

CHAIR'S STATEMENT

AT THE CLOSE OF 2023

ISSUED ON 12 DECEMBER 2023

INTRODUCTION

1. It is perhaps obvious that we had hoped that there would be significantly more witnesses that would be called this week which unfortunately was not possible. Some of the statements were lengthy and could not be finalised to the witness's satisfaction in time, two of the witnesses were taken ill and were unable to sign their statements. For those reasons we were unable to call more evidence this week which for obvious reasons I was keen to do.
2. On a brighter note, it is worth reflecting on what the Inquiry has achieved to date.
3. Today is our 72nd day of sitting. We have just heard from our 136th witness. We have completed the patient experience in its entirety. We have finished the evidence in Modules 1-5 dealing with the law, legislation and policies around the provision of services to those suffering learning disabilities. We have started to hear from staff at the hospital.

STAFF EVIDENCE

4. This section of staff evidence was perhaps always going to be one of the most challenging areas of the inquiry. I set out many of those complexities and the Inquiry's approach to them in my public statement of 2 November. I will not repeat here all the issues I set out then. Suffice to say, it is a relatively complex process.

5. Again, I want to encourage potential witnesses to engage proactively with CFR. Anyone with concerns can speak to the Inquiry staff or to Napiers Solicitors who have been appointed to look after staff who do not want to use DLS, the Trust's solicitors. Anyone who wishes to can make an appointment with Jaclyn Richardson the Inquiry Secretary, or Lorraine Keown the Inquiry solicitor, who can both provide further explanation about the process of engaging with the Inquiry. For any staff member coming forward, they can have early access to any of the Inquiry's counsellors if that would provide comfort or reassurance. Staff can ask for special measures to assist them, such as screening or anonymity, just as patients and relatives did, and any such request for good reason will be carefully considered by me.
6. The Inquiry has identified a number of members of staff it wishes to speak to and obtain statements from. Most of those have been written to. Some have indicated a ready willingness to give a statement. Others have been more circumspect or have sought to avoid doing so.
7. Let me be blunt about this. So far, I have avoided issuing a Notice under Section 21 of the Inquiries Act, requiring a statement to be given. I am still keen to rely on people to volunteer a statement. But I recognise that there may be those who simply refuse, or others who are reluctant to make a statement because of their own concerns or because of external pressures. For some of those a requirement to give evidence by way of Section 21, will be a positive benefit in that it removes the voluntary aspect of making such a statement.
8. I expect witnesses who have been identified by the Inquiry to make a statement to do so, and if we face refusal, for whatever reason, I will have to consider the use of S21 notices in order to compel the provision of a statement.
9. We have also slightly streamlined the process. Whereas previously all potential witnesses should have received a pre-statement questionnaire, that process will now be shortened, by CFR, the appointed firm to take witness statements, contacting the witness directly or via their solicitor where known and compiling the necessary information at the first meeting.

PATIENT DOCUMENT REQUESTS

10. In March of this year, we issued 19 Patient Document requests to the Trust. Those requests were based upon the evidence which the Inquiry had heard from June to December 2022. In some cases, specific types of record were called for, in others, all of the patient documentation between defined periods was requested.
11. The Trust prepared the documentation in response to those requests, but unfortunately their provision to the Inquiry was delayed significantly by a Judicial Review. The Judgment in that Judicial Review was given last month when the claimant's argument was rejected, and the Trust promptly complied with the original request.
12. We are currently in the process of informing those patients in relation to whom records have been provided either directly or to their next of kin or authorised representative.
13. A further set of Patient Document Requests will issue shortly, before the Christmas break. These requests will be based upon the evidence heard from patients and their relatives this year. When that material is supplied to the Inquiry, we will alert the relevant patients or appropriate next of kin via their solicitors.

NEXT YEAR

14. Let me turn to the plan for next year. We will sit again on the 5th February 2024. We will try to complete the staff evidence in early to mid-March. In March 2024 we hope to hear evidence relating to Module 6, which will deal among other things with the Ennis report and the outcomes and consequences of that. I expect that evidence to take approximately two weeks.
15. The plan is that from April to May 2024 we will hear from the organisations. This time we will focus, not upon processes and protocols but how effectively those worked in practice and what could or should have been done better.
16. Letters will issue at the latest in January 2024 to alert the organisations from whom we would like to hear and the topics which we would like to hear about.

17. If things go according to Schedule that will give us June to conclude any outstanding evidence.

18. I want to thank all the Inquiry Staff and Counsel, our technical and stenographic teams who have all worked hard throughout this year. I also want to thank Cleaver Fulton Rankin Solicitors and our statement taking team there, and all Core Participants and their lawyers for their contribution to the Inquiry.

Tom Kark KC

MAHI Chair