

THE INQUIRY INTO HYPONATRAEMIA-RELATED DEATHS

PROGRESS HEARING

ON

THURSDAY 19TH MAY 2011

AT

BANBRIDGE COURTHOUSE

CHAIRMAN: MR JOHN O'HARA QC

APPEARANCES

FOR THE FAMILIES:

ADAM STRAIN

David McBrien BL

David Hunter
Hunter Associates

CLAIRE ROBERTS

Stephen Quinn QC
Michael McCrea BL

Nigel Barr
Ferguson & Co

RAYCHEL FERGUSON

John Coyle BL

Des Doherty
Desmond J Doherty

CONOR MITCHELL

Sarah Ramsey BL

Fintan Canavan
Jones & Co

DHSSPS

Mr David Sharpe

Catherine Rodgers
Departmental Solicitors
Office

**BELFAST HEALTH &
SOCIAL CARE TRUST**

Michael Lavery BL

Wendy Beggs
Directorate of Legal Services

**WESTERN HEALTH &
SOCIAL CARE TRUST**

Gerry McAlinden BL

Wendy Beggs
Directorate of Legal Services

FOR MR KEANE

Roger McMillan
Carson McDowell Solicitors

1 At 11.10:

2 THE CHAIRMAN: Good morning everyone. Thank you for coming again. What I
3 intend to do now is to go through some issues which were set out in an agenda
4 which was sent to everyone at the end of last week. We invited all of the parties
5 to indicate whether they had any issues to raise and nobody has. After I've
6 finished we can allow some time, if necessary, for anything to be raised which is
7 required.

8 The first item which we set out in the agenda is about the timetable for
9 hearings. When we were here two months ago on 9th March I announced that the
10 hearings would start on Monday, 7th November. That week will be taken up with
11 an opening of the Inquiry by Ms Anyadike-Danes, the senior counsel to the
12 Inquiry. That will be followed by opening statements which any of the interested
13 parties want to make. Opening statements by interested parties are optional and
14 will, in any event, be time limited so that all of the opening statements are
15 contained within that week. And without going into the detail of it I remind you
16 of paragraph 1.4 in the Inquiry's paper on General Procedures which is about
17 circulation of any opening submissions in advance.

18 The opening on that week of 7th November by Ms Anyadike-Danes will
19 be a general one in which she will outline the issues which the Inquiry will be
20 considering and the context in which they arise. There will then be a detailed
21 opening of each section of the Inquiry as it goes along. For instance, in the
22 following week, the week beginning Monday 14th November, when I start to hear
23 evidence in relation to Adam's case there will be a more detailed opening of that
24 section and so on as we move from Claire to Raychel and then to Conor.

25 In any event, as the parties will have seen or certainly the families'
26 representatives will have seen, we are allowing two weeks for the hearing of the
27 evidence in Adam's case with a third week available at the end of November if
28 necessary. The Inquiry will then deal in the same way with Claire's case in
29 January 2012. I have allocated two weeks for the hearing of evidence about the
30 circumstances of Claire's death, those two weeks are the weeks commencing 9th

1 and 16th of January. Raychel's case will then follow the same pattern in the
2 weeks commencing 30th January, 6th and 13th February. After a short break we
3 will then deal with the evidence in Conor's case, that will be in the week
4 commencing 27th February and will be followed in the following two weeks,
5 that's the 5th and 12th March, by evidence from Departmental and other witnesses
6 about what I might generally call governance issues. This will take the Inquiry up
7 to mid-March 2012.

8 One of the issues which is under consideration is that of closing
9 submissions. You may recall from the Inquiry's paper on General Procedures that
10 the approach envisaged in that is written submissions exchanged with the Inquiry
11 between the parties followed by time limited oral submissions. In light of the
12 restrictions which we now have on both time and budget we were reviewing this
13 approach. One option being considered is that submissions on the clinical issues
14 might be made orally at the end of each part of the Inquiry. Therefore when we
15 finish, for instance, the evidence about the circumstances of Adam's death, we
16 may then be able to take the submissions on clinical issues at that point and then
17 move on to Claire and then Raychel and Conor, but we will develop our thoughts
18 on that as the Inquiry takes shape.

