produce any book or document which he may be required to produce** by any such notice; or

(c) refuses or deliberately neglects to furnish any information which he is required to furnish under paragraph 4(1)(b);

shall be **guilty of an offence** and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 2 on the standard scale.

(Emphasis added)

2.2 The Chairman has made it clear that he will not hesitate to use his powers to compel the production of documents.

2.3 The Interested Parties, authorities and others from whom the Inquiry has or will seek documents have an ongoing obligation to the Inquiry in relation

to disclosing relevant documents to the Inquiry which continues throughout the Inquiry process. All further documents relating to the Revised Terms of Reference (as expressed in the List of Issues) that come into their possession, custody or power, must be sent to the Inquiry as soon as is reasonably possible. The Revised Terms of Reference and the List of Issues can be viewed at the Inquiry website at [www.ihrdni.org](http://www.ihrdni.org).

### **3. Form in which Documents should be Provided**

- 3.1 The Inquiry does not require original documents to be provided, unless the copies sent are of too poor a quality to reproduce, or unless they are specifically requested.

### **4. Retention of Original Documents**

- 4.1 The originals of all documents sent to the Inquiry must be kept. The Inquiry may require the original of any document to be provided for inspection and/or to produce a better copy. Such inspection may be sought by the Inquiry on either its own initiative or at the request of an Interested Party.<sup>1</sup>
- 4.2 It is a criminal offence to alter, suppress, conceal or destroy any document that the Chairman may require to be produced. The Chairman may require the originals of all documents provided to the Inquiry to be produced, together with the originals of all documents requested by the Inquiry and all other documents relevant to the Revised Terms of Reference.

### **5. Treatment of Documents Received**

- 5.1 All documents sent to the Inquiry are copied with the original set being stored. The Inquiry works off the 'copied set'. The 'copied documents' are checked against the indices provided with them to ensure that a complete set has been received.
- 5.2 The documents are then scanned and included in the Inquiry's electronic management system (TRIM), with each page being given a unique reference number that comprises a file number, document number and page number - for example 020-003-006.
- 5.3 The documents are reviewed for relevance, privilege and personal details. Once approved by the Inquiry for use, the documents relating to each of the children will be sent to the legal representatives of their respective

---

<sup>1</sup> The meaning and significance of Interested Party status is set out in Protocol No.1: Interested Parties Protocol

families so as to give them advance notice of publication on the Inquiry's website of details which they might find distressing.

- 5.4 The documents 'loaded' onto the Inquiry's website are publicly available. The indices of all of the documents received by the Inquiry, together with a summary description of each document is also loaded on the Inquiry's website so that documents which have been excluded (for whatever reason) can be readily identified as they will not be retrievable as a 'live link'. Any 'excluded document' will be retained (as will all other documents) for the duration of the Inquiry.
- 5.5 The Bundles for use during the oral hearings are compiled by the Inquiry team from documents that are accessible from the Inquiry's website. The indices for the Hearing Bundles will be circulated to the Interested Parties for their comments before they are finalized, loaded onto the Inquiry's website and the Bundles are made up for the oral hearings.
- 5.6 Whether documents should be excluded from the proposed Hearing Bundles or further material added, is ultimately a matter for the Inquiry to determine.
- 5.7 Documents may be added to the Inquiry's website and/or the Hearing Bundles at any stage should it be determined that they satisfy the tests of 'relevance' and 'fairness' referred to below.

## 6. Excluded Material and Privilege

- 6.1 The Inquiry's investigation is inquisitorial and therefore the Inquiry determines which documents and other materials it will use. The test applied is 2-fold. The first test is 'relevance', by reference to the Revised Terms of Reference and the List of Issues. The other test is 'fairness', to ensure that documents are included that may help anyone criticized to address the allegations made against them.
- 6.2 There is also a statutory obligation pursuant to Schedule A1 to the Interpretation Act Northern Ireland) 1954 (as amended) to enable documents to be excluded on the ground of 'legal privilege'.

4(3) Nothing in this paragraph shall empower the person appointed to hold the inquiry to **require any person to produce any book or document**, or to answer any question, which he would be entitled, **on the ground of privilege or otherwise, to refuse to produce** or to answer if the inquiry were a proceeding in a court of law.

(Emphasis added)

- 6.3 Documents and materials that do not satisfy the tests of ‘relevance’ and ‘fairness’, or which are ‘legally privileged’, are excluded from the Inquiry’s work and do not appear on the Inquiry website.
- 6.4 Any person<sup>2</sup> that has concerns about the disclosure of any document or material by the Inquiry should raise them with the Inquiry’s Solicitor at The Inquiry into Hyponatraemia-related Deaths, Arthur House, 41 Arthur Street, Belfast BT1 4GB. Whilst the matter is being resolved the publication of the document on the website will be deferred or, if it has already been loaded on the website, access to the document will be removed.
- 6.5 The determination of such an expressed concern is ultimately a matter for the Chairman who may decide to exclude the document(s) or material in question or require some redaction of it before it is reloaded onto the Inquiry’s website.

## **7. Redaction**

- 7.1 Irrelevant personal information (such as contact details) are redacted from all documents to be loaded on the Inquiry’s website and used during the Oral Hearings. In certain cases the names of people who appear in documents but who are not relevant to the work of the Inquiry will also be removed (such as the names of other patients).
- 7.2 Any person that has concerns about the disclosure of their personal details or sensitive information should, in the first instance, raise them with the Inquiry’s Solicitor at The Inquiry into Hyponatraemia-related Deaths, Arthur House, 41 Arthur Street, Belfast BT1 4GB. The treatment of any such concerns will be the same as that described above in respect of the disclosure of any document or material by the Inquiry.

## **8. Archiving**

- 8.1 The Inquiry holds and maintains 3 sets of documents:
- The original documents received
  - A paginated set of the hard copy of all documents received, together with a hard copy of all Inquiry correspondence, memoranda, Reports and other documents generated by or for the Inquiry
  - Electronic copy of the paginated documents received, together with a hard copy of all Inquiry correspondence, memoranda, Reports and other documents generated by or for the Inquiry

---

<sup>2</sup> The term ‘Person’ is given the widest interpretation including an individual, any organisation, body or statutory authority

## PROTOCOL ON DOCUMENTS

- 8.2 The Inquiry's system for cataloguing documents is its electronic database.
- 8.3 The original documents received together with the paginated set are kept in security filing cabinets in a secure file store on the Inquiry's premises at 41 Arthur Street, Belfast BT1 4GB. Working copies of that paginated set and all other Inquiry related documents are kept in locked rooms when not in use.
- 8.4 The Inquiry's Electronic Record Management System (TRIM) is held on a secure server off the Inquiry's premises. The document database identifies each document by the document's assigned unique identifier.
- 8.5 All documents served by the Inquiry are recorded on a Register, accompanied by a letter from the Solicitor to the Inquiry and are signed for on delivery. Those letters and signed receipts are uploaded to TRIM.
- 8.6 All documents received by the Inquiry will be retained until the conclusion of the Inquiry. Those documents constituting the 'Inquiry Record' will then be passed to the Public Records Office Northern Ireland (PRONI).