

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

HEARD BEFORE THE INQUIRY PANEL  
ON THURSDAY, 24TH NOVEMBER 2022 - DAY 26

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26

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I N D E X

W I T N E S S

P A G E

CARLA - P72' S SISTER

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1 THE INQUIRY RESUMED AS FOLLOWS ON THURSDAY,  
2 24TH NOVEMBER 2022

3  
4 CHAIRPERSON: Thank you. Yes, Mr. McEvoy?

5 MR. McEVROY: Yes, good morning, sir. Good morning, 09:58  
6 panel. This morning's witness, panel, is the sister of  
7 P72, who can be known as "Carla" and, as next of kin,  
8 she has indicated that P72 can be known by his first  
9 name, "John".

10 CHAIRPERSON: Excellent. Thank you very much. All 09:58  
11 right, let's get the witness in.

12  
13 CARLA - P72'S SISTER, HAVING BEEN SWORN, WAS EXAMINED  
14 BY MR. MCEVOY AS FOLLOWS:

15 09:59  
16 CHAIRPERSON: Good morning. Thank you very much for  
17 coming along to assist the Inquiry. I normally say to  
18 most witnesses that the first few minutes are  
19 nerve-wracking. But you don't look nervous at all.

20 THE WITNESS: All right. 09:59

21 CHAIRPERSON: So I'm going to hand you over to  
22 Mr. McEvoy, who is going to take you through your  
23 statement.

24 THE WITNESS: Okay, thank you.

25 1 Q. MR. MCEVOY: Okay, thank you, sir. Good morning, 09:59  
26 Carla.

27 A. Good morning.

28 2 Q. Carla, in front of you hopefully is a copy of your  
29 statement dated the 9th November?

1 A. Mm-hmm.

2 3 Q. what I propose to do is simply read that statement, or  
3 most of it any way, into the record and then, having  
4 done that, I'm going to ask you some questions just  
5 arising from what you tell us in it, all right? 10:00  
6  
7 So:  
8  
9 "I, Carla, make the following statement for the purpose  
10 of the Muckamore Abbey Hospital Inquiry. In exhibiting 10:00  
11 any documents I will number any documents, so my first  
12 document will be exhibit 1.  
13  
14 My connection with Muckamore is that my brother John,  
15 or John Martin, was a patient at Muckamore. I attach a 10:00  
16 selection of photographs of John at exhibit 1."  
17  
18 Hopefully those will come on screen, if not now, then  
19 in a moment or two.  
20 10:00  
21 "The relevant time I can speak about is from in and  
22 around 2004/2005. I have been employed as a Special  
23 Educational Needs or SEN teacher at Clifton Special  
24 School" -  
25 10:00  
26 you give the address -  
27  
28 "since September 2019 to date. I was previously  
29 employed as a SEN teacher at Knockevinn Special School" -

1 and you give the address -

2  
3 "in Downpatrick between 2003 and 2016. I have never  
4 been an employee of Muckamore Abbey Hospital. My only  
5 connection with Muckamore is that my brother John was a 10:01  
6 patient there.

7  
8 My brother John was born on the 22nd December 1985. He  
9 is the youngest of five siblings, with his other  
10 siblings being his brother Michael, myself, his sister 10:01  
11 Mary and his sister Donna.

12  
13 John has Down Syndrome and was born with a hole in his  
14 heart. He never required any medical intervention for  
15 the hole in his heart and it reduced to a murmur over 10:01  
16 time. Due to John's condition, his development was  
17 slower than average. For example, he did not roll over  
18 until he was around two-and-a-half to three years old.  
19 He learned to talk at about five years old. However,  
20 his speech was somewhat impaired, meaning that it was 10:01  
21 often difficult for people who did not know him well to  
22 fully understand him. Family members and people who  
23 were familiar with John were generally able to  
24 understand his speech.

25 10:01  
26 John lived exclusively at home throughout his childhood  
27 and teenage years with our mother Margaret, who sadly  
28 passed away from ovarian cancer on the 30th December  
29 2015, and our father Vincent. The first time John

1 lived away from home was during his admission to  
2 Muckamore in and around October 2004, where he stayed  
3 for a period of approximately six months. Further  
4 details about this are set out below.

5  
6 John attended Downpatrick Nursery School " -

7  
8 and you give the address -

9  
10 "followed by Knockevinn Special School in Downpatrick 10:02  
11 which he attended from the age of four-years-old to  
12 19-years-old. Whilst a student at Knockevinn Special  
13 School, John followed the special educational needs  
14 curriculum and I was his teacher at Knockevinn Special  
15 School during the ages of 17 to 19 years old. 10:02

16  
17 At the age of 19 John attended at Downpatrick College,  
18 now known as the South Eastern Regional College, where  
19 he carried out a Leavers course and obtained the Award  
20 Scheme Development and Accreditation Network, "ASDAN", 10:02  
21 qualification. John obtained qualifications in  
22 Personal Care and Environmental Studies. He attended  
23 at Downpatrick College from Monday to Friday, 10 a.m.  
24 to 2 p.m. and spent the remainder of days and weekends  
25 at home with my parents and siblings. John was quite 10:03  
26 independent when he attended Downpatrick College and  
27 used to walk to and from the college on his own every  
28 day.  
29



1 As a young child, up until around the age of 13 years  
2 old, John was a very happy, sociable and gregarious  
3 child. He enjoyed dancing, listening to music, he  
4 loves ABBA and the music from Grease and drama. John  
5 even attended a drama class at Drama Ability Group  
6 Downpatrick. However, from around the age of 14 years  
7 old, John started to exhibit some challenging  
8 behaviours, which included breaking things and hitting  
9 out.

10:03

10  
11 At the age of 14/15 years old, an MRI scan was carried  
12 out on John's brain which detected white waves and he  
13 was diagnosed with epilepsy. He was prescribed  
14 epilepsy medication known as "Epilem" which helped  
15 settle his behaviour. I cannot recall how the MRI scan  
16 came about or who sent John for the MRI scan.

10:03

10:04

17  
18 Although John had exhibited some challenging  
19 behaviours, such as the hitting, kicking and breaking  
20 things that I have mentioned above, from around the age  
21 of 14 years old he was, generally speaking, a very  
22 sociable child and teenager. However, at around the  
23 age of 18 to 19 years old, there was a significant  
24 change in his behaviour. For example, I remember on  
25 one occasion in or around October 2004 he attacked our  
26 mother in bed while she was sleeping. He hit, kicked,  
27 scratched and pulled her hair. It was as if he had  
28 been taken over and could not control his own  
29 behaviour.

10:04

10:04

1 I was pregnant with my youngest daughter Niamh at the  
2 time. John never attacked me. I do not believe there  
3 was any particular trigger for this change in his  
4 behaviour and there was no specific incident and/or  
5 reason which we could attribute it to.

10:04

6  
7 As I have mentioned above, I am a Special Educational  
8 Needs teacher and I taught John during the ages of 17,  
9 18 and 19. At the time Paul Mills was an employee of  
10 the South Eastern Trust based at Downshire,  
11 Downpatrick, and he used to come back into Knockevinn  
12 Special School as a behavioural nurse therapist. He  
13 was very familiar with John and his behaviours as he  
14 had known John since he was a young child starting at  
15 Knockevinn Special School. I used to keep Paul Mills  
16 informed of John's changing and challenging behaviour  
17 after he had left Knockevinn Special School at the age  
18 of 19 years old. I remember telling Paul Mills in and  
19 around 2004 that John's behaviour was getting worse and  
20 that it might reach a crisis point.

10:05

10:05

10:05

21  
22 In and around October 2004 there was a particular  
23 incident where John became out of control in the family  
24 home. My mother and father were in the house at the  
25 time along with myself, my now ex-husband Gerard, my  
26 sister Mary and her now ex-partner Rory. John was  
27 trying to attack everyone and rolling around on the  
28 floor. We were unable to calm him down. Gerard and  
29 Rory had to restrain John. John's behaviour was

10:05

1 extreme and out of character and it was not safe for my  
2 mother or father to be in the house alone with him any  
3 longer. As the incident was unfolding, I telephoned  
4 Paul Mills, as he was very familiar with John and lived  
5 around the corner from my parents' house. Paul Mills 10:06  
6 immediately came around to the house to assist. My  
7 parents phoned the locum general practitioner. I do  
8 not recall his name. The locum general practitioner  
9 attended at the house and sedated John. I do not  
10 recall what medication was used to sedate John. 10:06  
11

12 The locum general practitioner then phoned an  
13 ambulance. Paul Mills advised us that the only place  
14 John could be assessed was at Muckamore, which was also  
15 confirmed by the locum general practitioner. The 10:06  
16 paramedics took John to Muckamore with a police escort  
17 and he was sectioned under the Mental Health Act.  
18

19 No one in the family was allowed to accompany John in  
20 the ambulance. My mother and father followed the 10:07  
21 ambulance to Muckamore in their car. When John arrived  
22 at Muckamore, I understand that he was immediately  
23 taken to a locked ward. I do not know the name of the  
24 ward. It was a mixed gender ward and was not just for  
25 patients with Down Syndrome. 10:07  
26

27 When John was first admitted to Muckamore, myself and  
28 family were told by staff, I cannot recall who, that we  
29 were not allowed to visit John for a period of time to

1 allow him to settle. I do not recall how long this  
2 settling period was. Muckamore was very far away from  
3 my mother and father's house in Downpatrick and after  
4 this settling in period was over, they would visit him  
5 once a week. I also visited John once a week, usually 10:07  
6 at the same time as my parents.

7  
8 None of our family were allowed in to the locked ward,  
9 the a name of which I do not recall. I believe it is a  
10 policy whereby family members and visitors are not 10:07  
11 allowed into the locked ward. I do not recall where I  
12 got this information from. Myself and my other family  
13 members were only allowed into the TV room that  
14 adjoined the locked ward. Therefore, I do not know  
15 what the locked ward or John's room/cubicle looked 10:08  
16 like. I imagine John's room to be like a large  
17 dormitory which was shared with other patients, but  
18 this is just what I assumed it was like, as we were not  
19 allowed into the place where John slept.

20 10:08  
21 I am not sure for exactly how long John stayed in the  
22 locked ward, but I believe it was for a couple of  
23 months. I think it was until in and around December  
24 2004. He had to remain in the locked ward at all times  
25 and was not allowed to be taken home for weekends or 10:08  
26 holidays. We were informed that he could not be taken  
27 out of Muckamore as he had been sectioned under the  
28 Mental Health Act.

29

1 After the locked ward, John was moved to an unlocked  
2 ward in Muckamore in and around December 2004. I do  
3 not know the name of the unlocked ward. I also do not  
4 know why John was moved to the unlocked ward and I do  
5 not recall if there was any consultation and/or  
6 communication from Muckamore regarding the move. John  
7 stayed in the unlocked ward for approximately three or  
8 four months until he was discharged from Muckamore in  
9 and around March or April 2005.

10:08

10  
11 There were particular times when visitors were allowed  
12 to visit John in the unlocked ward. I cannot recall  
13 the exact days or times, but visitors had to telephone  
14 Muckamore in advance of visiting. However, again these  
15 visits were only allowed to take place in the TV room  
16 mentioned above.

10:09

17  
18 My parents usually visited John around once a week. At  
19 this time they would bring John things that he liked,  
20 such as sweets and clothes. During some of these  
21 visits John told my parents that people were stealing  
22 his sweets. He would say staff stole my sweets. He  
23 did not say who was stealing his sweets or mention any  
24 names. I also do not know the particular dates when he  
25 said his sweets had been stolen. I also do not know if  
26 my parents ever reported these incidents.

10:09

10:09

10:09

27  
28 When my parents used to visit John, they often noticed  
29 and mentioned to me that John was not wearing his own

1 clothes. Once my parents started to notice this, my  
2 mother would put labels on all of John's clothes. It  
3 would, therefore, have been obvious which clothes  
4 belonged to John. Despite my mother labeling all of  
5 John's clothes, he was still never dressed in his own 10:10  
6 clothes. I do not recall if my parents ever reported  
7 this to anyone.

8  
9 I recall a particular time when I went to visit John in  
10 Muckamore in and around March 2005. He did not seem 10:10  
11 himself, for example, he was very subdued and was not  
12 as sociable or engaging as before he had entered  
13 Muckamore. He was also very pale and thin and not  
14 wearing his own clothes. He was just very flat. I  
15 feel he was probably medicated and this was affecting 10:10  
16 his character. I did not report my concerns to  
17 Muckamore.

18  
19 On another occasion in and around March 2005 I took my  
20 newborn baby Niamh to visit John in Muckamore. I took 10:10  
21 John out for a walk around the gardens of Muckamore and  
22 he pushed Niamh in her pram. I felt there was a real  
23 change in John's behaviour from before he entered  
24 Muckamore. As his big sister, I could just tell he was  
25 not himself. He was very flat in his demeanour and was 10:11  
26 not as talkative. He had obviously lost weight.

27  
28 During his time in Muckamore John always articulated  
29 that he wanted to go home. My mother expressed to the

1 family her desire to get John out of Muckamore. I  
2 cannot remember any particular dates or visits when  
3 John would say this. My mother was very unsettled  
4 about him being in Muckamore and said to me and my  
5 siblings that she wanted him out. My parents fought 10:11  
6 very hard to get him out. For example, they spoke to  
7 Muckamore employees - I do not know who in particular -  
8 John's general practitioner and Paul Mills about  
9 getting John discharged from Muckamore. To this day,  
10 my father would still describe Muckamore as "a 10:11  
11 bloody hellhole".

12  
13 I attach at Exhibit 2 two WhatsApp screenshots from my  
14 sister Mary where she describes her view of Muckamore  
15 after visiting John with my parents. Mary describes 10:11  
16 Muckamore as "a hellhole". This is because the  
17 building had bars on the windows, it was stark and  
18 uninviting, not a place where a young person should be.  
19 It had no colour on the walls and nothing stimulating.

20 10:12  
21 John was discharged home from Muckamore in and around  
22 April 2005. I cannot remember how my family were  
23 informed of his discharge or what the discharge process  
24 entailed. However, as far as I am aware, my family  
25 were not provided with any form of care plan indicating 10:12  
26 how we should treat and deal with John upon his  
27 discharge and more generally going forward.  
28 Furthermore, my family were never informed about what  
29 medical attention, interventions and/or treatment John

1 obtained whilst at Muckamore. We also do not know if  
2 John was put on any medication during his time in  
3 Muckamore.

4  
5 During John's time in Muckamore, my family never 10:12  
6 received any telephone calls from staff regarding  
7 John's progress and were never invited to any meetings.  
8 We never received any communication or updates at all.

9 After John left Muckamore, his demeanour completely  
10 changed straightaway and he returned to his normal 10:13  
11 self. He was dancing, singing, talkative and sociable  
12 again. It was clear that he was relieved to be at home

13 and he would become obviously terrified if we ever  
14 mentioned Muckamore to him. We are not proud of this,  
15 but when John would misbehave at home after he was 10:13  
16 discharged from Muckamore, we used to say to him "if  
17 you don't behave you're going back to Muckamore". At  
18 the time, we had no idea of the trauma he had  
19 experienced. He still shudders today at the mention of  
20 Muckamore. 10:13

21  
22 In terms of the challenging behaviour John exhibited  
23 before he was admitted to Muckamore, generally  
24 speaking, this behaviour had stopped by the time he  
25 returned home. There were a few blips, such as some 10:13  
26 aggressively verbal outbursts. However, on the whole,  
27 his behaviour was much improved. John never had to  
28 return to Muckamore and was only a patient there for  
29 the period September/October 2004 to March/April 2005.



1 John lived at home with my mother and father from  
2 March/April 2005 until in and around 2015, when my  
3 mother was diagnosed with terminal ovarian cancer. As  
4 my mother's condition deteriorated, my parents needed  
5 some assistance looking after John. Also my parents  
6 wanted to get John into somewhere to prepare him for  
7 when the time came that he had to leave home as we knew  
8 my mother was terminally ill. John therefore moved to"

10:14

9 -  
10  
11 and then you name the place, it's another facility,  
12 where he stayed -

10:14

13  
14 "in house No. 5 and this was arranged by John's social  
15 worker" -

10:14

16  
17 whose name you give --

18  
19 "from the South Eastern Trust Disability Resource  
20 Centre".

10:14

21  
22 You say then:

23  
24 "John was a resident there from March 2015 until  
25 February 2016, where he stayed during the week and came  
26 home at weekends".

10:14

27  
28 And then:

29

1 "This was to prepare him to stay there full-time when  
2 the time came".

3  
4 So, Carla, after that then you describe some further  
5 incidents relating to John and his care in some other 10:14  
6 facilities which aren't Muckamore and, if it's all  
7 right, I'm not proposing to read those out.

8 A. Okay.

9 4 Q. But we'll take up just again then at the very end of  
10 your statement, which is at 076-11. And at paragraph 10:15  
11 48 then, having described a particular incident, then  
12 you say that:

13  
14 "John stayed with me at my home in Greenisland from  
15 June 2016 to August 2016, and then from August 2016 to 10:15  
16 2017/2018 John lived at home with my father and sister  
17 Mary. Me and my other siblings all took it in turns  
18 helping my father with John. However, John's behaviour  
19 became out of control and he started to attack my  
20 father. It was not safe for my father to be left alone 10:15  
21 with John and in 2017/2018 John therefore moved to  
22 Struell Lodge on the Ardglass Road, Downpatrick".

23  
24 You then say:

25  
26 "John is still a resident at Struell Lodge and is very  
27 happy there. He is currently on antipsychotic  
28 medication which has caused him to put on weight.  
29 Other than the weight gain, John is quite content. My 10:15

1 family does however suspect John may be suffering from  
2 early onset dementia. I currently try to visit John at  
3 Struell Lodge every other week."

4  
5 And then overleaf then is your Declaration of Truth in 10:16  
6 relation to the statement, again just dated the  
7 9th November.

8  
9 Carla, just looking, first of all, at the photographs  
10 which everyone present can see on screen there, two 10:16  
11 photos of John, can you tell us a bit about when those  
12 two photographs were taken?

13 A. They were taken either side of John being brought into  
14 Muckamore. As you see, he's quite stocky, quite a big  
15 build, quite sort of -- great head of hair. And then 10:16  
16 the second photograph he's with my daughter Niamh. So  
17 that was shortly after she was born, maybe a month,  
18 maybe two months. And he'd come out of Muckamore. So  
19 John was still very thin, very pale, in that photograph  
20 and you can see his hair is, it's not -- you know, 10:17  
21 there's been a physical change in John in that second  
22 photograph. But, as I say, he's such a happy character  
23 and he was just delighted to be home again.

24 5 Q. Yeah, okay. Turning to just Exhibit 2, I'm just going  
25 to read these into the record, so everyone knows what 10:17  
26 we're talking about. It's quite brief, it's just it's  
27 a short whatsapp exchange between you and your sister,  
28 is that right?

29 A. Yes, Mary is in San Francisco.

1 6 Q. Your sister now lives in San Francisco?

2 A. She lives in San Francisco, yeah.

3 7 Q. So I'll just read it into the record and we can talk  
4 about it briefly then. You are asking then:

5

10:17

6 "Can you remember anything significant from our John's  
7 time at Muckamore? And can you ask Donna and Michael?"

8

9 And Mary says in response:

10

10:17

11 "Yeah, he wasn't looked after well. He had plaque all  
12 over his teeth. I remember scraping it off with my  
13 fingers. His ears, hair, and everything else, was  
14 unkempt and bogging dirty. The place was awful and  
15 John had no stimulation whatsoever. Mum cried every  
16 time we left him."

10:18

17

18 And it goes on then:

19

20 "Yeah, well, it was a complete shithole. He was never  
21 in the correct clothes and the dandruff was hanging out  
22 of his hair and it was greasy. I have no doubt in my  
23 mind that he was neglected as he was in the lock-up  
24 ward. We all could see it but unfortunately John  
25 couldn't speak much for himself. I will ask Donna to  
26 see what info she has but it was a hellhole."

10:18

10:18

27

28 And then you say:

29

1 "Thanks, Mary. I will pass this onto the Inquiry  
2 hearing."  
3  
4 A. Yeah.  
5 8 Q. Mary's recollections there about John's sort of 10:18  
6 physical presentation, do they accord with your own --  
7 A. Yes, they do, definitely.  
8 9 Q. -- when he was at Muckamore?  
9 A. Yeah, mm-hmm. He definitely wasn't as cared for as he  
10 would have been at home and, you know, physically he 10:18  
11 was very dirty. And obviously with John's medical  
12 condition, he has a heart complaint and it's known  
13 that, you know, dentistry and keeping his teeth clean  
14 are healthy for his heart.  
15 10 Q. Hmm. 10:19  
16 A. So even now, even when John's in Struell Lodge, we  
17 insist that his teeth are well cleaned, because we  
18 don't want it to have any adverse effect on his heart.  
19 11 Q. Yeah. Is John able to brush his own teeth?  
20 A. Yes, he does brush his own teeth. But I suppose it's 10:19  
21 like anybody, he becomes more -- you know, the older he  
22 gets, he's becoming more dependant and, you know, he  
23 was taught, like the rest of us, to brush his teeth in  
24 the morning and night and, as I say, you know, so he is  
25 able to do that. But now, you know, he would need help 10:19  
26 to keep them clean.  
27 12 Q. Yeah.  
28 A. But, you know, he obviously wasn't even having his  
29 teeth cleaned when he was at Muckamore to the level --

1           like Mary was able to physically -- it sounds  
2           absolutely disgusting --

3    13   Q.    I know, yeah.

4           A.    -- but she was physically scraping it off with her  
5           fingernails. 10:20

6    14   Q.    Carla, in terms of raising those sorts of personal care  
7           issues and any other issue connected with John's care,  
8           daily needs, do you recall, you or your parents or any  
9           member of the family, raising those with you, the  
10          Muckamore authorities? 10:20

11          A.    Well, you see, this is the thing, I don't. And  
12          obviously if mummy was here, she would --

13    15   Q.    Of course.

14          A.    -- be able to give you everything in much more detail.  
15          And I suppose what we learned as the family is that if 10:20  
16          there's something not right, we speak up now, whereas  
17          before we didn't. And that's something that we will  
18          have to reconcile with as a family.

19    16   Q.    Yeah. This is a while ago, I know we're casting our  
20          minds back to 2004. 10:20

21          A.    Yeah, very long.

22    17   Q.    But and you may not be able to help us, but just in  
23          terms of your recollection about his initial period of  
24          detention, do you recall there being a discussion with  
25          the family about John's treatment plan, what was 10:21  
26          intended in terms of John's being looked after?

27          A.    No, I mean, we got very limited information about John.  
28          And I mean, we would have -- you know, we were a close  
29          family, so we would have talked about the information

1 that had come out of Muckamore. But I don't recall us  
2 getting any information with regard to what was  
3 happening to him or what care plan he had or, you know,  
4 if there were activities that he was to take place in  
5 to help him recover. There was nothing like that. And 10:21  
6 obviously with my job, you know, if I'd known that  
7 information, it would have stuck with me.

8 18 Q. Yeah.

9 A. I'm not sure, I remember there was maybe some letter  
10 that appeared after John returned home and it was -- 10:21  
11 there was no real detailed information in it as to, you  
12 know, what had happened or what we were supposed to do  
13 with him. And John was just so relieved, we were just  
14 so relieved to have him home, he was so relieved to be  
15 home that we, you know, we didn't really follow it up. 10:22

16 19 Q. John is, he's limited verbally, has some --

17 A. He does, he speaks. And obviously we know, you know,  
18 of all the family, I know what John's talking about.

19 20 Q. Yeah.

