

The Inquiry into Hyponatraemia-related Deaths

Chairman: Mr John O'Hara QC

Press Release

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Issued 18th June 2019

I have now concluded my investigation into concerns raised by a whistle-blower within the Health and Social Care Board (“HSCB”).

These concerns related to the adequacy of searches made in 2004 within the Western Health Social Services Board (‘WHSSB’) for documentation for my Inquiry and a possible attempt to dispose of IT equipment secured for the purposes of my Inquiry. The whistle-blower said that these concerns had been raised before but not investigated. Specifically, the whistle-blower requested an immediate investigation into whether my Inquiry was misinformed by HSCB in 2013 about the searches conducted in 2004.

The concerns raised were of considerable interest to me because WHSSB had been the Board engaged in the aftermath of the deaths of both Lucy Crawford and Raychel Ferguson but had been unable to provide adequate documentary evidence of its involvement with Lucy’s case.

HSCB appointed an Investigation Panel to consider these matters. In due course I received both their draft and final ‘Investigation Report on the Whistle Blower’s concern in relation to searches and evidence relevant to the Hyponatraemia Inquiry (12th December 2017)’. However the evidence and documentation relating to their investigation was not initially shared with me, on the basis that HSCB sought, for policy reasons, to respect the confidential nature of the process.

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In due course I did however obtain all the papers, including recordings of the oral testimony received by them together with other evidence and materials. The same documentation as was before the Investigation Panel was made available to me. I received the same oral testimony but by way of transcription from digital recordings. I directed that the Inquiry legal team meet with the whistle-blower to establish whether there was any additional evidence of any sort and relevant to any of the issues under consideration. There was none.

It must be emphasized that no new evidence affecting the matters dealt with in my January 2018 report has emerged nor has evidence emerged of material being withheld or destroyed.

I must now explain the issues of confidentiality surrounding the documents I obtained. The investigation of the whistle-blower's concerns was conducted by HSCB in accord with Department of Health policy "Your Right to Raise a Concern (Whistleblowing)" which exists to promote improvement of services for patients. The importance of raising concerns in the public interest is well recognised. Encouraging health care staff to raise concerns is an important part of identifying issues relating to patient safety and improving the quality of care. It is a matter which I feel strongly should be encouraged. In my January 2018 report (at paragraph 8.108 page 75) I urge that the impetus to encourage and improve whistle-blowing arrangements be maintained because it is crucial that concerns are handled appropriately and where necessary acted upon. Staff who are prepared to speak up about malpractice or wrongdoing should be recognised as vital to any organisation trying to improve. They are to be encouraged and afforded all necessary protection.

In this instance, the legal representatives of those facing potential criticism have asked that the relevant documentation is not released on the basis that it would reveal the identities of the many witnesses who are not criticised and who assisted the investigation into the whistle-blower's concerns. Indeed, many who engaged with

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the HSCB investigation were assured that the process was confidential and that their identities would not become public knowledge. I consider that to depart from assurances of confidentiality could have a detrimental effect on those who willingly engaged and thus impact on the long-term efficacy of whistle-blowing itself.

The whistle-blower also expressed concern about being publicly identified and would only agree to waive anonymity if all the others involved likewise consented to being publically identified. Their consent was not forthcoming.

I do not want to imperil the Department's policy on whistle-blowing and confidentiality. However, it must be balanced against the need for all to know the conclusion of my investigation.

To meet these requirements and after consultation with interested parties I proceeded in an agreed manner whereby only those who faced adverse comment would have access to my confidential addendum report and supporting documentation. After opportunity for representations I prepared a summary of my confidential report in order that all might have access to my findings without jeopardising the confidential nature of the whistle-blowing process.

My inquiry into all matters relating to the hyponatraemia-related deaths I was charged to investigate is now complete. I would like to acknowledge the assistance of all who have engaged with the Inquiry and particularly wish to thank the families of the children, who have shown such fortitude since the deaths of their beloved children.