
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

INQUIRY PROCEDURES

INTRODUCTION

1. On the 14th October 2008 the Minister for HSSPS (“the Minister”) announced the setting up of a Public Inquiry under the Inquiries Act 2005 (“the Act”) into the outbreak of Clostridium Difficile in certain hospitals within the Northern Health and Social Care Trust (“the Northern Trust”) between the 16th June 2007 and the 31st August 2008. The Terms of Reference of the Inquiry are:
 - (a) to establish how many deaths occurred in the Northern Trust’s hospitals during the outbreak, for which clostridium difficile was the underlying cause of death, or was a condition contributing to the death; and
 - (b) to examine and report on the experiences of patients and others who were affected directly by the outbreak, and to make recommendations accordingly.

THE INQUIRY TEAM

2. On the 31 March 2009 the Minister appointed Dame Deirdre Hine to chair the Inquiry. Dame Deirdre Hine is the former Chief Medical Officer for Wales and Chair of the Commission for Health Improvement .

3. The following Panel members have since been appointed:
 - (a) Professor Robert Stout, formerly Professor of Geriatric Medicine at Queen's University
 - (b) Ms Jocelyn Cornwell an independent healthcare consultant and director of The Point of Care Programme, King's Fund
 - (c) Ms Eleanor Hayes an independent healthcare consultant and former Director of Nursing and Governance at Belfast City Hospital Trust and Green Park Hospitals Trust

4. The Secretary to the Inquiry is Mrs Kate McClements. The Solicitor to the Inquiry is Miss Ellen McAleavey. Counsel to the Inquiry is Mr Frank O'Donoghue QC.

WEBSITE AND CONTACT DETAILS

5. The Inquiry has established a website, which may be found at the following address; www.cdiffinquiry.org.

6. The correspondence address for the Inquiry is:

Clostridium Difficile Public Inquiry
Premier Business Centre
20 Adelaide Street
Belfast
BT2 8GB

7. Other contact details for the Inquiry are as follows:

Telephone: 028 90 517124; 028 90 517250

Fax: 028 90 517247

Email: inquiry@cdiffinquiry.org

PROCEDURES GENERALLY

8. In the absence of Rules made under section 41 of the Act in respect of Inquiries for which a Northern Ireland Minister is responsible, this document describes the way the Inquiry intends to deal with matters of evidence and procedure.

9. Two matters are to be noted at the outset. Firstly, the Inquiry has not been established to rule on or to determine the civil or criminal liability of any person or institution. It has no power to do so. Its objectives lie solely within its own Terms of Reference.

10. Secondly, in order to operate most effectively and most efficiently, an Inquiry such as this needs to operate flexibly. Procedures may need to be adopted, or may need to be adapted, in order to enable it to do so. The Procedures outlined below are not intended to cover every eventuality or every procedural issue that will arise. When procedural decisions need to be taken, they will be taken by the Inquiry Chairman with the assistance of the Inquiry legal team and of representations or submissions from others, if she considers that would be appropriate and desirable.

THE INITIAL STAGES

11. The Inquiry's work has been concerned initially with collecting and reviewing records and documentation concerning this outbreak and similar outbreaks in the UK and internationally.

The provision of relevant documents.

12. The Inquiry requests anyone who holds documents which are relevant to its terms of reference to supply those documents to the Inquiry. Specific requests to persons likely to hold such documents are being made, but the request that relevant documents be provided is of general application.
13. Any person who is in possession of relevant documents should contact the Inquiry as soon as possible so that the necessary arrangements can be made for their delivery.
14. Consideration of the documents received may reveal the need for the Inquiry to see further documents, and additional requests for documents may be made as a result.

Oral Statements and meetings with members of the Inquiry Panel.