20 A. And you know his speech has probably declined over the 10:22  
21 years, you know, because obviously since mummy died  
22 it's been quite traumatic for him and he sort of lives  
23 in his own mind now and he's sort of repeats things  
24 from years ago. And he'll maybe get obsessed with  
25 things, like it's coming up to his birthday and he's 10:22  
26 been talking about it for the last two months. So, you  
27 know, just things like that. But we understand what he  
28 says. But he wouldn't be able to maybe give the detail  
29 that another person would give.

1 21 Q. Thinking back then to that, again that initial  
2 detention period, do you remember any staff members, or  
3 any of the authorities at Muckamore, sort of asking of  
4 you or your parents, of the family generally, about  
5 John's - in view of his limited words - about, you 10:23  
6 know, his wants and needs and his personal preferences  
7 and things?

8 A. No. No, there wasn't anything like that. And as I  
9 say, I know with my job, we would have things called  
10 like, you know, a personal passport for our students, 10:23  
11 you know, to say 'this is how I communicate, these are  
12 the things I like, these are the things I don't like'  
13 and then we would use that to communicate with a young  
14 person.

15 22 Q. Yeah. 10:23

16 A. I don't remember anything like that ever being put in  
17 place for John.

18 23 Q. And you describe how he moved from a locked to an  
19 unlocked ward?

20 A. Mm-hmm. 10:23

21 24 Q. When that transition happened, again, was there any  
22 interaction with the family?

23 A. No, from what I can remember we were just told he's out  
24 of the locked ward. So then we just presumed that his  
25 behaviour had settled and, you know, he wasn't a risk 10:24  
26 to anybody any more. But, as I say, we never saw any  
27 of the rooms or we were only ever directed into, I  
28 think it was on the left-hand side, a wee TV room, we  
29 were never allowed in the locked ward, it was just a



1 door as far as I can remember on the right side and  
2 then when he was in the unlocked ward, he came from the  
3 back of the building towards us. But we only ever were  
4 allowed in the TV room.

5 25 Q. Thinking back, do you feel that you could have asked 10:24  
6 questions, or was there --

7 A. I think more the point was mummy couldn't get in touch  
8 with anybody. You know, she'd ring and she couldn't  
9 get hold of anybody or somebody to speak to or, you  
10 know, things like that. And she was really, really 10:24  
11 unsettled. And I mean, as Mary had said, like she  
12 cried every time she visited him.

13 26 Q. So that was my next point actually, that was the next  
14 thing I was going to ask you about, there was no sort  
15 of liaison person or contact point with the -- 10:25

16 A. No, we just arrived and we were ushered into this TV  
17 room and, like, nobody could come and say, you know,  
18 'this is what's happened this week' or 'he has had a  
19 good week' or 'he's had a bad week', nothing, it was  
20 just John appeared then and, you know, we spent our 10:25  
21 time with him.

22 27 Q. You don't remember being introduced to a nurse in  
23 charge or --

24 A. No. No.

25 28 Q. You mention weight loss? 10:25

26 A. Yes.

27 29 Q. The Inquiry has heard a number of witnesses talk about  
28 sort of fluctuating weight in patients.

29 A. Yeah.

1 30 Q. Can you tell us a little bit more about your  
2 recollection of John?

3 A. John he significantly lost weight when he was there,  
4 and we all noticed it. He was quite stocky, as I say,  
5 before he went in and I mean, he was very thin and very 10:25  
6 pale. And John even now would have quite a redness to  
7 his face, you know. But no, very, very pale and thin.  
8 And even in that second photograph, you know, you can  
9 see that, you know -- and that would be, say, a month  
10 or so, maybe two months after him coming out of 10:26  
11 Muckamore, and he's still pale and he's still thin.

12 31 Q. Would he have a tendency to lose or gain weight?

13 A. Well, John loves his food.

14 32 Q. Yeah.

15 A. And, you know, he has gained a lot of weight now since 10:26  
16 he's in his wee residential house. I think it's a  
17 comfort to him and I also think it's probably because  
18 of the medication he's on as well. But, yes, he would  
19 fluctuate and kids with Down Syndrome do.

20 33 Q. So I'm gathering from what you are saying that the 10:26  
21 tendency may be more towards putting it on?

22 A. It's more putting it on.

23 34 Q. So if he had lost it and you had noticed it, with what  
24 then would that tend to signal to you?

25 A. Well we would think that he was unwell if John had 10:26  
26 lost, you know. But that was the thinnest he ever was,  
27 so it was. He was always, you know, quite, he was  
28 well-built and he's even more well-built now.

29 35 Q. Yes, of course.

1 A. But as I say, no, that was the thinnest John ever was.

2 36 Q. You described what you do for a living.

3 A. Yes.

4 37 Q. And your vocation.

5 A. Mm-hmm. 10:27

6 38 Q. Can I give you the chance maybe to tell, it's quite  
7 interesting, the Inquiry about how it was you came to  
8 do that job?

9 A. Well, I always wanted to teach, but once John was born,  
10 I was about ten, and that's when I decided to go into 10:27  
11 special needs. And John was delighted I ended up being  
12 his teacher, which he was obviously thrilled about,  
13 because he got to see his big sister every day for  
14 three years. Him and I would be really close, always  
15 have been. So, you know, he has had a lot of 10:27  
16 challenges. But, as I say, we are all there for him as  
17 a family and, you know, nowadays we would never -- you  
18 know, if there was something not right, we speak up and  
19 sometimes I'm maybe a wee bit more outspoken than the  
20 rest of the family. But at the end of the day, 10:28  
21 somebody has to be John's voice. But, yes, he's great,  
22 he 's a great character, always was.

23 39 Q. Carla, those are all the questions I have to ask you.

24 A. Thank you.

25 40 Q. The panel may have some questions, but is there 10:28  
26 anything else you'd like to add?

27 A. Well, I suppose, you know, Muckamore was a significant  
28 time in our lives and none of us have forgotten it,  
29 particularly John. And I suppose it's the secrecy and

1 the cloak and daggeress around it. And I mean, I, as  
2 his eldest sister, would like to know, you know, what  
3 has gone on while John has been there, you know, what  
4 medication was he given, what treatments were there,  
5 you know, how was he stimulated when he was there, how 10:28  
6 were his needs met or not met, as seems to be the case.

7  
8 I know John's -- you know, my information in this is  
9 small, but, you know, it all adds to a bigger picture,  
10 I suppose and it's tragic for the families who have, 10:29  
11 you know, maybe experienced more abuse than John has  
12 done. But it shouldn't be allowed to happen in these  
13 places and I know even from John's experiences since  
14 mummy has died, you know, these things are going on in  
15 these facilities and staff were not checked or there is 10:29  
16 a culture of -- there's a culture that builds up in  
17 these facilities to say that this is allowed, and it  
18 shouldn't be allowed.

19  
20 Staff need to be identifiable and, you know, maybe 10:29  
21 there do need to be video recordings in these places  
22 for the people, vulnerable people, who cannot speak for  
23 themselves. Because I know John, in a previous  
24 incident, his information wasn't taken seriously  
25 because he was not seen as a valuable or valid witness. 10:30  
26 But at the end of the day, when John speaks to me, I  
27 know what he's telling me. And, as his family member,  
28 so, you know, even people, you know, who support people  
29 with special needs in Court need more training, the

1 police needs more training, you know, everybody  
2 surrounding these people need more training and more  
3 understanding.

4  
5 But, yes, as I say, I've hopefully added my little bit 10:30  
6 on behalf of our family to be John's voice. We'll  
7 never truly know maybe what went on, but what do you  
8 do? You just have to learn from the mistakes of the  
9 past. But the mistakes of the past are still being  
10 made this past 18 years and it needs to change and 10:30  
11 change quickly.

12 MR. McEVOY: Thank you.

13  
14 CARLA - P72'S SISTER WAS THEN QUESTIONED BY THE INQUIRY  
15 PANEL 10:31

16  
17 CHAIRPERSON: I'm going to turn to Dr. Maxwell first.

18 41 Q. DR. MAXWELL: So you talked about how John's behaviour  
19 changed as he entered his teenage years, and you  
20 actually talked about mentioning to the behavioural 10:31  
21 nurse specialist that you thought this might reach a  
22 crisis point?

23 A. Yes.

24 42 Q. Do you think - and perhaps drawing on your professional  
25 experience as well - that if there'd been earlier 10:31  
26 intervention while he was still at home, this crisis  
27 could have been prevented?

28 A. It probably could have been. Mummy was quite a private  
29 person, so I think, you know, with - and they were

1 older parents and maybe it was seen to be a failure on  
2 their behalf that they couldn't manage John's  
3 behaviour. I, because I worked with Paul Mills, we had  
4 a behaviour support team within the school, and I was a  
5 behaviour support teacher, and I often said to Paul 10:31  
6 'mummy and daddy are getting to crisis point but  
7 they're not telling anybody'. Because I think it was  
8 their generation, you know, 'we'll deal with this at  
9 home, I don't want people knowing that my child's  
10 attacking me and we can't cope'. And I think she was 10:32  
11 maybe afraid of him being taken away from her, or  
12 maybe, you know, she was afraid of something like this  
13 happening.

14  
15 So, yes, intervention earlier may have helped. But 10:32  
16 also, you know, mummy and daddy being more open to the  
17 intervention as well would have helped. And, you know,  
18 but I think only because I was linking with Paul, I was  
19 able to tell him, 'look, things are not good here and  
20 there's going to be a crisis'. But, yeah. 10:32

21 43 Q. And following on when you did get to a crisis, you say  
22 he was admitted under the Mental Health Act?

23 A. Mm-hmm.

24 44 Q. What was the reason for being admitted under the Mental  
25 Health Act, rather than as a voluntary patient, because 10:33  
26 it sounds as though the family were happy for him to --  
27 well, not happy but were content for him to go?

28 A. We knew that Muckamore was the only place that he could  
29 be assessed.

1 45 Q. Yeah.

2 A. But I think whether mummy and daddy had agreed or not  
3 that night, John was going regardless. And as far as  
4 we knew, the police had to be there and he had to be  
5 sectioned under the Mental Health Act to be taken away 10:33  
6 to the hospital. So I'm not sure, I just remember that  
7 he was going regardless. And mummy and daddy couldn't  
8 have kept him there that night any way, it just  
9 wouldn't have been safe, so he had to go somewhere.

10 46 Q. It's your understanding that there was no choice, that 10:33  
11 once the police had been called and the decision had  
12 gone to Muckamore, he had to be detained under the  
13 Mental Health Act?

14 A. Yes, he had to stay there. And as far as I remember,  
15 he wasn't allowed out. We couldn't just go and take 10:33  
16 him out of Muckamore because he was under a section.

17 47 Q. But there was no discussion with you about a voluntary  
18 admission that you are aware of?

19 A. Not that I'm aware of, no.

20 DR. MAXWELL: Okay, thank you. 10:34

21 48 Q. CHAIRPERSON: I've just got one issue in relation to  
22 the discharge and the extent to which you were sort of  
23 involved when John came out of Muckamore.

24 A. Yeah.

25 49 Q. Were you living at home at that time? 10:34

26 A. No, I wasn't. I wasn't living at home, no.

27 50 Q. Because you say in your statement that, you know, the  
28 family weren't provided with any form of care plan etc.

29 A. Yes.

1 51 Q. And you really weren't told anything about his  
2 medication or any of that. But I would imagine,  
3 because of your professional qualifications - although  
4 then that was some time ago - but you were then  
5 professionally qualified? 10:34

6 A. Yeah, mm-hmm, yes, I was.

7 52 Q. That you might have been involved or certainly wanted  
8 to be involved?

9 A. Yes, definitely. And I mean obviously with being  
10 John's teacher as well for three years, you know, I 10:34  
11 knew him really well, I knew what he was capable of.  
12 As I say, in hindsight now, even today, you know, a  
13 letter did come, but I mean it was after he was home  
14 and I don't ever remember there being anything  
15 significant in it. 10:35

16 53 Q. So if there had been a care plan or if there had been  
17 an indication?

18 A. Yeah, because I don't even remember any other  
19 professionals being involved with John at the time. I  
20 don't remember someone coming to the house to be a 10:35  
21 link, you know, after him coming home to see how he was  
22 getting on, I don't remember any of that. Now, there  
23 may have been more input from his social worker - John  
24 has had the same social worker since he was little and  
25 she's still involved - so I would imagine that she 10:35  
26 would have called to the house. But I mean, I was  
27 living in Downpatrick at the time, so I mean we would  
28 have been up at the house every day.

29 54 Q. Well, sorry that's what I was trying to get to, to the



1 extent to which he would have known, as it were, if  
2 there was something going on in relation to it?

3 A. No, we would have been in the house every day.

4 55 Q. And you would have been told about it presumably?

5 A. Yes. Oh, surely, yes, mummy would have said, yeah. 10:36  
6 But, no, nothing.

7 56 Q. And was there, can you remember if he was on any  
8 medication when he came out of Muckamore?

9 A. I can't remember. I can't remember whether he was or  
10 not. 10:36

11 CHAIRPERSON: All right. Well, look, that's all that I  
12 want to ask the witness. Can I just thank you very  
13 much indeed for coming along to help the Inquiry.

14 THE WITNESS: No problem, thank you.

15 CHAIRPERSON: It does help us to build a bigger 10:36  
16 picture.

17 THE WITNESS: Yeah.

18 CHAIRPERSON: And there are recurring themes that we're  
19 looking at, as you understand, and so your evidence has  
20 been important and I'm very grateful. 10:36

21 THE WITNESS: That's brilliant, thank you very much. I  
22 appreciate that.

23 CHAIRPERSON: Thank you.

24 THE WITNESS: Right, take care.

25 10:36

26 (THE WITNESS WITHDREW)

27

28 CHAIRPERSON: All right, I don't think there's any  
29 other evidence until we hear --

1 MR. McEVOY: Nothing further

2 CHAIRPERSON: It is probably my fault the legal  
3 argument is delayed until twelve o'clock, but I think  
4 that will help everybody in fact. So as I said  
5 yesterday, everybody is very welcome to attend to hear 10:37  
6 and listen to the legal argument, but there's no  
7 requirement for other parties to do so. All right,  
8 thank you very much.

9 MR. McEVOY: Thank you.

10

11 SHORT ADJOURNMENT

12

13 CHAIRPERSON: Thank you very much. All right.

14 MR. DORAN: Yes, Chair, this afternoon Ms. Danes will  
15 be making submissions in respect of the issue of core 12:03  
16 participant status.

17 CHAIRPERSON: Yes.

18 MR. DORAN: And I will be responding briefly to outline  
19 the powers available to the Chair in respect of that  
20 matter. 12:03

21 CHAIRPERSON: Yes. Can I just ask -- sorry, please do  
22 come to the podium -- is there any issue about using  
23 names? Because I note there are a number of people in  
24 the public gallery I think not all are core  
25 participants or have signed confidentiality agreements? 12:03

26 MS. ANYADIKE-DANES: Yes. Well, the first thing to say  
27 is it's Anyadike-Danes, I mustn't be denied the Igbo  
28 part of my name. But leaving that aside. In terms of  
29 the identity point that you just mentioned, so far as I

1 understand it, there aren't any issues like that, that  
2 all the core participants here have waived the  
3 anonymity. But what your Senior Counsel did raise with  
4 me, just in case there is an issue that one or two  
5 can't waive the anonymity of their relative - they can 12:04  
6 waive their own but may not be able to waive the  
7 anonymity of their relative - so that we don't get  
8 distracted by that, I am quite prepared to use the  
9 relationship that they have, so whether it's somebody's  
10 mother or somebody's brother and so forth, and I think 12:04  
11 that will address it.

12 CHAIRPERSON: Right, okay, that's helpful.

13 MR. DORAN: Yes, Chair, I've never before used an  
14 abbreviated version of Ms. Anyadike-Danes' name.

15 CHAIRPERSON: No. Was that me or was that you? 12:04

16 MR. DORAN: No, it was me. I apologise, Chair. And I  
17 can assure you that I will never use the abbreviated  
18 one again.

19 MS. ANYADIKE-DANES: I'm grateful.

20 CHAIRPERSON: My apologies as well. Could I just make 12:04  
21 very few preliminary points, and they're just designed  
22 to help you, I hope?

23  
24 The first is just to make this obvious statement, that  
25 core participant status is not the same as the role of 12:05  
26 a witness or a statement --

27 MS. ANYADIKE-DANES: I think ideal with that, Chair, in  
28 the speaking note, if you'll forgive me, I think I do  
29 deal with that.

1 CHAIRPERSON: Sorry, this wasn't to correct you, it's  
2 simply to make the public aware, and to make obvious  
3 what the lines are about which I think you're going to  
4 be addressing me.

5  
6 Similarly, a witness statement-maker does not have to  
7 be a core participant, and you reflect that also in  
8 your submissions.

9  
10 The third is this; that others who fall outside the  
11 date range have been offered, and will be offered, the  
12 opportunity - and I say the date range as a shorthand  
13 version of the terms of reference - but have been  
14 offered the opportunity of giving an account, but not  
15 in the form of a formal statement or giving oral  
16 evidence. And so I just want to make it clear that  
17 everybody will be offered the opportunity of submitting  
18 an account on their experiences.

19  
20 I've recently, literally in the last few minutes,  
21 received your speaking note, so apologies that I  
22 haven't yet had time to go through it. But in your  
23 original written submissions, you gave some dates. And  
24 could I just - this can all be checked later of course  
25 - if you go to page two of your written submissions  
26 that were sent in, or dated 14th October?

27 MS. ANYADIKE-DANES: Yes, I think for reference  
28 purposes it's at tab 5. And if you are looking at page  
29 two, then it's page 16 of the bundle.

1 CHAIRPERSON: well, thank you. I'm not going to use  
2 the names, but you can see that there is a list of the  
3 five who are under consideration.

4 MS. ANYADI KE-DANES: Yes.

5 CHAIRPERSON: And can I just give you, so that your 12:07  
6 team can check if they wish to, the dates that the  
7 Inquiry has in relation to the applications and the  
8 grant? And this may not be a seminal point, but it's  
9 just so that if you do address this, you've got the  
10 dates. 12:07

11  
12 In relation to - and I'm sorry for not being able to  
13 use the names - in relation to the first, the date we  
14 have the application is actually the 1st December 2021  
15 and the grant was actually the 9th December 2021. 12:07

16  
17 In relation to number two, the application was received  
18 - this is when they are received - on the 15th December  
19 2021 and granted on the 21st December 2021.

20 12:08  
21 In relation to number three, it was applied for, or  
22 received on the 30th June 2022, and your date there is  
23 correct, the 15th July for the grant.

24  
25 In relation to number four, the application was 12:08  
26 received on the 4th July 2022 and your date of grant is  
27 accurate.

28  
29 In relation to number five, the application receipt was

1 20th April 2022 and your date of grant is again  
2 accurate.

3 MS. ANYADI KE-DANES: Thank you very much.

4 CHAIRPERSON: And so now I'm in listening mode  
5 entirely. 12:08

6  
7 SUBMISSION BY MS. ANYADI KE-DANES

8  
9 MS. ANYADI KE-DANES: Thank you very much indeed, Chair.  
10 So I'm hoping that you have two things; a bundle of 12:08  
11 documents, that goes with my submissions this  
12 afternoon, as well as a bundle of authorities. I'm not  
13 going to delve into the authorities overly, but I  
14 thought it appropriate, if I'd refer to any authorities  
15 at all, that the Inquiry should have them. 12:09

16 CHAIRPERSON: Sure. Thank you.

17 MS. ANYADI KE-DANES: What I'm going to make submissions  
18 on this afternoon falls under a number of headings.  
19 Obviously I will introduce the matter and I'm conscious  
20 that there are many of my clients, many more than the 12:09  
21 five core participants who are involved who are here.  
22 All the five core participants are attending, either in  
23 person or on the link. So that introduction, I hope,  
24 will help, not only the Inquiry and yourself, Chair,  
25 but also them. 12:09

26  
27 Then the regulatory context, which is important and I  
28 understand that my senior counsel, my Learned Friend,  
29 Mr. Doran, is going to deal with your powers in his

1 response. But, in any event, I set them out at the  
2 outset because they are important.

3  
4 Then the submissions proper. And I've dealt with them  
5 in two ways: First, the submissions that deal with the 12:10  
6 position of these five core participants which they all  
7 share, or all have a common interest in, if I can put  
8 it that way. And that concerns the relevance of the  
9 period - and by that I mean the primary investigation  
10 period - I've termed it that just for shorthand. And, 12:10  
11 Chair, you will know that's the 2nd December 1999 to  
12 the 14th June 2021

13 CHAIRPERSON: Yes.

14 MS. ANYADI KE-DANES: Then the relevance of the  
15 association with Muckamore, or the Terms of Reference. 12:10

16  
17 Then the relevance of core participant status. And,  
18 Chair, you were starting to make some comments on that  
19 right at the outset and I can deal with that.

20  
21 The relevance of the duration of core participant  
22 status, that also is a significant matter.

23  
24 Then having done that, because those submissions affect  
25 them all as a group, I then go into a section which 12:11  
26 deals with them all individually.

27 CHAIRPERSON: well, that, I've had a very brief look  
28 at.

29 MS. ANYADI KE-DANES: Thank you very much.

1 CHAIRPERSON: And if I may say so, and I'm not cutting  
2 you out from all the preliminary matters that you need  
3 to go through, but it's probably that which is going to  
4 be the most helpful.

5 MS. ANYADI KE-DANES: I think that it might well be. 12:11  
6 But I would nonetheless, if I can be forgiven, want go  
7 through what I have already identified.

8 CHAIRPERSON: Of course.

9 MS. ANYADI KE-DANES: In terms of now, Chair, you were  
10 very careful in not naming them when you were dealing 12:11  
11 with that table that came from our October submissions.  
12 In fact, now all of them have given specific authority  
13 to have their names mentioned and some of their names  
14 are already out there, because they were mentioned in  
15 the opening address, for example, that was done in June 12:11  
16 and so forth.

17 CHAIRPERSON: And just to cover this obviously.

18 MS. ANYADI KE-DANES: Yes, of course.

19 CHAIRPERSON: I've made a general restriction order in  
20 relation to all patient names. 12:12  
21 MS. ANYADI KE-DANES: Yes.

22 CHAIRPERSON: Obviously that can be waived by the  
23 relative concerned.

24 MS. ANYADI KE-DANES: Yes.

25 CHAIRPERSON: And obviously, if we name those people 12:12  
26 now - and it's absolutely a matter for you - but there  
27 has to be a recognition that, later on, anonymity will  
28 have been lost.

29 MS. ANYADI KE-DANES: I think that's understood. There



1 is actually only one patient in this group, and that  
2 patient has specifically given his authority for his  
3 name to be used.

4 CHAIRPERSON: In that case I can't see a difficulty.  
5 MS. ANYADI KE-DANES: But the fact that you can't sort 12:12  
6 of dive in and out of waiving, I think that point is  
7 understood.