19 Let me now turn to the second issue on the agenda which is about witness
20 statements. I am afraid that we have encountered some regrettable delay in the
21 receipt of some of the witness statements in Adam's case. We have now finally
22 received them all. I had to make it clear to witnesses whose statements were
23 overdue that rather than wait indefinitely for them to give their statements in
24 writing I would come to Banbridge and they would give their statements orally.
25 Whether because of that issue being raised with them or otherwise the written
26 statements have all now been received by the Inquiry save for a small number of
27 people who have particular circumstances such as illness which are causing
28 problems.

29 I have to emphasise now that no equivalent delays will be tolerated in
30 future. Deadlines which the Inquiry sets are to ensure that we can progress

1 towards the start of oral hearings on 7th November. Therefore I remind everyone
2 today that when requests for information statements are made they will be
3 accompanied by reasonable time limits, but those time limits must be adhered to.
4 I will only accept failure to comply in exceptional circumstances if good reason is
5 set out in writing. This fits in with what I said before about the necessity of
6 co-operation from all the parties in order to achieve the timetable and stay within
7 the allocated budget. If we have to chase people to provide statements or we have
8 to answer unnecessary correspondence about statements, that diverts resources
9 and slows down the work of the Inquiry.

10 I turn now to the third issue which is about the background papers. At the
11 hearing, a rather long time ago I am afraid, on 30th May 2008, Mr McBrien, who
12 represents Adam's family, suggested that the education and training of medical
13 students and nursing students, which forms part of the list of issues in Adam's case
14 and in the other cases, might be dealt with first as a background issue. We
15 considered that helpful suggestion and commissioned papers on education and
16 training and some other background issues. The purpose of these background
17 papers is essentially to provide a factual context within which to receive and
18 consider the evidence of witnesses.

19 As you will have seen from the nursing papers which were circulated on
20 14th April the Inquiry commissioned a report from Professor Mary Hanratty on
21 nursing education in Northern Ireland and in the Republic of Ireland from 1975 to
22 date. This also involved a comparison by Professor Hanratty with training in the
23 rest of the United Kingdom and the Republic. Insofar as her report details what
24 happened in England the Inquiry then commissioned Professor Edward Glasper to
25 provide a commentary on Professor Hanratty's work. Their extensive papers will
26 serve as background evidence for the Inquiry against which the training, education
27 and knowledge of individual nurses can be considered.

28 We followed a similar path in relation to the training of doctors. On
29 Monday past, 16th May, the Inquiry circulated papers from Dr Michael Ledwith
30 about training in Northern Ireland and in the Republic, though he also set his

1 paper in a UK context. We also circulated at the same time a paper from
2 Professor Sir Alan Craft which is by way of commentary on Dr Ledwith's paper in
3 which he effectively confirms his agreement with Dr Ledwith and helpfully
4 details his own experience, qualifications and posts held.

5 In addition to that we circulated this week a paper by Dr Bridget Dolan
6 who is a barrister, a psychologist and an Assistant Deputy Coroner in England.
7 Her paper is about various aspects of the law and practise relating to coroners and
8 it includes her analysis of procedures and practices including the reporting of
9 deaths to coroners and the way in which lessons learned are passed on or not
10 passed on after inquests. Unless there is a particular reason to do so I don't, at this
11 stage, contemplate that the authors of these papers will necessarily give evidence.
12 Rather the papers which they have provided to the Inquiry, and which are now
13 available to everyone, give us a picture of the training and education provided to
14 nurses and doctors against which the nurses and doctors involved in the treatment
15 of children in the cases which we are examining can be questioned.

16 Similarly, in relation to Dr Dolan's paper, the background which she sets
17 out about procedures and practises will help inform the presenting of evidence and
18 the questioning of witnesses in cases, for instance, about why deaths were or were
19 not referred to coroners and whether any lessons should or could have been
20 learned and how those lessons should have been communicated.

21 Let me turn now to an issue which was raised at the last hearing by Mr
22 Shaw on behalf of the Department about the position of the advisors and peer
23 reviewers. The basis on which these advisors and reviewers have been retained
24 has been set out and discussed previously. Let me just go over it again briefly.
25 The advisors have studied and analysed the papers received by the Inquiry and
26 then advised the Inquiry legal team on the issues which need to be investigated
27 and those which don't. This is reflected in the list of issues, in the identity of those
28 from whom witness statements have been sought and in the questions asked in
29 those requests for statements. The advisors have also provided guidance to the
30 legal team on receiving evidence from experts who will be called to give expert

1 witness evidence at the hearings.

