

The Inquiry into Hyponatraemia-related Deaths

Chairman: Mr John O'Hara QC

Mr Alistair Wilson
Tughan Solicitors
Marlborough House
30 Victoria Street
BELFAST
BT1 3GS

Your Ref: AFA/AYN/EH/5MD28081

Our Ref: AD-0450-12

Date: 23rd October 2012

Dear Mr Wilson,

Thank you for the draft witness statement from Dr Webb, sent on behalf of your client by Mr Sephton QC on Friday 19th October.

I am grateful to your client for his continued determination to contribute to the Inquiry as best he can, especially given the medical difficulties described by his consultant in a recent report. His contribution is not only important and relevant to his own position but also to the position of others such as Dr Sands, Dr Steen and Dr Stevenson to give just three examples. Accordingly any information which he can provide about the events surrounding Claire's treatment and death is welcomed by everyone.

That being the case I would be grateful if you and Dr Webb would consider him giving evidence on commission. I suggest that this could be achieved by representatives from the Inquiry legal team taking his evidence at a suitable location of your choice, in Dublin if necessary. Obviously you and your counsel would be permitted to attend with the session being recorded by a stenographer. In that way his evidence can be taken on the major issues and made available to the interested parties and the public through the Inquiry website. Various accommodations can be agreed such as the precise venue, taking breaks as required and whatever else would be appropriate. It is also accepted that there may have to be a limit to the amount of time overall during which he could testify on any one day. As with the other witnesses who are able to give evidence in Banbridge, Dr Webb would be advised through you of the lines of questioning which will be put.

I hope that this proposal is considered favourably. It will allow your client to help the Inquiry establish the facts, assist Claire's family in understanding what happened to her and contribute to the report which is to be presented to the Minister by the Chairman.

I would be grateful if you would take your client's instructions and revert to me as soon as possible. In the circumstances it would be most helpful if you could revert to me tomorrow. If the response is positive it is feasible at this end to arrange to take the evidence either later this week or next Monday or Tuesday, 29th or 30th October 2012.

Secretary: Bernie Conlon

Arthur House, 41 Arthur Street, Belfast, BT1 4GB

Email: inquiry@ihrdni.org **Website:** www.ihrdni.org **Tel:** 028 9044 6340 **Fax:** 028 9044 6341


I would be pleased to talk through the practicalities of this proposal with you if that would assist.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. Dillon', with a stylized flourish at the end.

Anne Dillon
Solicitor to the Inquiry

E-mail Message

From: Alistair Wilson [REDACTED]
To: Conlon, Bernie (IHRD) [EX:/O=NIGOV/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1318908]
Cc: 
Sent: 24/10/2012 at 14:46
Received: 24/10/2012 at 14:46
Subject: RE: Urgent Letter from Anne Dillon-Dr Webb

Our ref: 2MD28006

Dear Bernie

Further to our recent discussions I am writing to confirm that your suggestion of evidence being taken on commission from Dr Webb is not suitable. You have the medical evidence which confirms Dr Webb will not be in a position to participate in the Inquiry until January 2013. If that changes I will let you know.

Regards

Alistair Wilson
Partner
Tughans

Tel: [REDACTED]
Mob: [REDACTED]
Dir: [REDACTED]
Email: [REDACTED]

From: Conlon, Bernie (IHRD) [REDACTED]
Sent: 23 October 2012 14:27
To: Alistair Wilson; Sarah Chapa
Cc: Conrad Dixon
Subject: Urgent Letter from Anne Dillon-Dr Webb

Alistair,

Please see attached urgent letter from Anne Dillon. Please acknowledge receipt.

Kind regards

Bernie

[REDACTED] 09/11/2012

CR - INQ

311-036-003

The Inquiry into Hyponatraemia-related Deaths

Chairman: Mr John O'Hara QC

Mr Alistair Wilson
Tughan Solicitors
Marlborough House
30 Victoria Street
BELFAST
BT1 3GS

Your Ref: AFA/AYN/EH/5MD28081

Our Ref: AD-0455-12

Date: 25th October 2012

Dear Mr Wilson,

Thank you for your response of 24 October by e-mail. Therein you say that the suggestion of taking evidence on commission is "not suitable". The Chairman regards this response as wholly inadequate.

