

# The Inquiry into Hyponatraemia-related Deaths

Chairman: Mr John O'Hara QC

Ms Wendy Beggs  
Directorate of Legal Services  
2 Franklin Street  
BELFAST  
BT2 8DQ

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

Our Ref: JOH-0392-13

Date: 3<sup>rd</sup> June 2013

Dear Ms Beggs,

**Re: Raychel Ferguson (Lucy Crawford Aftermath)**

I refer to the Royal inquest file delivered to the Inquiry on 24 May 2013 and note that privilege has been claimed in respect of several documents in this file on the grounds of "legal advice". This is insufficient information to enable the Inquiry take an informed view of appropriateness of the privilege claim.

It is understood that legal advice privilege in general protects confidential communications between a solicitor and a client made for the purpose of giving or receiving legal advice in a relevant legal context. It is assumed for the purposes of your claim that the Trust was the client. Please identify the individual employees of the Trust who constituted the client for the purpose of obtaining or receiving legal advice at Lucy's inquest.

It is not at all clear how, for example, document 19 in this file (described as "Attendance Note-Doctor 3 pages" and apparently dated 16/02/03-before the Coroner indicated an intention to hold an inquest) falls within the scope of legal advice privilege.

Nor, again by way of example, is it clear how document 20 ("Consultation Note Doctor 8 pages") falls within the scope of legal advice privilege. How does a consultation with an individual doctor constitute the giving or receiving of legal advice to the Trust? Is the advice, if there was advice, for the Trust or the doctor? Was the (unnamed) doctor a client of Brangam Bagnall at the time? If not how does privilege arise? Who was the client? What was the context?

The descriptions of documents 36 and 37 in the index contain no information to assist the Inquiry in understanding how, or whether, privilege is properly claimed.

**Secretary:** Bernie Conlon

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Please fully explain in respect of each document over which a claim for legal advice privilege has been made, what the basis is for the claim. In particular in respect of each such document identify the client and the context.

Since the issues raised here may be relevant to the evidence of Drs Crean and Hanrahan I will raise them tomorrow morning at the oral hearing.

Please ensure that the entire file is available.

Yours sincerely,

*John O'Hara*

JOHN O'HARA