2 The work of the UK advisors was then reviewed by international peer
3 reviewers who have access to the same material as we have provided to the
4 advisors as well as to the advisors' reports. The peer reviewers may agree or
5 otherwise with the advisors and they may raise further issues. The advice which
6 the UK advisors have given will be brought together for the case of each child and
7 circulated before the hearings; the same will be done for the international peer
8 reviewers. As a result all of the interested parties and the public generally will see
9 what concerns have been raised by the national and international advisors and
10 reviewers. It is not the role of the advisors or the peer reviewers to criticise any
11 individuals or bodies, that is not their function. Any criticism which is made will
12 be in my ultimate report and will be based on the oral evidence given at the
13 hearings taken with the documents which will be available to everyone.

14 Against that background it should be clearly understood that neither the
15 advisors nor the peer reviewers will be witnesses at the Inquiry. It is not
16 necessary or relevant for them to give evidence. Where any oral evidence is or
17 may be necessary it will be given by witnesses whose instructions and expert
18 reports will all be made available and who can be questioned by any party who
19 has questions of relevance to put to them.

20 I make it clear that subject to the two points which I will make in just a
21 moment, I have not seen the advice of the advisors and peer reviewers or their
22 exchanges with the Inquiry legal team as the Inquiry has gone along, nor will I see
23 anything beyond what is shared with the parties and public generally.
24 Accordingly, when I come to write my report it will be based only on information
25 which is available to everyone else.

26 The two exceptions which are referred are as follows: The first exception
27 is that I was shown, just over a year ago and did discuss with the advisors, a paper
28 which set out their initial concerns in Adam's case. After that initial involvement I
29 stepped back from any discussion of Adam's case or any other case with the
30 advisors, and indeed with my own legal team, and I have not seen any of the

1 papers which they have provided since then. I didn't retain that early paper and I
2 no longer have access to it. The second exception, which I think should be
3 self-explanatory, is that I did see the advice of the advisors and peer reviewers
4 which led me to decide whether the circumstances of Claire Roberts' death and the
5 issues about Conor Mitchell should be included in the Inquiry. I could not
6 properly have extended the Inquiry to include their deaths or aspects of them
7 without receiving and considering that advice.

8 Just before I finish on the advisers let me make one other point which I
9 suspect was at the root of Mr Shaw's concern two months ago. I had indicated
10 earlier that at the conclusion of the oral evidence the advisors would provide a
11 final paper setting out their remaining concerns and or issues which were no
12 longer of concern in light of all the evidence. That will not now be done because
13 it would be advice which, even if shared with the other parties, would influence
14 my report and which the parties would not be able to challenge other than by
15 successive presentation of submissions and replying submissions and so on.
16 Accordingly, once the evidence is complete and submissions have been received
17 in whatever form, I will write the report without recourse to the experts or the peer
18 reviewers.

19 For completeness, I have considered and am considering a very small
20 number of other cases. If any further case is included in the work of the Inquiry
21 then that will be notified to the parties in due course.

22 The fifth point to which I said we would refer is about the next review.
23 You will understand that along with the whole Inquiry team I am available to
24 respond to issues raised by the parties as time goes along. It is however our view
25 that it is not likely to be necessary to convene another progress hearing such as
26 today's until September. Unless any views are expressed to the contrary in the
27 next few minutes I suggest Monday, 12th September, back here in Banbridge for
28 that purpose.

29 That completes all I want to say for the moment. Could I turn first to the
30 representatives of the families? Is there any particular point which you want to

1 raise and respond to from what I have said Mr McBrien, Mr Quinn, Mr Coyle and
2 Ms Ramsey?

3 MR QUINN: We are more than happy with the ways things are progressing, we have got
4 no response to make to your comments, Mr Chairman, but I have a couple of
5 points to make on Any Other Business.

6 THE CHAIRMAN: Well, why don't we do that now? Sorry, Mr McBrien, do you have
7 anything?

8 MR McBRIEN: Just one thing sir arising out of your comment on the question of the
9 witness statements. Obviously we haven't seen the witness statements yet, but
10 you said that all the witness statements were now in.