The whole concept of taking evidence on commission is based on the acceptance that for some reason, in this case ill health, a witness is unable to attend a hearing and testify in the normal way. If that situation arises the court or tribunal will devise an alternative method of receiving the evidence.

Various ideas were put forward in my letter of 23 October. They arose from the fact that, notwithstanding the medical information provided on 17 October, Mr Sephton QC has advised the Inquiry that he has consulted with Dr Webb by telephone and that Dr Webb has provided instructions by e-mail.

Since Dr Webb has been able to engage to that extent it is entirely unclear why taking evidence on commission is "not suitable". Do you mean on the dates suggested or generally? If it is the former, please suggest alternative dates. If it is the latter, you will have to explain in precise detail what exactly is not suitable. A general reference to the medical report is not remotely sufficient. The report dated 2 October from your client's consultant stated that his best estimate was that Dr Webb "would not be fit to participate in work related or administrative duties before the end of January 2013". Dr Webb has now in fact participated in the Inquiry before January 2013 through the provision of instructions to his legal representatives and through his latest written statement. I take it that the doctor is anxious to assist the Inquiry as evidenced by his recent contribution. We are anxious to facilitate that assistance.

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I have to press for an immediate response, by 4pm tomorrow, to this letter since the matter is one of concern not just to the Chairman but also to various interested parties including Dr Sands, Dr Steen, the Roberts family and Dr Stevenson.

Yours sincerely,

A handwritten signature in cursive script, reading "Anne Dillon". The signature is written in dark ink and is positioned above the printed name and title.

Anne Dillon
Solicitor to the Inquiry

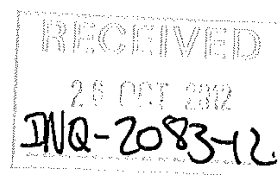


Anne Dillon
Solicitor to the Inquiry
Inquiry into Hyponatraemia-related Deaths
Arthur House
41 Arthur Street
Belfast
BT1 4GB

Our Ref: AFA/AYW/LH/
2MD28006
Your Ref: AD-0413-12
Date: 26 October 2012

Dear Sirs

INQUIRY INTO HYPONATRAEMIA-RELATED DEATHS



I refer to your letter of 25th October 2012.

You initially wrote to me on 23rd October 2012 at 14:27 suggesting that Dr Webb's evidence be taken on commission. Less than 24 hours later, the secretary to the inquiry telephoned pressing for a response. In those circumstances I do not see how the response I provided can fairly be classed as inadequate.

The question of whether Dr Webb is fit to participate in this inquiry or not is a matter for medical evidence. The medical evidence provided by Dr Webb's [REDACTED] suggests he is not fit to participate until January 2013. I do not see any meaningful distinction between evidence being given on commission and evidence given in Banbridge Courthouse. Both would involve rigorous cross examination and all the stress that goes with that. I do not accept the parallel you seek to draw between Dr Webb exchanging calls/emails with his legal team and Dr Webb giving live evidence. The two are not comparable.

It was on that basis I indicated your proposal was not suitable. That is as far as I can take the matter on the basis of my present instructions and on the basis of the available medical evidence.

I will seek a specific letter from Dr Webb's [REDACTED] addressing your specific suggestion about giving evidence on commission. That will not be available by 4pm tomorrow, and, since I cannot compel Dr Webb's [REDACTED] to provide me with further evidence (at all, let alone within any particular timescale), I will not provide you with any undertaking to provide it within a certain timescale.

Yours faithfully


ALISTAIR WILSON
alistair.wilson@tughans.com

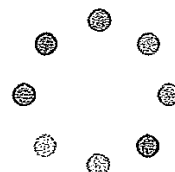
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Chairman: Mr John O'Hara QC

Mr Alistair Wilson
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Marlborough House
30 Victoria Street
BELFAST
BT1 3GS

Your Ref: AFA/AYN/EH/5MD28081

Our Ref: AD-0459-12

Date: 29th October 2012

Dear Mr Wilson,

Thank you for your letter of 26 October 2012 about the participation of Dr Webb.

I want to be clear - the ill health of your client is not in dispute. The question is whether suitable arrangements can be made to obtain best evidence from him.

Dr Webb is currently participating in the Inquiry. That participation is shown by his recent additional witness statement which responds to points which have emerged in the oral evidence at the public hearings. It is also shown by the fact of his contact with his legal representatives. Those are the circumstances in which the question of taking evidence on commission has been raised. I did not seek to draw a parallel between Dr Webb exchanging calls/emails with his legal team and giving live evidence. The question is whether, in light of the fact that he can liaise with his legal team, give instructions and make a statement, he can also give oral evidence in some way.

