

MUCKAMORE ABBEY HOSPITAL INQUIRY
SITTING AT CORN EXCHANGE, CATHEDRAL QUARTER, BELFAST

HEARD BEFORE THE INQUIRY PANEL
ON MONDAY, 5TH FEBRUARY 2024 - DAY 73

GWEN MALONE STENOGRAPHY
SERVICES CERTIFY THE FOLLOWING
TO BE A VERBATIM TRANSCRIPT
OF THEIR STENOGRAPHIC NOTES
IN THE ABOVE-NAMED ACTION.

GWEN MALONE STENOGRAPHY SERVICES

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2 THE INQUIRY RESUMED ON MONDAY, 5TH FEBRUARY 2024 AS
3 FOLLOWS:
4

5 CHAIRPERSON: Thank you. Well, good afternoon. I
6 assume that everyone has been told that we're missing a
7 witness, which isn't a good way to start the new
8 session. Apparently, the witness forgot that they were
9 meant to be giving evidence this afternoon, it seems
10 surprising. The witness has been spoken to and will be
11 here on Thursday afternoon. So can I apologise to
12 everybody, although I do have some remarks to make in
13 any event, and it will be impressed upon the witness
14 how important it is to be here on Thursday afternoon.
15

16 So I want to welcome everyone back to the Inquiry, If I
17 can just make a few remarks about the timetable for
18 this year. We will continue obviously this week
19 hearing from members of staff at the hospital as well
20 as those attending the hospital to provide services and
21 looking after families.

22 So I just want to speak about the schedule going
23 forward. After this week, the current plan is that we
24 will sit to hear further staff evidence in February and
25 March. We currently intend to sit in the weeks of the
26 19th February and the 4th March to hear further staff
27 evidence. Then in the week of the 11th March, we're
28 going to start hearing evidence relating to Module 6
29 which, as everyone may remember, was adjourned so that

1 further preparation could be undertaken. And that
2 module, as you may remember, was really focused on the
3 Ennis Report and the outcomes from that.
4 We'll hear evidence relating to Module 6 in that week
5 of 11th March and also in the week of 25th March.
6 We'll not be sitting in the week of 18th March as
7 Monday, as many of you will know, is a local bank
8 holiday and there is a Supreme Court hearing on the
9 Wednesday of that week to which the Inquiry is a party.
10 We'll then sit in the week of 8th April when we will
11 aim to finish hearing from members of staff.
12 Now, the Inquiry is also preparing for the final phases
13 of evidence which will be comprised of a series of
14 organisational modules, M1 to M10. Those modules will
15 be of varying length and will take us to the end of the
16 evidence to the Inquiry. A summary of those 10 modules
17 I think has been posted today on the Inquiry's website.
18 If it hasn't been posted it will be posted this
19 afternoon.
20 We'll begin hearing evidence in relation to modules M1
21 to M10 from 15th April. We'll start by hearing
22 evidence in M1 which, as you'll see, is titled 'Patient
23 advocacy and representation' and we'll then move on to
24 hear about professional education and then regulation.
25 We'll hear from the RQIA, PSNI and we'll also cover the
26 topic of 'Resettlement'. Then in May, we'll start to
27 hear from the senior managers about the operational
28 management of the hospital before moving onto the
29 professional organisation and oversight.

1 Following that we'll hear about the Trust, evidence
2 from the Trust Board and finally we'll hear from the
3 Department of Health.

4 Letters requesting statements will be issued this week
5 for the first five modules and the remaining letters in
6 relation to the last five modules will be sent out as
7 soon as possible.

8 I want to say a word or two about the fact that last
9 week we withdrew the statement of Wednesday's witness
10 A5, re-issued it with a number of redactions, then had
11 to re-issue it again and I want to explain why that was
12 done.