11 THE CHAIRMAN: Yes.

12 MR McBRIEN: You may be aware from correspondence from my instructing solicitor
13 that there is one particular witness who has not been identified in all the papers
14 that we have gone through which we do need a witness statement from. It is the
15 nurse anaesthetist in the Adam Strain case. If you don't have a witness statement
16 from her sir, or him if it is a he, I would ask sir that strenuous investigations be
17 made because she wasn't contacted for the inquest, she wasn't contacted for the
18 police investigation and it really is very important that we have her input into the
19 whole process surrounding the surgery, transplant, of Adam Strain.

20 THE CHAIRMAN: Ms Anyadike-Danes, can you help on that? We can go back in
21 writing to Mr McBrien.

22 MS ANYADIKE-DANES: I can clarify that, I can tell it now. We have made strenuous
23 efforts to try and identify who that nursing anaesthetist is. We have not yet been
24 able to identify nor have we had it confirmed to us if there actually was such a
25 person in the theatre at that time. So we are still making our enquiries.

26 THE CHAIRMAN: Perhaps this can be followed up after today's hearing with Mr
27 McBrien and Mr Hunter.
28 Mr Quinn?

29 MR QUINN: Mr Chairman, the first point I want to raise is will we be getting working
30 papers, indexed, paginated working papers as agreed by the Chairman and the

1 legal team? And if we are getting it - it would seem to me logical to have such
2 papers.

3 THE CHAIRMAN: Yes, I think the arrangement is that the solicitors were sent one hard
4 copy set of all the papers and then I think DVD's or CD's which also contain them.

5 MR QUINN: And if we have any submissions about the working papers, Mr Chairman,
6 who do we refer those to, yourself or your legal team?

7 THE CHAIRMAN: I think, in the first place, to the Inquiry solicitor.

8 MR QUINN: The other issue I want to raise very briefly, because we all don't have
9 indexed bundles of papers and I will submit this to writing, is the issue of having a
10 look at the original clinical notes. We would like to see the original clinical notes,
11 the nursing notes, particularly the prescription sheets, and the A & E notes and
12 any other relevant original notes that were made pertinent to the two cases in
13 which I am involved.

14 THE CHAIRMAN: Well there should be no objection in principle to that and
15 arrangements can be made as the Inquiry progresses for that to be done.

16 MR QUINN: Arising out of those notes there may be some witness issues that I think
17 would be better addressed to you in writing, Mr Chairman.

18 THE CHAIRMAN: Yes.

19 MR QUINN: We need to identify -- we have identified, so far as the photocopies allow
20 us to, some witnesses that may be pertinent to the issues involved in this. Now
21 also arising out of that - and I am only flagging this up, Mr Chairman - we may
22 need to ask for the services of a bio-chemist in relation to prescriptions that were
23 written for Claire and drugs that were given during her treatment in the Royal
24 Victoria Hospital for Sick Children. Again, I will submit this to writing when we
25 have looked at the original notes just so that we can be certain as to what levels of
26 drugs were given. The bio-chemist, my learned junior is asking about are we
27 retaining a bio-chemist in the case?

28 THE CHAIRMAN: There are a number of experts who have been engaged to provide
29 reports in Claire's case, as in Adam's case, and we will provide you with the
30 details let me just confirm this. Ms Anyadike-Danes, I think we have not yet

1 advised the parties which experts are retained in which case?

2 MS ANYADIKE-DANES: No.

3 THE CHAIRMAN: But if you write to us about it. If, having seen the original notes and
4 records that you are referring to, if it appears to you that it is necessary that a
5 bio-chemist should be engaged to provide a report and if necessary in due course
6 to give evidence at the Inquiry, if you suggest that in writing we will follow it up.

7 MR QUINN: When we have the original notes, within say two or three weeks of having
8 those notes we will make a written submission in relation to what we want to have
9 reviewed by way of a bio-chemist report.

10 THE CHAIRMAN: I understand that. I should say that the various notes and records are
11 among the documents which has been seen by the Inquiry's expert advisors and
12 they have advised us for different points we need an expert on A, B or C. So you
13 might find there is some overlap here.

14 MR QUINN: There is another issue about witnesses, Mr Chairman, which we will
15 submit to writing. There are a number of faxes, one particular fax which is in file
16 number 060-014-025. It identifies a number of doctors that were involved with
17 both Claire and Adam and some of those doctors have not made statements.
18 Again we will submit this to writing within the next two or three weeks so that we
19 can put this into more detail. As I say, no-one has the full files with them today,
20 but that is the reference of the submission that we would make on the witness
21 point.

