

Young, Christine

From: Moore, Martin
Sent: 10 February 2005 12:56
To: Gowdy, Clive; Campbell, Dr Henrietta; Hamilton, Andrew; Hill, Don; Browne, Andrew; Maguire, Philip; 'colm.shannon' [REDACTED] Baxter, Clare; Edgar, Leona; English, Marion (OFMDFM)
Subject: FW:

Hello all

Today's Impartial Reporter story and last week's Fermanagh Herald story on O'Hara Inquiry story for reference.

Regards

Martin

Inquiry told of fourth death

Another death has been brought to the attention of the O'Hara Inquiry, set up to investigate the deaths of three children in Northern Ireland hospitals.

The three hyponatraemia-related deaths included that of Lucy Crawford, the [REDACTED] girl, who died after alleged mismanagement of her drip at the Erne Hospital in Enniskillen in April 2000.

The chairman of the inquiry, Mr John O'Hara, QC, held a public hearing in Belfast last week; and although it was only to hear representations about how he would proceed, there were several significant revelations and developments.

As well as the addition of a fourth person, who died in 1996, these included:

- * The inquiry has agreed to a revised timescale, so as not to interfere with the police investigation into Lucy's death. It is likely to be this time next year at the earliest when it reports.
- * In 2002, after Raychel Ferguson's death, the Belfast Coroner wrote to the Chief Medical Officer reminding her that changes were to have been made after Adam Strain's death in 1996.
- * Mr O'Hara revealed figures that showed 16 deaths in Northern Ireland in 2002 and 2003 where hyponatraemia was a factor.
- * The inquiry chairman has asked for the names of all staff involved in Lucy's treatment, and the names of people involved in all inquiries and reviews.
- * While the Sperrin Lakeland Trust was represented legally, two members of the medical staff at the Erne Hospital, Dr Jarleth O'Donohoe and Nurse Brid Swift had their own legal representatives.
- * Mr O'Hara will, after all, allow witnesses to be cross-examined.
- * Mr O'Hara will, after all, allow the families legal representation from senior counsel, although he is suggesting that they share a barrister.
- * And he has decided to retain the services of two Department of Health personnel.
- * Public hearings for the inquiry will be held in one venue, probably Belfast.

11/02/2005

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The public hearing began with representatives from the families of the three children in the front row.

In his opening remarks, Mr. O'Hara said: "I should start by acknowledging how sensitive and emotional much of the work of the Inquiry has already been and will continue to be; for doctors, nurses, administrators, but above all for the families of Adam, Lucy and Raychel."

He said it would be unrealistic to expect that "people will not be upset or distressed at various times."

Mr O'Hara said he was "determined to get to the heart of the issue".

"The public needs to know that our Health Service is managed and organised in such a way that when unfortunate events happen, as they inevitably will, lessons are learned to prevent their repetition," said Mr O'Hara.

"Nobody can reasonably expect that mistakes will not occur in our Health Service," he added. "What we all should expect, however, is that steps will be taken to help to minimise the risk to the health of others in the future."

Mr O'Hara later spoke about how he was revising his timescale because of the ongoing police investigation into Lucy's death.

His original target completion date was June this year. However, having been informed by the PSNI that they will interview "suspects" in the Lucy Crawford case this month and send a file to the Department of Public Prosecutions in April, Mr O'Hara has written to the Minister of Health asking for his timetable to be amended.

He will continue with gathering documents, pointing out that already 80 lever arch files of papers had been received. The work on the Adam Strain and Raychel Ferguson cases will continue, as well as other behind-the-scenes work.

The Inquiry will gather witness statements in May and June, and hold a series of public hearings in October/ November.

"The net effect of that is that the report will be delayed, subject to the Minister's approval, until February or March of next year," said Mr O'Hara, although he acknowledged that there is still a risk of even this renewed timetable being thrown off schedule.

He then revealed the emergence of a fourth death.

"I expect to receive confirmation within the next month that a death in October 1996 will require investigation," said Mr O'Hara.

The inquiry chairman went on to say that there were a number of "general issues" that he would look at.

"Perhaps the single most important one is what procedures have been in place to ensure that information and lessons which emerge from inquests are disseminated within the hospital concerned, within the Health Service in Northern Ireland and within the Health Service throughout the United Kingdom generally."

As an example, he read an excerpt from a letter which the Coroner for Greater Belfast, Mr Leckey, wrote to the Chief Medical Officer, Dr. Henrietta Campbell on November 7, 2002.

The letter referred to Raychel Ferguson's forthcoming inquest and recalled that Mr Leckey had conducted an inquest into Adam Strain in 1996.

The letter said: "My clear understanding was that changes would be made in relation to the future management of cases such as that of Adam Strain. Therefore, I did not see a need for formal action....also I assumed that there existed some mechanism for

dissemination of Dr Sumner's opinions, but it now appears that this is not the case."

Mr O'Hara said one of the questions which arises is why that was not the case. The chairman went on to say that he also would address the frequency of deaths as a result of hyponatraemia in Northern Ireland.

There have been 55 deaths registered in the last 20 years with hyponatraemia as a contributory factor, and 16 of those were registered in 2002 and 2003. Before the end of his opening remarks, Mr O'Hara referred to the "criminal sanction" he had to compel witnesses to give evidence.