13 On the day that it was issued, which was Monday, 29th
14 January, I received urgent representations from the
15 Trust that parts of the statement shouldn't have been
16 circulated as they were covered by legal professional
17 privilege which the Trust did not wish to waive. It
18 was also said that they were outside of the Inquiry's
19 Terms of Reference. I didn't agree with those
20 representations and so I did not then direct that any
21 action should be taken. However, the following
22 morning, we received a further letter indicating that
23 the Trust was considering taking legal action to
24 prevent circulation of that material. In order to
25 preserve the Trust's legal rights, I then asked the
26 administrative team to undertake the requested
27 redactions and re-circulate the statements. Further
28 representations were received from the Trust about
29 additional paragraphs and the same exercise was

1 undertaken. All Core Participants will have received
2 notification that the old statement was withdrawn and a
3 request to destroy or delete any downloaded copies,
4 which I assume was done.

5 In the meantime, I directed any further legal
6 submissions should be submitted to me by 10 o'clock in
7 the morning on Wednesday, the 31st. Some legal
8 submissions were received the following morning and I
9 considered them. That afternoon I issued a
10 determination which has now been circulated to all CPs.
11 Given the nature of the determination I did not feel it
12 was necessary to hear representations by other Core
13 Participants. The assertion of privilege is one which
14 only the owner can make but I realise that some CPs may
15 have had views contrary to those apparently held by the
16 Trust, but meaning no discourtesy I did not need to
17 hear from them because of the determination that I
18 made.

19 I rejected the Trust's legal arguments and directed
20 that unless they issue proceedings by 10 o'clock on
21 Friday, 2nd February to prevent it, the statement would
22 once again be re-circulated without the requested
23 redactions. No legal proceedings were issued and
24 shortly after the 10 o'clock deadline the Trust
25 indicated, through their solicitors, that it would
26 waive legal privilege. I have not changed my view that
27 legal privilege wasn't applicable to any of the
28 material over which it was claimed, and Core
29 Participants can find my reasons in the determination

1 if they wish to read it.

2 In any event, there was no continuing challenge to the
3 circulation of the witness' statement with redacted
4 passages now unredacted as it had originally been and
5 that was issued shortly before 10.30 on Friday.

6 Could I raise another topic which is the questions for
7 witnesses and timing? I just need to mention the issue
8 of when questions are being submitted by CPs to the
9 counsel team for consideration that they be put to
10 witnesses. The protocol provides that we will serve
11 statements, where we can, seven working days prior to
12 the witness being scheduled to give evidence and CP
13 questions must be submitted three clear working days
14 prior to the witness. So in relation to a witness
15 giving evidence today, the Inquiry counsel team should
16 have had the questions in by close of business last
17 Tuesday. It is, with respect, no good submitting them
18 later than that and hoping for the best.

19 There are, as you will all appreciate, a large number
20 of CPs, many of whom submit questions and so it is not
21 fair to submit questions late in the day and expect
22 them to be considered let alone asked. Nor does it
23 help, with respect, to submit reams of generic
24 questions rather than focused questions on the issues
25 which really matter. And some CPs, and I'll give no
26 names, but some CPs have submitted more pages of
27 questioning than the pages in the witness statement
28 itself and that does not help anyone. The counsel team
29 will be fully entitled to give only a passing

1 consideration where questions are submitted late or are
2 unfocused or are generic. Where the Inquiry serves a
3 statement late, then of course I appreciate more leeway
4 will have to be given.

5 So, I just want to conclude by making it clear that the
6 focus of the Inquiry will be to finish all of the
7 evidence by the end of this June. That will be a
8 challenge, but I hope it will be achievable if we have
9 full co-operation from all parties involved.

10 So that, I'm afraid, is all we can do this afternoon.
11 We're meeting again tomorrow at 10 o'clock and please
12 remember that this afternoon's witness will now be
13 giving evidence on Thursday afternoon for which again,
14 I apologise.

15 Can I thank everybody for their attendance.

16
17 THE HEARING ADJOURNED UNTIL TUESDAY, 6TH FEBRUARY 2024
18 AT 10.00 AM