22 THE CHAIRMAN: Okay.

23 MR QUINN: Obligated.

24 THE CHAIRMAN: Thank you. Mr Coyle.

25 MR COYLE: Sir, we have nothing to raise at this time.

26 THE CHAIRMAN: Ms Ramsey?

27 MS RAMSEY: Nothing sir at this time.

28 THE CHAIRMAN: Can I turn then to the Department and the Trusts? Mr Sharpe?

29 MR SHARPE: Nothing arising Mr Chairman.

30 THE CHAIRMAN: Mr Lavery?

1 MR LAVERY: Nothing arising.

2 THE CHAIRMAN: Mr McAlinden?

3 MR McALINDEN: Just in relation to the issue of representation. Now at a previous
4 hearing there was reference made to the rationalisation of representation on behalf
5 of the Trust and that has occurred. I understand there was an issue raised in
6 relation to the rationalisation of representation in relation to the families. I would
7 ask has any progress been made on that and, if so, what steps have been taken to
8 rationalise representation on behalf of the families?

9 THE CHAIRMAN: The position on behalf of the families is that Mr McBrien appears
10 without Senior on behalf of Adam's family. Mr Quinn now represents both
11 Claire's family and Conor's family. Mr Topolski continues to represent the
12 Ferguson family. So there are two Seniors on the family side in the way that I
13 have outlined.

14 Since you are there, in terms of rationalisation or consolidation on the
15 Trust side, yourself and Mr Lavery are both here, is Mr Lavery representing
16 Belfast and you are representing Western?

17 MR McALINDEN: That is the situation at present, yes.

18 THE CHAIRMAN: What about senior counsel?

19 MR McALINDEN: Senior counsel is representing both, Mr Simpson is representing
20 both.

21 Mr Chairman, might I refer you back to an issue which you raised in
22 relation to the witness statements? Just in relation to the Trust that I represent,
23 would it be possible, in terms of the witness statements which are going to be
24 requested, instead of the detailed list of questions being submitted to the Trust to
25 obtain the witness statements, would it be possible that in advance of that a list of
26 the names of the witnesses could be provided so that they can be located and
27 informed of the necessity to provide statements prior to the detailed written
28 requests being made? Because it seems like in relation to the issue that arose in
29 relation to the Belfast trust, it seems part of the problem was trying to actually
30 locate witnesses who had left the Trust's employment, who had changed their

1 names through marriage and other reasons, it would be, in my submission, helpful
2 if a list of the names of witnesses were provided well in advance of the detailed
3 questions so that those witnesses can be identified, located and warned in advance
4 that these requests are coming. I think that would speed up the procedure
5 dramatically.

6 THE CHAIRMAN: I think that one of the solicitors from the DLS made that suggestion
7 recently to the Inquiry and it does seem to us to be a good idea because by reason
8 of the lapse of time since some of these events occurred at least some of the
9 doctors and nurses have moved on and they are not necessarily easily found. We
10 can do that. I think we will agree to give you the list as best we can but that's not
11 to say that -- I mean, as has already been discussed this morning, identifying each
12 witness for sure is not necessarily always easy, but we can make progress on that I
13 am sure. It sounds like a good idea.

14 MR McALINDEN: Obligated.

15 THE CHAIRMAN: Is there any further point?

16 MR McMILLAN: Mr Chairman, Roger McMillan on behalf of Mr Keane. Mr
17 Chairman, I am grateful to the solicitor to the Inquiry for clarifying that one of the
18 potential witnesses in relation to Adam's death worked as a trainee in the
19 Paediatric Intensive Care Unit in the Hospital for Sick Children in Toronto.
20 That's, as you will know, the hospital where Dr Desmond Bohn, Chief of Critical
21 Care Medicine, and one of the peer reviewers to the Inquiry, has been a member
22 of staff since 1980. We think it is important, so as to avoid any suggestion at a
23 later date of actual or perceived conflict, that if it has not already been done so,
24 which I imagine it has, that Dr Bohn be asked to consider whether or not he
25 considers there is an actual perceived conflict in relation to his involvement in this
26 Inquiry. And then after Dr Bohn has provided his response to that I would submit
27 that it would be appropriate for interested parties, particularly Adam's family, my
28 client and the Trust, to make any representations that they would wish to make in
29 relation to Dr Bohn's involvement.