8 CHAIRPERSON: I can't see a difficulty, provided it is  
9 absolutely clearly understood that once anonymity is  
10 lost, it's lost forever. 12:12

11 MS. ANYADI KE-DANES: I think that is --  
12 CHAIRPERSON: Not reasserted.

13 MS. ANYADI KE-DANES: I think that is accepted. That is  
14 what I meant by diving in and out.

15 CHAIRPERSON: So that makes it much easier. 12:12

16 MS. ANYADI KE-DANES: I think it does.  
17 CHAIRPERSON: Right, thank you.

18 MS. ANYADI KE-DANES: But I will try very hard not to  
19 mention the names of their relatives, except for by  
20 their relation to them. 12:13

21 CHAIRPERSON: Yes, I see.  
22 MS. ANYADI KE-DANES: And I'm sure if I slip up, I  
23 certainly won't be -- well, I know I'm not the first  
24 and I certainly won't be the last, I suspect, if I do  
25 that. 12:13

26 CHAIRPERSON: No, but the press are - I hope there are  
27 no press in this room - but the press are in Room B.

28 MS. ANYADI KE-DANES: No, I think they're in the over --  
29 CHAIRPERSON: And I'm just going to say this publicly,

1 that the press know not to report any patient name.  
2 But if you do, because there could be other members of  
3 the public who are not relatives, if you do mention a  
4 name that you mean not to, can you just give us an  
5 indication --

12:13

6 MS. ANYADI KE-DANES: I will.

7 CHAIRPERSON: -- so that the pause button can be used.

8 MS. ANYADI KE-DANES: I will do that. Yes.

9 CHAIRPERSON: Okay, thank you.

10 MS. ANYADI KE-DANES: So then Action for Muckamore -  
11 which I have shortened to "AFM" because I think that is  
12 the common acronym that we have been using - actively  
13 campaigned to compel the Department of Health and all  
14 those involved with Muckamore Abbey Hospital - and I  
15 use the acronym as I think the Inquiry does of "MAH" -  
16 to address concerns over the failures in MAH properly  
17 and transparently through a public inquiry. As a  
18 result of those efforts, along with those of others  
19 similarly minded, this Inquiry was established. These  
20 submissions are made on behalf of five core  
21 participants who are all affiliated to AFM.

12:13

12:13

12:14

22  
23 The role of AFM in bringing about this Inquiry was  
24 recognised by you, Chair, in your meeting with AFM on  
25 the 13th October 2021 at the Dunadry Hotel. And what  
26 you said was - or at least the minutes record:

12:14

27  
28 "The chair congratulated the families for forcing the  
29 government to concede that a public inquiry must be

1 implemented in relation to this great scandal".

2  
3 I'm not going to give the references in the bundle so  
4 as to not take time

5 CHAIRPERSON: No.

12:14

6 MS. ANYADI KE-DANES: But, Chair, you have them in the  
7 speaking note that I have just given you.

8 CHAIRPERSON: I'm not going to quarrel with the  
9 terminology, that may be what I said. Of course, those  
10 weren't recorded.

12:15

11 MS. ANYADI KE-DANES: I have a note of it.

12 CHAIRPERSON: But these are somebody's notes.

13 MS. ANYADI KE-DANES: But in any event, I take it we are  
14 not quarreling about the terminology

15 CHAIRPERSON: We are not.

12:15

16 MS. ANYADI KE-DANES: But I don't think, Chair, that  
17 you're going to deny the sentiment?

18 CHAIRPERSON: No, absolutely.

19 MS. ANYADI KE-DANES: Thank you. It is echoed in your  
20 statement of approach to core participant status, joint  
21 representations and funding of legal representation,  
22 and that was issued on the 10th November 2021. And I'm  
23 going to refer to that later on when I deal with  
24 regulation. And it's also referred to, that sentiment  
25 in any event, the opening address on the 6th June this  
26 year of your senior counsel. And what he said was:

12:15

27  
28 "It's important at the beginning of these oral hearings  
29 that I, as Counsel to the Inquiry, should acknowledge

1 the efforts of patients, former patients, their  
2 families, their friends and their representatives in  
3 campaigning for this Inquiry."

4  
5 And he went on to say:

12:16

6  
7 "It's very fitting that these two groups" -

8  
9 and by that he meant the Society of Parents and Friends  
10 of Muckamore - which I've shortened to "Society", and I  
11 refer to them later on in my submissions - and Action  
12 for Muckamore -

12:16

13  
14 "will have the opportunity to contribute fully to the  
15 work of the Inquiry through their core participant  
16 status."

12:16

17  
18 Now, well before the Inquiry's hearings opened on the  
19 6th June, applications had been made for core  
20 participant status for all but one of the five. And  
21 the final application was made before the first session  
22 finished on the 6th July 2022. And all five  
23 participated either in person or remotely.

12:16

24  
25 The first intimation that the designation of core  
26 participant status was under threat of termination came  
27 in a letter from the Inquiry's solicitors dated the  
28 27th September 2022 - that's an important letter and it  
29 will be referred to many times during my submissions -

12:16

1 which advised that the Chair of the Inquiry was  
2 considering revoking the CP status of five individuals  
3 represented by Phoenix Law and identified in appendix 2  
4 to that letter. And they are Foy Kennedy,  
5 Peter Reilly, Margaret McGuckin, Bernadette O'Hara and 12:17  
6 Michael McMoran.

7  
8 The background to the Chair's decision is given in that  
9 27th September letter as:

10  
11 "The chair feels that the interests of the patient 12:17  
12 groups" -

13  
14 and by that he would be including Action for  
15 Muckamore - 12:17

16  
17 "are now well catered for in the Inquiry."  
18

19 This letter was a reply to an application that Phoenix  
20 Law had made on the 16th September 2022 for additional 12:17  
21 representation, given the increase in the number of its  
22 core participant clients since the size of its team was  
23 originally approved by the chair.

24  
25 Now, the actual basis for the Chair's decision is 12:18  
26 described in that letter of 27th September as:

27  
28 "The Chair has had regard" -  
29

1 and this is a quote from that letter -  
2  
3 "the stage the Inquiry is at and the importance of  
4 focusing the Inquiry's financial and legal resources on  
5 those who may best be able to provide relevant 12:18  
6 information and assistance which is within the Terms of  
7 Reference.  
8  
9 Also, the Chair is" -  
10 12:18  
11 this is another quotation from the letter -  
12  
13 "considering revoking the CP status" -  
14  
15 that's a reference to the five - 12:18  
16  
17 "on the grounds that the information they appear able  
18 to provide is too historic, as well as being strictly  
19 outside the Terms of Reference as to be able to assist  
20 the panel." 12:18  
21  
22 Then, finally:  
23  
24 "The chair considers" -  
25 12:19  
26 and this is the quote -  
27  
28 "continued grant of CP status to individuals who are  
29 not in a position to provide evidence or information

1 that will assist the Inquiry in addressing its Terms of  
2 Reference cannot be justified. "

3  
4 The letter advised that the revocation of core  
5 participant status of the five would take place within 12:19  
6 14 days of the letter, unless there was any further  
7 information to provide which might have a bearing on  
8 the Chair's decision.

9  
10 There was a written submission which responded to that, 12:19  
11 dated 14th October 2022, which you, Chair, have already  
12 made reference to:

13  
14 "To make the point" -

15  
16 and this is taken from that submission - 12:19

17  
18 "the putative justification advanced by the Inquiry  
19 does not give any specific information beyond the  
20 general claim applied somewhat vaguely to each of the 12:19  
21 named individuals in the appendix, that the information  
22 that they appear able to provide is too historic".

23  
24 The submissions went on to state that core participant  
25 status had been granted to the five as individuals and 12:20  
26 that in respect of each of them:

27  
28 "The Inquiry" -  
29

1 and this is another quote from that submission -

2  
3 "correspondence of 27th September 2022 does not provide  
4 sufficient information to establish that the criteria  
5 found to have been met by the Chair is now no longer 12:20  
6 considered to be established."

7  
8 These submissions relied upon the right under public  
9 law to be heard in a meaningful way and the associated  
10 right to be given sufficient information to enable 12:20  
11 representations. The jurisprudence in support of those  
12 rights, and their interpretation, were cited in the  
13 submissions and the written submissions concluded with:

14  
15 "For all these reasons, the CPs submit that the Inquiry 12:20  
16 has not provided sufficient information to each of them  
17 specific to their own positions in order to justify the  
18 proposed revocation of their status on the ground that  
19 their information is too historic. The CPs, therefore,  
20 respectfully request that the Inquiry provide adequate 12:21  
21 particulars for each of them before then permitting  
22 each CP to make further written submissions having  
23 regard to those particulars."

24  
25 The Inquiry's response came on the 21st October 2022. 12:21  
26 It didn't deny anything in those submissions and it  
27 expanded upon the Chair's reasoning in this way:

28  
29 "Having heard a number of witnesses since the granting



1 of CP status to the named individuals, that the Chair  
2 is now in a much better position to assess the  
3 continued value of their potential contribution.  
4

5 In relation to Foy Kennedy, the information that he 12:22  
6 provides relates to his training at MAH in the late  
7 1970s. In relation to Peter Reilly, the information  
8 that he provides relates to the abuse at MAH of his  
9 mother between 1979 and 1983. In relation to Margaret  
10 McGuckin, the information which she provides relates to 12:22  
11 the abuse of her brother at MAH between 1973 and 1990.  
12 In relation to Bernadette O'Hara, the information that  
13 she provides relates to the abuse of her brother at MAH  
14 between 1973 and 1990. And in relation to James  
15 Michael McMoran, the information that he provides 12:22  
16 relates to his own abuse at MAH between 1972 and 1974.  
17

18 All of the information these witnesses can give is  
19 limited to their individual experiences at least nine  
20 years prior to the start of the Inquiry's Terms of 12:23  
21 Reference, December 1999. And therefore, considerably  
22 outside the Terms of Reference. And it is upon this  
23 ground that the Chair is considering revocation of  
24 their CP status.  
25

26 This response should be seen in the context of the 12:23  
27 argument made in the written submissions that the five  
28 core participants were entitled, as a fundamental tenet  
29 of public law, to know with reasonable specificity the

1 case against them".

2  
3 And we cite some authorities. There's the Murat case,  
4 the Sittampalam case. And from there directly:

5 12:23  
6 "If the opportunity to make representations is to be  
7 meaningful, the mind of the applicant must be directed  
8 to the considerations which will, as matters stand,  
9 defeat the application and the essential justification  
10 for this requirement is summarised in another authority 12:24  
11 which we also cite.

12  
13 It is a first principle of fairness that each party to  
14 a judicial process shall have the opportunity to answer  
15 by evidence and argument any adverse material which the 12:24  
16 Tribunal may take into account when forming its  
17 opinion. This principle is lame if the party does not  
18 know the substance of what is said against them or her,  
19 for what he does not know, he cannot answer."

20 12:24  
21 I take that to be a fairly general proposition and I  
22 don't think there was any rejection of it. So it's to  
23 be assumed then, that the further detailed provided in  
24 the response of the 21st October was intended to fulfil  
25 that requirement. It certainly was in response to the 12:24  
26 submissions requesting that requirement be fulfilled.

27  
28 The Chair has permitted oral submissions to be made in  
29 reply and this speaking note, as you have it, Chair, is

1 provided to assist you with those.

2  
3 So that's what I wanted to say by way of introduction  
4 and I want now to deal with the regulatory context of  
5 the decision. 12:25

6  
7 The criteria for the designation of a core participant  
8 are provided by the Inquiry Rules, 2006, and procedures  
9 that are established by the Chair as set out in  
10 protocols and statements. And whilst the Chair has 12:25  
11 discretion, it is not unfettered, and there are  
12 mandatory requirements that constrain the way in which  
13 it is to be exercised. For convenience, I set out  
14 relevant extracts from the Inquiry Rules, Protocol  
15 No. 2 on Core Participants and the Chair's Statement of 12:25  
16 Approach to Core Participant status.

17  
18 Now, these are important: In relation to the Inquiry  
19 Rules of 2006, it's really Rule 5.2 that one needs to  
20 consider, where it says: 12:26

21  
22 "In deciding whether to designate a person as a core  
23 participant, the Chairman must, in particular, consider  
24 whether:

25 12:26  
26 (a) the person played or may have played a direct and  
27 significant role in relation to the matters to which  
28 the Inquiry relates;

29

1 (b) the person has a significant interest in an  
2 important aspect that the matters to which the Inquiry  
3 relates" -

4  
5 I say that's particularly important here -

12:26

6  
7 "Or (c) the person may be subject to explicit or  
8 significant criticism."

9  
10 That doesn't apply here. So then we have the Protocol  
11 No. 2 on Core Participants, and that was issued on the  
12 10th November, as I've already mentioned. And what's  
13 relevant there is really to start from paragraph 13:

12:26

14  
15 "In considering whether to designate a person as a core  
16 participant, the Chair will consider those matters set  
17 out in Rule 5 of the Inquiry rules."

12:26

18  
19 And then they are recited. The few that I mentioned  
20 earlier I should say, for clarity.

12:27

21  
22 Then paragraph 14:

23  
24 "The Chair will take into account all relevant  
25 considerations, including:

12:27

26  
27 (a) the individual circumstances of an applicant;

28  
29 (b) the extent to which designation as a CP would

1 assist the Inquiry in fulfilling its terms of  
2 reference;  
3  
4 (c) the need to act with fairness and to avoid  
5 unnecessary cost, whether to public funds or to 12:27  
6 witnesses or others"  
7  
8 and then:  
9  
10 "(d) the matters that are set out in the Chair's 12:27  
11 Statement of Approach."  
12  
13 And I'll come on to that in a minute.  
14  
15 Then it goes on to say, rather importantly, in 12:27  
16 paragraph 15:  
17  
18 "Those designated as CPs may participate in the Inquiry  
19 in a number of ways."  
20 12:28  
21 And I deal with that later on. But just for  
22 convenience here:  
23  
24 "Receiving disclosure of evidence which the Chair  
25 considered to be relevant; 12:28  
26  
27 (b) making an opening and closing statement at certain  
28 hearings;  
29

1 (c) suggesting lines of questioning;

2

3 (d) their legal representative may apply to the Chair  
4 to ask questions of a witness".

5

12:28

6 Then there's paragraph 17:

7

8 "A person" -

9

10 and this, I think, relates directly to something you,  
11 sir, said earlier -

12:28

12

13 "or organisation does not have to be a CP in order to  
14 participate in the Inquiry. It is open to everyone to  
15 provide evidence to the Inquiry."

12:28

16

17 And that paragraph goes on in ways that I don't think I  
18 need take you to at the moment.

19

20 Then there's paragraph 18:

12:28

21

22 "CPs have a role that involves more than giving an  
23 account of their personal experiences and offering up  
24 their own documents. They are expected to further the  
25 work of the Inquiry and assist it in fulfilling its  
26 Terms of Reference."

12:29

27

28 And that particular part of the protocol is something  
29 that you, Chair, have referred to on a number of

1 occasions.

2

3 Then if we go now to your statement, which is also part  
4 of the regulatory mix, that was issued on the  
5 10th November 2021. At paragraph 2:

12:29

6

7 "The role of core participants requires persons to go  
8 beyond giving a personal account of their experience of  
9 the matters under investigation by the Inquiry. I  
10 expect the involvement of core participants to further  
11 the work of the Inquiry and to assist it in fulfilling  
12 its Terms of Reference effectively and within a  
13 reasonable timeframe."

12:29

14

15 Reasonable, of course, one of those things that's up  
16 for judgment, it's in the context.

12:29

17

18 "7. One of the matters which I must consider is the  
19 need to act with fairness and to avoid unnecessary  
20 costs, whether to public funds, to witnesses or to  
21 others."

12:29

22

23 This is also an element of your statement that, Chair,  
24 you've mentioned on a number of occasions.

25

12:30

26 "I will also consider the extent to which designation  
27 as a core participant would assist the Inquiry in  
28 fulfilling its Terms of Reference."

29

1 And that goes on in a way that I don't need to take you  
2 to, but it's there for you to see.

3  
4 "8. To that end, and subject to any submissions I  
5 receive, I intend to approach applications for core  
6 participant status as set out below." 12:30

7  
8 And here we come to the heart of it:

9  
10 "9. I am aware that a number of individuals who may 12:30  
11 have been patients, or are family or friends of  
12 patients of Muckamore, have formed associations or  
13 groups to campaign for an inquiry into the abuse at  
14 Muckamore, or to discuss issues relating to the  
15 hospital. By those actions, those individuals have 12:30  
16 already demonstrated a significant role and/or  
17 interest" -

18  
19 that's the important bit, because it relates back to  
20 what I was reading out earlier about the regulations - 12:31

21  
22 "in the matters to be examined by this Inquiry, as well  
23 as how important the conclusions of the Inquiry are for  
24 them. I met persons affiliated to those  
25 groups/associations in the engagement sessions which I 12:31  
26 undertook in October and November 2021. It was  
27 apparent at those sessions that the associations/groups  
28 already have detailed collective knowledge and  
29 experience of some of the issues which will be examined



1 by the Inquiry. That leads me to the provisional  
2 conclusion that, in general, those individuals who are  
3 affiliated to the following groups/associations should  
4 be granted core participant status if they wish to have  
5 it." 12:32

6  
7 And those two groups were (a) the Action for Muckamore  
8 and (b) the Society.

9  
10 So, in addition to those requirements, there are, of 12:32  
11 course, the essential public law duties in the exercise  
12 of discretionary power. Because it is a discretion to  
13 appoint, but nonetheless, as I was saying earlier,  
14 discretion is not completely unfettered, and so the  
15 public law duties are there to be found in the 12:32  
16 jurisprudence and legal texts.

17  
18 So now I come to the part of my submissions that deals  
19 with those matters that relate to all five and are not  
20 confined to their individual positions. So let's go 12:32  
21 first to the relevance of the period. The period in  
22 which the five core participants were directly involved  
23 with MAH, either through being a patient, relative of a  
24 patient or a trainee, are various periods within a span  
25 of 18 years from 1972 to 1990. The Chair appears to 12:33  
26 have assumed that those periods of direct involvement  
27 are the only relevant periods for the purposes of the  
28 information that they can provide in relation to the  
29 Inquiry's Terms of Reference and its primary

1 investigation period of the 2nd December 1999 to the  
2 14th June 2021.

3  
4 However, those years, those 18 years, do not equate to  
5 the total period in which each of the five core  
6 participants have an interest in the issues to be  
7 addressed by the Terms of Reference of this Inquiry.

12:33

8 Abuse occurred, that is their position, which was  
9 endured and/or observed and, as a result, those years  
10 of direct involvement have had a very significant and,

12:33

11 they say, permanent impact on how these five core  
12 participants and one that, therefore, extends  
13 throughout the Inquiry's primary investigation period.

14 And that's going to be addressed later when I make the  
15 submissions in relation to each of them, how it does do  
16 that. But their collective position is that what they  
17 experienced in their own individual ways has had an  
18 impact that extends beyond their direct involvement in  
19 Muckamore.

12:34

20  
21 So let's say something more about this period and why  
22 they think it's relevant. During this 18-year period,  
23 some very significant things happened. The UN General  
24 Assembly proclaimed, by a resolution, on the  
25 9th December 1975, the Declaration on the Rights of  
26 Disabled Persons. And that not only proclaimed the  
27 rights of disabled persons, but importantly, called for  
28 national and international action to ensure that it  
29 would be used as a common basis and frame of reference

12:34

12:35

1 for the protection of these rights. And there was  
2 nothing new in that concept, it has its origins way  
3 back to the 1948 Universal Declaration of Human Rights.  
4 And it also found expression in the Economic and Social  
5 Council Resolution of the 6th May 1975 on the  
6 Prevention of Disability and the Rehabilitation of  
7 Disabled Persons, which requests governments to take  
8 progressively legislative measures to facilitate the  
9 effective organisation of services for disabled persons  
10 and to identify and evaluate existing services.

12:35

12:35

11  
12 So the UK was committed to these international law  
13 developments, which influenced domestic policy and  
14 legislation. And in Northern Ireland there was a  
15 growing realisation, as I said in the opening address  
16 in June of this year, from the 1970s, of the limited  
17 role of a hospital setting for the treatment and care  
18 of those with learning disabilities and mental health  
19 issues. And significant policy was formulated and  
20 legislation passed during this period to effect change  
21 in the assessment, treatment and care of those with  
22 mental health needs and severe learning disabilities.  
23 And they include the Health and Personal Social  
24 Services (Northern Ireland) Order, that was in 1972,  
25 the DHSNI Policy Document Services for the Mentally  
26 Handicapped in Northern Ireland, policy and objectives,  
27 that was 1978; Chronically Sick and Disabled Persons  
28 Act, that was 1978; Mental Health (Northern Ireland)  
29 Order, 1986; Disabled Persons Act, 1989. All of this

12:36

12:36

12:36

1 was relevant to the practices in Muckamore. Those who  
2 were patients during that time and their relatives, as  
3 well as those who trained or worked there, have direct  
4 experience of MAH's capacity at all levels to learn,  
5 develop and effect change.

12:37

6  
7 Accordingly, what was happening on the ground during  
8 this period, which precedes the primary investigation  
9 period of the Inquiry, is relevant to the execution of  
10 the Inquiry's Terms of Reference. The possibility of  
11 the relevance of such a period is actually recognised  
12 in the Terms of Reference themselves, which provide, at  
13 paragraph 3, that:

12:37

14  
15 "The Inquiry will be able to receive and take account  
16 of evidence outside of that period where such evidence  
17 will assist the Inquiry in examining, understanding and  
18 reporting on matters within these Terms of Reference".

12:37

19  
20 And the significance of that period, before the  
21 2nd December 1999, has already been acknowledged in the  
22 designations of core participants that have been made  
23 and the evidence that has already been given to the  
24 Inquiry. And all of these core participants, the five,  
25 by definition, have been appointed despite the fact  
26 that their direct involvement predates that primary  
27 investigative period.

12:38

12:38

28  
29 So then the relevance of this association with MAH and

1 the Terms of Reference. All but one of the five core  
2 participants is in the category of patient, their  
3 relatives and carers. And that's important, because  
4 throughout, this category has been given a pre-eminent  
5 role. The Minister of Health credited them with having 12:38  
6 influenced his decision that there was an overwhelming  
7 need for a public Inquiry under the Inquiries Act and  
8 he gave them an opportunity to influence the Inquiry's  
9 terms and conditions. And further, the special  
10 position of this category was emphasised by the Chair 12:39  
11 in his opening address on the 6th June 2022:  
12

13 "I regard the patients and their relatives and carers  
14 who have been abused or received poor care as being at  
15 the front and centre of this Inquiry." 12:39  
16

17 Of the four core participants in this category, one is  
18 a former patient and three are relatives of former  
19 patients, all of whom refer to abuse suffered whilst at  
20 MAH. Therefore, they should, along with others in that 12:39  
21 category, have been regarded as "at the front and  
22 centre of the Inquiry" and had a legitimate expectation  
23 that they would be, and would satisfy the criteria, of  
24 significant interest for designation as a core  
25 participant on that basis. 12:40  
26

27 And in fact, following the engagement meeting on the  
28 13th October 2021 with some of the families affiliated  
29 with AFM, the Chair did not address the designation of

1 core participant based on the individual circumstances  
2 of each applicant, rather his statement of the  
3 10th November set out a different approach to core  
4 participant status and Protocol No. 2 on Core  
5 Participants was issued accordingly. And that 12:40  
6 approach, which I've read previously, was in general to  
7 grant core participant status to those affiliated with  
8 AFM and also the Society, should they want it.  
9 Therefore, affiliation to AFM alone was considered  
10 sufficient to demonstrate a significant role and/or 12:40  
11 interest in the matters to be examined by this Inquiry.  
12 And on that basis, paragraphs 20 and 22 of Protocol  
13 No. 2 provide as follows in relation to core  
14 participant application procedure - this is also  
15 important - paragraph 20 says: 12:41

16  
17 "Applications to be designated as a CP must be made in  
18 writing to the solicitor to the Inquiry and must  
19 specify clearly and briefly in what respects the  
20 applicant meets the criteria set out in paragraph 13 12:41  
21 and applications" -

22  
23 which I've already read out -

24  
25 "must also specify any other relevant factors which the 12:41  
26 applicant wishes the Chair to take into account,  
27 bearing in mind, in particular, those matters set out  
28 at paragraph 14. "  
29

1 which I've also read out.

