
THE PUBLIC INQUIRY INTO THE OUTBREAK OF CLOSTRIDIUM DIFFICILE BETWEEN 16TH JUNE 2007 AND 31ST AUGUST 2008 AT CERTAIN HOSPITALS WITHIN THE NORTHERN HEALTH AND SOCIAL SERVICES TRUST

INQUIRY CHAIRMAN: DAME DEIRDRE HINE

DISCLOSURE TO AND PUBLICATION OF MATERIAL BY THE INQUIRY, REDACTION, PUBLIC INTEREST IMMUNITY AND ANONYMITY OF WITNESSES

The Disclosure to and Publication of Material by the Inquiry

1. The Inquiry has an obligation to ensure that no person's personal safety is compromised as a result of its work. Prior to the disclosure or publication of any material by the Inquiry, the Inquiry will therefore assess whether there is a risk that the release of that material could compromise a person's safety; and where such a risk exists the Inquiry will withhold the release of that material or will release the material only after appropriate alteration by way of redaction or anonymisation.
2. Subject to this and to the exceptions identified below, there is a general presumption that all relevant material received by the Inquiry may be made public.

3. Core Participants will be provided in advance with a copy of the Inquiry Bundle of relevant material, for use in the preparation for and during any oral hearings. The Inquiry Bundle will be provided subject to a suitable confidentiality undertaking.
5. In addition, the Inquiry expects that the following material will be published on the Inquiry's website (in original or redacted form): all witness statements; all documents referred to by witnesses in their statements; and the transcripts of the oral hearings. Once the Inquiry's Report is published, other material referred to in the Report may also be made available on the website.
6. Where a person or organisation has concerns about the disclosure or publication of any relevant material which they have provided to the Inquiry, they should raise those concerns with the Inquiry in the first instance, by writing to the Inquiry Solicitor. In all cases, the Inquiry will liaise with the person raising those concerns and will endeavour, where possible, to resolve them by agreement. Thereafter it may become necessary to apply to the Inquiry Panel:
 - To redact part of the material prior to disclosure or publication; or
 - To withhold some or all of the material from disclosure or publication on the grounds of public interest immunity; or
 - To alter the material so as to preserve anonymity.
7. The Inquiry's procedures in respect of redaction, public interest immunity and anonymity are set out below.
8. The Inquiry will, in any event, defer the disclosure or publication of that material pending the resolution of those concerns or the determination of any applications to the Inquiry.

Redaction

9. Redaction will occur where it is necessary to prevent the disclosure or publication of:
 - Irrelevant personal information; or
 - Sensitive information.

10. The relevance of the personal information may be determined by the issues under consideration by the Inquiry in the course of its work. For example, in determining how many deaths occurred in the course of the outbreak for which clostridium difficile was the underlying cause of death or a condition contributing to death, the Inquiry Panel considers that the identity of a deceased may only be relevant where an issue arises as to whether or not the patient concerned contracted the infection and, if so, to what extent the infection caused or contributed to the death. Irrelevant personal information may thus include, depending on the nature of the work of the Inquiry – the names of patients, patients' medical histories outside of the fact that they may have contracted the clostridium difficile infection, private addresses, work addresses, telephone numbers, medical notes and records, hospital notes and records and the names of relatives of the deceased.

11. Sensitive information constitutes any information which a person or organisation considers should not be disclosed or published. This may include information contained in classified documents (i.e. documents classified under the Protective Marking System) and/or information which gives rise to concerns in respect of national security or the safety of particular individuals.

12. The Inquiry will ordinarily redact irrelevant personal information from all documents which are disclosed to Core Participants or third parties, or published on the Inquiry's website. In addition, no reference to such information will be made in the course of any oral hearing. However, in exceptional cases, where it is necessary to disclose such information to

Core Participants or other persons or organisations, the Inquiry will require an undertaking that the information will remain confidential and will only be used for the purposes of the Inquiry.

13. Documents containing sensitive information will not automatically be redacted by the Inquiry, except insofar as is necessary to remove information which is irrelevant; i.e. personal information or sensitive information which is irrelevant to the Inquiry's work.
14. Where a person or organisation considers that a document, or part of a document, containing sensitive information or irrelevant personal information (over and above those categories set out in paragraphs 10 and 11 above) should not be disclosed or publicised by the Inquiry, they should raise these concerns with the Inquiry, by writing to the Secretary to the Inquiry, requesting the redaction of particular passages prior to disclosure or publication.
15. The letter should set out:
 - The passages in respect of which redaction is sought; and
 - The reasons why redaction is necessary.
16. Applications for redactions will be subject to an oral hearing, if necessary.
17. It is not anticipated that the work of this Inquiry shall give rise to matters relating to Public Interest Immunity. However, where a person or organisation considers that the disclosure or publication of particular information by the Inquiry may cause real harm to the public interest, it is open to them to apply to the Inquiry Panel to withhold such disclosure or publication.
18. In such circumstances, it will be necessary for the person or organisation to:
 - a. Identify the specific information which it considers should be withheld from disclosure or publication;

- b. Demonstrate that the publication or disclosure of such information may cause real harm to the public interest;
 - c. Explain how the material containing the information should be treated - in particular whether:
 - i. the material should be withheld from publication or disclosure; or
 - ii. the material may be published or disclosed after the redaction and/or anonymisation of the information identified.
19. Applications for public interest immunity should be made in writing and addressed to the Inquiry Solicitor and, when made by Government departments or agencies, should be accompanied by a certificate from the relevant Minister. Applications will be subject to an oral hearing, if necessary.

Anonymity

20. There is a general presumption that:
- Witnesses giving evidence to the Inquiry will be named; and
 - The identities of individuals referred to in material provided the Inquiry may be made public – except where those names constitute irrelevant personal information (see paragraph 10 above).
21. However, it is open to any person or organisation to apply to the Inquiry Panel for anonymity in respect of themselves or another person. There are a number of reasons why such an application may be made. However, in general the applicant will need to satisfy the Inquiry Panel that anonymity is necessary:

- To protect the personal safety of a particular person or his or her family; or
- Where the identification of an individual may cause real harm to the public interest.

Applications for anonymity should be made in writing, addressed to
Kate McClements, Secretary to the Inquiry, Premier Business Centre
20 Adelaide Street
Belfast
BT2 8GB

They will be subject to an oral hearing, if necessary.

Issued under the authority of the Chair to the Inquiry on the 10th February
2010.