

THE INQUIRY INTO HYPONATRAEMIA-RELATED DEATHS

TRANSCRIPT OF PROGRESS HEARING

Friday, 7th October 2005

1.30 pm

Chairman: MR JOHN O'HARA QC

Spires Conference Centre  
Fisherwick Place  
Belfast

Computerised transcript of Smith Bernal WordWave  
190 Fleet Street  
London EC4A 2AG

Tel: 020 7404 1400

Fax: 020 7404 1424

[mail@wordwave.co.uk](mailto:mail@wordwave.co.uk).

[www.wordwave.co.uk](http://www.wordwave.co.uk)

Friday, 7th October 2005

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(1.30 pm)

THE CHAIRMAN: Can I start by saying that I regard it as unfortunate that we are here today in the current circumstances. We should by now have completed the first week of hearing the evidence about the circumstances surrounding Adam Strain's death. Instead, we are facing a lengthy delay before any hearing into events start. The explanation for this is probably well known to you all, but in case there are some people who are not entirely up to date, I want to give the following summary of recent events.

The Inquiry was established in November 2004. In December 2004 we met the Police, who then confirmed in January 2005 that they did not want us to investigate the circumstances surrounding Lucy Crawford's death. At the same time, they confirmed that they did not intend to inquire into either Adam's or Raychel's death, so that so far as they were concerned the Inquiry could proceed. On that basis, we went ahead with preparations for hearings into those two deaths, by gathering documents, placing them on the website and sending out a series of requests for witness statements. I will come back to the issue of statements in a few minutes.

In addition to that, we started work on preparing

1 for the second stage of the Inquiry; after we have  
2 investigated the circumstances of the deaths of the  
3 individuals that we are investigating, we will go on to  
4 look at the Health Service structures and mechanisms for  
5 reporting and learning from serious adverse incidents  
6 and deaths. This will cover education, training and the  
7 roles and responsibilities of medical staff, Health  
8 Service administrators and Health Service managers.

9 We had a hearing on 23rd June to report progress,  
10 but in early July we were contacted by the Police, who  
11 then came to see us to say that, contrary to their  
12 earlier indication, they were now going to start  
13 an investigation into Adam's and Raychel's deaths.  
14 In addition they said, and the Public Prosecution  
15 Service confirmed, that no decision would be taken about  
16 any prosecutions in Lucy's case until all three files  
17 were with the Director of Public Prosecutions.

18 When we sent out notification of this development,  
19 the unanimous response on all sides was to agree that  
20 the public hearing should be deferred until further  
21 notice. As you will now be aware from recent  
22 correspondence, we have tried to obtain some firm  
23 estimate from the Police and from the Public Prosecution  
24 Service about their timescale for action. So far as  
25 both of them can anticipate, the Police hope to have

1           their reports with the Public Prosecution Service by the  
2           end of December; in turn, the PPS hopes to have made  
3           decisions in all three cases by Easter. The Police have  
4           offered to give us monthly updates on their progress.  
5           The purpose of those updates is limited to indicating  
6           whether they are on schedule, and, if they are not, how  
7           far off track they are. The purpose of those updates is  
8           not to disclose the detailed nature of the  
9           investigations to the Inquiry.

10           In conjunction with that investigation, the Police  
11           made three specific requests. The first was that we  
12           should remove from our website any information which  
13           might be relevant to their work. That has been done.  
14           The second request was that the Inquiry should provide  
15           to the Police witness statements which have been  
16           received by us on foot of our requests to many  
17           individuals from May onwards. The Inquiry has invited  
18           observations from various interested parties in relation  
19           to that point. We have received no objections to date,  
20           and we therefore anticipate that within the next few  
21           days we will be passing on to the Police the statements  
22           which we have received.

23           In doing this, I acknowledge that statements have  
24           been made to us on the basis that the writers understood  
25           that there was to be no Police investigation. That has

1           changed. Notwithstanding that change, we would be  
2           exceptionally reluctant and very difficult to persuade  
3           that there is any basis for withholding the statements  
4           that the Police are now seeking.

5           The third Police request was to do with outstanding  
6           statements. You will remember that, on 23rd June when  
7           we were here, I expressed concern and disappointment  
8           about the fact that quite a number of statements were  
9           still outstanding, and I issued a warning in late June  
10          that this would not continue, we could not tolerate this  
11          indefinitely. As a result of the Police intervention,  
12          we have not continued to push for statements, because  
13          the Police have specifically asked us not to. They do  
14          not want more statements than already exist to be  
15          available or to be made.

