

GENERAL PROCEDURES

1. Stages of the Inquiry

There are six basic stages to the Inquiry: (A) Document Gathering; (B) List of Issues; (C) Witness Statements; (D) Oral Evidence; (E) Seminars; and (F) Report. Each of those stages is dealt with in turn below.

1.1 Stage A – Document Gathering

This process is progressing and the Inquiry team is working its way through those documents which have been received to ensure that they are complete.

Each person or party who has provided documents has been advised by the Inquiry that it is required to retain all the originals in case inspection of the originals is required. Parties have an ongoing obligation in relation to disclosing relevant documents to the Inquiry which continues throughout the Inquiry process. If any further documents relating to any issues being investigated or examined by the Inquiry are or have come into a party's possession, custody or power and have not yet been disclosed to the Inquiry, that party should ensure that copies of those documents are sent to the Inquiry forthwith.

Inspection may be sought by the Inquiry either on its own initiative or at the request of another interested party.

Prior to the oral hearing of the Inquiry, core bundles of key documents will be prepared. The Inquiry team will compile these bundles. Written submissions may be made by the parties to the Inquiry on adding or removing documents from these bundles.

Certain documents that were previously posted on the Inquiry website will be removed from the website. For example, medical notes and other records which do not relate to the revised Terms of Reference shall not be available. Also, parts of documents that were previously posted on the Inquiry website will be redacted. For example, when personal details were inadvertently published or to exclude details which no longer relate to the revised Terms of Reference.

1.2 Stage B – List of Issues

The List of Issues is being revised to reflect the revised Terms of Reference. It will be necessary to complete the identification of the relevant issues before the Inquiry seeks written statements from potential witnesses because those witnesses have to understand the

issues which the Inquiry will address. When the List of Issues is complete, it will be placed on the website for comment and any suggestions about the adequacy or otherwise of the list will be considered.

1.3 Stage C – Witness Statements

In keeping with precedents set by other inquiries, this Inquiry intends to produce standard form witness statements. It will then prepare a list of people who will be asked to complete a witness statement. In each case the person who is asked to complete a statement will have his or her attention drawn to the list of key issues, but will also be asked to address some specific issues of particular relevance to him/her. It may be necessary for the Inquiry to ask for supplementary statements in light of information which it receives from other witnesses or to clarify or add to points made in the original witness statement.

The list of witnesses who have been asked to make written statements will be published on the Inquiry website. The Inquiry will consider any suggestions made to it that statements should be required from other witnesses. The Inquiry will also accept statements which are volunteered to it by people who have not been asked to give written statements. The Inquiry will forward witness statements which it receives to the Interested Parties in advance of the public hearings on their undertaking that those statements will not be further disclosed by the Interested Parties at that stage. The statements will then be published on the Inquiry website when the public hearings reach the specific issues to which the statements relate.

Witness statements shall be sought in relation to the cases of Claire Roberts and Conor Mitchell.

The Chairman shall direct that completed witness statements are returned to the Inquiry Office by a particular date. If a party is unable to comply with this direction, then a written request may be made to the Chairman for an extension of time to complete and return the witness statement **before** the expiry of the original date set by the Chairman. Any written requests for extension of time to submit a witness statement must set out clearly the basis upon which further time is required and the length of the extension of time sought.

The Chairman has statutory powers in relation to evidence as set out at Schedule A1 to the Interpretation Act (Northern Ireland) 1954 as amended by the Inquiries Act 2005 to ensure that witness statements are properly completed and returned promptly. Schedule A1 is on the Inquiry website.

1.4 Stage D – Oral Evidence

Having received the written statements, the Inquiry will then decide which witnesses are required to give oral evidence. It is not anticipated that all those who have provided statements will be required to testify. The Inquiry will publish a list of those it intends to call and will also accept representations about whether others should be called too.

At the oral hearing witnesses will be questioned by Counsel for the Inquiry, Monye Anyadike-Danes QC and/or Jill Comerton BL. They can then be cross examined by other interested parties, subject to constraints which have already been accepted by all parties as to duplication, repetition etc. Witnesses may then be questioned by the Chairman. Finally interested parties can be questioned by their own legal representative. As was made clear at the preliminary hearing on 3 February 2005, a witness who is to be called will be notified in advance by the Inquiry of the areas upon which he/she will be questioned and any area of likely criticism.