I do not accept your proposition that there is no "meaningful distinction between evidence being given on commission and evidence given in Banbridge Courthouse". Giving evidence anywhere may be stressful but it will be considerably less so in the circumstances outlined in my letter of 23 October. Those circumstances include choice of venue, taking breaks, limiting the duration of sessions and whatever else is appropriate. This happens in various cases when witnesses are unwell and physically unable to attend court.

I would be grateful for a positive contribution regarding how your client might be assisted to further engage in the Inquiry.

Yours sincerely,

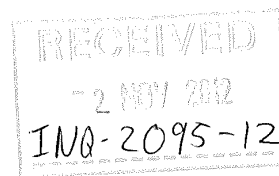


Anne Dillon
Solicitor to the Inquiry

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Anne Dillon
Solicitor to the Inquiry
Inquiry into Hyponatraemia-related Deaths
Arthur House
41 Arthur Street
Belfast
BT1 4GB

Our Ref: AFA/AYW/CB/2MD28006

Your Ref: AD-0413-12

Date: 1 November 2012

Dear Ms Dillon

INQUIRY INTO HYPONATRAEMIA-RELATED DEATHS

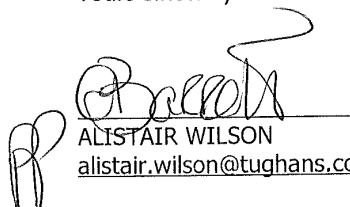
I refer to your letter of 29th October 2012. Ms Conlon has asked for a response. Apologies for not responding sooner – it was not clear to me that you were anticipating an immediate response.

I am not sure what part of your letter you wish me to respond to. Are you asking me for an indication of how Dr Webb might be able to participate in the inquiry and within what time frame? If so, I cannot assist. I am Dr Webb's solicitor and my role in this case is to provide him with advice and representation in relation to the inquiry.

Likewise, I cannot give you any indication of how that ties in with his fitness to participate in the inquiry (in person, by videolink, on commission or otherwise). I could give you my own personal view but I doubt that would be of any particular value to the inquiry. It seems to me that what you are really asking is for me to seek appropriate medical opinion on these issues. I have already indicated to you that I am doing that. I have also indicated that I do not have any control over the time frame within which that can occur. I will do it as quickly as I can, but I cannot compel Dr Webb's clinician(s) to provide evidence to me within any particular timeframe.

If there is any other point you want me to address in the meantime, please do let me know and I will do my best.

Yours sincerely


ALISTAIR WILSON
alistair.wilson@tughans.com

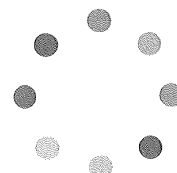
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Mr Alistair Wilson
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BELFAST
BT1 3GS

Your Ref: AFA/AYN/EH/5MD28081

Our Ref: AD-0462-12

Date: 7th November 2012

Dear Mr Wilson,

Thank you for your letter of 1st November, the most recent we have exchanged relating to Dr Webb's current engagement in the Inquiry and his ability to give evidence on commission.

The Chairman requests that the consultant who is providing the medical report be provided with following:

1. Copies of my letters to you of 23rd, 25th and 29th October and today together with your responses to me of 24th October, 26th October and 1st November. In particular, please draw to the consultant's attention the Inquiry's disagreement with your suggestion that there is no difference between giving evidence in Banbridge and giving evidence elsewhere under limited and controlled conditions.
2. An explanation of what taking evidence on commission means, again with reference to the particular accommodations suggested by me in the correspondence detailed at 1 above.
3. Information regarding the extent of Dr Webb's input, by way of e-mails, phone calls and written instructions to you and counsel, all of which show a capacity to engage in a substantial and meaningful way.

The Chairman requires a report addressing these issues as a matter of urgency. While the nature of Dr Webb condition will not be disclosed, the Chairman is of the view that there may have to be a debate in public about the manner and acceptability of his current contribution.

I would be grateful to receive a medical report dealing with these issues as soon as possible. Please advise me of the date when this is likely to be available

Yours sincerely,



Anne Dillon
Solicitor to the Inquiry

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