30 THE CHAIRMAN: The reason why we know about Dr Taylor having trained in Canada

1 for a short time in the early 19080s in the same hospital as Dr Bohn is because
2 when we were trying to identify experts and peer remember viewers, UK experts
3 and peer reviewers, we asked each of them, as best we could at that time, from
4 people who we anticipated being involved, as to whether witnesses or people
5 whose actions were being scrutinised, we asked them to identify any contacts that
6 they had or had had over the years and on that basis a number of potential advisors
7 and others, we had to consider their position and say thank you for your
8 suggestions but we cannot engage on that basis. The reason that we know about
9 Dr Bohn and Dr Taylor is because Dr Bohn declared that to us at the start when
10 we were referred to him as a person of international standing who could provide
11 us with a service as a peer reviewer. We considered the limited contact that he
12 had with Dr Taylor some, well it was about 25 years ago at that stage, now 30
13 years ago, and took the view that that was not necessarily a conflict, sorry, it
14 wasn't a conflict which concerned us and we have proceeded on that basis.

15 MR McMILLAN: I am grateful for that clarification Mr Chairman. As you aware we
16 have been seeking disclosure of correspondence passing between Adam's family
17 representatives in the Inquiry in relation to the list of issues and representations
18 made by Adam's current and previous representatives surrounding his death. I
19 think the Inquiry's position is that that correspondence will be not be provided. If
20 that is the case I would ask the Inquiry to reconsider simply in the interests of
21 transparency.

22 THE CHAIRMAN: Well, that issue is, if we need to have this debated publicly we will,
23 but you are aware from the correspondence that we wrote to you in March and set
24 out a position. You then wrote to us last Thursday and regrettably asked for a
25 response by return of fax. I declined to respond by return of fax with the
26 correspondence having sat with you for seven weeks. I think, if I am correct, two
27 of the letters which you wrote last Thursday, two of the four letters which you
28 wrote last Thursday, were responded to either yesterday or this morning -
29 yesterday - and the other two letters will be responded to in detail over the next
30 few days.

1 MR McMILLAN: I appreciate that Mr Chairman. In terms of the -- it is an issue that has
2 been raised before and in correspondence, we will be grateful for clarity as soon
3 as possible as to whether or not there are any strictly surgical aspects of Adam's
4 care to be considered by the Inquiry. As you know, Mr Chairman, we have
5 addressed that point previously at the previous Public Inquiry or public hearing
6 and also in correspondence. If there are any issues raised by any of the expert
7 peer reviewers that relate to the surgical aspect then our submission is that those
8 issues that have been raised should be made known to those interested parties so
9 that, if necessary, that interested party may go off and seek to obtain their own
10 expert evidence to consider the point, and that interested party could make
11 submissions to the Inquiry in relation to the expert evidence or the expert, the
12 issues that have been raised by the expert peer reviewers. There is a vast amount
13 of documentation in each of the cases and it would be important that if an
14 interested party is going to get expert evidence that we are made aware as early as
15 possible if it is going to take months, as I am sure you will appreciate, for us to
16 obtain or any interested party to obtain their own evidence on the issues rather
17 than criticisms which I understand from what you said earlier the expert peer
18 reviewers are not going to make.

19 We have asked for clarity in relation to Mr Koffman and we would ask
20 again for clarity as to whether or not he will be called as a witness. That ties into
21 the previous submission in relation to which experts will be called. Similarly, in
22 terms of the witnesses, I think that we would urge the Inquiry to let us have a list
23 of the witnesses that it is proposed to call. I appreciate now that there has been
24 some delay in relation to getting witness statements in and I am sure it will be the
25 Inquiry's position to consider those and decide...

26 THE CHAIRMAN: Well that is the point. Let me explain that. We understand that for
27 the doctors and nurses who may be called to give evidence that they are entitled to
28 have as much notice as possible. And also, if they potentially face criticism, then
29 we are under an obligation to advise them in advance of the areas of criticism
30 which they may face so that they don't walk in to give their evidence blind. That

1 is exactly the reason why I highlighted earlier the delay in the responses to witness
2 statements because when those witness statements are received, as they have now
3 been, the Inquiry legal team looks at them, they are referred back to our expert
4 advisors and peer reviewers and then a decision is made as to which witnesses are
5 required to give evidence at the oral hearings. So the fact that we have now
6 received the various witness statements doesn't mean that we are now in a position
7 to identify will we need A, B, C and D but not X, Y and Z. There is a fair degree
8 of scrutiny to be gone through and that's why we need to keep things moving
9 along as fast as possible, but I entirely accept your general proposition that the
10 earlier we know and identify the witnesses who are to be called and alert the
11 parties to that then the better for everyone.