2  
3 Paragraph 22 then says:

4  
5 "If an applicant is affiliated to one of the 12:41  
6 associations identified in the Chair's Statement of  
7 Approach, the recognised legal representative of that  
8 association need only supply:

9  
10 (a) a schedule of the names of persons who are members 12:42  
11 of the association who wish to be CPs;

12  
13 (b) signed and dated confirmation from each person that  
14 they wish to be affiliated to that association for  
15 Inquiry purposes; 12:42

16  
17 (c) signed and dated confirmation from each person  
18 confirming that they consent to being designated as a  
19 CP; and

20 12:42  
21 (d) signed and dated declaration that they wish to be  
22 represented by that legal representative."

23  
24 That's all that's required.

25 12:42  
26 And see also paragraph 24 of Protocol 2:

27  
28 "The Chair will give careful consideration to all  
29 applications and, if he considers that further

1 information is required before he can make a decision,  
2 he may direct an applicant to provide such further  
3 information as he considers necessary."  
4

5 So what does all this mean? It means that, unlike for 12:42  
6 other applicants, those affiliated to AFM - and, for  
7 that matter, the Society - were relieved of the need to  
8 specifically set out, as provided in paragraph 14 of  
9 Protocol 2, their individual circumstances, the extent  
10 to which designation as a CP would assist the Inquiry 12:43  
11 in fulfilling its Terms of Reference or how their  
12 designation would satisfy the Inquiry's need to act  
13 with fairness and to avoid unnecessary costs etc.  
14

15 By a letter dated the 1st December 2021, Phoenix Law 12:43  
16 applied on behalf of an initial list of eleven clients.  
17 Now, Chair, you've mentioned something in relation to  
18 the actual application dates, and obviously we'll check  
19 that, but this is the instruction that I had.

20 CHAIRPERSON: well, no, for what it's worth, we agree 12:43  
21 with that date. That was the date I gave you. Your  
22 date was a couple of days earlier.

23 MS. ANYADI KE-DANES: well, maybe it's gone wrong in the  
24 table of the earlier submissions

25 CHAIRPERSON: That's fine. Sure. 12:44

26 MS. ANYADI KE-DANES: So they applied on behalf of an  
27 initial list of eleven clients and those included  
28 Foy Kennedy, and all of them were affiliated to AFM,  
29 and they supplied only those documents referred to in



1 paragraph 22 of Protocol No. 2. The Inquiry responded  
2 on the 9th December 2021, providing the Chair's  
3 designation of the core participant status for all  
4 eleven, stating:

5  
6 "In my view, consistent with my Statement of Approach,  
7 these individuals meet the necessary criteria to  
8 designate them as CPs to this Inquiry."  
9

12:44

10 So, subsequently and in line with that ruling, Phoenix  
11 Law applied for core participant status for all its  
12 other clients, on the basis that they are affiliated to  
13 AFM or the Society. And the Chair has acceded to those  
14 applications, precisely as stated in his 9th December  
15 ruling, designating, by my reckoning - and I'm subject  
16 to correction - to date some 46 in total as core  
17 participants.  
18

12:44

12:44

19 In the light of that, and pardon the expression, the  
20 mixed bag of reasons set out in the Inquiry's letter of  
21 the 27th September do not provide a proper basis, we  
22 say, for the Chair to revoke the core participant  
23 status of the five. And respectfully, as I advance  
24 below, further on in my submissions, in general terms,  
25 the five core participants individually, and the  
26 reasons given, we say, are irrelevant, wrong,  
27 misleading or simply unfair.  
28

12:45

12:45

29 So the Chair determined that the five core participants

1 met the criteria on the basis that they had a  
2 significant role and/or interest in the matters to be  
3 examined by the Inquiry, as well as how important the  
4 Inquiry was to them. And pursuant to Rule 5.2(b),  
5 which has been read out, of the Inquiry Rules, and 12:46  
6 paragraph 13(b) of Protocol No. 2, which has already  
7 been referred to and read out, that is a sufficient  
8 basis, without more, for the designation of core  
9 participant status. However, the Chair, we say,  
10 appears to be considering revoking that status on a 12:46  
11 quite different basis, namely the extent to which their  
12 evidence or information will assist the Inquiry in  
13 addressing the Terms of Reference.

14  
15 Now, it's important to note all five core participants 12:46  
16 continue to be affiliated to AFM. And there has been  
17 no suggestion that their interest in the matters to be  
18 examined by the Inquiry has in any way reduced or  
19 changed. All five have engaged with Phoenix Law, who  
20 are their instructed legal team - solicitors I should 12:47  
21 say - which continues to represent them in the Inquiry.  
22 They have provided information for the opening  
23 statement which I made on their collective behalf, they  
24 have signed required undertakings to the Inquiry  
25 enabling them to access Inquiry material, they have 12:47  
26 continued to seek information on the progress of the  
27 Inquiry and they have provided instructions to their  
28 whole legal team in relation to the Inquiry's Terms of  
29 Reference. They have done that which is expected a

1 core participant should do and they have exercised  
2 those rights and entitlements that are given to core  
3 participants. And further --  
4 CHAIRPERSON: I'm so sorry to interrupt you, but in  
5 relation to that, there is an element of, of course, in 12:47  
6 terms of you giving evidence about that. But of  
7 course, what you set out there, if you say that is so,  
8 of course I accept it. But there is no independent  
9 evidence of that at this stage for the Inquiry.  
10 MS. ANYADI KE-DANES: Yes. 12:48  
11 CHAIRPERSON: Do you see the point I'm making?  
12 MS. ANYADI KE-DANES: No, I do entirely see that point,  
13 Chair. And when I get on to deal with their individual  
14 circumstances, I do cover that point. Because in  
15 giving their individual circumstances, obviously I'm 12:48  
16 going beyond anything that the Chair already has.  
17 CHAIRPERSON: Quite.  
18 MS. ANYADI KE-DANES: So what I have said at that part,  
19 and I will come on to it in the submissions, is that  
20 they are all here. If the Inquiry requires any 12:48  
21 independent confirmation from them that what I am  
22 saying on their behalf is correct when I get into the  
23 individual, the elements of it and this part that you,  
24 Chair, have just drawn my attention to, then they're  
25 here to do that and they can do it independent or 12:48  
26 whichever way you feel is appropriate.  
27 CHAIRPERSON: Ms. Anyadike-Danes, I'm not asking for  
28 evidence, I'm simply pointing out if you tell me that  
29 is so, of course I accept it from you as counsel.

1 MS. ANYADI KE-DANES: Then I'm very grateful for that.  
2 I tell that on instructions.

3 CHAIRPERSON: Yes, they are understood.

4 MS. ANYADI KE-DANES: And those who provide those  
5 instructions are here, I suppose that is the way to  
6 clarify that. 12:49

7 CHAIRPERSON: I understand the distinction.

8 MS. ANYADI KE-DANES: Thank you.

9 CHAIRPERSON: Sorry, 31.

10 MS. ANYADI KE-DANES: That's where I am. Thank you. 12:49

11

12 So whilst assistance to the Inquiry was not the basis  
13 upon which the Chair made the designation, we say it's  
14 not one that can be sustained, nor can the argument  
15 made in the Inquiry's correspondence of 21st October 12:49  
16 that the information these witnesses can give is  
17 limited to their individual experiences at least nine  
18 years prior to the start of the Inquiry's Terms of  
19 Reference, which is what that letter says. The simple  
20 reason is that the Chair has no idea about the extent 12:49  
21 to which the five core participants can assist, or what  
22 their information might be. And the reason for that is  
23 because, pursuant to paragraph 22 of Protocol 2, the  
24 Chair did not specifically require it. That  
25 information could have been sought pursuant to 12:50  
26 paragraph 24 of the protocol, but presumably it was not  
27 regarded as necessary for the decision-making.

28

29 So the seeming expansion now of the argument on

1 assistance to the Inquiry to the information of all  
2 four core participants being strictly outside the Terms  
3 of Reference - there is a slight conflation of those  
4 perhaps - we say well that doesn't actually take the  
5 matter much forward or assist. And the reason for that 12:50  
6 is because the Chair already knew their primary period  
7 of direct engagement was being provided -- he knew what  
8 that was, because it was being provided at the time of  
9 the application --

10 CHAIRPERSON: well, can I just give you some dates so 12:50  
11 that you can check them --

12 MS. ANYADI KE-DANES: Yes.

13 CHAIRPERSON: -- with your instructing solicitor, about  
14 the -- and this isn't, as it were, a critical issue,  
15 but just so that it's not regarded as I'm simply 12:51  
16 accepting what you are saying in relation to dates  
17 only. In relation to the receipt of information about  
18 date range, can I just give you the dates that the  
19 Inquiry has?

20 MS. ANYADI KE-DANES: Of course. 12:51

21 CHAIRPERSON: And then these can be checked. In  
22 relation to Mr. Kennedy, the receipt of date range was  
23 indeed before the grant and it was received on the 19th  
24 October 2021.

25 MS. ANYADI KE-DANES: Mm-hmm 12:51

26 CHAIRPERSON: In relation to Mr. Reilly, Peter Reilly,  
27 the date was the 15th December 2021.

28 MS. ANYADI KE-DANES: Mm-hmm.

29 CHAIRPERSON: In relation to Margaret McGuckin, the

1 information in relation to the date range was actually  
2 the 21st September 2022, so after the application and  
3 after the grant.

4  
5 In relation to Bernadette O'Hara, the information about 12:52  
6 the date range was received on the 21st September 2022,  
7 so after the application and after the grant.

8  
9 And finally, in relation to James McMoran, the  
10 information was also received on the 21st September 12:52  
11 2022, so after the application and after the grant.

12  
13 Now, that's not a critical issue at all and I'm not  
14 saying it is, but it's just because you're submitting  
15 on a particular basis which might be wrong. 12:52

16 MS. ANYADI KE-DANES: I'm --

17 MR. DORAN: Yes, Chair, can I just say in fairness to  
18 my Learned Friend, we will have to do further checks  
19 around those dates also.

20 CHAIRPERSON: Ah, okay. 12:52

21 MR. DORAN: Just to make sure of the exact position.

22 CHAIRPERSON: All right, thank you.

23 MS. ANYADI KE-DANES: Yes. I'm very grateful to my  
24 Learned Friend. So it sounds like everybody's going to  
25 check, which is probably a good thing. But my 12:53  
26 instructions are that the range, because it was part of  
27 the way in which it was provided in an Excel  
28 spreadsheet as I understand it, that range was before  
29 the Inquiry at the time when the core participant

1 status was granted.

2 CHAIRPERSON: As I say, I don't regard it as a critical  
3 issue any way. Certainly in relation to two of the  
4 clients you're referring to, that was the position. It  
5 may be in relation to the others. 12:53

6 MS. ANYADI KE-DANES: I understand that. Well, we'll  
7 all do our checks. And obviously, if I'm wrong about  
8 that, then I will be coming back not only with an  
9 apology, but with the correct date.

10 CHAIRPERSON: Sure. Thank you. 12:53

11 MS. ANYADI KE-DANES: But, in any event, as matters  
12 stand, on my instructions, all the date range, as you,  
13 Chair, have termed it, for these five was known to the  
14 Inquiry before their core participant status was  
15 determined by the Chair. 12:53

16

17 But, in any event, we say that it's wrong and unfair to  
18 seek to deny the five core participants their status  
19 and deprive them of the associated rights on a  
20 different basis than you have designated. And whatever 12:54  
21 one says about the date range, that is what's  
22 happening, it's being sought to deny them on a  
23 different basis than the core participant status was  
24 designated, especially we say, when the original basis  
25 remains and is sufficient and when this new basis and 12:54  
26 the information relating to it was either known - and  
27 this is the point that I think, Chair, you're making  
28 you want to have checked - was either known at the time  
29 of the designation or - and this may well be the

1 default position - considered unnecessary. Because  
2 even should you, Chair, be right about those three core  
3 participants; Margaret McGuckin, Bernadette O'Hara and  
4 Michael McMoran, even if you were right about that, it  
5 was still, if you, Chair, had considered it to be 12:55  
6 important, it was a bit of information that could have  
7 been requested, because the protocol provides  
8 specifically for doing that very thing.  
9 CHAIRPERSON: Sure.  
10 MS. ANYADI KE-DANES: Clearly it wasn't. So if we deal 12:55  
11 now with the relevance of core participant status. And  
12 this is something that you've referred to earlier and  
13 so have I.  
14 CHAIRPERSON: Can I just say, on timing, I'm going to  
15 try and take a slightly shorter lunch, if that doesn't 12:55  
16 inconvenience?  
17 MS. ANYADI KE-DANES: It certainly doesn't inconvenience  
18 me, I wouldn't like to inconvenience anybody else.  
19 CHAIRPERSON: No. But I'm aware of your commitment,  
20 which obviously I want you to be able to observe. Are 12:55  
21 you okay to go on for another ten minutes or so?  
22 MS. ANYADI KE-DANES: I am, yes. I'm also conscious of  
23 the others who are working here, so I mean I'll be  
24 guided by you, Chair.  
25 CHAIRPERSON: If the stenographer gets tired or fed up, 12:55  
26 you will let me know. All right, thank you.  
27 MS. ANYADI KE-DANES: I'm very grateful. If it helps  
28 you, Chair, what I was hoping to get to before we broke  
29 for lunch was to deal with the general matters that



1 affect all five, if you like, and then deal afterwards  
2 with the individuals, if that helps?

3 CHAIRPERSON: Yes, that would be good timing, if you  
4 can do it.

5 MS. ANYADIKE-DANES: I'll do my very best. 12:56

6 CHAIRPERSON: Okay.

7 MS. ANYADIKE-DANES: So then if we deal with the  
8 relevance of core participant status, which is a  
9 matter, along with the others, that affects them all.

10  
11 There's a clear distinction between those who are  
12 designated core participants and those who provide  
13 information to the Inquiry, and however they do it,  
14 whether through a response to a request under Rule 9  
15 for documents of the Inquiry rules or by witness 12:56  
16 statement. The possession of relevant, or even  
17 potentially relevant information, is not a sufficient  
18 basis for the designation of core participant status.  
19 And that's absolutely clear from paragraph 17 of  
20 Protocol 2, which refers to it being open to everyone 12:56  
21 to provide evidence to the Inquiry.

22  
23 By contrast, and has been seen and as I've addressed  
24 you, Chair, pursuant to Rule 5.2(b) of the Inquiry  
25 Rules and paragraph 13(b) of Protocol No. 2, having a 12:57  
26 sufficient (sic) interest --

27 CHAIRPERSON: A significant interest, yes.

28 MS. ANYADIKE-DANES: I beg your pardon, thank you very  
29 much, Chair. A significant interest, that is an

1 important term. A significant interest in an important  
2 aspect of the matters to which the Inquiry relates is a  
3 sufficient basis.

4  
5 In furtherance of that significant interest, the 12:57  
6 Inquiry rules in paragraph 15 of Protocol No. 2 gives  
7 core participants enhanced rights of participation in  
8 the Inquiry. And you, Chair, specifically referred to  
9 those enhanced rights in your openings of the 6th June  
10 and the 20th September - 20th September obviously being 12:57  
11 when you resumed after the summer recess. But if we  
12 start with 6th June. Now, I hope that in due course  
13 the CCTV - and pausing there, the CCTV is obviously a  
14 very, very important issue, well, for everybody  
15 involved with Muckamore, to be perfectly frank, but it 12:58  
16 was one of those issues which galvanised, I suppose you  
17 might put it that way, the relatives of patients of  
18 Muckamore to campaign for a public Inquiry, because of  
19 what they were told it showed.

20 12:58  
21 "Now, I hope that in due course CCTV can be viewed by  
22 core participants, but at this stage it's important  
23 that the panel is able to view a reasonable  
24 cross-section of that material. Because of  
25 sensitivities around that material, it has to be done 12:58  
26 privately at this stage."

27  
28 So whilst you, chair, were explaining that - and I  
29 think it had been an application that I had made in

1 writing on behalf of my clients to be able to view that  
2 CCTV material - what you were indicating is, well,  
3 there will be a time when we will look at that, but for  
4 the moment, for all sorts of reasons, and you've  
5 expanded on that since, it's something that's going to 12:59  
6 be confined to the panel and the Inquiry's legal team.  
7 And in due course, as you know, Chair, you set aside  
8 some dates in the timetable when precisely that  
9 happened.

10 CHAIRPERSON: Yes. 12:59

11 MS. ANYADIKE-DANES: And it went into closed session  
12 and nobody else saw it. But what you are telling the  
13 core participants is your role is such that you hope  
14 that they will be able to view it.

15  
16 Then if we deal with what you said on the 20th  
17 September:

18  
19 "There will come a time later in the Inquiry when,  
20 informed by the witness statements and by the core 12:59  
21 participants, examining disclosed material, that all  
22 CPs will have a powerful and important role in  
23 suggesting questions to Counsel to the Inquiry to be  
24 put to the organisations responsible for the care and  
25 protection of patients at MAH." 12:59

26  
27 And of course, Chair, when you said that, I'm sure that  
28 you were alive to what a very significant thing that  
29 was. Because what was being provided to them, through

1 their entitlements as a core participant, is an  
2 opportunity to be involved in the particular way set  
3 out there, to put questions to the very organisations  
4 and people within it who they believe were responsible  
5 for the harm that was done to their loved ones, or, for 13:00  
6 that matter, to them.

7  
8 So, prior to the Inquiry's correspondence, the legal  
9 representatives of the five core participants - and  
10 this is a point that you, Chair, have mentioned that 13:00  
11 I'm giving evidence and I apologise for that, but if  
12 anybody wants to say different then they can say I  
13 don't have those instructions - exercised on their  
14 behalf those rights summarised at paragraphs 5 (a) to  
15 (d) of Protocol 2. 13:00

16  
17 Now, in forming your view to consider revoking core  
18 participant status of the five, the Chair appears to  
19 have given, we say, little or no consideration to the  
20 potential significance to each of them of their 13:01  
21 particular interest in an important aspect of the  
22 matters to which the Inquiry relates, or even their  
23 role in relation to the matters to which the Inquiry  
24 relates. Rather, the focus seems to have been on the  
25 extent to which there is any utility in their potential 13:01  
26 evidence or information, given the stage that the  
27 Inquiry is at and the witnesses the Inquiry has heard  
28 since the granting of CP status.

1 As at the Inquiry's letter of the 27th September,  
2 evidence had been heard from only four former patients,  
3 of which only one - and I give the cipher - was able to  
4 give evidence of the experience of a patient in MAH in  
5 the era prior to the Inquiry's primary investigation 13:02  
6 period. Also by that date, the Inquiry had heard  
7 evidence from only ten relatives of former patients  
8 whose time at MAH predated that period to some degree.  
9 The significance of that era - I've already addressed  
10 in general and I'm going to deal with it more 13:02  
11 particularly later on as I've said - but it's far from  
12 clear what evidence could have been considered by the  
13 Inquiry between the 15th August, when the last of the  
14 five, a patient, was designated a core participant, and  
15 the Inquiry's letter of the 27th September 2022, to 13:02  
16 justify this revocation.

17  
18 In any event, whilst the Chair has had an opportunity  
19 to evaluate the evidence of those witnesses he's heard  
20 and come to a view as to what picture they are 13:03  
21 presenting, the Chair has had no basis to know how it  
22 compares to the evidence and information that the five  
23 core participants can provide, I say having given  
24 evidence and none of them has provided a witness  
25 statement to the Inquiry. 13:03  
26

27 The Chair has no idea of their experience in MAH, apart  
28 from over and above what's said in the correspondence  
29 that's just been read, because we say the Chair didn't

1 require it. So the Chair doesn't know which wards were  
2 involved, how their loved ones and patients generally  
3 were treated, the identity of the staff involved, their  
4 interactions with MAH, the experience of resettlement  
5 and the impact that it all has had on their lives. 13:03  
6 Accordingly, we say it's simply wrong and unfair to  
7 seek to deny the five core participant status in  
8 relation to their perceived utility to the Inquiry,  
9 which cannot, at this stage, be known and without  
10 proper consideration being given of the importance to 13:04  
11 them - and, for that matter, the Inquiry - of their  
12 significant interest and/or significant role.

13  
14 So then the relevance of the duration. This, I can  
15 deal with relatively shortly. The duration of the 13:04  
16 designation of core participant status is specifically  
17 addressed at paragraph 19 of Protocol No. 2. The CP  
18 need not be a CP for the entire duration of the  
19 Inquiry. The Chair may designate a CP for a limited  
20 period of time or in relation to a limited portion of 13:04  
21 the Inquiry's Terms of Reference. And whilst we say  
22 the Chair has discretion and can, in designating a  
23 person a core participant, specify the duration or  
24 limitation of that status, the fact is the Chair did  
25 not do so in relation to the five core participants. 13:05  
26 Furthermore, the Chair not having at any time placed  
27 any such limitation or duration on their core  
28 participant status, must act, we say, in accordance  
29 with the principles of public law already referred to

1 in deciding now to revoke that status and deprive them  
2 of their associated rights. And we refer to some  
3 authorities: There's a case of McKinney, and in that  
4 case the PPS weighed all the relevant considerations  
5 and decided to prosecute Soldier F for the murder of  
6 McKinney. 13:05

7  
8 Now, subsequently the Crown Court handed down a  
9 judgment in R -v- Soldiers and on foot of that  
10 judgment, the PPS changed its mind and decided not to  
11 prosecute. 13:05

12  
13 So the Divisional Court in McKinney struck down the  
14 PPS' change of mind on the basis that the PPS had  
15 already made a finely-balanced, merits-based  
16 assessment. And whilst the case of R -v- Soldiers  
17 A and C was relevant, it changed nothing of direct  
18 relevance to the original decision of the PPS. 13:05

19  
20 And we say similarly in this case, the chair has  
21 decided on the merits and nothing of direct relevance  
22 to the Chair's assessment of the merits that the core  
23 participant status for the five has changed. And in  
24 the circumstances -- 13:06

25 CHAIRPERSON: well, with respect, I have not actually  
26 decided that. That's the purpose of this application. 13:06

27 MS. ANYADIKE-DANES: well, I understand that. What I  
28 mean by that to say, which is, I suppose, unfortunate  
29 shorthand, you decided to get to the stage of

1 considering to revoke it, to decide to consider to  
2 revoke it itself is a sort of decision.

3 CHAIRPERSON: Subject to further information, which  
4 you're going to give me.

5 MS. ANYADI KE-DANES: Which is I'm going to do now. And 13:06  
6 had there been none, the view that you, Chair, had  
7 reached at that stage, had there been no further  
8 submissions, then within 14 days that would have taken  
9 effect and their CP status would indeed have been  
10 revoked. That's what I meant. It was probably -- 13:07

11 CHAIRPERSON: Sure.

12 MS. ANYADI KE-DANES: -- ill-advised language.

13 CHAIRPERSON: No, but just to have clarity about this,  
14 you are not saying that a chair of a public inquiry can  
15 never revoke CP status? 13:07

16 MS. ANYADI KE-DANES: No, I have not. No, I have not.

17 CHAIRPERSON: As you know, and I'll hear from Mr. Doran  
18 in due course in his replies, I do have not only a  
19 power, but a duty, to keep under review, it seems to  
20 me, the CP status of any individual. The purpose of 13:07  
21 this application - and I know you're going to turn to  
22 it now at two o'clock --

23 MS. ANYADI KE-DANES: Mm-hmm

24 CHAIRPERSON: -- is to provide me with information  
25 which is exactly what we asked for in the letter as to 13:07  
26 why their continued participation as CPs is justified.

