

The Inquiry into Hyponatraemia-related Deaths

Chairman: Mr John O'Hara QC

Ms Angela Crawford
Directorate of Legal Services
2 Franklin Street
BELFAST
BT2 8DQ

Your Ref: NSCB04/1
NSCW50/1
NSCS071/1

Our Ref: BMcL-0064-13

Date: 20th March 2013

Dear Ms Crawford,

Re Raychel Ferguson Preliminary – Your Client Western Trust – Claim for Privilege

I refer to paragraph 3 of your letter of 11 February 2013, in which you state that your client the Western Trust asserts a claim to legal professional privilege in respect of all notes and minutes of discussions and other information (including the composition of the said Committee) pertaining to the Trust's Scrutiny Committee , as the sole purpose of the said committee is the provision of legal advice by DLS to the Trust in relation to the conduct of the defence of medical negligence claims.

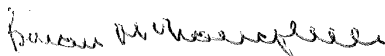
A number of issues arise in relation to this assertion.

First please state upon what authority your client asserts privilege in respect of the composition of the committee. This strikes me as a very surprising assertion.

Secondly please indicate whether (as is implied in your letter) your client's claim for privilege is based on consideration of the stated purpose of the Committee, or whether it is upon a consideration, document by document, of the contents of the actual notes and records. If the former, I would suggest that this is clearly not an appropriate basis to claim privilege. To the extent that the claim for privilege is maintained, please advise, in respect of the content of each of the records in question, document by document, what the basis is for the claim for privilege.

Thirdly, in maintaining this claim for privilege, are your clients aware that they may waive privilege and have they considered whether the public interest in an effective inquiry would justify such a waiver?

Yours sincerely,



Brian McLoughlin
Assistant Solicitor to the Inquiry

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