Your Ref:	Our Ref:	Date:
BMcL-0070-13	HYP W50/2	1st May 2013

Mr B McLoughlin
Assistant Solicitor to the Inquiry
Arthur House
41 Arthur Street
Belfast
BT1 4GB
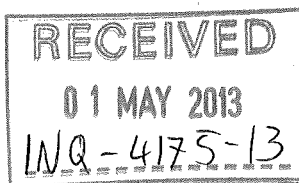
Dear Sir,

RE: INQUIRY INTO HYPONATRAEMIA RELATED DEATHS-RAYCHEL FERGUSON PRELIMINARY

I refer to the above matter and to your letter dated 15th April 2013.

I confirm that the Trust's claim for privilege is based on Legal Advice Privilege.

We have considered the issue of waiver of privilege and we remain of the view that our client is entitled, in the same way as any other party to the Inquiry, to assert privilege. Our attention has been drawn by the Inquiry Chairman to the Francis Report and we have been asked to consider whether this affects our views on this issue. We do not believe that it does for the following reasons: -

    i)   The reference to waiver of privilege related to the statement of a Mr Phair who was an involvement witness as to fact and it is hard to see how the Trust could reasonably withhold that document.

    ii)   There are 290 recommendations in the report and it remains to be seen which will be adopted in Great Britain.

    iii)   Health is a devolved issue in Northern Ireland.

Finally we would draw your attention to Phibson on Evidence (17th Edition) at 23.16 where it is clear that no adverse inference can be drawn from a party asserting a claim for privilege.

Finally the documents which are marked "Inquiry related" are not relevant to the Terms of Reference of the Inquiry and have therefore not been disclosed. These documents have been marked "Inquiry related" as they contain discussions regarding the time frame for the issue of the Inquiry's Terms of Reference and the commencement of the Inquiry.

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Yours faithfully,

Joanna Bolton
Solicitor Consultant