



**CHAIR'S UPDATE ON EVIDENCE AND SCHEDULE FOR INQUIRY FOR
SEPTEMBER TO DECEMBER 2023**

ISSUED ON 28 JUNE 2023

1. We have now completed the oral evidence in relation to Modules 1-5 dealing with the law, policies, processes, and procedures in Northern Ireland that govern the hospitalisation and treatment of those living with Mental Health issues and Learning Disabilities.
2. As I indicated in my statement on 05 May 2023, the Inquiry is giving further thought to the evidence that will be required to complete Module 6, primarily around the Ennis Review and the Leadership and Governance Review. The remaining oral evidence relating to Module 6 will be heard later in the year. We have also yet to hear from a witness who will speak about the role of the Mental Health Commission. The Inquiry is also receiving some follow up statements in relation to the issues covered in the evidence Modules. Those statements will be shared with Core Participants in due course but will not require further oral evidence.
3. Everyone who is following the Inquiry's work will appreciate that the Evidence Modules have covered a very significant range of matters of relevance to the terms of reference. When I introduced the Modules on 20 March 2023, the Inquiry had received some but not all of the statements that the various authorities and organisations had been asked to produce to assist the Inquiry with the issues. As the statements were produced to the Inquiry over time, it became increasingly evident that the volume of documentation relating to rules, regulations, policies and procedures etc. was considerably in excess of what might reasonably have been anticipated.
4. It has therefore taken somewhat longer than expected to progress the evidence in this phase of the Inquiry. The effort has, however, been very worthwhile. We have heard from around 40 witnesses in this phase and the statements and multiple exhibits have run to thousands of pages. The Panel's understanding of the rules, procedures and structures within which the hospital operated during the timeframe of the terms of reference has been significantly advanced.
5. I want to thank all who have contributed to this phase of the Inquiry's work. It has provided an important backdrop to the evidence that we will hear from staff, those involved in the management of the hospital and others with responsibility for addressing concerns arising from the hospital. The store of information gathered at this stage will be invaluable when the Inquiry examines the

effectiveness of the arrangements that were in place to guard against abuse and to respond to concerns about abuse that came to light. There will have to be close examination of how well the practice on the wards at the hospital in reality, matched the aspiration of the policies, procedures and guidance about which we have heard.

6. I will now turn to the topic of the remainder of the patient experience evidence. I have made numerous announcements about the importance of receiving that evidence in a timely manner.
7. Last year as everyone knows, we started with the intention that the patient experience evidence would be finished by the end of 2022 but that was not achieved. I made several announcements in which I encouraged cooperation with the Inquiry so that we could move forward in relation to taking statements from patient relatives. On 23 November 2022, I advised that we had abandoned the original schedule, and I made a significant concession to allow witnesses represented by them, to give instructions to Phoenix Law before engaging with the Inquiry team to make statements.
8. On 21 December 2022 and then on 13 February 2023 I once again asked for cooperation in moving forward with the statement taking process in relation to the remainder of the patient experience evidence. At that time, I was hopeful that that evidence could be heard by the end of June 2023.
9. Finally on 20 March this year at the beginning of these modules I said this –

“The window of time in which we can allow for the statement taking process from patients and their relatives cannot remain open forever and we have already made significant alterations in the Inquiry’s timetable. I can only reiterate once again that the time for them to engage with us has come. It is now”.
10. I want to stress once again that evidence from these families is important to the Inquiry, and I want to express my thanks to all those who have engaged so far.
11. We have been requesting the instruction documents since November last year and I can say that to date we have received instruction documents in relation to about half of Phoenix Law’s Core Participant clients. But we do now need to move forward whether we have received instruction documents from Phoenix Law or not. I am pleased to say that the process of taking statements from this important group of witnesses has now started in earnest and we have an intense period over the next month of taking statements.
12. The Inquiry has today written to Phoenix Law who represent these two CP Groups and provided dates for all the remaining potential witnesses to attend the Inquiry to give their accounts to the Inquiry team directly so that, where appropriate, statements can be drafted. These meetings are being scheduled to give these individuals the opportunity of providing their accounts to the Inquiry whether they have given full instructions to Phoenix Law or not.

13. The intention is therefore to be in a position to call all of those who are to give evidence orally by the end of September 2023. This is nine months later than it was originally intended. That means that unless the statements are made, by 11 August 2023, those witnesses regrettably may lose the opportunity of providing their account by way of direct oral evidence to the Inquiry. This message must be relayed to those affected.
14. If a full statement is taken from a witness, then it will be for the Panel to determine whether it wishes to hear from that witness orally or whether it is sufficient for the statement to be read into the record. We will of course take note of the witness's own wishes.
15. I want to make it clear, that although some of those potential witnesses may still be waiting for documentation from the Trust which they have asked for, that is not part of the Inquiry's process and we will take statements whether the patient relatives have all the documentation they have asked for or not. If they chose not to engage for that reason that will be of great regret to the Panel, but no further concession can be made. There are many others who wish to see this Inquiry conclude properly and move to the stage of making recommendations. Further delay is unfair on all those who have engaged so far and provided their evidence to the Inquiry. It is also unfair to the staff at MAH and others who are watching the progress of this Inquiry.
16. As is well known, the policy of the Inquiry is to make targeted requests to the Trust based on themes identified by the panel. As I mentioned on 20 March 2023 in my public statement the Panel has made a number of such requests in relation to patients about whom it has heard.
17. The Inquiry has received notice of a Judicial Review in this respect from a patient relative who objects to the Inquiry receiving medical records without their involvement. Unfortunately, that may have the effect of delaying receipt of such notes with respect to any patient in relation to whom a request has been issued, but the Inquiry will continue while that issue is resolved. All Core Participants have been notified of that legal challenge.
18. In relation to the schedule after the end of September, in October we intend to begin hearing from a number of MAH staff members. We have begun the process of writing out to members of staff from whom we will want to take a statement. As I mentioned in my previous update, I have appointed a firm of solicitors called Napiers to provide advice and support to members of staff who are considering coming forward or to those who are asked to give a statement.
19. Although we will not now sit until September, the likely start date being the 12 September, the work of the Inquiry team will continue. We will be taking both patient experience statements as well as those from members of staff. In addition to this we will also be planning for Evidence Module 6 so it will be a busy time so that we can ensure we are ready to start with a full programme of evidence to take us from September to the end of this year.

20. The Inquiry team will continue its work throughout the Summer except on the summer bank holidays. I hope everyone gets the opportunity for a break from work, and can I wish everyone a pleasant and productive summer.

Tom Kark KC

Chair

28 June 2023