16          Having said that, I want to put on record again that  
17          when the Inquiry resumes, we will expect the outstanding  
18          statements to be immediately available. At that point,  
19          we will also do what we were planning to do through the  
20          summer and through September, which was to follow up the  
21          statements already received by asking for supplementary  
22          and clarifying statements, and at the same time we will  
23          also issue requests for statements in Lucy's case.  
24          Those documents have already been prepared by  
25          the Inquiry and are ready to be issued, but cannot be

1 issued, obviously, in the circumstances which I have  
2 already explained.

3 Let me now turn to the impact which the Police  
4 intervention has had on the work of the Inquiry. The  
5 one possible advantage of the Police investigation is  
6 that the Police, through their resources, will discover  
7 additional information which will ultimately assist  
8 the Inquiry in its work. Having acknowledged that,  
9 unfortunately it seems to us that the Police  
10 intervention will have a number of disadvantages. The  
11 first and obvious one is the loss of momentum.

12 The Inquiry, as I have already indicated, should now  
13 have started its substantive work at public hearings,  
14 and we simply do not know at this stage when we will  
15 resume. In this connection, I also have to flag up one  
16 additional concern, which is that if there is  
17 a prosecution in any of the three cases, we have been  
18 alerted to a possibility by the Public Prosecution  
19 Service that they may ask us to defer public hearings in  
20 relation to the other two. Now, that was not what we  
21 understood to be their position earlier this year, and  
22 that is why for instance we would have been scheduled to  
23 go ahead with Adam's and Raychel's cases,  
24 notwithstanding any Police and DPP decision. We do not  
25 know whether there will be any prosecutions, and we

1 cannot say for sure, in the event that there are any,  
2 whether the PPS will actually ask us to defer any public  
3 hearings into anything. But that possibility has been  
4 raised.

5 When we do ultimately get the all-clear to proceed,  
6 we will move as quickly as possible. Again, in that  
7 context, however, I have to say that it will certainly  
8 be some months before the hearings can be arranged.  
9 There are quite a few reasons for that.

10 The first, which I have already outlined, is that we  
11 have not obtained any statements yet in Lucy's case,  
12 there are still some outstanding statements in the other  
13 two cases, and there will be supplementary statements  
14 required on foot of those which we have already  
15 received.

16 The second point, a purely pragmatic point, is that  
17 we do not know when this hall or any alternative  
18 facility will be available to us. One of the most  
19 difficult problems which we faced was finding suitable  
20 accommodation. We had this hall booked through December  
21 into January, and we have now had to relinquish that  
22 booking; we understand that it is now going to be taken  
23 up by another Inquiry. We cannot book the hall for some  
24 undefined point in the future, and we will be left  
25 touring around Belfast trying to find another ideally

1 central and suitable venue.

2 The next disadvantage is that the Inquiry team is  
3 going to be broken up, at least in the meantime. Two  
4 administrative staff have already been reassigned. By  
5 the end of October Mr Owens, the Secretary, and  
6 Ms Lindsay, the Deputy Secretary, will be reassigned to  
7 other duties. Whether they will then be able to return,  
8 as I hope they will, depends on both their personal  
9 circumstances at the time and what they have been doing  
10 in the meantime. Concerns were expressed at the start  
11 of the Inquiry about their suitability and whether they  
12 should be involved at all. I think that those concerns  
13 have been allayed, but I acknowledge that they might be  
14 resurrected in the event that they do some work in the  
15 meantime which could reasonably be said to clash with  
16 their commitment to the Inquiry.

17 Our Inquiry Solicitor, Fiona Chamberlain, will by  
18 the end of October go back to the job from which she has  
19 been seconded with the Crown Solicitor. Again in  
20 Fiona's case I hope very much that she will be available  
21 to come back, because I do not think there is anybody  
22 who is familiar with the Inquiry's work who would  
23 dispute her value to the Inquiry and the significant  
24 role that she has played to date.

25 As far as Ms Anyadike-Danes and myself are

1 concerned, we will resume our full-time practice at the  
2 bar by the end of October. I am grateful to Ms Danes  
3 for committing herself to returning to the Inquiry when  
4 that time comes.

5 It is very important to me that the whole Inquiry  
6 team regroups if at all possible. There are clear  
7 advantages in terms of continuity, in terms of using the  
8 knowledge that we have acquired, and there are also good  
9 working relationships with the various interested  
10 parties.