27 MS. ANYADI KE-DANES: Yes and no.

28 CHAIRPERSON: And I know you challenge the --

29 MS. ANYADI KE-DANES: Exactly. Well, that's part of the



1 no. Because these submissions are not entirely to do  
2 that. These submissions are also to layout what we say  
3 are the way in which chairs and you, Chair, for this  
4 Inquiry, have to exercise that discretion.

5 CHAIRPERSON: I must act fairly.

13:08

6 MS. ANYADI KE-DANES: Correct. And there are also rules  
7 that constrain the extent to which, leaving aside the  
8 fairness point, the extent to which you can just make a  
9 decision of that sort. And that's part of what I have  
10 been going through. So that was the no bit.

13:08

11  
12 The yes bit is correct; I am dealing with their  
13 individual circumstances. And, Chair, now that we're  
14 at the point of clarifying a few things, when you,  
15 Chair, said that this is what you had asked in the  
16 letter, yes, but what we were dealing with at that  
17 stage was - and I think we were entitled to request it  
18 - before we start getting into that, we are entitled to  
19 know the basis upon which the decision has been made in  
20 relation to each of those. And that is what we were  
21 seeking. What came back was not very much more than  
22 what we started with. And that's why we're making  
23 these fuller submissions.

13:08

13:08

24  
25 If we had had that information right at the outset and  
26 said, look, the Chair's made it on this basis, this is  
27 all the information we've got but that is what he's  
28 done nonetheless, then those written submissions of  
29 October could have been these submissions. That's why

13:09

1 it has evolved in that way, if I may put it that way.  
2 But I think we were entitled to explore whether we had  
3 missed something, there was some additional information  
4 the Chair had that we weren't aware of and that we  
5 should therefore factor into our submissions. And 13:09  
6 that's why we raised the matter in that way.

7 CHAIRPERSON: Right. I think we're on the last  
8 paragraph.

9 MS. ANYADIKE-DANES: I am on that last paragraph, thank  
10 you, Chair. So then what I wanted to say was that, 13:09  
11 leaving aside the way it's coined as decided on the  
12 merits, you have made a decision on the merits, but not  
13 a final one I suppose might be the way. And the  
14 decision you've made on the merits is that you are  
15 considering revoking the core participant status. And 13:09  
16 we say even to get as far as that - I know, I see that  
17 expression and it looks like dancing on the head of a  
18 pin, but it is a significant distinction nonetheless.

19  
20 But, in any event, we say that nothing of direct 13:10  
21 relevance to your assessment of the merits of the core  
22 participant status for the five has changed since you  
23 first made it. That is our position. Because it  
24 relates to the basis upon which you made it. And that  
25 basis still pertains. And in the circumstances, we say 13:10  
26 it's submitted that there isn't a valid basis for you,  
27 Chair, to change your mind and in the words of the  
28 Divisional Court in the case that I've just referred  
29 to, which is the McKinney case:

1  
2 "The change of mind strays too far away from the  
3 original merits-based assessment".  
4

5 In the circumstances where, in fact, little if anything 13:10  
6 to the direct relevance to the granting of core  
7 participant status has changed. Because what was  
8 thought to be relevant to the grant of core participant  
9 status when it was made was their affiliation and  
10 nothing, absolutely nothing, has changed there. And if 13:10  
11 you, Chair, had decided, well, also what might be  
12 relevant is what is their period of direct involvement  
13 or the other expression that you, Chair, use, well,  
14 that could have been added on and you could have asked,  
15 'I want to know that, as well as all the other 13:11  
16 information', that could have been set up as your pro  
17 forma information, if I can put it that way. But that  
18 didn't happen. You could also have said, 'well, I'm  
19 granting it to you at the moment, but I'm going to wait  
20 and see what evidence I get and then if I get certain 13:11  
21 other evidence then maybe you won't have it any more'.  
22 But none of that was said. All that was said is your  
23 affiliation to AFM and as long as you're prepared to be  
24 a core participant status, and you've provided all the  
25 other material that I refer to, that is sufficient and 13:11  
26 on that basis the decision was made.

27  
28 So that just leaves the individual submissions and if  
29 this is a convenient moment, Chair --

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CHAIRPERSON: Yes.

MS. ANYADI KE-DANES: -- perhaps I'll leave it at that.

CHAIRPERSON: Thank you very much. Can we try and start again at two?

MS. ANYADI KE-DANES: I'm content with that.

13:12

CHAIRPERSON: okay, thank you very much.

(LUNCHEON ADJOURNMENT)

13:12

1 THE INQUIRY RESUMED AS FOLLOWS AFTER THE LUNCHEON  
2 ADJOURNMENT

3  
4 CHAIRPERSON: Right, thank you. Can I just say I think  
5 some of those interested may be slightly late. I am a 14:02  
6 bit less sensitive than I am when there are witnesses  
7 here about people coming into the room.

8 MS. ANYADI KE-DANES: Yes. There was a delay getting  
9 through the door of some sort, and then some of them  
10 are slower than others in negotiating the stairs and 14:02  
11 the lift and one thing and another

12 CHAIRPERSON: I understand. We'll carry on. Okay,  
13 yes.

14 MS. ANYADI KE-DANES: Well, it might be convenient to go  
15 back to something that you, Chair, had asked me about, 14:02  
16 which arises in relation to the McKi nney case and the  
17 decision. If you would go, for convenience, if you  
18 would go back to paragraph 45 of the submissions, it's  
19 just above where I was about to start.

20 CHAIRPERSON: Yes. 14:02

21 MS. ANYADI KE-DANES: So that was the case which, I  
22 mean, you have the case yourself, so I'm not going to  
23 get into the detail of it. But that was a case in  
24 which --

25 CHAIRPERSON: McKi nney? 14:03

26 MS. ANYADI KE-DANES: The McKi nney case, yes, at  
27 paragraph 45. So they had weighed the considerations  
28 and decided to prosecute Soldier F.

29 CHAIRPERSON: Hold on, stop.

1 MS. ANYADI KE-DANES: Sorry, I beg your pardon. That's  
2 okay. So it starts at paragraph 45, Chair. So they  
3 had weighed the evidence, the PPS had, and made a  
4 decision to prosecute soldier F for that murder.

5 CHAIRPERSON: Yes.

14:03

6 MS. ANYADI KE-DANES: Then came out the judgment in the  
7 soldiers A and C case, which, in broad terms, dealt  
8 with the approach to prosecuting soldiers in legacy  
9 cases, basically. And having received that, then the  
10 PPS changed its mind and decided not to prosecute.  
11 That's sort of the heart of the thing.

14:03

12  
13 But when judgment was handed down in the McKi nney case,  
14 and that was challenged, the Divisional Court struck  
15 down that, as I was saying, the PPS change of mind, on  
16 the basis that they'd made this merits-based assessment  
17 and that, whatever was happening in any review of the  
18 circumstances, was not of direct relevance to that  
19 decision that they had made on the merits.

14:03

20  
21 And this comes to the point that, Chair, you raised  
22 with me, which is at paragraph 46. Where I said that  
23 the chair had decided on the merits and we had a sort  
24 of an exchange as to what the decision was.

14:04

25 CHAIRPERSON: Hmm.

14:04

26 MS. ANYADI KE-DANES: well, you have decided on the  
27 merits the core participant status. That was your  
28 original decision. And the point that I was making,  
29 obviously not terribly well, was that since you made

1 that decision on the merits, we say that nothing of  
2 direct relevance to that assessment that you made on  
3 the merits has since happened. And the reason for that  
4 is that nothing has changed about the matters that you  
5 saw fit to take into consideration to award core 14:04  
6 participant status at that time. And, therefore, to  
7 seek to change the basis upon which core participant  
8 status is considered appropriate in the way that is  
9 being considered at the moment, we say, falls exactly  
10 into the circumstance of the McKinney case, where the 14:05  
11 Divisional Court said that the change of mind strays  
12 too far away from the original merits-based assessment.  
13 And that original merits-based assessment had  
14 transported into circumstances of this case, was that  
15 affiliation to AFM, or for that matter the Society, was 14:05  
16 good enough and that nothing more in particular needed  
17 to be known, certainly not what the extent of or the  
18 period of their direct involvement in MAH. That was  
19 the point that I was trying to make and maybe I didn't  
20 put it terribly well. For that, I apologise. 14:05

21  
22 So, now what I want to deal with is the individual  
23 positions of the core participants. So what I had  
24 addressed you on earlier.

25 CHAIRPERSON: I'm sorry, but it does help sometimes to 14:06  
26 have an exchange.

27 MS. ANYADI KE-DANES: Yes, of course.

28 CHAIRPERSON: Are you saying that in those  
29 circumstances, even if I wasn't satisfied - and I've

1 obviously not even read through it or heard you - but  
2 even if I wasn't satisfied in relation to part 2, which  
3 is what you're about to go into, in other words, that  
4 there is no continuing way in which those individuals  
5 or one of those individuals, whatever it is, can assist 14:06  
6 the Inquiry, I'm effectively prevented from changing my  
7 original decision, is that your argument?  
8 MS. ANYADI KE-DANES: In the manner in which the  
9 decision has been made, yes.  
10 CHAIRPERSON: Right, okay. 14:06  
11 MS. ANYADI KE-DANES: That needn't be the position,  
12 because all sorts of other things could have happened  
13 that would mean you weren't. But those other things  
14 didn't happen. For example, there could have been, as  
15 I indicated, some of what is now being taken into 14:07  
16 consideration could have been sought, the information  
17 was there and that could have been factored in --  
18 CHAIRPERSON: No, I understand that argument.  
19 MS. ANYADI KE-DANES: But this bit I think is quite  
20 important to what you're saying, and it's this: That 14:07  
21 you didn't consider that to be important at the time.  
22 So if we leave aside who else's evidence that you've  
23 heard, in terms of the strict primary investigating  
24 period of 1999 to 2001, that was not considered, at the  
25 time the decision was made, as sufficiently relevant to 14:07  
26 be part and parcel of the basis upon which you  
27 designated core participant status.  
28 CHAIRPERSON: Okay.  
29 MS. ANYADI KE-DANES: That's why I put it like that.



1 CHAIRPERSON: I understand the argument. Thank you.  
2 MS. ANYADI KE-DANES: I presumed that you did. So in  
3 those circumstances, and as I had said also, had you  
4 sought to cap that, or even built in a sort of, some  
5 sort of terminating factor, all of that would have been 14:08  
6 relevant. But there wasn't, there was just an absolute  
7 and bald statement.  
8 CHAIRPERSON: Okay.  
9 MS. ANYADI KE-DANES: And that's why I think it's  
10 difficult in these circumstances, if you are adhering, 14:08  
11 as you, Chair, have acceded you must, to the principle  
12 of fairness, leaving aside every other thing, then  
13 that, I think, is a very important and significant  
14 factor.  
15 CHAIRPERSON: But hopefully you're going to persuade me 14:08  
16 on ground two as well?  
17 MS. ANYADI KE-DANES: Sorry?  
18 CHAIRPERSON: Hopefully you're going to persuade me on  
19 ground 2 as well?  
20 MS. ANYADI KE-DANES: I'm going to do my very best. 14:08  
21 CHAIRPERSON: All right.  
22 MS. ANYADI KE-DANES: So now we are on ground two, which  
23 is the submissions of the individual core participants.  
24 So, as I had said before, you didn't have any more  
25 information about the five core participants than is 14:08  
26 set out in the correspondence that we received from the  
27 Inquiry dated the 27th September and the 21st October.  
28 Now, we presume you didn't, because the way that was  
29 set up in certainly the response of the 21st October in

1 relation to our October submissions, was we were  
2 looking for, 'if there's anything else, please let us  
3 know, because we think we're entitled to it'. The  
4 "anything else" came in the letter of the 21st October.  
5 So if you look at the information on the 27th September 14:09  
6 and the 21st October, you have it. So when we look at  
7 the totality of that, we say that is all that you had.

8  
9 So I do want to mention something in relation to Foy  
10 Kennedy. Foy Kennedy had been interviewed by CFR, who 14:09  
11 is the designated firm for conducting the interviews,  
12 for the purposes of taking a witness statement from  
13 him. But my understanding, my instructions are, that  
14 that process had not concluded, in the sense that he  
15 had not signed, and thereby signaled his approval by 14:09  
16 doing so, what had been ultimately drafted for him. So  
17 that process had not finished and that meant the  
18 Inquiry did not have that witness statement, certainly  
19 shouldn't have had it, because the Inquiry should only  
20 have one that has been signed off. 14:10

21 CHAIRPERSON: I can indicate, unless I'm corrected by  
22 the secretary to the Inquiry, I have not seen that  
23 statement.

24 MS. ANYADI KE-DANES: Yes.

25 CHAIRPERSON: I think the position was that it was made 14:10  
26 and then it sits with your solicitors at the moment for  
27 signing?

28 MS. ANYADI KE-DANES: I am not sure entirely about that.  
29 But whatever it is, he, for whatever reasons, has not

1 signed it and therefore --

2 CHAIRPERSON: No. well, I have not seen it and I have  
3 not taken it into consideration.

4 MS. ANYADIKE-DANES: well I am very grateful for that  
5 indication. That means you don't have it and I'm back 14:10  
6 to where I originally said, which is the totality of  
7 the information is that which is indicated in the  
8 27th September letter and the 21st October letter.

9  
10 So we say that the core objectives of the Inquiry, 14:10  
11 which are set out at paragraph 1 of the Terms of  
12 Reference, include to examine the issue of abuse of  
13 patients and determine why the abuse happened and the  
14 range of circumstances that allowed it to happen. And  
15 we say that those core objectives are developed under 14:11  
16 the several headings in relation to what occurred and  
17 they are at paragraphs 4, 7, 8 and 10. And paragraph 8  
18 is especially relevant, because it says:

19  
20 "The Inquiry will examine the primary and secondary 14:11  
21 causes of such abuse and will address the question of  
22 whether the abuse resulted from systemic failings  
23 within MAH or the wider health care system in Northern  
24 Ireland."

25 14:11  
26 And we say that is a very important provision that  
27 actually bears on the individual positions.

28  
29 So the purpose of this part of the submissions, as

1 you're aware, Chair, is to give an indication in  
2 relation to the five core participants over and above  
3 their affiliation to AFM, the nature of their  
4 significant interest in an important aspect of matters  
5 to which the Inquiry relates and/or their direct and 14:12  
6 significant role in relation to the matters to which  
7 the Inquiry relates.

8  
9 And what we say is that the five core participants are  
10 all either in person at this hearing - this is the 14:12  
11 point I was making to you before and I said I would  
12 touch on it, so it's right to deal with it right now -  
13 or participating remotely and they can confirm to the  
14 Chair anything required and I think you, sir, have said  
15 you are good enough to take those as my instructions. 14:12  
16 So should, and I'm repeating it, should the Inquiry or  
17 you, Chair, feel that something is necessary for then  
18 them to confirm that is being said on their behalf then  
19 they are prepared to do that.

20 14:12  
21 So let's start with Foy Kennedy. Foy Kennedy - and  
22 this first bit is what comes from the Inquiry's  
23 information, because that's what was fed back to us -  
24 was a trainee social worker carrying out a placement at  
25 MAH for four-and-a-half months or there or thereabouts 14:12  
26 in 1978. His instructions are that he witnessed  
27 firsthand the practices at MAH and the conditions in  
28 which patients lived, the casual cruelty of staff and  
29 the abuse and suffering endured by the patients. He

1 can identify wards, as well as some staff and patients.  
2 He reported what he had seen to his tutors, and he's  
3 able to name them. However, he says it was made clear  
4 to him that nothing could or would be done in relation  
5 to MAH on the matters that he was reporting. And he 14:13  
6 says that the sights, sounds and smell of the place, as  
7 well as the feeling that he was being made somehow  
8 complicit in what he was witnessing happening there,  
9 had a profound effect on him and his subsequent career  
10 choices. 14:13

11  
12 In the early 1990s, he says he met two former workers  
13 in MAH and discussed matters with them and they made it  
14 clear that he was not alone in his views, as they had  
15 left MAH feeling they could not do their job. Those 14:14  
16 were his instructions.

17 CHAIRPERSON: Can I just ask, and you may not know, but  
18 does the reference to his "subsequent career choices"  
19 mean that he left the health care service entirely or  
20 is he within it? 14:14

21 MS. ANYADI KE-DANES: He didn't leave entirely caring,  
22 but he left that aspect of it, yes.

23 CHAIRPERSON: okay, thank you.

24 MS. ANYADI KE-DANES: So, if one deals with, from his  
25 point of view, first of all, the significant interest 14:14  
26 or role - and that's taken, as you, sir, appreciate,  
27 from the regulatory material - the training that Foy  
28 received at MAH would, had he continued in social work  
29 and followed what he had been shown, have perpetuated

1 the very practices that shocked him at MAH. That's his  
2 position. And those practices, he believes, are the  
3 subject of investigation over the Inquiry's primary  
4 investigating period. And by that, he means the lack  
5 of common humanity in certain instances, the absence of 14:15  
6 any treatment for which disturbed and vulnerable  
7 people, vulnerable patients, in their care should  
8 receive.

9  
10 So, through his affiliation with AFM and, having had 14:15  
11 access to the evidence of the Inquiry's witnesses to  
12 date - which of course as a core participant he has  
13 access to - he is aware that there may be patients  
14 abused in MAH who were in the care of staff trained in  
15 or about the time that he was. And there were at least 14:15  
16 nine, or are I should say, at least nine core  
17 participants instructing Phoenix Law whose loved ones  
18 were abused and were in MAH at the time he was being  
19 trained there. And a further ten such core  
20 participants were abused and in MAH prior to 1998 and, 14:16  
21 therefore, at a time when they could be in the care of  
22 staff trained in or about the time that he was.

23  
24 And the reason I say that is because he was in his  
25 early to mid 20s at the time when he was being trained 14:16  
26 and so anybody being trained roughly of that age group,  
27 if you take forward 20 years or so, they could still be  
28 working in MAH, and that would take you to about 1998.  
29 That's how that figure is looked at.

1 If you look at the comparable figures for the Inquiry's  
2 witnesses, they are, respectively, four of those who  
3 were in MAH at the time when he was being trained and  
4 ten, if you extend it further to could be in MAH at the  
5 time, somebody who trained with him could still have 14:17  
6 been working there.

7  
8 I've taken the liberty of setting out that material  
9 really for ease - these things are very difficult to do  
10 if you're just going to ream off a number of people. 14:17  
11 I'm not reading these out, because that's part of  
12 what --

13 CHAIRPERSON: I'm really sorry, I'm just being slow.  
14 What are the two columns for?

15 MS. ANYADI KE-DANES: I'm just going to explain this 14:17  
16 CHAIRPERSON: Sorry.

17 MS. ANYADI KE-DANES: That's all right. So this table,  
18 the first part of it, the first column is just a list,  
19 a numerical list.

20 CHAIRPERSON: Yes. 14:17

21 MS. ANYADI KE-DANES: Then the next column is the  
22 relative or the patient about whom it's said was being  
23 abused.

24 CHAIRPERSON: Yes.

25 MS. ANYADI KE-DANES: Then there are two dating columns 14:17  
26 under the title "Period in MAH".

27 CHAIRPERSON: Yes.

28 MS. ANYADI KE-DANES: The first demonstrates that the  
29 relative of the core participant was there. It

1 indicates the time that person was in MAH. So if, for  
2 example, one looks at the first person - and all of  
3 these people claim their relative was abused - if one  
4 looks at the first person, that aunt was in there and  
5 so it is said was being abused over that period of 1950 14:18  
6 to 2000.

7 CHAIRPERSON: Right.

8 MS. ANYADI KE-DANES: I'll just stop there. What that  
9 period tells you is that, from that person down to  
10 number nine, those, their relatives were there at the 14:18  
11 time when Foy Kennedy was being trained. So 1950 to  
12 2000?

13 CHAIRPERSON: Oh, I see, so the four months that he was  
14 there have a lapse of period --

15 MS. ANYADI KE-DANES: Four-and-a-half months. 14:18

16 CHAIRPERSON: Four-and-a-half months.

17 MS. ANYADI KE-DANES: Yes, correct.

18 CHAIRPERSON: And the second column doesn't.

19 MS. ANYADI KE-DANES: Now, the second column, his view  
20 is that what is also relevant is anybody who was 14:18  
21 trained at the time in or about the time he was  
22 training, they could be, given normal working span,  
23 they could still be working in MAH, or come to work in  
24 MAH, they don't need to have stayed there all along, as  
25 late as 1998. Because if he was being trained at the 14:19  
26 age of, as I say, early 20s/mid 20s, if you project  
27 that forward a further 20 years, when that person would  
28 be 40 or so - and there's no reason to suppose that  
29 somebody couldn't be working in MAH at that age - if



1 you were to do that, then you would capture these  
2 further peoples' loved ones who were in MAH either up  
3 to that date or during, at some point during that  
4 period. And that's what that shows.

5 CHAIRPERSON: Okay. So now I understand. But his  
6 training of course was as a social worker, not as a  
7 nurse or as a care assistant? 14:19

8 MS. ANYADI KE-DANES: Yes, of course, his training was.  
9 But he was given a placement training in MAH and he was  
10 witnessing certain things. If you were going to work 14:19  
11 in MAH - unless somebody's going to give evidence to  
12 the contrary - then you would be given some sort of  
13 placement training in a place like that. What he's  
14 talking about is the culture he observed. So anybody  
15 who was doing a placement, who's going to carry on to 14:20  
16 work either in MAH in some form, then those were the  
17 things that they too would have seen.

18 CHAIRPERSON: Yes, okay.

19 MS. ANYADI KE-DANES: And I think until they stopped  
20 that practice, nurses also did placements in MAH. So 14:20  
21 all that he is saying is that there is a relevance,  
22 because anybody who was being trained by way of a  
23 placement for some period of time, roughly when he was,  
24 his position is would have seen and experienced the  
25 sorts of things that he did, and that's what they would 14:20  
26 be seeing and they could be carrying that forward if  
27 that's what they understood was an appropriate way of  
28 dealing with patients.

29 CHAIRPERSON: Yes.

1 MS. ANYADI KE-DANES: That's his point. I'm not trying  
2 to make it any larger than that, but that is his point.  
3 CHAIRPERSON: Yes, okay.  
4 MS. ANYADI KE-DANES: Then if one looks at the witnesses  
5 in the second half, these are the Inquiry witnesses. 14:21  
6 CHAIRPERSON: Yes.  
7 MS. ANYADI KE-DANES: And the same thing applies. And  
8 that's where I got the four and the ten, if I can put  
9 it that way.  
10 CHAIRPERSON: Yes, okay, thank you. 14:21  
11 MS. ANYADI KE-DANES: Thank you. So, some of those that  
12 are included in the table have already given evidence.  
13 They would be the Inquiry witnesses. And one of the  
14 witnesses for Phoenix Law, which is number five, if,  
15 Chair, you just flick back to that table, number five, 14:21  
16 that person has also given evidence  
17 CHAIRPERSON: The sister of P13?  
18 MS. ANYADI KE-DANES: Sorry?  
19 CHAIRPERSON: Do you mean the sister of P13?  
20 MS. ANYADI KE-DANES: I have not got that particular bit 14:22  
21 of information, I just know it's number five.  
22 CHAIRPERSON: In your list, Inquiry witnesses, it says  
23 sister of P13 or am I in the wrong table?  
24 MS. ANYADI KE-DANES: I think you are in the wrong  
25 table. So if you look at the table on page 14, are you 14:22  
26 there?  
27 CHAIRPERSON: Inquiry witnesses.  
28 MS. ANYADI KE-DANES: Number 5 under the Phoenix Law  
29 CPs.

