

The Inquiry into Hyponatraemia-related Deaths

Chairman: Mr John O'Hara QC

Mr Des Doherty
Desmond J Doherty & Co
Solicitors
Clarendon Chambers
7 Clarendon Street
LONDONDERRY
BT48 7EP

Your Ref: DJD/NH/8/FER/0028

Our Ref: AD-0518-13

Date: 13th February 2013

Dear Mr Doherty,

Re Third Party Letters of Criticism

I refer to the above and to the exchanges on this subject which took place in the Hearing Chamber last week.

To assist you in providing further letters, I attach a sample copy of the covering letter which the Chairman provides to interested parties when sending them a list of the potential criticisms they may face. That list is phrased in specific terms. Examples are as follows:

- Whether sufficient steps were taken to monitor Raychel's electrolyte balance
- Whether there was constant recording of the volume of Raychel's vomiting
- Whether there was sufficient communication with Doctor X when he was called to assess Raychel
- Whether Dr X should have sought assistance from senior colleagues
- Whether he should have recorded his examination and findings in the medical notes and records
- Whether his entry in the medical notes and records was adequate

I hope that this is of some assistance to you.

Should you have any queries please do not hesitate to contact me.

Yours sincerely,



Anne Dillon
Solicitor to the Inquiry

Secretary: Bernie Conlon
Arthur House, 41 Arthur Street, Belfast, BT1 4GB
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Dear

Thank you for giving your written statements to the Inquiry. I will consider them with all the other available information when I write my report. Before that, the next stage of the process is the oral hearings which will take place in Banbridge. At those hearings you and others will give evidence which will be directly relevant to the ultimate findings.

Before you do so, I am required to put you on notice of areas of potential criticism of you. This advance notification will enable you to prepare to respond to questioning in those areas in particular. It will also enable you or your legal representatives to question other witnesses to present your explanation and interpretation of events.

You should understand that in the context of an inquiry such as this the meaning of criticism is not restricted to the meaning of negligence in medical negligence cases. It has a broader meaning which includes questioning about and probing of what you did even if that falls short of medical negligence.

In this Inquiry, you have already been provided with a significant number of witness statements, including statements by expert witnesses. You will have seen from them the extent of any criticism of you or questioning of what you did. I also attach a list which I have prepared, setting out areas in which you will face questioning by Inquiry counsel (and other counsel) and ultimately potential criticism by me in my report. This is provided to you in keeping with the Inquiry's procedures as developed at the progress hearing on Friday 3rd February. It will ensure that you understand in advance of giving evidence what areas the questioning will focus on and what criticism you may face.

I should explain that this list is not and is not intended to be a precise document. It is not to be compared to a formal pleading in a court. Rather its purpose is to assist you to understand what you may have to address as you give your evidence. It is also possible that as the evidence which you and others give develops further issues might emerge to which you may have to respond.

I emphasise that I will be assessing these issues by what the standards and practices were, or ought to have been, at the relevant time rather than by what they are today.

I also recognise that there may not have been consensus on those standards and practices at that time. That is something which I will be obliged to take into account in writing my report.

You should understand clearly that the fact that there has been some criticism of what you did or did not do by the expert witnesses and/or other witnesses does not mean that I have already reached any conclusions to your disadvantage against you. These criticisms will be explored at the hearings but they are not in any way binding on me and they are not presumed to be correct. You have the opportunity to refute them and to challenge those who are critical of you. Only after that, and in light of all the evidence, will I reach conclusions.

I should also add that inevitably there are areas in which the expert witnesses take different views about what happened – some are less critical than others on various points and some are not critical at all. You cannot assume that because one expert is not critical while another one is, you will not have to deal with the criticism. This means, for instance, that if Witness A is critical of Dr X on Points 1, 2 and 3, but Witness B is critical on Points 1 and 2 only, Dr X may still face criticism on Point 3. Of course, Witnesses A and B (and others) will also be questioned and tested about the differences between them as part of the oral hearings. They will also be questioned about the differences, if any, between them and you.

You should appreciate the strictly confidential nature of the information of this letter and the attached list. Apart from you and any legal advisor the contents should remain confidential to you and the Inquiry.

Thank you for continuing assistance and input into the Inquiry.

Yours sincerely,

JOHN O'HARA