

RULING ON REDACTIONS TO THE STATEMENT RECEIVED BY MRS ANN GARDINER

1. On the 24th October 2010, the Inquiry Office received an unsigned statement of evidence from Mrs. Ann Gardiner, the former lead infection control nurse in the Northern Health and Social Care Trust (“the Northern Trust”). The Inquiry Panel is grateful to Mrs. Gardiner for her comprehensive and detailed statement concerning her professional and personal experiences as a result of the Outbreak.
2. As the statement contained express criticism of the then Director of Nursing of the Northern Health and Social Care Trust, a copy of the unsigned statement was forwarded to Mr. Alphy Maginness, Chief Legal Adviser of the Directorate of Legal Services, who acted for the former Director of Nursing.
3. On the 27th October 2010, a letter was received from Mr. Maginness requesting that those portions of Mrs. Gardiner’s statement that involved direct criticism of the then Director of Nursing be redacted.
4. Further, on the 5th November 2010 a letter was received from the former Director of Nursing, also requesting that those portions of Mrs. Gardiner’s statement that involved direct criticism of the then Director of Nursing be redacted. In her letter, she stated that none of the complaints had been raised previously against her by Mrs. Gardiner while she was in the employment of the Northern Trust, and that she had no opportunity within the proper forum by which to address these criticisms. no grievance had ever been raised against her while either was employed by the Northern Trust. In particular, the former Director of Nursing took exception to the express mention of her at paragraphs 54, 164 and 170.

Restriction Notices.

5. Pursuant to section 19(1) of the Inquiries Act 2005 (“the 2005 Act”), I have a general power, where appropriate, to restrict disclosure of certain evidence. If satisfied that it is appropriate for me to restrict publication of evidence, I can only do so by means of a restriction order issued by me in accordance with the provisions of section 19(2)(b) of the 2005 Act. Such a restriction order can specify only those restrictions as are required by any statutory provision, enforceable Community obligation or rule of law, or as I consider to be conducive to the Inquiry fulfilling its terms of reference or to be necessary in the public interest, having regard to the such matters as are set out in section 19 (4) of the 2005 Act.

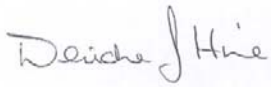
The Statement of Mrs Gardiner.

6. The application for redaction relates to three paragraphs within Mrs. Gardiner’s statement – paragraphs 54, 164 and 170.

- (a) Paragraph 54. This paragraph relates to an incident that occurred in 2006. The Inquiries Terms of Reference relate to the experiences of those affected by an Outbreak of C Difficile between June 2007 and August 2008. While Mrs. Gardiner may feel that her experience during the course of the Outbreak can only be understood by reference to the incident in 2006 as described at paragraph 54, the paragraph is not a description of her experience of the Outbreak and is, accordingly, outside of the terms of reference of this Inquiry. Given that it contains an express allegation relating to a person on an issue into which this Inquiry has no jurisdiction to inquire, I do not consider the publication of this paragraph within the statement of Mrs. Gardiner to be conducive to the Inquiry fulfilling its terms of reference. Accordingly, I have decided to accede to the request made by the former Director of Nursing and Mr. Maginness to redact the entirety of paragraph 54 from Mrs. Gardiner's statement in the event that the statement is published by the Inquiry.
- (b) Paragraph 164. This paragraph relates to a meeting that the Director of Nursing states took place on the 27th May 2008 involving the two senior infection control nurses, the Task Force, Mrs. Carolyn Kerr, Mr. Garrett Martin and the Director of Nursing. In this paragraph, Mrs. Gardiner observes that none of the Infection Prevention Control Nurses can recollect such a meeting taking place. I note that there is disagreement between Mrs. Gardiner and the Director of Nursing over the issue as to whether or not such a meeting took place. I also note that Mrs. Gardiner does not make the case that she was present at any such meeting as she was on sick leave by this time. Her evidence in this paragraph is relevant to the terms of reference of the Inquiry insofar as it relates to the experiences of other Infection Prevention and Control Nurses affected by the Outbreak. I see no reason to restrict publication of paragraph 164 though I note the content of the Director of Nursing's statement of the 5th November 2010 challenging the accuracy of the assertion made by Mrs. Gardiner at paragraph 164. Ultimately, the weight to be attached to Mrs. Gardiner's evidence within this paragraph is a matter for the Inquiry Panel. No other ground is made out pursuant to section 19 of the Inquiries Act 2005 that justifies the restriction of the publication of this paragraph. The request does not fall under sections 19(3) or (4) of the 2005 Act, and accordingly I cannot redact. However, in so ruling, I observe that there is other evidence available to the Panel which does appear to confirm, contrary to Mrs. Gardiner's belief, that a meeting did take place.
- (c) Paragraph 170. This paragraph relates directly to the experience of Mrs. Gardiner. In that paragraph she makes an allegation against the Director of Nursing. The Director of Nursing has responded by denying the allegation and pointing out that no complaint of any sort was made against her at any time prior to receipt of her statement by the Inquiry. I have noted the content of the Director of Nursing's reply to the allegation contained in paragraph 170. I observe further that this Inquiry is not an Inquiry as to individual fault, but as to experience. Insofar as the experience of Mrs. Gardiner is taken into account by the Inquiry Panel, the Panel will have to weigh her evidence against and alongside the evidence

of others, including the former Director of Nursing. However, as the statement of Mrs. Gardiner relates to her experience and falls within the terms of reference of the Inquiry, I see no basis for redacting paragraph 170 or any part thereof from her statement when published. In this context, it is to be noted that relevant portion of the letter to the Inquiry from the former Director of Nursing will also be published at an appropriate section within the Inquiry's statements of evidence.

7. This order restricts the publication of paragraph 54 of the statement of Mrs. Ann Gardiner.

A handwritten signature in cursive script that reads "Deirdre J Hine".

Dame Deirdre Hine
Chairman to the Inquiry.