15. The Inquiry Panel is keen to ensure that, where possible, anyone affected by the outbreak has direct access to the members of the Inquiry Panel. To that effect, the Inquiry Panel has met groups and individuals affected by the outbreak for the purpose of identifying themes and issues to be considered by the Inquiry in the course the discharge of its Terms of Reference. Any communications made orally to the Inquiry will not form part of the evidence on which the Inquiry will base its findings. Such communications are merely to assist the Inquiry to obtain a better understanding initially of the issues relating to the experiences of those affected by the outbreak.

Written Statements.

16. The Inquiry wishes the evidence to the Inquiry initially to be in written form.

- 17.** Persons who are known to have relevant evidence to give will be asked to provide a written statement setting out that evidence. Further requests may be made in due course either for an additional written statement or statements from those persons or for written statements from others.
- 18.** Any other persons who believe that they may be able to give relevant evidence should contact the Inquiry as soon as possible. The Solicitor to the Inquiry, or one of her colleagues, will ascertain the nature of that evidence and inform them how to proceed thereafter.
- 19.** Requests for written statements will be made by the Solicitor to the Inquiry. They will identify the matters or issues with which the Inquiry wishes the statement to deal. Persons requested to provide a statement should also have regard to the Inquiry's Terms of Reference when considering the topics they should address in the statement. Should a statement fail to address all of the topics with which the Inquiry is concerned, a request for a further statement providing clarification or focusing on areas of particular concern may be made.
- 20.** A person may arrange for a statement to be provided to the Inquiry as follows:
- (i) The Solicitor to the Inquiry, or one of her colleagues, can assist with the preparation of the statement. In such cases the person requested to provide a statement will have the opportunity to make such amendments or additions to the draft statement as he or she may see fit prior to the statement being signed.
 - (ii) Alternatively, persons requested to provide a statement may prefer to prepare their own statement. In those circumstances, they may seek the help of a legal or other representative (such as an official of a trade union or professional body) in so doing (but note that the Inquiry is not empowered to re-imburse any

witness not attending the Inquiry for the purpose of making a statement of evidence).

21. Persons requested to provide a statement need not include their addresses in their statements.

Wider Representations

22. The Chair to the Inquiry may wish to seek the views of persons and bodies not directly involved in the outbreak of clostridium difficile within the Northern Trust on more general matters falling within the Inquiry's Terms of Reference.

23. In those circumstances, specific requests to submit representations to the Inquiry may be issued to particular persons or bodies. Those requests will identify the issues with which those representations are requested to deal. Any other persons or bodies wishing to submit such representations should contact the Inquiry as soon as possible.

The handling and use of documents (including statements and representations) and confidentiality.

24. The Inquiry is a public inquiry. It will aim to be as open and transparent as possible. Accordingly, unless otherwise agreed or the subject of a restriction order, documents and information supplied to the Inquiry are likely to become public at some stage of the Inquiry process.
25. Such documents and information may be, but will only be, used for purposes relating to the Inquiry.
26. The Inquiry will seek to ensure that private matters of which it is informed, and which are not relevant to its work, are not published.

- 27.** The Chair to the Inquiry will make decisions about whether, when and in what form documents and information supplied to the Inquiry should be disclosed outside the Inquiry Team (whether to participants in the Inquiry or more broadly) taking all the relevant circumstances into account.
- 28.** If anyone supplying documents or information to the Inquiry considers that any document or piece of information should be treated as confidential, he or she should inform the Solicitor to the Inquiry of the reasons for this view when the document or information is provided. The Chair to the Inquiry will consider each such representation on its merits, and inform that person of his decision.

Core Participants.

- 29.** The Inquiry will accord to a limited number of parties the status of Core Participants to the Inquiry. As that title suggests, they will be persons who are considered by the Chair to the Inquiry to be those closest to the issues raised by the Inquiry.
- 30.** Core Participants are likely to be afforded access to some of the documents and information (including statements) provided to the Inquiry, before that material is made public (although it is emphasised that no final decisions on this aspect have yet been made). Any such access may be subject to a suitable confidentiality undertaking.
- 31.** Core Participants are also likely to be actively involved in the hearings of the Inquiry.
- 32.** Where there are two or more Core Participants, each of whom seeks to be legally represented, and the Chair to the Inquiry considers that their positions (including their interests in the outcome of the Inquiry and the facts they are likely to rely on in the course of the Inquiry) are sufficiently similar that all of them may fairly and properly be jointly represented, she will direct that those Core Participants shall be

represented by a recognised legal representative (i.e.) solicitor or firm of solicitors and/or Counsel.

