



## **CHAIR'S STATEMENT OF APPROACH TO WITNESS STATEMENTS**

**ISSUED ON 24 NOVEMBER 2021**

### **Introduction**

1. One of the first steps that I took following the setting up of the Inquiry on 11 October 2021 was to ask people affected by the events at Muckamore to come forward and engage with the Inquiry.
2. The Inquiry team has held a series of engagement sessions (in person and virtual) at which those in attendance have met the team and asked questions about how the Inquiry will work. The Inquiry has also invited persons who feel that they have information that the Inquiry should consider to provide their contact details. This will enable the Inquiry panel to make the necessary arrangements to have statements taken from them where appropriate.
3. Another important exercise for the Inquiry at this early stage is the obtaining of documents that the Inquiry will need to conduct its work in accordance with the terms of reference. The Inquiry panel will issue requests to all who may hold relevant documents to produce those documents to the Inquiry. This evidence gathering exercise will be an ongoing one and will continue for as long as is necessary to enable the Inquiry to obtain the material that it needs to carry out its work.
4. It is anticipated that the examination of documents produced to the Inquiry will also result in requests for statements to be made by persons who are in a position to assist the Inquiry.
5. As contact forms continue to be received and the evidence gathering is about to begin, it is important that I should explain at this early stage the approach of the Inquiry to the taking of witness statements.
6. This statement focuses on the approach that the Inquiry will be adopting to statements taken as a result of the initial contact exercise.

## **The Act and the Rules**

7. Before I address the details of the approach to be adopted, it is worth referring briefly to the provisions of the Inquiries Act 2005 and the Inquiry Rules 2006. I issued a statement on 10 November explaining that, in the absence of separate Rules having been made for Northern Ireland, I would be following the 2006 Rules unless exceptional circumstances require otherwise.
8. Section 17 of the Act provides that the procedure and conduct of an Inquiry are to be such as the Chair may direct. In making any decision as to the procedure or conduct of the Inquiry, I must act with fairness and with regard to the need to avoid any unnecessary cost. I am satisfied that the approach set out below is in keeping with those requirements.
9. Rule 9 of The Rules (“Evidence”) provides that:
  - (1) the Inquiry panel must send a written request for a written statement to any person from whom the Inquiry panel proposes to take evidence;
  - (2) the Inquiry panel must send a written request to any person that it wishes to produce any document or any other thing;
  - (3) the Inquiry panel may make a written request for further evidence, being either a written statement or oral evidence;
  - (4) any request for a written statement must include a description of the matters or issues to be covered in the statement.

## **From whom will statements be taken?**

10. As indicated above, the contact forms submitted and documents provided to the Inquiry will assist the panel to identify those who may be able to assist the Inquiry by making a statement.
11. It is important to adopt a flexible and proportionate approach to this matter. If the Inquiry were to attempt to take statements from or on behalf of every relative of patients and all the patients and staff who were in Muckamore within the timeframe of the terms of reference, that exercise would be so extensive as to prevent the Inquiry from completing its work within a reasonable period of time.
12. Likewise, if statements were to be sought from all persons responsible in some way for the running of the hospital or the broader policy and regulatory framework within which the hospital has operated, the work of the Inquiry would be impossible to manage. The Inquiry panel will have to make decisions on an ongoing basis, on consideration of the material before it, as to whom requests should be issued.

13. Having said that, the panel acknowledges the centrality of the issue of abuse to this Inquiry. If a person comes forward to say that they or a family member were a victim of abuse at the hospital, or that they were a witness to such abuse, it is highly probable that the Inquiry panel will wish to have a statement taken from them using the methods set out below.
14. In broad terms, the Inquiry panel will issue a request for a written statement where it considers that a person is likely to be in a position to assist the Inquiry in fulfilling its Terms of Reference and it considers that it is reasonable in the circumstances to request a written statement.
15. The Solicitor to the Inquiry will send requests for written statements on behalf of the Inquiry panel in accordance with Rule 9(1).
16. Requests for statements will be issued in the first instance on the basis of the contact forms and other documentation received by the inquiry. Further requests will be issued on an ongoing basis as the Inquiry receives information and documentation as a result of its evidence gathering.
17. In any case where the Inquiry panel needs further information to determine whether it should request a statement, the Solicitor to the Inquiry will make contact with the person concerned to obtain such information on the panel's behalf.
18. The Inquiry also welcomes approaches from other persons who have not been requested to provide a statement but who believe that they have information that is relevant to the Terms of Reference. Such persons should use the [contact form](#) to provide their contact details and an indication of the type of information that they have.