Any Interested Party who wants to question a witness will have to notify the Inquiry in advance of that fact and identify the proposed areas of questioning. The witness will be advised of this fact. Co-operation on this is essential if a meaningful timetable is to be planned and adhered to.

The Inquiry accepts in principle the suggestion that there should be opening submissions on behalf of Interested Parties who want to make such submissions. These will be time limited and the Inquiry and the other parties must be served in advance with the written outline of the submission.

The Inquiry accepts in principle the suggestion that there should be closing submissions on behalf of Interested Parties. These must be made in writing and forwarded to the Inquiry which, in turn, will provide them to the other Interested Parties and put them on the Inquiry website. There will then be an opportunity to make a time limited oral closing submission to complete this phase of the work of the Inquiry.

1.5 Stage E – Seminars

Seminars shall be held after the completion of the Oral Hearings.

The Inquiry shall seek papers from eminent contributors and the authors of the papers may be asked to participate in the seminar discussions.

This stage of the Inquiry does not require legal representation. The seminars are a forum for discussion on the issues raised in the revised Terms of Reference with particular emphasis on the lessons to be learned and best practice to be followed.

1.6 Stage F – Report

The Inquiry confirms that it is not its intention to circulate the draft report to individuals or bodies which may be the subject of criticism. However any person who is likely to be criticised in the report will be given an opportunity at the oral hearing to address any issues which might lead to criticism later. If necessary, the oral hearings may be reconvened for this purpose or a witness who has already given evidence may be recalled at a later point during the oral hearing.

1.7 Protocols

A series of Protocols have been developed to set out in more detail how the Inquiry will carry out its work:

Protocol No.1: Interested Parties Protocol
Protocol No.2: Documents Protocol
Protocol No.3: Witnesses Protocol
Protocol No.4: Experts Protocol
Protocol No.5: Costs Protocol
Protocol No.6: Disclosure Protocol

The Inquiries Protocols and procedures will be kept under review.

2. Legal Representation

At the oral hearing on 3 February 2005, the Chairman indicated his acceptance of the request that there should be cross examination of witnesses other than by Counsel to the Inquiry. In light of that development, the Chairman recommended to the Department of Health, Social Services and Public Safety that the families should be represented by Counsel at the oral hearing.

3. Experts

The Inquiry will be assisted by Experts of which there are 4 basic categories: (i) Expert Advisors; (ii) Peer Reviewers; (iii) Experts commissioned to provide 'Background Papers'; and (iv) Expert Witnesses.

To date the Inquiry has appointed Expert Advisors in the following areas: (i) paediatrics; (ii) paediatric anaesthesia; (iii) paediatric intensive nursing care; and (iv) National Health Service hospital management. Those Expert Advisors are all independent of the Health Service in Northern Ireland.

The advice and guidance of the Expert Advisors is peer reviewed by 3 Experts in the fields of: (i) internal medicine/nephrology; (ii) paediatric anaesthesia; and (iii) paediatric intensive and critical care nursing. They are based in California, Ontario and Melbourne respectively and their principal role is to

PROCEDURES

review the work of the Expert Advisors to help to ensure that the Inquiry receives independent, high quality advice.

4. Forum for Hearing

The Inquiry will hold its main oral hearings at the former Magistrates' Court in Victoria Street, Banbridge, County Down.

5. Other Cases

Since the start of the Inquiry two other cases have been added to the Inquiry's work. Hyponatraemia was a factor in Claire Roberts's death and it is being investigated to the same extent as the deaths of Adam and Raychel. The investigation of Conor's treatment will address more limited issues in view of the fact that hyponatraemia was not a cause of his death. It will focus on record keeping particularly in view of the Guidelines on Hyponatraemia that had been issued and their focus on proper fluid management, as well as whether the treatment of Conor on an adult ward rather than a children's ward made any difference.