"I do not expect to have to use those powers, but I will not be afraid to use them if I do not get the level of co-operation which I believe I should receive," said Mr O'Hara.

A number of representations were made by legal representatives, mostly on procedural matters. This was the purpose of the public hearing. In the afternoon, Omagh hospital campaigner, Dr Kieran Deeny was allowed to speak. But first, Mr O'Hara told him:

"In correspondence with me you have raised a number of issues about the new hospital being sited in Fermanagh rather than Tyrone, which I think I have to tell you are issues which occur to me as being beyond the remit of the inquiry."

Mr Deeny said his submission was not about where a hospital is built, adding; "This is about the behaviour of people in health management and the Health Service that they have been working in for almost 25 years."

And later, Mr Deeny alleged that the "actions of this group of healthcare managers, which to me has been beyond the law for some years."

However, Mr O'Hara said such an opinion was not a matter for the day's hearing on procedural matters.

Verbatim reports of all submissions made at the public hearing are now posted on the inquiry website ihrdni.org

O'Hara preliminary Inquiry opens in Belfast

FAMILIES DEMAND ANSWERS

*Hard-hitting
submissions expected
in two day hearing
into children's deaths*

BY MICHAEL BRESLIN

The two-day preliminary hearing in Belfast, starting tomorrow (Thursday) into the deaths of three young children, allegedly from fluids' mismanagement, promises to be a controversial one as all parties set out their stall in public in front of the Inquiry Chairman, John O'Hara, QC on how they wish his Inquiry to be conducted.

The three youngsters in question are Lucy Crawford from Letterbreem, Rachel Ferguson, from Derry and Adam Strain, from Belfast.

Much of the written submissions will centre on legal representation and protection, for witnesses. However, the legal advisers for the next-of-kin will be putting across a white-knuckle argument for them to be represented in the Inquiry proper by senior counsel.

The Inquiry chairman's initial proposals did not provide for the families to be represented by senior counsel at any stage, merely their solicitors. He has since relented on this, allowing junior counsel representation for the

week's two-day hearing. That, he felt, was adequate, although, he has told the solicitors acting for Lucy and Rachel that he does not have a closed mind on senior coun

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Families demand answers

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sel being involved later on.

The senior counsel engaged by that firm, Desmond J. Dolan & Co, Derry, in the course of a 32-page submission to Mr O'Hara, gave a strong flavour of the variety of issues she has taken instructions on.

Ellis McDermott, QC, making the case for senior counsel representation for her clients, submitted that their experience had been that 'they have been treated like lepers' by medical staff and health officials, in particular in respect of the death of their children.

"It is appropriate to point out they are anxious that the legal process does not make them feel the same way as the medical process in which they have been involved to date", she added.

She then referred to 'the very serious' allegations that had been made in relation to her clients, quoting from the *ITV 'Insight'* programme broadcast on 25th March last year. In it, the chief medical officer with the Department of Health had attributed the deaths of Lucy and Rachel to 'an abnormal reaction' to the fluids administered to them.

Ms McDermott submitted that the Chairman should not allow witnesses to be screened or give their evidence anonymously and told him her clients had serious concerns that a witness might claim to be 'too ill to attend'.

She sought, on their behalf, an assurance that, if this were to happen, that the Tribunal would double check and arrange for their evidence to be taken under oath in their own home.

The submission also placed on record the 'complete opposition' by both families to the presence of two Civil Servants from the Department of Health on the inquiry team. It also referred to the ongoing Police inquiry into the children's deaths and expressed the two families' concern that clinicians and health administrators might use that as an excuse not to cooperate with the inquiry.

For its part, the Sperrin Lakeland Trust, through its chairman, Harry Mul-

lan, promised the Inquiry Chairman total and sincere cooperation. In return, he sought the Inquiry team's sensitivity for the concerns of Trust staff members.

The Trust submission sought clarification on nine fronts. Two of these referred to Dr Jarlath O'Donohue, the paediatrician who treated Lucy Crawford in the Erne hospital and the venue for the Inquiry proper.

Dr O'Donohue is to be represented by a Belfast firm of solicitors, Arthur Cox Northern Ireland, and not by the Trust whose legal team will be led by Patrick Good, BL, instructed by the Directorate of Legal Services (DLS).

In its submission, DLS, which has 14 solicitors on its books, regretted Mr O'Hara's decision not to furnish an individual or body with an extract of a report that was critical of them so that they could make a written submission.

"We would ask you to reconsider that proposal",

For the purposes of the Police Inquiry, the Trust has advised those staff members who might be interviewed by the PSNI to engage their own legal representation.

Several of the witnesses will be legally represented by the Medical Protection Society (MPS) who, in its submission to Mr O'Hara, expressed concern about the 'intimidatory atmosphere' of the inquiry.

To counteract this, it suggested a private exchange of draft criticisms and rebuttals, otherwise factual accuracy could be impaired. That PSNI investigation will only focus on the death of Lucy Crawford.

In a submission to the Inquiry, the senior investigating officer told Mr O'Hara he expected a file to be with the Director of Public Prosecutions by mid-April. However, that date could change if there was an attempt to pervert the course of justice and he revealed that one witness who appeared on the *'Insight'* programme had still not responded.

The letter went on: "I should like to request that your Inquiry defers investigating the circumstances surrounding the death of Lucy Crawford until such time as the Police investigation is complete".

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Children's Mental Health Services