

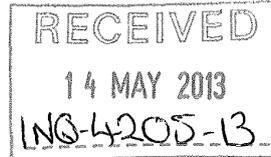
2 Franklin Street, Belfast, BT2 8DQ
DX 2842 NR Belfast 3

Your Ref:
BMCL-0062-13

Our Ref:
HYPH099/03

Date:
14 May 2013

Mr B McLoughlin
Assistant Solicitor to the Inquiry
Inquiry into Hyponatraemia-related Deaths
Arthur House
41 Arthur Street
Belfast
BT1 4GB



Dear Sir

**RE: INQUIRY INTO HYPONATRAEMIA RELATED DEATHS- R FERGUSON
(PRELIMINARY) Our Client: The Health and Social Care Board**

I refer to the above matter and to your letter dated 19th March 2013, referenced above. This letter should be read in conjunction with previous responses, as follows: letters dated 26th April 2013 (in response to BMCL-0019-12), 11th January 2013 (in response to BMCL-0020-12), 26th April 2013 (in response to BMCL-0030-12), my letter dated 21st February 2013, Ms Bolton's letter dated 22nd February 2013 and Ms Crawford's letter dated 25th February 2013 (all in response to JOH-0356-13), and, finally, our letter dated 9th April 2013 (in response to BMCL-0052-13).

Please accept my apologies for the delay in responding to the additional queries raised by your letter dated 19th March 2013, but as you will appreciate, my client, the HSC Board has been making further extensive enquiries with the relevant decision-making staff and administrative support staff in relation to your said queries. Given the length of time which has since passed since the initial information trawl by the Board in 2004, and the fact that many key decision-making staff have since retired or left the Board's employment, this has created considerable difficulty in the Board obtaining accounts of the process followed in relation to the trawl and subsequent securing of relevant information.

In relation to your queries regarding any correspondence sent by Dr McConnell's office, we are informed by Dr McConnell that prior to his retirement in mid-August 2009, he had reviewed as many of his office's files as possible, as he was aware of the decision having been made to replace the former WHSSB and the other three regional Boards with one Board organisation at some future date following his retirement.

Dr McConnell informs us that he does recall a request from the former Chief Executive, Mr Lindsay's Office (following the request by the Office of the Permanent Secretary, Mr Clive Gowdy in November 2004) for all relevant paper files and electronic data to be gathered and passed to the Inquiry. In Dr McConnell's Office, this project was led by his Personal Assistant/Office Manager.

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Dr McConnell also instructs us that it is his understanding that all information formerly held by his offices, both in paper and electronic format, relating to the examination of events in relation to the deaths of both Raychel Ferguson and Lucy Crawford (which had previously been identified in the trawl of information which took place in 2004) had been sent to the Office of the Chief Executive, Mr Steven Lindsay. The said trawl had involved a very detailed review of both paper files and data stored on computer files, for information relevant to both Raychel Ferguson and Lucy Crawford. Then, in turn, copies of these files were sent by the Chief Executive's Office on to the Inquiry as requested by Mr Clive Gowdy.

I am further instructed by Dr McConnell that all files from Dr McConnell's office which were relevant to Raychel and Lucy had been secured in the Chief Executive's office. Moreover, Dr McConnell does not believe that it is possible that the said files could have been sent elsewhere for storage, following his own retirement and the creation of the one HSC Board organisation.

Unfortunately, Dr McConnell is unable to explain why the documents referred to in the second paragraph of your letter had not been sent to the Inquiry in 2004 nor subsequently. As far as he was aware, all relevant Board generated documents (including papers formerly held by the DPH) had been secured and provided to the Inquiry.

In relation to the third paragraph of your letter, I am instructed that the Board has made contact with Karen Meehan, the former Chairwoman of the WHSSB, in order to ascertain her recollection of events. She has informed my client that, at no stage, has she ever personally held any records relating to the children whose deaths are being investigated by this Inquiry. Ms Meehan has further advised that she has no recollection of the numbers or content of the files that she had advised Mr Gowdy had been secured and indexed in 2004, nor can she recall, at this far remove, where exactly the documents had been stored. However, she does recall Mr Gormley and the Office Manager of the Chief Executive's Office having been involved in the initial search for relevant papers. Although she has no detailed recollection of the steps taken by the Board, at the time, to locate and secure the relevant information, Ms Meehan has indicated that she is willing to co-operate in any way she can, in relation to the Inquiry's investigations.