- 33.** Details as to the procedure for designation of such a legal representative are under consideration and further information will be made available in due course..
- 34.** Any body or individual wishing to apply to be accorded Core Participant Status should submit that application to the Solicitor to the Inquiry as soon as possible. Each application will be considered and determined by the Chair to the Inquiry.

Recognised Legal Representative.

- 35.** Where a Core Participant (other than one referred to at paragraph 32) or any other person required or permitted to give evidence or produce documents during the course of the Inquiry has appointed a qualified lawyer to act on that person's behalf, the Chair to the Inquiry may designate that lawyer as that person's recognised legal representative in respect of the Inquiry's proceedings.
- 36.** That status will enable the legal representative to take part in the Inquiry's process on behalf of the Core Participant or other person.

EXPENSES AND COSTS

- 37.** In appropriate cases the Chair to the Inquiry may award reasonable amounts to a person by way of compensation for loss of time or in respect of expenses (which may include the cost of legal representation) properly incurred, or to be incurred, in attending, or otherwise in relation to, the Inquiry ("an award")..
- 38.** A person is eligible for an award only if he or she is a person attending the Inquiry to give evidence or to produce any document or other thing,

or a person who, in the opinion of the Chair to the Inquiry has such a particular interest in the outcome of the Inquiry as to justify such an award.

- 39.** Awards for compensation for loss of time will not normally be made in respect of witnesses giving evidence in the context of their employment or former employment as the Chair expects these expenses would be met by the employer or former employer as the case may be. Nor is it expected that such witnesses will require public funding from the Inquiry for any legal assistance as it is anticipated that witnesses in this category will seek legal assistance from solicitor to the Northern Trust or via their professional body.
- 40.** The Inquiry will shortly make available a document setting out the process by which an application for an award should be made and the general assessment criteria which will be taken into account in determining it.

THE HEARINGS

The nature and form of the hearings.

- 41.** It is premature to deal in any detail with the nature and form of the hearings. That will be decided when the initial stage of gathering documents and written information and evidence is further advanced. Only once that material has been considered will it become practicable to make decisions, for example, about what is uncontroversial and what evidence should be given at the hearings.
- 42.** The hearings, when they occur, will be designed:
- to ensure that the public are as fully informed as possible about the uncontroversial background and about specific issues to be addressed at the hearings;

- to deal with those issues in the most effective and efficient way, ensuring that all major issues are publicly explored;
- to ensure that Core Participants are given a fair opportunity, commensurate with the need for the hearings to progress efficiently and with all reasonable speed, actively to participate in the process;
- to ensure that those who are not Core Participants but who are witnesses are afforded a fair opportunity to give their evidence.

43. Subject to any restriction order which the Chair to the Inquiry may consider conducive to the Inquiry to make under Section 19 (2) (b) of the Inquiries Act 2005, members of the public (including reporters) will be able to:

- attend the Inquiry, and;
- obtain or view a record of the evidence and documents available to the Inquiry.

Those who will give evidence at the hearings.

44. Oral evidence from a witness, in addition to the provision of a written statement, may be required for example for one or more of the following purposes:

- to clarify any matters in the statement which are not sufficiently clear;
- to amplify any matters in the statement in respect of which further information is required;

- to afford the witness the opportunity of addressing matters raised by other statements or documents, or the oral evidence of other witnesses, which are relevant to his or her evidence;
- to test the accuracy or reliability of any matters in the statement;
- to explore disputes of fact, controversial issues or questions of opinion;
- to afford the witness the opportunity of responding to potential criticisms to which he or she may be subject in the Inquiry's final report.