### **How will statements be taken?**

19. It is important that Inquiry statements should be consistent in terms of their format. It is also important that they should be properly directed at the matters raised in the terms of reference and that no relevant information that a witness may be in a position to give should be omitted. Otherwise, unnecessary time and effort may need to be spent after a statement is made to put the statement in order or to follow up on matters of interest that have not been addressed.
20. In this particular Inquiry, there is also a more fundamental issue to be taken into account when settling on the approach to be adopted to taking accounts from witnesses. The Inquiry acknowledges that many of those who may have relevant evidence are or may be considered vulnerable and that the issues canvassed will be highly sensitive. The Inquiry has a duty of care to those who engage with it and those responsible for taking statements should be properly equipped to undertake that task and should be attuned to the unique sensitivities to which the issues in this Inquiry give rise.

21. This applies particularly to the statements to be taken on the basis of the contact forms, the primary objective of which was to reach out to current or former patients, relatives, carers, current or former members of staff and members of the public who witnessed events at Muckamore.
22. With these considerations in mind, I have appointed a firm of solicitors to take statements arising from the contact forms on behalf of the Inquiry (the "statement team").
23. Prior to undertaking this statement taking exercise, the team, as well as being trained as to format and approach to statement taking, will be fully trained to an accredited standard in dealing with vulnerable witnesses. Following the issue of the request by the Solicitor to the Inquiry to a witness to make a statement, the witness will be contacted by the statement team in order that arrangements may be made for the statement to be taken.
24. From that point, responsibility for taking the statement will remain solely with the statement team, acting on behalf of the Inquiry. Once the statement is finalised and signed by the witness, it will be submitted to the Inquiry and will subsequently be prepared for disclosure to Core Participants through the Inquiry's electronic document platform.
25. The statement team will provide appropriate assistance to persons asked to make a statement. The witness may be invited to attend at the statement team's premises to make the statement or to attend by video link. Alternatively the team may attend the witness's home or another suitable venue to assist with the statement if that is suitable to the witness and appears to the statement team to be appropriate in the circumstances. All arrangements will, of course, have to be compliant with any Covid protection measures in place at the given time.
26. The statement team will have access to the services of a registered intermediary. If it appears to the statement team that the witness may require the assistance of a registered intermediary to make the statement, the team will ask the registered intermediary in the first instance to assess the suitability of the witness for such assistance and to undertake an assessment of the specific needs of that individual. If appropriate, the intermediary will proceed to assist with the taking of the statement.
27. If there are other appropriate special measures that may assist the witness to make the statement, the statement team will consider the use of such measures in consultation with the Inquiry's legal team. It may be, for example, that a video recorded interview would be the most suitable and effective method of enabling certain witnesses to give their best account. It is important that a flexible approach should be adopted to enable the statement taking process to be adapted to meet the particular needs of the witness. In all cases, the objective will be to facilitate the witness in giving their best account.
28. It is always possible that a further statement or statements will need to be taken from a witness as the Inquiry proceeds, but it is hoped that the above approach

will minimise the need for additional statements to be taken, particularly where vulnerable witnesses are concerned.

### **Giving evidence to the Inquiry**

29. A person who makes a written statement may subsequently be called to give oral evidence before the Inquiry. That will be for the Inquiry panel to decide. I acknowledge that there may be some individuals who have suffered abuse (or whose family members have suffered abuse) who will not wish go further than making a statement about the experience. The Inquiry panel will be understanding of that position and where possible will accept their statement as their evidence to the Inquiry. Similarly, where someone has made a statement on video the expectation will be that that individual will not need to attend to give live evidence but the Inquiry panel will have to make a decision on a case by case basis.
30. Just as the Inquiry will make special arrangements to facilitate witnesses in making their statement, it will also provide witnesses with special measures where appropriate to give oral evidence before the Inquiry. Inquiry proceedings are not bound by the strict rules of evidence and in an Inquiry such as this, where particularly vulnerable witnesses are at the core of the Inquiry's work, it is very important that all possible steps should be taken to help such witnesses give their evidence in a way that they feel comfortable. I will say something more about that in advance of the oral hearing sessions.

### **Point of contact**

Any issue arising from or query relating to this Statement should be addressed to the Solicitor to the Inquiry: [solicitor@mahinquiry.org.uk](mailto:solicitor@mahinquiry.org.uk)