11 The other major disadvantage of the disruption  
12 caused by the Police intervention is that we were  
13 already faced with investigating events which took place  
14 up to ten years ago. That is a task which, for various  
15 reasons to do with the lapse of time, is difficult  
16 enough. The lapse of more time can only make it more  
17 difficult, and that is why it is our view that the  
18 shorter this intermission is, the better, not only for  
19 the Inquiry, but for all the interested parties.

20 I should also acknowledge that what is already  
21 a stressful experience for the families and for others  
22 may well be aggravated by this further delay. I say  
23 that notwithstanding the fact that the families have  
24 welcomed the Police investigation and have hopes for it.

25 Whatever the outcome of the Police investigation, it

1           seems to us that in so far as this Inquiry can help the  
2           families to understand what happened, and in so far as  
3           the Inquiry can help the public by contributing to  
4           better practices in the future, those practices and  
5           those lessons should be learnt sooner rather than later.  
6           Unfortunately, these matters are beyond our control.  
7           I very much wish that we were now hearing the  
8           substantive evidence and getting to the heart of what we  
9           were in fact appointed to do.

10                 In this context, we also want to put on record our  
11           acknowledgment that the deaths and the losses suffered  
12           by the families did not somehow come to an end at  
13           a precise date; those losses continue, and the  
14           prolonging of this Inquiry, we suspect, is unlikely to  
15           help the families in any way, beyond the possibilities  
16           which might emerge from a Police investigation.

17                 Let me just finish at this stage by indicating what  
18           will happen through the rest of October.

19                 As indicated at our June review, we have been in  
20           contact with our Peer Reviewers and we will be in  
21           further contact with them in the weeks and months ahead.  
22           In June, I announced the appointment of Dr Arieff, from  
23           California, and Dr Bohn, from Canada, to cover the  
24           specific issues of paediatrics and anaesthesia. I am  
25           now pleased to announce the appointment of a nurse

1 consultant, Sharon Kinney, a Master of Nursing who is  
2 based in Australia, and a summary of whose CV will be  
3 available on the website very shortly. They have been  
4 asked to review the advice which we have already  
5 received from our experts to confirm that we are on the  
6 right track.

7 The other issue which will develop over the weeks  
8 ahead is that, before the Inquiry breaks up, we will  
9 need to establish contact points and details for those  
10 of you who need to contact the Inquiry during the  
11 intermission. For the legal issues, despite her return  
12 to the Crown Solicitor's Office, Fiona Chamberlain will  
13 still be the immediate point of contact, though  
14 Monye Anyadike-Danes and myself will also be available,  
15 and we will provide numbers and contact details in due  
16 course.

17 For administrative and managerial issues, I very  
18 much hope that we will still be able to use  
19 Ambrose Owens and Sharon Lindsay. In the event that we  
20 can, their contact details will be made available; in  
21 the event which I hope does not transpire, that we  
22 cannot, we will put in place an alternative arrangement.

23 That is all I think I need to say at the moment.  
24 Can I invite, in our established pattern, the families  
25 to make any observations or submissions that they now

1           want.

2           The order that we have taken -- Dr McGleenan,  
3           I think it is you first - i.e. in chronological order of  
4           the deaths.

5   DR MCGLEENAN:  Chairman, we note what you say.  We have no  
6           submissions or representations to make at this stage.

7   THE CHAIRMAN:  Thank you.  Mr McAteer?

8   MR McATEER:  Similarly, Mr Chairman, we have no submissions  
9           at this stage.

10   THE CHAIRMAN:  Thank you.  Mr Coyle?

11   MR COYLE:  The same position applies, sir.

12   THE CHAIRMAN:  Thank you.  On the Trust side, Mr Lavery?

13   MR LAVERY:  We have none, Mr Chairman.

14   THE CHAIRMAN:  Thank you.  Mr Stitt?

15   MR STITT:  None from us.

16   THE CHAIRMAN:  Thank you.  Mr Stephens?

17   MR STEPHENS:  The same position applies.

18   THE CHAIRMAN:  Thank you.  Mr Devlin?

19   MR DEVLIN:  The same position, sir.

20   THE CHAIRMAN:  Unless I have missed anybody, I think that is  
21           pretty much it.  Thank you for attending.  As I said, we  
22           will be available until the end of October, and after  
23           that we will continue to be available, but through  
24           different details which will be communicated to you.  
25           Thank you very much.

1 (1.55 pm)

2 (The hearing concluded)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