45. It is currently envisaged that, in advance of the hearings, the Inquiry will prepare a provisional list of those persons from whom it wishes to receive oral evidence. This provisional list will be made available to the Core Participants who will be given the opportunity to comment upon it. The final decision as to which persons should be asked to give oral evidence will be made by the Chair to the Inquiry.

46. It may be appropriate for two or more individuals from one particular body or company or firm to give evidence together on certain issues.

47. Evidence given to the Inquiry will be taken on oath.

Letters setting out the topics to be covered in oral evidence.

48. In advance of his or her evidence, a witness will normally be sent a letter setting out the main topics which it is intended to address in the course of questioning. Those topics are not intended to be, and should not be treated as, a definitive or exhaustive list of the questions to be asked or the topics that might be covered. The letter is designed to assist the witness (and his or her recognised legal representative) in

preparing for the Inquiry's hearings by identifying at least some of the main matters which the Inquiry wishes to explore with the witness.

- 49.** If new matters relevant to the evidence of a particular witness come to light after that witness has given evidence at the Inquiry's hearings, the Inquiry may decide that it is necessary for the witness to be asked about or afforded the opportunity of responding to those new matters. Such an opportunity may be afforded by inviting the witness to provide a further statement or inviting that witness to give further oral evidence.

Questioning of Witnesses.

- 50.** Subject to paragraphs 51 to 53, it is envisaged that most of the questioning of persons who are requested to give oral evidence to the Inquiry will be conducted by Counsel to the Inquiry and/or by the Chair to the Inquiry, and/or by any assessor appointed by the Chair to the Inquiry.
- 51.** Core Participants, and any other person considered to have a sufficient interest in the evidence of the witness concerned, will be invited to submit suggested questions or lines of questioning of the witnesses to Counsel to the Inquiry in advance of the witnesses giving evidence.
- 52.** The opportunity for additional questioning by the witness's own legal representative and by other legal representatives (for example of persons who are referred to in the evidence of the witness) and/or Core Participants will be strictly limited.
- 53.** The Chair to the Inquiry will decide in each case whether to permit such additional questioning and, if so, in what circumstances and subject to what limits.
- 54.** Those (other than the witness's own legal representative) wishing to ask questions of a witness will need to apply to do so in writing in

advance (within time scales to be notified) setting out the reasons why they should ask the questions and the nature of the issues they wish to cover.

Transcripts of the Inquiry's Hearings.

55. Transcripts of the evidence taken at the Inquiry's hearings will be published on the Inquiry website.
56. Other documents, statements and information will be posted on that website when the Chair to the Inquiry considers it appropriate to do so. Those decisions will need to balance the desire to be as open and transparent as possible with the other interests involved including the need to act fairly and not to prejudice other important public and private interests.

PROCEDURE AFTER THE HEARINGS

Closing Statements.

57. Once the evidence at the Inquiry's hearings has been concluded the Chair to the Inquiry will afford the representatives of the Core Participants and anyone else she considers appropriate, the opportunity to submit closing statements in writing. She will set a time scale within which such statements need to be submitted and may identify at this stage particular issues on which she would welcome assistance from particular persons.

Potential Criticism.

58. Any person in respect of whom the Inquiry may include an adverse or critical statement in its report will be informed by letter of that fact. The letter will, in whatever form the Chair to the Inquiry considers convenient, inform that person of at least the gist of that statement and

give him or her a fair opportunity to make whatever comment or representation that person wishes about the statement.

Other language provision.

59. It is anticipated that all participants are likely to use the same language. When simultaneous translation is necessary, the Chair will announce at the start of each session that those facilities are available. The Chair shall outline how translation equipment is used. The Inquiry will accept documents and other evidence, including witness statements, in each witness' main language unless the witness demonstrates a sound understanding of the English language.

Issued under the authority of the Chair to the Inquiry on the 9th February 2010