12 I think also, partly because we have already indicated that we will identify
13 the witnesses who we will be calling to give evidence and we will hear or we will
14 accept suggestions from the parties or, sorry, we will consider suggestions by the
15 parties about whether or not we should also have D A or nurse B in addition to
16 those we intend to call.

17 MR McMILLAN: Indeed Mr Chairman. In terms of, for clarity, should it be the position
18 of the Inquiry that X will be called as a witness, then presumably the
19 documentation that flows from Doctor X witness statements et cetera will be
20 disclosed to everyone if it is not already on the Inquiry's list?

21 THE CHAIRMAN: Sorry, maybe I haven't made myself clear. All of the witness
22 statements will be made available because, for instance, I think there are more
23 than 40 witness statements in Adam's case. Let's suppose, for the sake of
24 argument, we take a position that we need 15 of those witnesses to give oral
25 evidence, then no party can make an informed or take an informed position about
26 whether we should also have five more witnesses unless you see all of the 40 odd
27 witness statements. So all of the witness statements will be circulated and we will
28 identify the individuals who we intend to call as witnesses.

29 MR McMILLAN: Yes Mr Chairman. In terms of documentation that is in existence,
30 historical documentation, would it be the intention - we would be making

1 submissions, as you know Mr Chairman, in relation to some of the documentation
2 that appears in the Inquiry website. Our position in relation to that is that if the
3 authors of those documents are going to be called to give evidence that that would
4 give the interested party an opportunity to cross-examine, deal with the comments
5 raised, and so I would ask for clarity in relation to the specific documentation, not
6 perhaps today but...

7 THE CHAIRMAN: No, not today because that's part and parcel of the exchanges which
8 are continuing.

9 MR McMILLAN: Obligated.

10 THE CHAIRMAN: Is there anything else? Mr McBrien?

11 MR McBRIEN: Mr Chairman, if I may just return to the point I raised with you earlier.

12 In the meantime I have spoken very briefly with Ms Danes and I understand that
13 the Inquiry team is also having difficulty obtaining any information in respect of
14 the nurse anaesthetist. Since you've indicated, sir, that you are minded not to hold
15 another review hearing until September, perhaps you might wish to consider
16 whether you would like to ask the press, who I believe may be here today, or
17 through the press subsequently as to whether or not they could put out any form of
18 appeal that if there is a nurse anaesthetist out there who was in the Royal Hospital
19 for this transplant operation on the 26th/27th November 1995 that maybe she
20 could come forward and make herself known to the Inquiry through the website or
21 some other means.

22 THE CHAIRMAN: Thank you for that suggestion.

23 Unless there is anything further I just want to finish on one note which is
24 that we have advised everyone over the last month or so about the change of
25 solicitor to the Inquiry. Since 2008 when the Inquiry resumed after the police
26 investigations were complete the solicitor has been Ms Anne Dillon. She has been
27 reclaimed by her substantive employer and is about to leave the Inquiry. Her
28 successor who is here today also is Ms Clare McGivern who has been seconded to
29 the Inquiry for the rest of the work of the Inquiry. It would be wrong for me to
30 finish today without publicly acknowledging the outstanding contribution which

1 Anne Dillon has made to the Inquiry since 2008. I am sure Clare McGivern will
2 understand this, that in the circumstances we are disappointed to lose Anne, we
3 wish her well on her return to her substantive post, and we look forward to Ms
4 McGivern settling in to the Inquiry and continuing to fill the role of the solicitor to
5 the Inquiry as well as Anne Dillon has done it over the last three years.

6 We do not intend then to meet again here until September, if it becomes
7 necessary to meet before September we will do that. It is not difficult to contact
8 us, it is not difficult to arrange hearings on issues at short notice, but I hope that
9 most of this can be done through exchanges between the various solicitors and so
10 on as matters progress. In the absence of any other points that concludes this
11 morning's business. Thank you all for coming.

12
13 *(The hearing adjourned at 11.50)*