1 CHAIRPERSON: I'm sorry, I'm looking at the table  
2 below. I see who you mean.

3 MS. ANYADI KE-DANES: That's all right. That person, as  
4 I am sure, Chair, you recognise has already given  
5 evidence 14:22

6 CHAIRPERSON: Yes.

7 MS. ANYADI KE-DANES: And that person was a core  
8 participant.

9 CHAIRPERSON: Thank you.

10 MS. ANYADI KE-DANES: That's all right. We say that the 14:22  
11 others who have given evidence will be those of, I call  
12 there, the Inquiry witnesses, if you like. And it's  
13 clear from their evidence that, like everyone else,  
14 they want to know how the things that they are giving  
15 evidence about in terms of abuse and practices, they 14:22  
16 want to know how those things happened, why they  
17 weren't told, why they didn't get proper answers when  
18 they raised queries and so forth, Chair. And you've  
19 heard the evidence so I don't need to recite it, but  
20 those, in broad terms, are the sorts of things that 14:23  
21 they have all wanted to know.

22 CHAIRPERSON: Yes.

23 MS. ANYADI KE-DANES: Foy Kennedy feels that, despite  
24 his efforts to show kindness at the time, he was  
25 nonetheless part of a system/culture that, from his 14:23  
26 perspective, was the antithesis of care. And this has  
27 simply compounded his need to know about the system  
28 that he was being trained in, the extent to which it  
29 was commonplace and, if so, why and for how long it

1 persisted. And he sees the Inquiry as an opportunity  
2 to obtain the explanation that he was unable to achieve  
3 during his training or, for that matter, since. He  
4 says he felt powerless at the time to bring about any  
5 change. So, for him, the work of the Inquiry is an 14:23  
6 important way to find answers and in that way help to  
7 put right the wrongs that he believes were done and be  
8 part of ensuring that it doesn't happen again.

9  
10 So he, on that basis, we say that the evidence, 14:24  
11 information and assistance that he can give the Inquiry  
12 is not limited to his individual experience as a  
13 trainee in the late 1970s, because it can shed light on  
14 the era beforehand, the primary period of  
15 investigation, how long that era lasted, and begin to 14:24  
16 try and work out why there was such a culture, if  
17 indeed there was one, before the primary investigation  
18 period and how in fact it might have arisen. He is  
19 able to talk about that. He was there, day in, day  
20 out, for four-and-a-half months, working with people, 14:24  
21 being with patients.

22  
23 So, well then what is the assistance that he can give  
24 to the Inquiry? If that is his interest, why he wants  
25 to do it and what he thinks is his interest, what, so 14:24  
26 far as the Inquiry is concerned, is the assistance that  
27 the Inquiry can gain or glean from him? well we say  
28 that if one looks at it from the perspective of the  
29 core objectives, it's likely to concern the issues of

1 training, which are under paragraph 9, and regulatory  
2 framework, which are under paragraph 18 - this is of  
3 the Terms of Reference.

4 CHAIRPERSON: Yes.

5 MS. ANYADIKE-DANES: Specifically, in relation to the 14:25  
6 extent to which abuse resulted from systemic failings  
7 pursuant to paragraph 8 of the Terms of Reference,  
8 which is why I particularly highlighted that paragraph.

9  
10 So the examination of those issues, we say, makes an 14:25  
11 investigation into the following matters that are  
12 relevant to the information and assistance he has, both  
13 appropriate and proportionate. So the first is the  
14 extent to which the placement training and culture in  
15 MAH, including the reception to complaints being made 14:25  
16 and the reception to lessons learned that he  
17 experienced, whether that was representative of that  
18 time. That is obviously the pre-primary investigation  
19 period.

20  
21 Secondly, whether anyone trained at that time was still 14:26  
22 working in MAH during the Inquiry's primary  
23 investigation period and, if they are, then to include  
24 the point that you, Chair, were making, whether they  
25 too experienced anything like that, whether that was an 14:26  
26 experience of their training and, if it was, the impact  
27 of that training and culture.

28  
29 Then, thirdly, whether any patients from that time were

1 still alive during the Inquiry's primary investigation  
2 period and whether, in Muckamore or resettled and, if  
3 so, the impact on them of being cared for by people who  
4 might have been experienced to that as some part of  
5 their training.

14:27

6  
7 And then the extent to which what he witnessed ran  
8 counter to the relevant regulatory framework at the  
9 time. And that's also, there's an element in the Terms  
10 of Reference about the regulatory framework. So  
11 whether what he witnessed ran counter to that, the  
12 codes, guidelines, policies and reports and/or other  
13 documentation relating to management, administration  
14 and working practice at MAH - I'm sure, Chair, you'll  
15 recognise where that language comes from - and if it  
16 did, how was it allowed?

14:27

14:27

17  
18 And then finally whether what Foy experienced, which  
19 has been referred to, is indicative of what was still  
20 happening at any stage in the Inquiry's primary  
21 investigation period. And, if not, if it had changed,  
22 when it changed and why it changed. But if it was  
23 happening and has since changed, then again, when that  
24 happened and why that happened.

14:27

25  
26 So those are all matters, we say, that are relevant to  
27 the work of the Inquiry and we say that it would  
28 contribute to addressing a fundamental question for the  
29 Inquiry. And it's not just for this Inquiry actually,

14:28

1 it's a fundamental question for many inquiries, but it  
2 is one for this Inquiry, which is the capacity for the  
3 institutions and relevant bodies to learn lessons and  
4 learn the lessons that are needed to achieve change,  
5 appropriate change.

14:28

6 CHAIRPERSON: Yes.

7 MS. ANYADIKE-DANES: So then if I go now to Peter  
8 Reilly. Peter Reilly's mother first went into MAH for  
9 assessment in 1979, following the death of her husband  
10 in May 1978. She had been diagnosed in the community  
11 with paranoid schizophrenia, but Peter doesn't know if  
12 this was ever confirmed by MAH. She was subsequently  
13 placed in sheltered housing accommodation - and I give  
14 the place - where she remained. But she was in and out  
15 of MAH until she died on the 2nd December 1982 with, so  
16 it seemed to Peter, Muckamore seemingly being used as  
17 respite from her sheltered housing accommodation when  
18 her behaviour required it. And on those occasions, she  
19 entered, so he says, as a voluntary patient. And so  
20 far as he is aware, she was never detained. And she  
21 died on the 2nd December 1982 in a successful suicide  
22 attempt.

14:28

14:29

14:29

23  
24 So what is his significant interest or role? well,  
25 he's concerned about the basis upon which his mother  
26 was being admitted to Muckamore, which is actually a  
27 concern that has already been expressed in relation to  
28 some of the evidence. So he's concerned about that,  
29 the treatment she received there and why she

14:29

1 nonetheless, appeared to require repeated admissions  
2 over the four years until her death. And he says he  
3 sought information from the staff at MAH, but they were  
4 never prepared to give him any, because they considered  
5 it a personal matter for his mother, whatever her state 14:30  
6 of mind when she was admitted, that was their view.

7  
8 He visited his mother while she was in Muckamore and  
9 also when she was in her sheltered accomodation and the  
10 difference in her demeanour, he said, was striking. 14:30  
11 while she was in Muckamore, she appeared depressed,  
12 withdrawn, unwilling to speak, disheveled and seemed  
13 sedated. And although he sought an explanation, the  
14 staff wouldn't give him one and they just reiterated  
15 their previous position that it was a matter for his 14:31  
16 mother, those are his instructions.

17  
18 He has, though, obtained some information and the  
19 information that he has obtained establishes that his  
20 mother committed suicide by jumping in front of a train 14:31  
21 at Newtownabbey Railway Station and suggests that it  
22 was planned and deliberate. And he was subsequently  
23 provided with information that suggested around the  
24 time of his mother's suicide there were three other  
25 suicide attempts by those who either were or had been 14:31  
26 in Muckamore, and they were all carried out in the same  
27 way, with two being successful and another stopped at a  
28 railway station in the attempt.

29



1 He has a significant interest and role in finding out  
2 what happened to his mother. All her siblings are  
3 either dead or not in sufficiently good mental or  
4 physical health to ask the questions he feels need to  
5 be pursued. His mother only had one other child, a 14:32  
6 daughter, but she had her own health issues, no one's  
7 had any contact with her for many years, he has been  
8 unable to trace her, although he has tried, and she is  
9 generally believed to be dead. So that's it as far as  
10 he is concerned. 14:32

11  
12 He regards this Inquiry as being the only means of  
13 finding out, both for himself and for his daughter, who  
14 never had the opportunity to get to know her  
15 grandmother, what happened to his mother in Muckamore, 14:32  
16 the nature of the treatment she received there, whether  
17 any support was provided to her in the community to  
18 assist when she was in the sheltered accomodation and  
19 the extent to which her experience in Muckamore may  
20 have contributed to her state of mind and suicide, 14:32  
21 including whether Muckamore - and this is something  
22 that does trouble him greatly - gave her the  
23 opportunity to learn about suicide by train.

24  
25 So the evidence, information and assistance that Peter 14:33  
26 can give the Inquiry is, therefore, not, we say,  
27 limited to his individual experience of the abuse of  
28 his mother at Muckamore between 1979 to 1983. So what  
29 is the assistance that he can give to the Inquiry? We

1 say that it can provide the Inquiry with respect to its  
2 core objectives around the issues of responding to  
3 concerns under paragraph 10, resettlement under  
4 paragraph 16, and in relation to the extent to which  
5 abuse resulted from systemic failings pursuant to 14:33  
6 paragraph 8. And the examination of those issues makes  
7 an investigation into the following matters that are  
8 relevant to Peter's information and assistance, we say,  
9 both appropriate and proportionate.

10  
11 So what are those matters? Well, the basis upon which  
12 his mother was being admitted to Muckamore, this is an  
13 issue that has arisen, as I mentioned before, in the  
14 evidence of other witnesses. It's therefore relevant  
15 to understand whether the extent to which there is any 14:34  
16 significant difference between what happened to his  
17 mother and what happened to others since the end of  
18 1999. And similarly, the admissions policy of  
19 Muckamore between 1979 and 1983 and the extent to which  
20 it continued in to the Inquiry's investigation period 14:34  
21 and, if it didn't, then when did that change and why  
22 did it change?

23  
24 The policy governing information about his mother when  
25 she was in Muckamore that could be shared with Peter 14:34  
26 and the means of doing so, the provision of information  
27 to relatives has been a recurring issue in the evidence  
28 and it's relevant to know the policies and guidance  
29 governing the practice and how, if at all, it has

1 changed over time. And that is an issue that I'm going  
2 to refer to a number of times in relation to these core  
3 participants; there isn't, they say - and it's  
4 reflected in the Terms of Reference - any kind of  
5 bright line rule between what happens before December 14:35  
6 1999 and what happens after it. And what they're  
7 saying is if you really want to understand how things  
8 were happening in December 1999, you have to have a  
9 look at some of the culture and what was happening  
10 before that and try and understand when it changed and 14:35  
11 how it changed and how it compares with what happened  
12 after December 1999.

13  
14 So we say that the statistics over time for Muckamore  
15 in relation to suicide, both in relation to those that 14:35  
16 were successful and those that were prevented, and  
17 whether they changed significantly over the Inquiry's  
18 primary investigation period of the 2nd December 1999  
19 to the 14th June 2021, that's also an important issue.  
20 The issue of self-harm as a means of suicide or a means 14:36  
21 of escaping from Muckamore, even, one might say,  
22 desperately enough to another hospital, is a matter  
23 that has already featured in the evidence of other  
24 witnesses. So it's relevant to know what Muckamore was  
25 doing to reduce its incidence by better care of 14:36  
26 patients, appropriate risk assessments and observation  
27 and the extent to which those actions were effective.  
28 And when it was doing those things, was it doing  
29 something different after the 2nd December 1999 than it

1 was doing beforehand? And, if it was, then why was it  
2 doing that different thing?

3  
4 Similarly, the incidents of absconding from Muckamore  
5 prior to and during the Inquiry's primary investigation 14:36  
6 period and the extent to which that has been reduced  
7 and, if so, why. And that's also an issue that has  
8 arisen in evidence.

9  
10 Now, Chair, I'm not saying that any of these people 14:37  
11 actually absconded from Muckamore. I've no idea  
12 whether they did. But it's at least possible that that  
13 is what they did. And certainly, whether they did it  
14 or not, it is a relevant issue to know. And this, the  
15 experience that Peter has had prompts and raises that 14:37  
16 issue.

17  
18 So what we say is an investigation of those issues will  
19 shed light on the extent to which these matters were  
20 not generating lessons learned, as they should have 14:37  
21 been, and leading to improved practices. And in that  
22 way, we say it contributes to an understanding of the  
23 willingness of an organisation to learn and change to  
24 improve.

25 14:37  
26 Now, Peter has written a letter, some of which he wants  
27 to have read out. So you don't have that, Chair,  
28 there, so I'm only going to read some extracts of it.  
29 It's probably not appropriate to read the whole thing.

1 But he has considered the material that he's had  
2 available to him to date and he asks these points being  
3 put, in addition to what already has been said for him:  
4

5 "I ask has the Chair" -

14:38

6  
7 these are his words I should say -

8  
9 "ever been on the receiving end of mistreatment or  
10 bullying at any time? I have been bullied, so I do  
11 have experience of the issue, and how and why it  
12 arises, and that authorities do not always want to  
13 admit it happens and are prepared to just sweep it  
14 under the carpet. If one has been abused then there  
15 are a number of issues that need to be considered.

14:38

14:39

16  
17 In this case, there is not a line drawn in years when  
18 abuse and mistreatment started so that the two decades  
19 of this Inquiry covers is just tip of the iceberg.

20  
21 With the incredible number of Muckamore employees who  
22 are suspended pending investigation" -

14:39

23  
24 I think that part is uncontroversial, because it's out  
25 in the public domain -

14:39

26  
27 "those who are being investigated and those who are  
28 presently awaiting trial",  
29

1 he says -  
2  
3 "that this is all relevant to considering the culture  
4 that existed in Muckamore".  
5 14:39  
6 And he feels:  
7  
8 "It is difficult to believe that that culture began in  
9 December 1999".  
10 14:39  
11 And in his view:  
12  
13 "It does not matter how long ago the abuse happened, it  
14 needs to be investigated, and those and their relatives  
15 who were on the receiving end need to the justice 14:39  
16 prevail, even as if they, as in my mother's case, are  
17 deceased. It cannot just be swept under the carpet and  
18 forgotten about as if it didn't happen.  
19  
20 The Inquiry's commenced and are given a structure in 14:40  
21 which to operate, and that having been said, as new  
22 information arrives, then the Inquiry is honour-bound  
23 to expand and investigate the new information to get at  
24 the whole truth and not just skimp over the surface,  
25 hoping it will all go away." 14:40  
26  
27 And he says it's relevant to bear in mind that the  
28 period of time that he's talking about, there simply  
29 was no video surveillance. So:

1 "The experience of people from that time is important  
2 to help paint the picture of the culture that existed,  
3 and also why the allegations they made were to fall on  
4 deaf ears and to be swept aside".

14:41

5  
6 And he says:

7  
8 "These individuals, those whose direct experience  
9 predate the primary investigation period, have a lot of  
10 information to add to the Inquiry. They will give any  
11 Inquiry more information and show how long and  
12 ingrained the abuse has been. This is important for  
13 justice if it is to prevail and for the Inquiry. The  
14 Chair" --

14:41

15  
16 he says -

14:41

17  
18 "has a duty to those patients who were abused by staff,  
19 no matter how long ago the abuse happened, to  
20 investigate the allegations and the evidence as to  
21 whether there was indeed an ingrained culture and how  
22 that culture developed and was passed from individual  
23 to individual."

14:41

24  
25 Then he says:

14:42

26  
27 "My mother committed suicide by jumping in front of a  
28 train. There was no investigation so far as I am  
29 aware, at that time, nor to anybody else" -

1 Of the ones that he's aware of -

2  
3 "that committed suicide in that way or tried to".

4  
5 "There should have been. And if there had been, 14:42  
6 perhaps we would be in a better place as to some of  
7 these issues of abuse and the impact and toll they take  
8 on patients".

9  
10 So then Margaret McGuckin. 14:42

11 CHAIRPERSON: Is it McGuckin, not McGuckan?

12 UNNAMED SPEAKER: McGuckin.

13 MS. ANYADI KE-DANES: McGuckin.

14 CHAIRPERSON: Apologies.

15 MS. ANYADI KE-DANES: That's all right. Her brother was 14:42  
16 in Muckamore between 1973 and 1990, where he suffered  
17 abuse. That's the information that the Inquiry has and  
18 gave back to us. Margaret is the youngest of four  
19 children, with her brother, the person in question,  
20 being about a year older, and Bernadette O'Hare the 14:43  
21 eldest.

22  
23 Margaret's evidence to the Northern Ireland Historical  
24 Institutional Abuse Inquiry - the HIA Inquiry - was  
25 that when she was three years old, she and all her 14:43  
26 siblings were placed in the care of a religious order  
27 on the grounds that, their mother having left, their  
28 father was unable to cope. And she provided a graphic  
29 account to the HIA Inquiry of the cruel and brutalising



1 regime she endured at Nazareth House over the period  
2 1960 to 1967, which included all forms of abuse as  
3 defined in the Inquiry's Terms of Reference, especially  
4 physical, sexual and emotional abuse. And she gave a  
5 detailed account of the profound and lifelong impact of 14:44  
6 that abuse on her and her family relationships. She's  
7 also very well aware of the abuse suffered by her  
8 brother whilst he has been in institutions, including  
9 his 17 years in Muckamore from 1973 to 1990 and the  
10 lasting effect it had on him. 14:44

11  
12 So what is her significant interest and role in all of  
13 this? As a result of her experiences of institutional  
14 abuse, and that of her whole family, in 2009 Margaret  
15 established Survivors And Victims of Institutional 14:44  
16 Abuse - which is commonly known as SAVIA - as a mutual  
17 support and campaign group for institutional abuse in  
18 Northern Ireland. Her aim is for SAVIA to act as a  
19 coherent voice for the needs and demands of child  
20 survivors of all forms of abuse in institutions across 14:45  
21 Northern Ireland and to campaign for justice for all of  
22 them. Through SAVIA, she petitioned for a public  
23 inquiry, which was launched in 2012, to investigate  
24 whether there were systemic failings by institutions,  
25 or the State, in their duties towards children between 14:45  
26 the years of 1922 to 1995. I don't think it started  
27 off as 1922, but it was successfully extended, the  
28 period of time.  
29

1 She participated in that HIA Inquiry and the findings  
2 of the abuse and breaches that occurred in the  
3 institutions is documented in a ten-volume report  
4 published in 2017. Margaret went on to campaign for an  
5 apology for the survivors and that was ultimately  
6 delivered in the Assembly on the 11th March 2022.

14:46

7  
8 She is aware that many children went from being in  
9 institutions where they were abused to being admitted  
10 in Muckamore, where they were also abused. In fact,  
11 she says it was one of those threats to keep good  
12 behaviour, that they could end up in Muckamore. Some,  
13 like her brother, got into trouble when they were older  
14 and were admitted to Muckamore from the criminal  
15 justice system, and he's not the only one, certainly  
16 amongst my core participant clients.

14:46

14:46

17  
18 Margaret has dedicated herself to working with, and  
19 campaigning for these children, now adults, and in that  
20 way she's been in touch with many personally, including  
21 Michael McMoran, who is a core participant, who's core  
22 participant status is under threat. Through that work,  
23 she met Glynn Brown and others, seeking justice for  
24 those abused in Muckamore and became affiliated to AFM.  
25 Margaret has a significant and direct interest into why  
26 her brother was kept in Muckamore for 17 years, what  
27 treatment and help he was given there and how and why  
28 he came to be abused. Furthermore, she has a  
29 significant and direct interest in the Inquiry's role

14:46

14:47

1 in uncovering how systematic abuse was able to happen.

2  
3 Through her work in SAVIA, Margaret has an experience  
4 that far exceeds her own and that of her family, of how  
5 a culture of impunity where abuse occurs and is 14:47  
6 tolerated can develop in an institution that operates  
7 as a closed community. Therefore, the evidence, we  
8 say, information and assistance that she can give the  
9 Inquiry is not limited to her individual experience of  
10 the abuse that her brother suffered from 1973 to 1990. 14:48  
11 So far as she's concerned, what happened at Muckamore  
12 is very similar to what was found by the HIA Inquiry  
13 that occurred in the institutions it investigated over  
14 the period 1922 to 1995.

15  
16 Margaret has devoted much of her adult life to working  
17 with those harmed in such closed communities and she  
18 wants to contribute to the learning of how it happens,  
19 the true nature of the harm it does those that survive  
20 it - and she is well aware of those who have taken 14:48  
21 their own life and so did not survive it - with the  
22 objective of trying to ensure effective recommendations  
23 are made, so that she doesn't have to participate in  
24 perhaps a third public inquiry, this being her second.

25  
26 So what assistance can she provide to the Inquiry? We  
27 say that assistance is in relation primarily - and when  
28 I say assistance, I don't mean that this necessarily  
29 encapsulates everything they can do, I'm just giving an 14:48

1 indication - with respect to its core objectives it's  
2 likely to concern the issues of responding to concerns  
3 under paragraph 10, safeguards under paragraph 15 and  
4 regulatory framework under paragraph 19, especially in  
5 relation to the extent to which abuse resulted from 14:49  
6 systemic failings pursuant to paragraph 8. As I've  
7 said before, all these paragraphs that I mention this  
8 part of the submissions, are taken from the Terms of  
9 Reference.

10  
11 So the examination of those issues makes an  
12 investigation in the following matters that are  
13 relevant to Margaret's information and assistance, both  
14 appropriate and, we say, proportionate. The extent to  
15 which there was an established pathway in Northern 14:49  
16 Ireland for children placed in institutions by the  
17 authorities to admission into Muckamore and, if so,  
18 why; the impact of the abuse suffered in Muckamore on  
19 those who had already experienced abuse in other  
20 institutions, especially as children; the extent to 14:50  
21 which any attempt was made in Muckamore to try and  
22 understand it and factor that abuse and the likely  
23 impact of it into their practices and treatment of  
24 these people when they came as patients; and if this  
25 was understood then, then when it became understood and 14:50  
26 how that happened.

27  
28 So the evidence of the abusive regimes in those  
29 institutions, we say it can help to explain what some

1 have termed "the culture of abuse" in Muckamore and how  
2 it was able to persist for so long. Also, her  
3 experience as a survivor of institutional abuse, her  
4 role in SAVIA working with many other survivors,  
5 including those who were in Muckamore, as well as 14:50  
6 someone who has played a significant role in the public  
7 inquiry investigating abuse in institutions, we say  
8 that will provide the Inquiry with an important insight  
9 into effective recommendations.