I am further instructed by the Board that it has obtained an account from the former Office Manager in the former Chief Executive, Mr Lindsay's Office in 2004. She has informed my client that it is her understanding that Mr Michael Gormley, the former Head of Consumer Services, had overall responsibility for gathering the relevant information and co-ordinating a response to Mr Gowdy's letter dated 28th October 2004 (entitled "UTV Insight Programme"), which had requested confirmation that the HSC Board had taken the necessary action and secured all relevant information.

The Chief Executive's Office Manager's role was to search for relevant information from the Minutes of both the legacy WHSSB and its Committees (Administrative Services Committee, Health Care Committee and Social Care Committee). Unfortunately, the Office Manager cannot recall the timeline provided for this particular search, given the length of time which has since passed following the initial request.

From her own memory, she recalls that relevant extracts of said Minutes were submitted to either Mr Gormley or his own PA and furthermore that these extracts were included in the Board's 'File 1'(which equates to Inquiry 'File 17'). Her further recollection is that the documents were then sorted by Mr Gormley's PA, and were also indexed and retained, so that they could be made available to the Inquiry when requested at some future date.

In addition, the Office Manager recalls that Mr Gormley requested that she secure the two files (detailed below) in the safe in the Chief Executive's Office.

The said files were then handed to the Office Manager in an envelope labelled "Supporting Documentation" and "Root Cause Analysis" and a copy of the letter from Ms Meehan to Mr Gowdy dated 5th November 2004 was also placed in the envelope by Mr Gormley. She also recalls that a second handwritten note was recorded on the envelope by Mr Gormley's PA, as follows:- "Copied for the Chairwoman on 8th November 2004, placed back in locked cabinet in Chief Executive's Office."

Finally, in response to the letter from Mr O'Hara QC dated 1st November 2004, the two files were submitted to Mr O'Hara QC, accompanied by a letter from Ms Karen Meehan, Chair of the Legacy WHSSB dated 8th November 2004, as follows:-

1. 'File 1'- Documentation relating to Lucy Crawford and Raychel Ferguson cases, held by the legacy WHSSB (Inquiry File 17)
2. 'File 2'- Documentation held by the legacy WHSSB relating to the Root Cause Analysis which had been set up by the former Sperrin Lakeland Trust (Inquiry File 18)

As regards the third paragraph of your letter dated 19th March 2013, my client regrets that it cannot explain exactly why the correspondence which the Chairwoman has previously referred to (passing between Dr Kelly and Dr McConnell) has not been identified and retained in the initial trawl or subsequently. Nor can my client identify any other material which has been generated or received by the Board from 2000-2003 in relation to either Raychel or Lucy. However, I would respectfully point out that, to date, only three documents (of all the documentation provided by my client to the Inquiry in 2004 (Inquiry Files 17 & 18)) have actually been published by the Inquiry.

Please also note that, following an additional search, my client has only been able to identify further Minutes of the former WHSSB which have been obtained from Corporate Services and which are dated January 2005, April 2005 and July 2005. The said Minutes contain only references to the temporary suspension of the Inquiry's investigations in 2005 and the remainder of the content of the said Minutes are not relevant to the Terms of Reference of the Inquiry's work. In relation to the Minutes from July 2005, the only relevant extract refers again to the temporary suspension of the Inquiry itself, and the fact that 'a response' had been made to the Inquiry and members had been provided with a copy of same.

We would submit that the remainder of the said Minutes are entirely irrelevant to the Terms of Reference of this Inquiry.

This completes the HSC Board and Dr McConnell's response to the above-mentioned correspondence.

Yours faithfully

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

**Wendy Beggs
Assistant Chief Legal Adviser**