

## The Inquiry into Hyponatraemia-related Deaths

Chairman: Mr John O'Hara QC

### STATEMENT BY MR JOHN O'HARA QC, CHAIRMAN

THURSDAY 18 NOVEMBER 2004

1. I am honoured to accept my appointment by the Department of Health, Social Services and Public Safety to conduct this Inquiry into the events surrounding and following the deaths of the three young children, Adam Strain, Lucy Crawford and Raychel Ferguson.
2. The Terms of Reference of the Inquiry which have been published today are very broad and I believe they will enable me to look at all the issues which need to be examined. It is important to note that apart from the specific Terms of Reference, I have been given a general discretion to examine and report on any other relevant matters which arise.
3. I know that some concern has already been expressed that the Inquiry is not being conducted by someone from outside Northern Ireland. I want to emphasise my own independence from the Department and from those individuals and public bodies whose conduct will be examined. But I also want to make the point that as one who lives in Northern Ireland I have an obvious interest in an effective and efficient public health service. I have no interest whatever in protecting from criticism any individual or body which has been incompetent, inefficient or worse.
4. I have been promised by the Department that I will have access to all the support and expertise which is necessary to conduct this Inquiry. A dedicated Inquiry Team has been established which will operate from offices in Adelaide Street, Belfast. I will obviously need expert advice which I will obtain from outside Northern Ireland. A number of names have already been suggested and I am confident that I will have access to impartial experts whose input will be essential.

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5. **Powers of the Inquiry**

This is a statutory Inquiry and the powers given to me are set out in the Health and Personal Social Services (NI) Order 1972. They include the following:

- a. The power to require any person to give evidence or to produce any books or documents which relate to the issues which are under investigation;
  - b. The power to require any person to provide information relating to any of the relevant issues as I think fit and as a person so required is able to furnish;
  - c. The power to question witnesses on oath or to accept instead a statement in writing by any person.
6. It is important to remember that inquests have already been held into the deaths of Adam, Lucy and Raychel. It is not my intention to rerun those inquests – that would be a waste of public time and money. However I will have access to the coroner's records so that it will be possible to use the evidence which emerged at the inquests as one of the starting points of the Inquiry.
7. I am aware that questions have already been asked about whether the Inquiry will be held in public and whether legal representation will be available. I have some discretion as to how the Inquiry will be conducted and I will issue a paper in the coming weeks to interested parties setting out my detailed preliminary proposals. They will then have an opportunity to put forward different views before the procedure is finalised. It is likely the procedure will include the following:

- a. I will gather all available documents, records and reports from all available sources including the families, the hospitals, the Trusts and the Department;
- b. I will require detailed written statements to be provided from various people and bodies;
- c. I will then decide which people need to give oral evidence to the Inquiry. It is anticipated that, save in exceptional circumstances, this evidence will be given in public. However since the Inquiry is inquisitorial rather than adversarial the vast majority of the questions will be asked by a counsel to the Inquiry who will be appointed for that purpose. A person who is being questioned will be entitled to an appropriate level of legal representation so that, eg, questions can be challenged on the basis of privilege or relevance. That representative will also be entitled to ask
- d. Although the scope for legal representation is limited, I can recommend to the Department that it should pay for legal representation where it is necessary and where there are not other means by which that representation can be funded. It will then be for the Department to decide whether to accept my recommendation. I do not envisage making such a recommendation in respect of any public body or any person who has his/hcr own means of providing legal representation;
- e. When the questioning is complete I will prepare a report on the issues which have been investigated and I will provide that report to the Department. My understanding is that the Department is committed to publishing that report but that is a matter for the Department, not for me. The report will include conclusions where it has been possible to draw them and recommendations for the future.

8. Timescale

The Terms of Reference require me to report by 1 June 2005 or such other date as may be possible. It is my intention to complete my work within that period and should have been saved. They believe that they have been misled and obstructed in their efforts to find out what happened. They also have reservations about my independence, about the independence of this Inquiry and about the procedures which I will follow.

I do not know and I have no view at this time on whether they are right or wrong to hold those beliefs or the extent to which they are right or wrong. The families accept that this and must be my position. I have tried to reassure them about my independence and I hope that they will cooperate with me and my team. I will however consider their points. The question of procedures has already been outlined in this statement and will be dealt with the way in which I have set out at paragraph 7.