10  
11 So then Bernadette O'Hare. Her brother - and she, of  
12 course, is the older sister of Margaret - her brother  
13 was in Muckamore between 1973 and 1990, where he  
14 suffered abuse. That's the information about her that  
15 we received back from the Inquiry. Bernadette has 14:51  
16 supported her brother and championed his interest. She  
17 is his older sibling. He has spent most of his life in  
18 one institution or another, during which she maintained  
19 as much contact as was possible with him.

20  
21 He was four years old when placed in Nazareth Lodge and  
22 eleven years old when sent to De la Salle Boys Home in  
23 Kircubbin. He was repeatedly sexually, physically and  
24 psychologically abused in both institutions, the full  
25 details of which were given to the HIA Inquiry and the 14:52  
26 HIA Redress Board. She has a very good awareness of  
27 what happened to him as, in addition to visiting him,  
28 [name redacted] has also stayed with her. She also  
29 knows of his life in the two years between him leaving

1 Kircubbin and entering Muckamore when he was about 18  
2 years old. She visited him all the time he was in  
3 Muckamore and continued to do so since his discharge  
4 when he was 35 years old to a private nursing home,  
5 where he has remained. She and her sister Margaret 14:52  
6 have tried to provide him with love, support and  
7 stability, but she knows only too well of the  
8 continuing effect and impact of Muckamore on him.  
9

10 So what's her significant interest or role? Well, so 14:53  
11 far as Bernadette is concerned, her brother left the De  
12 la Salle boys home traumatised and changed. A short  
13 while later he was admitted to Muckamore, but in her  
14 view, rather than help him with that, he was further  
15 abused during the 17 years he was there. And in her 14:53  
16 mind, that has left him so affected that the mere  
17 mention of Muckamore provokes - now, I mean, not then -  
18 the mere mention of Muckamore provokes him to such  
19 anger that he changes physically. Bernadette considers  
20 that her brother has been deeply harmed, deprived of 14:53  
21 the opportunity to live a more independent life, and is  
22 now institutionalised. She has a significant interest  
23 and a role in detailing what her brother experienced as  
24 a child in institutions and the impact that had on him  
25 to, once again, be subjected to cruelty and abuse 14:54  
26 whilst he was at Muckamore.  
27

28 whilst a child, he was so badly abused that his eczema  
29 was exacerbated to the stage of him being hospitalised.

1 He regularly wet the bed and that resulted in just yet  
2 more punishment, insult and humiliation.

3  
4 Bernadette regards his previous experiences as a very  
5 important context to his admission to Muckamore and the 14:54  
6 treatment that should have been given there and what  
7 happened over the 17 years he was there. She wants to  
8 know what information was sought and obtained by  
9 Muckamore from these institutions so as to assist them  
10 in dealing with him and whether that practice of 14:54  
11 seeking information from other institutions that relate  
12 to the relevant past of a patient has changed over time  
13 and, if it has changed, when did it change and what  
14 caused it to change?

15 14:55  
16 She also has a significant interest and role in  
17 detailing, on her brother's behalf, the nature of the  
18 abuse he suffered whilst in Muckamore, his unhappiness  
19 and his continual attempts to abscond, all of which are  
20 beyond his ability to properly describe to the Inquiry. 14:55  
21 In particular, she wants to know how that can have been  
22 allowed to have happened for such a prolonged period to  
23 someone who was already so badly damaged from  
24 institutional abuse. She wants to know how and for  
25 what reason her brother could have been allowed to 14:55  
26 languish in Muckamore for so long.

27  
28 I just want to pause there, because I am very much  
29 aware that when this matter, these sorts of statements

1 came before the judicial review that's been taken,  
2 issues were taken as to whether these things had been  
3 presented as fact. And I just want to clarify that.  
4 These are the instructions, this is the experience that  
5 these core participants are providing. So, just so 14:56  
6 that nobody gets themselves overly-exercised that I'm  
7 predetermining anything that the Inquiry is  
8 investigating and will ultimately, at some stage, make  
9 findings about.

10  
11 whilst - [name redacted] --

12 CHAIRPERSON: Sorry shall we just, can we take that  
13 name out?

14 MS. ANYADI KE-DANES: I'm sorry about that.

15 CHAIRPERSON: Don't worry. Just give it a second. 14:56

16 MS. ANYADI KE-DANES: Thank you very much. So whilst  
17 her brother's 17 years in Muckamore ended in 1990,  
18 Bernadette considers that does not define the period of  
19 its impact on him. Muckamore has not gone away for him  
20 and he is still affected by it. When he was finally 14:57  
21 discharged from Muckamore aged 35 years old, it was to  
22 a nursing home where he has lived ever since. In her  
23 view, institutionalised and deprived of any opportunity  
24 that he might once have had to live a more independent  
25 life. Therefore, she does not regard the information 14:57  
26 that she can give the Inquiry as limited to his  
27 individual experiences, at least nine years prior to  
28 the start of the Inquiry's Terms of Reference, as he  
29 continues to suffer, from her point of view, he



1 continues to suffer now with what was done to him in  
2 Muckamore, exacerbating the harm already done to him  
3 when a child. That suffering is also relevant to  
4 investigating the practices at Muckamore, not just what  
5 was done to him there, but what should have been done 14:58  
6 for him once he left.

7  
8 So what's the assistance that she can give to the  
9 Inquiry? We say it's in relation to its core  
10 objectives around the issues of responding to concerns 14:58  
11 under paragraph 10, safeguards under paragraph 15 and  
12 resettlement under paragraph 16, specifically in  
13 relation to the systemic failings, which I think arises  
14 for all of them, in relation to paragraph 8 of the  
15 Terms of Reference. 14:58

16  
17 And the examination of those issues, we say, makes an  
18 investigation into the following matters relevant, that  
19 are relevant to Bernadette's information and assistance  
20 appropriate and proportionate. And they are: The 14:58  
21 extent to which information was shared or sought by  
22 Muckamore from previous institutions for her brother  
23 and others like him who were already harmed; to assist  
24 with assessment, treatment and care and whether those  
25 practices changed over time; if they did change, when 14:59  
26 did they change and what was it that brought that  
27 change about; the extent to which Muckamore provided  
28 those placed there under a hospital order, as her  
29 brother was, with appropriate treatment and care - and

1 this is an issue for some during the Inquiry's primary  
2 investigation period, as some of them have been in  
3 Muckamore, apparently, on a voluntary basis for many  
4 years, during which time they have experienced abuse -  
5 and by that I mean apparently on a voluntary basis 14:59  
6 after they were placed there - whether any follow up  
7 assistance was afforded to her brother and others like  
8 him by Muckamore in the community when he was resettled  
9 in his nursing home; on what basis the assessment was  
10 made; who was responsible for monitoring the 14:59  
11 effectiveness of any such assistance and whether those  
12 practices changed over time; and once again, if they  
13 did change, what brought that change about and when did  
14 it happen; the extent to which information was shared  
15 by, or sought from, Muckamore with her brother's 15:00  
16 nursing home to assist with his care and, if so, the  
17 basis on any such information was provided and whether  
18 those practices changed over time; and once again, if  
19 they did change, when did they change and why.

20  
21 So the evidence of those who were discharged, having  
22 suffered significant trauma, to be resettled in  
23 non-specialist facilities is, we say, an important  
24 issue throughout the Inquiry's primary investigation  
25 period and even to date. It is related to another 15:00  
26 important issue, which is the effectiveness of  
27 transition arrangements, the existence of continuity of  
28 specialist care in the community and the role of such  
29 measures in successful resettlement.

1 Then finally, Michael McMoran. Michael was a patient  
2 in Muckamore between 1972 and 1974, when he suffered  
3 abuse. That's the information the Inquiry has and has  
4 given back to us. And his significant interest and  
5 role: He has been in institutions for much of his 15:01  
6 life, having been placed in a children's home at birth.  
7 He was transferred to De la Salle Boys Home when he was  
8 13 years old and sent to a government training school  
9 and various other institutions associated with the  
10 criminal justice system. He was abused whilst in care 15:01  
11 and engaged in self-harming, swallowing objects and  
12 cutting himself. Some of those practices are in the  
13 evidence that the Inquiry has heard.

14  
15 Then he was sent to Muckamore, or at least he was aware 15:02  
16 at that time, being sent to Muckamore was a threat to  
17 keep children in order, it's what they were told:  
18 "Behave or you could end up in Muckamore".

19  
20 He was admitted to Muckamore from De la Salle in his 15:02  
21 mid teens, he believes on two or three occasions, due  
22 to something referred to as "behavioural disturbance".  
23 He has absolutely no idea the purpose of his admission.  
24 He does not recollect ever being asked at Muckamore  
25 about abuse prior to his admission, its impact on him, 15:02  
26 the reason for his self-harming behaviour, nor does he  
27 recollect ever having his medication and the  
28 adjustments that were made to it explained to him. So  
29 far as he was concerned, there was little or no

1 treatment in Muckamore, just medication and the effects  
2 of which he didn't like. He says he found Muckamore a  
3 frightening place, where he was mistreated and abused.  
4 In addition to being locked in his room, he says he was  
5 also regularly secluded and locked in what he saw as a 15:03  
6 cell. And that was done as a punishment, particularly  
7 if he didn't take his medication.

8  
9 Michael has a significant interest, as a former  
10 patient, in finding out what happened to him and why. 15:03  
11 He participated also in the HIA Inquiry, but that did  
12 not address his time in Muckamore, even though he was  
13 admitted to Muckamore as a child. He regards that as  
14 being a missing piece in trying to understand his past,  
15 the abuse he suffered and its impact on him, and he 15:03  
16 sees this Inquiry as his only opportunity to try and  
17 fill that gap. He could not get it filled during the  
18 HIA Inquiry and he needs it, so he says, filled.

19  
20 Furthermore, given his mental health diagnosis, there 15:04  
21 is a possibility - of course, one would sincerely hope  
22 not - that he could be admitted to an institution at  
23 some point in the future. And so he has a very  
24 significant interest in the Inquiry's investigation and  
25 its recommendations and their ability to affect the 15:04  
26 quality of care given in institutions. Because, apart  
27 from anything else, that might affect him directly.

28  
29 So what is the assistance then that he can give to the

1 Inquiry? The assistance that Michael can provide to  
2 the Inquiry with respect to its core objectives is  
3 likely to concern these issues of responding to  
4 concerns under paragraphs 10 to 11, safeguards under  
5 paragraph 15, especially in relation to the extent to 15:04  
6 which abuse resulted from systemic failings pursuant to  
7 paragraph 8.

8  
9 The examination of those issues makes an investigation  
10 into the following matters, we say, relevant to 15:05  
11 Michael's information and assistance appropriate and  
12 proportionate: The extent to which information was  
13 shared or sought by Muckamore from previous  
14 institutions for Michael; to assist with his  
15 assessment, treatment and care and whether those 15:05  
16 practices changed over time and, if so, when and why  
17 did they change over time; whether any follow-up  
18 assistance was afforded to him by Muckamore when he  
19 returned to De la Salle and the basis, like others, of  
20 his repeat admissions and whether those practices have 15:05  
21 changed over time and, if they did, why.

22  
23 Michael regards himself as being marked by having been  
24 in Muckamore and affected by the abuse he says he  
25 suffered there and in other institutions. He sees his 15:05  
26 lack of understanding of what happened in Muckamore as  
27 just a missing piece in his life, which continues to  
28 affect him and that the other abuse he has is  
29 exacerbated by it. So he does not regard the

1 information that he can give the Inquiry as limited to  
2 his individual experiences at least nine years prior to  
3 the start of the Inquiry's Terms of Reference, because  
4 he continues, he says, to be impacted now and he needs  
5 to know what services and practices will be improved in 15:06  
6 the future, as he may well require them.

7  
8 But to go back to something that is a pressing concern,  
9 he wants to understand how he is now and what any of  
10 that has to do with his experiences at Muckamore. 15:06  
11

12 Then just to conclude, Chair, in the light of your  
13 statement and Protocol 2, we say that you were right to  
14 designate each of the five as core participants based  
15 on their affiliation with AFM, and that is an 15:07  
16 affiliation that they have retained throughout. We  
17 also say it would be wrong and unfair for people so  
18 intimately connected with Muckamore to now have that  
19 designation revoked on a quite different basis and  
20 without a proper consideration of their interests, 15:07  
21 motivation and ability to assist.

22  
23 We also say that you would have been entitled to, and  
24 right, to designate them as core participants on the  
25 basis that they each have a significant interest in an 15:07  
26 important aspect of the matters to which the Inquiry  
27 relates, namely why abuse happened, the circumstances  
28 that allowed it to happen and allowed it to continue to  
29 happen. Similarly, to designate them as core

1 participants based on the assistance that they can  
2 provide to the Inquiry in fulfilling its Terms of  
3 Reference. So it could have been done on that basis,  
4 we say, which is a question that you asked me right at  
5 the outset of this afternoon's submissions.

15:08

6  
7 So AFM, to which all five core participants are  
8 affiliated, campaigned for this Inquiry into practices  
9 in Muckamore and it's intended to influence practices  
10 in other like institutions and it's here now and they  
11 want to continue to be part of finding out what  
12 happened, how it happened, as part of understanding  
13 their own experience and what should be done for the  
14 future, in the interests of others like them as a  
15 legacy in some way. Thank you very much.

15:08

16 CHAIRPERSON: Well, thank you very much indeed.

17 Mr. Doran, do you know how long you are going to be?

18 MR. DORAN: Chair, I would estimate between 20 minutes  
19 and half-an-hour.

20 CHAIRPERSON: Right. It might be fairer to Mr. Beggs,  
21 our stenographer, to have a little break? Are you  
22 ready to continue?

15:09

23 MR. DORAN: I am ready to go, yes.

24 CHAIRPERSON: Given our timing, I think it would  
25 probably help, if you can -- and, Mr. Beggs, if you are  
26 sure, give me a signal if you find it difficult -- Can  
27 you just explain to me, Mr. Doran, the basis on which  
28 you're going to address me? Because this isn't, as it  
29 were, an opposing submission.

15:09

1 MR. DORAN: It's not an opposing submission, Chair. I  
2 wish to make some brief points about the Chair's power  
3 to grant and revoke core participant status. So I  
4 should make it clear at the outset that I'm not in the  
5 position of opposing the submissions that have been 15:09  
6 made.

7 CHAIRPERSON: No.

8 MR. DORAN: But I do think it is important to set those  
9 submissions within the context of the legal framework  
10 with which you will be dealing when arriving at your 15:10  
11 decision.

12 CHAIRPERSON: I think it's important and helpful to set  
13 that out publicly, because we've said in other terms  
14 these are not adversarial proceedings, as it were, this  
15 is an inquiry. But it's obviously important that I 15:10  
16 receive advice from you as to the relevant powers that  
17 I have when dealing with this what is, which I'm going  
18 to call an application.

19 MR. DORAN: Yes, Chair. And indeed it's important that  
20 I should set out openly my views and perspective on the 15:10  
21 relevant provisions.

22 CHAIRPERSON: Yes, exactly. Yes, okay, that's very  
23 helpful, thank you.

24 MR. DORAN: And I do not propose to consider the  
25 individual circumstances of each of those individuals 15:10  
26 who are the subject of the submissions today.

27 CHAIRPERSON: No.

28 MR. DORAN: In fact, nothing that I say should be  
29 regarded as in any way questioning of their willingness



1 and eagerness to assist the Inquiry.

2 CHAIRPERSON: Yes, I understand.

3

4 SUBMISSION BY MR. DORAN:

5

15:11

6 MR. DORAN: Now the written and oral submissions made  
7 to the Inquiry today have been helpful in providing  
8 significantly more detail about the five individuals  
9 and their connection to Muckamore than had previously  
10 been known to the Inquiry.

15:11

11

12 There's no point, Chair, in having a debate about this  
13 now, but from the Inquiry's perspective, I think it's  
14 important to say that this kind of information is  
15 precisely what was invited in the correspondence of the 15:11  
16 27th September of this year. The invitation was to  
17 provide further information which might have a bearing  
18 on the decision. That information was not made  
19 available at that time, it is available now.

20

15:12

21 Particularly, Chair, you now have the factual  
22 information to hand that will enable you to make the  
23 determination, subject, of course, to any further  
24 information that you might wish to request.

24

25 It is, of course, right, as has been said, that the 15:12  
26 core participant status of each of the five needs to be  
27 considered individually. It would be open to you,  
28 Chair, to preserve the status of one or more of the  
29 individuals whilst revoking the core participant status

1 of others. It would be open to you to preserve all or  
2 to revoke all. Critically, you, Chair, will have to  
3 scrutinise carefully each individual case on its  
4 particular facts.

5  
6 The starting point for any discussion of this matter is  
7 Section 17 of the Inquiries Act, 2005. And that's a  
8 provision that we have already considered in some  
9 detail at the opening of the Inquiry. Section 17(1)  
10 provides:

11  
12 "Subject to any provision of this Act, or of rules  
13 under Section 41, the procedure and conduct of an  
14 Inquiry are to be such as the chairman of the inquiry  
15 may direct."

16  
17 Section 17.3 then goes on to provide:

18  
19 "In making any decision as to the procedure or conduct  
20 of an inquiry, the chairman must act with fairness and  
21 with regard also to the need to avoid any unnecessary  
22 cost, whether to public funds or to witnesses or  
23 others."

24  
25 Section 17.3 is important in this context. The  
26 statutory requirement to act fairly would arguably not  
27 be met if the Inquiry failed to provide a mechanism for  
28 persons or groups directly affected by the events at  
29 Muckamore to participate in the Inquiry in a meaningful

1 way.

2  
3 At the same time, the method of that participation and  
4 the extent of that participation is subject to a  
5 statutory obligation to avoid unnecessary cost, whether 15:14  
6 to public funds, to witnesses or to others. For that  
7 reason, it is important that the Chair of an Inquiry  
8 should keep matters, such as the grant of core  
9 participant status and the attendance costs, under  
10 review. 15:15

11  
12 The next provision of particular relevance to this  
13 matter is Rule 5 of the Inquiry Rules, 2006. You,  
14 Chair, will be fully aware of the terms of Rule 5, and  
15 my Learned Friend has referred to the rule this 15:15  
16 morning.

17 CHAIRPERSON: And we've got them in the bundle at the  
18 yellow tab, yes.

19 MR. DORAN: We have got them in the bundle. I think it  
20 is worth rehearsing the terms of Rule 5 in full, as it 15:15  
21 provides an important base information on the basis on  
22 which core participant status may be designated:

23  
24 "5.1. The Chairman may designate a person as a core  
25 participant at any time during the course of the 15:16  
26 inquiry provided that person consents to being so  
27 designated.

28  
29 5.2. In deciding whether to designate a person as core

1 participant, the chairman must, in particular, consider  
2 whether -

3  
4 (a) the person played or may have played a direct and  
5 significant role in relation to the matters to which  
6 the inquiry relates; 15:16

7  
8 (b) the person has a significant interest in an  
9 important aspect of the matters to which the inquiry  
10 relates; or 15:16

11  
12 (c) the person may be subject to explicit or  
13 significant criticism during the inquiry proceedings or  
14 in the report or in any interim report".

15  
16 And finally: 15:16

17  
18 "5.3. A person ceases to be a core participant on:

19  
20 (a) the date specified by the Chairman in writing; or 15:16  
21 (b) the end of the inquiry."

22  
23 As can be seen specifically, Rule 5.3(a) provides that  
24 a certain ceases to be a CP on a date specified by the  
25 Chair in writing. So any grant of core participant  
26 status is not necessarily for the duration of the  
27 Inquiry. 15:17

28  
29 If the Chair adopts the view that there is not a proper

1 basis for the continuation of core participant status,  
2 then it is open to the chair to specify in writing that  
3 a person has ceased to be a core participant. That has  
4 not happened in this case importantly. What you have  
5 done, Chair, is to signify that you're considering 15:17  
6 revoking the core participant status of the five  
7 individuals.

8  
9 The ground on which you are considering revoking core  
10 participant status were provided in the correspondence 15:17  
11 of the 27th September, and I quote:

12  
13 "That the information they appear able to provide is  
14 too historic, as well as being strictly outside the  
15 Terms of Reference as to be able to assist the panel." 15:18

16  
17 As I indicated, I will not be examining the individual  
18 circumstances of each of the five core participants,  
19 but I do want to make one point in response to the  
20 written submission that was provided on behalf of the 15:18  
21 five individuals on the 14th October and that has been  
22 referred to again today. In that submission, it was  
23 said that:

24  
25 "The above grounds did not provide sufficient 15:18  
26 information to enable proper representations to be made  
27 in response."

28  
29 In my submission, with respect, there was indeed

1 sufficient information and the basis on which you are  
2 considering revocation of CP status is tolerably clear.

3  
4 I now want to come back to Rule 5 and the matters set  
5 out in Rule 5.2 that the Chair must take into account 15:19  
6 when granting core participant status. The Chair has  
7 to consider whether the person, first, played or may  
8 have played a direct and significant role in relation  
9 to the matters to which the Inquiry relates; secondly,  
10 has a significant interest in an important aspect of 15:19  
11 the matters to which the Inquiry relates or; thirdly,  
12 may be subject to significant or explicit criticism,  
13 which is, of course, not at play in these applications.

14  
15 There are, I think, four very important points to be 15:19  
16 made about Rule 5.2. First, the matters set out in  
17 Rule 5.2 are not exhaustive. You must consider those  
18 matters, but you're not confined to those matters.  
19 Indeed, the Inquiry's own protocol on core participants  
20 - that is Protocol No. 2, dated the 10th November 2021, 15:20  
21 which again was cited in my Learned Friend's  
22 submissions - expressly acknowledges this point at  
23 paragraph 14. And the protocol adds:

24  
25 "The chair will take into account all relevant 15:20  
26 considerations, including:

27  
28 (a) the individual circumstances of an applicant;

29

1 (b) the extent to which designation as a core  
2 participant would assist the Inquiry in fulfilling its  
3 Terms of Reference;

4  
5 (c) the need to act with fairness and to avoid  
6 unnecessary cost" -

15:21

7  
8 which, of course, echoes the terms of section 17 and -

9  
10 "(d) the matters set out in the chair's statement of  
11 approach to core participant status" -

15:21

12  
13 which was issued on the same date as the protocol, and  
14 which again is referenced extensively in the  
15 submissions made today.

15:21

16  
17 So the Chair must take into account the matters listed  
18 in 5.2, but is not limited to those matters.

19  
20 The second significant point about Rule 5.2 is that,  
21 even if the criteria are satisfied, that does not  
22 confer an entitlement to core participant status.

15:21

23 There's good reason for that. The conferment of core  
24 participant status on each and every individual and  
25 organisation who met the terms of 5.2 would potentially  
26 render any Inquiry completely unmanageable. So the  
27 provision compels the Chair to give due consideration  
28 to the various matters listed, but it does not tie the  
29 Chair's hands when an individual or group meets any or

15:22

1 all of the criteria set out in the rule.

2  
3 The third important point is in the wording - and you  
4 emphasised this, Chair, in your Statement of Approach -  
5 Rule 5.2(a) refers not simply to a role in the matters 15:22  
6 to which the Inquiry relates, it refers to a direct and  
7 significant role. Paragraph (b) also refers to a  
8 significant interest in an important aspect of the  
9 matters to which the Inquiry relates. Those are strong  
10 qualifying words. They emphasise that the grant of 15:23  
11 core participant status is reserved for those who will  
12 be in a position to play a central role in the  
13 Inquiry's work. In fact, the dictionary definition of  
14 "core" refers to "the basic or most important part of  
15 something" or "the part of something that is central to 15:23  
16 its existence or character".

