

Questioning of Witnesses and Consulting with Witnesses

1. I have been asked to clarify the order in which witnesses will be questioned by the various lawyers at the Inquiry. The outline which appears below should be read in conjunction with the "Hearing Procedures" paper which has already been circulated and to which I referred at the start of the sitting on 16 April 2012. As appears from paragraph 5 I do not want to follow the very restrictive line taken elsewhere. Accordingly I set out a plan in paragraph 6 of that paper which is subject, as is the rest of the paper, to the discretion referred to in paragraph 2.

2. The initial questioning of each witness will be by Inquiry counsel. It is intended that this will cover all relevant areas, hence the requirement for lines of questioning to be provided in advance as per paragraph 6 (iii). In the event that there is further relevant questioning the order will be as follows:

- representative of the affected family
- representative of any other family but only if that family is directly affected by the evidence of the witness – see paragraph 6 (vi)
- representative of the Trust
- representative of other interested parties
- representative of the witness

3. As per paragraph 6 (vii) there will only be further questioning by Inquiry counsel if absolutely necessary.

4. To take a practical example of how this will work I envisage that the order in which Professor Savage will be questioned will be as follows:

- Inquiry counsel
- Counsel for Mrs Slavin
- Counsel for the Trust
- Counsel for Mr Keane
- Counsel for Dr Taylor
- Counsel for Nurse Murphy
- Counsel for the Professor himself

5. I should add that in the normal course of events counsel for Nurse Murphy would follow Trust counsel since her involvement preceded that of Mr Keane or Dr Taylor but since she only obtained her own representation today I will allow her representative some more time to prepare.

6. If the witness is a Trust witness, in that he or she is a current or former employee of the Trust who the Trust is representing, Trust counsel will question the witness last.

7. One further issue which has arisen is whether legal representatives of a witness can consult with the witness during the course of his/her questioning. In Northern Ireland a lawyer can only consult with a witness whose evidence has started with the permission of the judge who will also consider objections to such a request from other parties. I intend to follow that procedure. Accordingly, once a witness has started to

give evidence the lawyers representing the witness will only be speak to the witness about that evidence with my express approval. It is likely that approval will be given if an entirely new point arises but not otherwise. Any application to consult is to be made in the absence of the witness.

8. It is not possible to anticipate every possible eventuality which might arise. However, subject to any representations made to me, I expect that the plan set out above will be followed. I also emphasise that I don't expect that there will have to be extensive questioning of witnesses by lawyers after Inquiry counsel has finished, notwithstanding the fact that there are now so many legal representatives.

John O' Hara

16 April 2012