17  
18 The role also carries with it important benefits.  
19 Again, you alluded to those in your statement. A core  
20 participant will receive access to Inquiry 15:23  
21 documentation, including witness statements; a core  
22 participant has the right to make opening and closing  
23 statements; a core participant can suggest lines of  
24 questioning to counsel to the inquiry; a core  
25 participant's legal representative can, in certain 15:24  
26 circumstances, request permission to ask questions of a  
27 witness; a core participant is entitled to receive a  
28 copy of the inquiry's report prior to its publication.  
29



1 I draw attention to those entitlements simply to  
2 emphasise the point that core participant status is  
3 properly reserved for those who will be in a position  
4 to play a central role in the work of the inquiry.

15:24

5  
6 The fourth important point regarding Rule 5 is that it  
7 must be read in conjunction with the Terms of  
8 Reference. The Terms of Reference prescribe the  
9 matters to which the Inquiry relates. Any decision on  
10 core participant status, as with other procedural  
11 decisions, must be underpinned by the Terms of  
12 Reference. In considering an application for core  
13 participant status or revocation of core participant  
14 status, it is entirely legitimate for the Chair to  
15 consider whether any information or evidence that can  
16 realistically be provided by the individual or the  
17 organisation falls within the Terms of Reference.

15:25

15:25

18  
19 My Learned Friend has pointed to paragraph 3 of the  
20 Terms of Reference, which says:

15:25

21  
22 "The inquiry will be able to receive and take account  
23 of evidence outside that period where such evidence  
24 will assist the Inquiry in examining, understanding and  
25 reporting on matters within these terms of reference."

15:26

26  
27 That is an important provision, as highlighted in the  
28 opening statements. However, the ability of the  
29 Inquiry to receive evidence of that kind should not be

1 equated with any requirement for potential witnesses  
2 who falls within that category to be represented as  
3 core participants. That's all I want to say about  
4 Rule 5.

5  
6 I now want to refer, again briefly, to the statement  
7 that you made about core participant status on the  
8 10th November last year. And again, reference was made  
9 to this morning, but I want to read paragraph 9 again,  
10 where you said:

11  
12 "I am aware that a number of individuals who may have  
13 been patients, or are family or friends of patients of  
14 Muckamore, have formed associations or groups to  
15 campaign for an Inquiry into abuse at Muckamore Abbey  
16 Hospital or to discuss issues relating to the hospital.  
17 By those actions, those individuals have already  
18 demonstrated a significant role and/or interest in the  
19 matters to be examined by this Inquiry, as well as how  
20 important the conclusions of the Inquiry are for them.

21  
22 I met persons affiliated to those groups/associations  
23 in the engagement sessions which I undertook in October  
24 and November 2021. It was apparent at those sessions  
25 that the associations/groups already have detailed  
26 collective knowledge and experience of some of the  
27 issues which will be examined by the Inquiry. That  
28 leads me to the provisional conclusion that, in  
29 general, those individuals who are affiliated to the

1 following groups/associations should be granted core  
2 participant status if they wish to have it: Action for  
3 Muckamore and the Society of Parents and Friends of  
4 Muckamore Abbey Hospital."

15:28

5  
6 The Inquiry's protocol facilitated those applications  
7 on behalf of members of those groups by not insisting  
8 on a comprehensive application being made on behalf of  
9 each. As my Learned Friend indicated, paragraph 22 of  
10 the protocol provided:

15:28

11  
12 "If an applicant is affiliated to one of the  
13 associations identified in the Chair's Statement of  
14 Approach, the recognised legal representative of that  
15 association need only supply:

15:28

16  
17 (a) schedule of the names of all persons who are  
18 members who wish to be CPs;

19  
20 (b) signed and dated confirmation from each person that  
21 they wish to be affiliated;

15:28

22  
23 (c) signed and dated confirmation from each person  
24 confirming that they consent to being designated as a  
25 CP; and

15:29

26  
27 signed and dated declaration that they wish to be  
28 represented by that legal representative."  
29

1 But of course, in my submission, that part of the  
2 protocol, and indeed the entirety of the protocol, must  
3 also be read in conjunction with the Terms of  
4 Reference. If, at any time in the course of the  
5 Inquiry, an issue arises as to whether a core  
6 participant is in fact in a position to assist with the  
7 Inquiry's examination of the matters within the Terms  
8 of Reference, the Chair is entitled to consider whether  
9 core participant status continues to be justified.

15:29

10  
11 Chair, I hope that I have fairly drawn attention to the  
12 key provisions and the other matters that are relevant  
13 to your decision. I should say that I have also  
14 considered the authorities furnished in the bundle and,  
15 with respect to my Learned Friend, I'm not sure that  
16 those authorities can directly assist with your  
17 decision on the matter.

15:30

15:30

18  
19 Can I just say, from an Inquiry perspective - and this  
20 doesn't relate to the individual applications, but it  
21 relates to the broader issue of procedural fairness - I  
22 mean, it's certainly my position that if there is any  
23 suggestion of unfairness in the process that has been  
24 adopted, that can be rebutted by three points: First of  
25 all, the clear indication of the basis on which you  
26 have indicated you are considering revocation of core  
27 participant status; secondly, the fact that core  
28 participants' representatives have been invited to  
29 bring whatever information they wish to your attention;

15:30

15:30

1 and thirdly, the opportunity to be heard today, which  
2 has been taken both by way of an extensive written  
3 submission and detailed oral submissions.

4  
5 The authorities in the bundle, if I may say, are 15:31  
6 concerned with factual circumstances and contexts that  
7 are very far removed from those of the present Inquiry.

8  
9 Just very briefly on the point that my Learned Friend  
10 made about the McKinney case, where the initial 15:31  
11 decision was described as a finely-balanced  
12 merits-based assessment, that obviously is to be  
13 contrasted somewhat with the decision in this case,  
14 which was made on the broad basis of an affiliation to  
15 one of the associations. And it seems to me, Chair, 15:32  
16 that you are entitled at any stage to probe further the  
17 actual contribution that a core participant can make to  
18 the Terms of Reference. And that's precisely what you  
19 are doing through the written process and also through  
20 today's hearing. 15:32

21  
22 Before I finish, Chair, I should say that whatever  
23 decision you may make in respect of each application,  
24 not one of the individuals concerned will be precluded  
25 from assisting the Inquiry, no matter what decision is 15:32  
26 taken in respect of this application.

27 CHAIRPERSON: You mean by reason of that decision?

28 MR. DORAN: Yes. Because it's been emphasised on  
29 numerous occasions that participation in the Inquiry is

1 not the sole preserve of core participants.

2 CHAIRPERSON: No.

3 MR. DORAN: Many individuals who are not core  
4 participants have made statements or given evidence as  
5 witnesses. Even where a witness' evidence is clearly 15:33  
6 not within the timeframe of the Terms of Reference and  
7 even if the Inquiry decides that it is not in fact  
8 necessary to take a statement from them, an individual  
9 will, nonetheless, be invited to provide whatever  
10 information they may have about the hospital that may 15:33  
11 be of assistance to the Inquiry in addressing the Terms  
12 of Reference.

13  
14 So, importantly, irrespective of the decision, there  
15 will be a wide spectrum of participation in this 15:33  
16 Inquiry. The degree of participation by any individual  
17 or any organisation will ultimately depend on the  
18 extent to which they are capable of assisting the  
19 Inquiry in addressing its Terms of Reference.

20 15:34  
21 So, Chair, those are the matters that I wish to bring  
22 to your attention. I hope that they will be of  
23 assistance when you come to consider the matters that  
24 you are required to consider for the purpose of making  
25 any determination in respect of this matter. 15:34  
26

27 And just to emphasise once again, that nothing that I  
28 have said in my address should be taken as in any way  
29 seeking to question the willingness and the eagerness

1 that the five individuals have shown in coming forward  
2 to apply for core participant status and to assist the  
3 Inquiry.

4 CHAIRPERSON: Yes, thank you very much indeed. Do you  
5 want to respond? 15:35

6 MS. ANYADI KE-DANES: I do, Chair, thank you.

7  
8 SUBMISSION BY MS. ANYADI KE-DANES:

9  
10 MS. ANYADI KE-DANES: well, the very first point to 15:35  
11 make, actually, is much of what my Learned Friend,  
12 Mr. Doran, said, I said myself and, therefore, there  
13 was no taking of any issue as to whether you had a  
14 discretion or not. I mean I hope when you have had an  
15 opportunity, even just having heard from me orally on 15:36  
16 my feet, but had an opportunity to read that  
17 submission, Chair, you will appreciate that, that in  
18 many respects there is no difference between us in what  
19 my Learned Friend, Mr. Doran, said. But there are some  
20 important bits -- 15:36

21 CHAIRPERSON: well, sorry are you saying in terms of  
22 discretion, a discretion in the first place or a  
23 discretion to review?

24 MS. ANYADI KE-DANES: No, you have a discretion, you  
25 have a discretion in terms of appointing core 15:36  
26 participants.

27 CHAIRPERSON: Yes.

28 MS. ANYADI KE-DANES: And obviously, Chair, you're going  
29 to review, I do not say that you don't review. I'm not

1 dealing with reviewing, I'm dealing with  
2 decision-making. So, as far as I'm understanding it,  
3 you, Chair, have made two decisions -- well sorry --  
4 yes, actually you have made two decisions and you are  
5 about to make a third one, although one decision isn't 15:36  
6 final. The first decision was to designate them core  
7 participants. The second decision made was to reach a  
8 view that in the absence of any further submissions,  
9 they would no longer be core participants. That,  
10 depending on the reception to my submissions, which are 15:37  
11 in the speaking note as you see, and any other material  
12 that you have, Chair, that may or may not be confirmed  
13 in a final decision, if you like, and that's the point  
14 that you, Chair, are going to go away and reflect on.  
15 But nonetheless, those decisions have been made as at 15:37  
16 the moment. So that's the short answer to what you  
17 just asked me.

18  
19 One of the points that my Learned Friend mentioned that  
20 I do want to pick up on is my Learned Friend was taking 15:37  
21 from your Statement of Approach to core participant  
22 status and dealing with paragraph 9. Now, my  
23 understanding is that I read paragraph 9 out in its  
24 entirety, so I wasn't trying to shy away. And even if  
25 I had not read it out in its entirety, it's certainly 15:38  
26 printed and it appears at the start at page five of my  
27 speaking note and it goes into page six. And the point  
28 that my Learned Friend identifies was:  
29



1 "That leads me to the provisional conclusion that, in  
2 general requests" -

3  
4 and I think that was one of the terms he picked up on -

5  
6 "those individuals who are affiliated with the  
7 following groups should be granted core participant  
8 status if they wish."  
9

10 Yes, that was a provisional conclusion that you made,  
11 reflected in that statement and you did use the  
12 expression "in general". But the fact of the matter  
13 is, having done that, you nonetheless went and granted  
14 it on that basis. And all the considerations that my  
15 Learned Friend has drawn you to, the important points,  
16 I think he referred to them as four very important  
17 points that he was drawing out of Rule 5.2, each and  
18 every one of those was present at the time that you,  
19 Chair, made your decision in relation to designation.

20 And I mean, since the Protocol No. 2 on core  
21 participants and since your address, or the statement,  
22 which is also to be taken into consideration, those are  
23 your documents, so one I think would be forgiven for  
24 thinking that they were to your mind. So they were  
25 probably to your mind even when you reached the  
26 decision that in general, if you were affiliated to one  
27 or other of those organisations then that would be  
28 enough, in general, to do that.  
29

1 Now, you could have said, in general, yes. So that's  
2 like 'in principle I will grant it, but I wait to see  
3 what the application actually is'. And when that  
4 application comes, I see, 'yes, in general, you were  
5 affiliated, but for this particular application I'm 15:39  
6 just not going to grant it, because affiliation is not  
7 enough'. That would be something entirely open to you,  
8 sir, to say based on the way that my Learned Friend has  
9 characterised that. And if you did have that in mind  
10 then it's even more significant that you, nonetheless, 15:40  
11 decided to designate them core participants, even  
12 though that was not something that you were required to  
13 do, simply because they were affiliated. So you saw  
14 their applications, you had an opportunity to call for  
15 more information, that didn't happen and, nonetheless, 15:40  
16 you appointed them core participants. So that's what I  
17 want to say about "in general".

18  
19 Then my Learned Friend says -- and that is what I also  
20 want to say about his four points drawing out of Rule 5 15:40  
21 and they are all there and, nonetheless, you went on  
22 and made the determination - in the McKi nney case he  
23 says is all very different and that is not something  
24 you need trouble yourself with in relation to matters  
25 that bear on this. And this is not an application, 15:41  
26 we've already made our application and you, sir, have  
27 designated. This is a submission in relation to an  
28 indication that you are revoking that decision.  
29

1 But, in any event, the McKinney case - and it's in the  
2 bundle of authorities and I would respectfully suggest  
3 that you, sir, read that. I mean, for all I know,  
4 you've already read it over the lunchtime break - But  
5 it is relevant, not because the facts are the same, of 15:41  
6 course they're not the same, that was to do with a  
7 prosecution, but because the principles that they're  
8 dealing with are the same, or at least are relevant I  
9 think is better. So there is an important part in the  
10 McKinney case where it deals with the code of practice 15:41  
11 for prosecutors in Northern Ireland. And some of the  
12 things that my Learned Friend was drawing your  
13 attention to in relation to his four very important  
14 points arise there, and it's at paragraph 4.5. And  
15 when you, sir, have an opportunity to turn up the 15:42  
16 McKinney case and look at that, what that says is:

17  
18 "Prosecutors also have a general duty to keep  
19 prosecution decisions under consideration and to take  
20 into account any change in circumstances that occurs as 15:42  
21 the case proceeds. When new information or evidence  
22 becomes available, it should be considered along with  
23 all the existing information and evidence in the case  
24 and the tests for prosecution apply. And where this  
25 occurs and the test of prosecution is no longer met, 15:42  
26 the particular charge or charges or case should not  
27 proceed."

28  
29 So the very sorts of issues that my Learned Friend was

1 drawing to your attention that you have this power to  
2 keep these things under a general duty, they're all  
3 there in the McKinney case. And in fact the families  
4 were involved, just in the same way as we are seeing  
5 now. But, nonetheless, the Divisional Court decided 15:43  
6 that because the basis upon which the decision to  
7 prosecute was being changed fell too far away from the  
8 basis upon which it was originally made, that was not  
9 an appropriate reason to revoke that original decision.  
10 That's the point of principle, sir, that I'm inviting 15:43  
11 you to consider, and that's why that case is relevant  
12 to the decision-making you have so make, or further  
13 decision-making that you have to make in this case.

14  
15 So then my Learned Friend refers to affiliation and I 15:43  
16 think he talks about whether there's a merits-based  
17 decision was made. Well, of course a merits-based  
18 decision was made because you, sir, had come to the  
19 conclusion that affiliation was a relevant factor. And  
20 that, to you, was such a powerful consideration that 15:43  
21 you made that on the merits of whatever it was that  
22 allowed you to come to the conclusion that affiliation  
23 with one or other of those organisations was  
24 significant, so it was meritorious in that extent, and  
25 in fact it was so meritorious that you didn't actually 15:44  
26 require anything else. It's difficult to think of  
27 anything that characterises affiliation as more  
28 meritorious than that.  
29

1 Then my final point that I want to make - although I'm  
2 obviously happy to take any questions that you may have  
3 of me, and I'm even happy for you do that when you've  
4 reflected on the written submissions if there is  
5 anything further that should arise, I'm more than 15:44  
6 content to do that because I recognise that these are  
7 speaking notes, and they are lengthy speaking notes,  
8 and you've only just had an opportunity to read them as  
9 I have been taking you through them, so I have no issue  
10 on that whatsoever - But the final point I want to make 15:44  
11 is the first point that my Learned Friend made. He  
12 said that all that I have said today, which is all very  
13 interesting and has extended the information that's  
14 available to the Inquiry could have been said earlier  
15 and in fact that kind of thing - of course, he wouldn't 15:45  
16 have known the detail - but that kind of material is  
17 precisely what was being requested in the 27th  
18 September letter.

19  
20 But I've already been through that, sir, and I've 15:45  
21 explained why the material was not provided at that  
22 stage. Because at that stage we were seeking what is  
23 the basis of this decision for each and every core  
24 participant. And there's been no disagreement  
25 whatsoever this afternoon that these are decisions that 15:45  
26 are made on an individual basis. So that's what we  
27 were seeking. And I say, sir, that we were entitled to  
28 seek that on their behalf, to know exactly what was the  
29 basis of the information that had caused you, sir, to

1 form a provisional, let's call it a provisional view to  
2 revoke core participant status, and we were entitled to  
3 ask that.

4  
5 There is absolutely no point in making submissions 15:46  
6 until you know the full basis upon which somebody's  
7 considering making a decision. As it turned out, there  
8 wasn't very much more that the Inquiry had leading to  
9 the decision, but we were certainly entitled to find if  
10 that actually was the case. And that's what we did. 15:46

11 And as soon as we were told 'this is it', if you like,  
12 then -- and in fact before we could get into making any  
13 further written submissions in the light of that, the  
14 short course was taken, which we entirely agree, which  
15 is, 'well, come and make your submissions orally'. And 15:46  
16 that's fine, and I've done that, and provided the  
17 speaking note to assist. So I really don't see that  
18 there is any possible criticism that could be made in  
19 an applicant seeking to know the actual basis upon  
20 which the decision-making is to be may made, or rather, 15:46  
21 even the provisional decision-making has been made.

22 CHAIRPERSON: whether, well if a criticism is  
23 well-founded or isn't, I don't actually have to decide,  
24 do I? We are where we are.

25 MS. ANYADIKE-DANES: No, sir, you don't have to decide 15:47  
26 that. And in fact I would never have mentioned it  
27 again, apart from the fact that it was raised.  
28 Sometimes when these things are raised, it becomes  
29 relevant to respond, not least in case it be thought by

1 any of the core participants here under issue that  
2 somehow them wanting to know that information should in  
3 any way attract criticism. And it's very helpful that  
4 you, sir, have said, well, that's nothing that you're  
5 really concerned with at the moment, you're looking at 15:47  
6 the situation is now and how you deal with what has  
7 been said on their behalf now. And for that, I'm very  
8 grateful.

9  
10 So there's only really one final point I want to make 15:47  
11 and it has absolutely nothing to do with the core  
12 participant status at all. But yesterday you, sir,  
13 delivered an address which you had indicated to the  
14 media, I think, that such an address would actually be  
15 made. I don't really know the ins and outs of it, but 15:47  
16 I understand that whenever certain media reports went  
17 out, that the Inquiry may have been asked for a comment  
18 and I think it might have arisen in that way. I  
19 absolutely don't know, so if any of that is incorrect,  
20 forgive me, I don't know, I'm only surmising. But in 15:48  
21 any event, it became clear that you, sir, were going to  
22 make an address of some sort before the evidence  
23 started, yesterday and you duly did so, and you very  
24 helpfully provided that in writing, so we have had all  
25 had an opportunity to see it. You also very helpfully 15:48  
26 gave us a five-minute break between that and when the  
27 evidence was going to start to reflect on that.  
28 Unfortunately, in those five minutes I wasn't actually  
29 able to take my client's instructions.

1 CHAIRPERSON: It was a bit longer than five minutes,  
2 but --

3 MS. ANYADIKE-DANES: well actually I think it turned  
4 out to be longer than five minutes, you are absolutely  
5 right, Chair, but I think what you said at the time was 15:48  
6 five minutes, I think it turned out to be more like 15  
7 or so, but it doesn't matter. You, sir, very kindly  
8 gave an opportunity to reflect on that. What I am  
9 explaining to you is that we did not have an  
10 opportunity to take instructions during that time and 15:48  
11 that is the proper way to convey any reflection at all.  
12 It really doesn't matter what I reflect on it, it  
13 matters what my clients think. And I still, at this  
14 stage, have not had an opportunity to take full  
15 instructions. 15:49

16

17 But I can say this: That the instructions that I have  
18 received so far, there is a concern that not all of  
19 what was said in your address was strictly accurate.  
20 There's a concern about that. And there's also a 15:49  
21 concern about the way in which the core participants  
22 learned that such an address was going to be delivered.  
23 As I understand it - and I may be wrong, I'll be  
24 subject to correction - the communication about the  
25 link to be able to listen to your address in case 15:49  
26 people could not attend in person actually was fed to  
27 them, I believe, from the media and they knew first  
28 from the media, and not first from the Inquiry, that  
29 that was happening. Now, I'm not taking an issue at



1 the moment, I'm just signalling something. And the  
2 thing that I'm signalling is my clients would very much  
3 like an opportunity to deal with certain matters in  
4 your address and also to make a general plea for how  
5 information is communicated. They have no interest in 15:50  
6 having anything other than a smooth relationship where  
7 that can be achieved. And that becomes very important  
8 how information is communicated. And they really don't  
9 want to hear information from an outside source that  
10 they would like to think should come to them directly 15:50  
11 from the Inquiry. But I won't say any more about that,  
12 because what I'm going to ask you, sir, is to permit me  
13 an opportunity to respond to those parts of your  
14 address that concern my clients.

15 CHAIRPERSON: when do you want to do that? 15:50

16 MS. ANYADIKE-DANES: I will do that as soon as  
17 possible, if I may, because I'm still in the course of  
18 trying to take instructions. As soon as I can do that,  
19 I will let the Inquiry know.

20 CHAIRPERSON: Isn't it better done in the first place 15:51  
21 if you're saying there were inaccuracies in the  
22 statement, by correspondence?

23 MS. ANYADIKE-DANES: I beg your pardon?

24 CHAIRPERSON: By correspondence.

25 MS. ANYADIKE-DANES: I intend to put that in writing 15:51  
26 yes. I am not necessarily seeking an opportunity like  
27 this to address you.

28 CHAIRPERSON: Oh, I see, right.

29 MS. ANYADIKE-DANES: That is why I use the word

1 "response". I want the opportunity to put in a  
2 response

3 CHAIRPERSON: No, I understand. All right. Well, that  
4 hopefully could be done next week?

5 MS. ANYADIKE-DANES: I would very much like that to 15:51  
6 happen for all sorts of other reasons.

7 CHAIRPERSON: All right, thank you.

8 MS. ANYADIKE-DANES: And thank you very much for the  
9 time you have given us this afternoon

10 CHAIRPERSON: Not at all. Okay, thank you. Obviously 15:51  
11 I'm not going to give any determination straightaway,  
12 it needs to be carefully considered. And I hope to be  
13 able to give this determination within 21 days.

14 MR. DORAN: Chair, can I just say that there will be  
15 one sitting day next week. 15:51

16 CHAIRPERSON: It's just wednesday, is it?

17 MR. DORAN: wednesday, the 30th November.

18 CHAIRPERSON: And I think that's gone out in the  
19 schedule.

20 MR. DORAN: The schedule has been issued, yes. 15:52

21 CHAIRPERSON: Okay. All right, can I thank everybody.  
22 Ms. Anyadike-Danes, thank you very much indeed. No, I  
23 can't hear from the public at the moment, you will have  
24 to speak to your solicitors. But if you deal with this  
25 through your solicitors and then I can hear what you 15:52  
26 want to say. But I was about to thank the members of  
27 the public for being so patient and listening to that  
28 quite complex legal argument. So thank you for your  
29 attention. I know that feelings have run high over

1 this issue, I'm well aware of that, and I will give  
2 careful consideration to the arguments. Thank you.

3  
4 THE INQUIRY WAS THEN ADJOURNED UNTIL WEDNESDAY,  
5 30TH NOVEMBER 2022 AT 10:00

15:53

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