

CHAIR'S STATEMENT ON STAFF CRITICISMS OF STAFF

ISSUED ON 14 MAY 2024

1. On 02 November last year (2023) I made a statement in which I set out how the Inquiry proposed to deal with the criticisms of members of staff by patients and their relatives.
2. It may be helpful if I now address the similar topic of how the Inquiry proposes to deal with criticisms of members of staff by other members of staff.
3. In general terms the principles which I set out in November 2023 are applicable to this issue in much the same way.
4. The terms of reference require the Inquiry to look beyond the circumstances of individual witnesses and individual incidents. The Inquiry is required to conduct a careful analysis of how the issue of abuse (in its multiple forms) developed and impacted on the life of the hospital and its patients. The nature of the Inquiry's work is such as to require a much more holistic type of examination of the facts than in many other legal proceedings.
5. As for the scale of the Inquiry's work, one can see immediately that it would be impossible within any reasonable timeframe for the Inquiry to seek to make findings of fact about individual incidents that have been or may be discussed in evidence.
6. As I said in November last year – *"No inquiry of this kind could reasonably be expected to drill down into the multiple incidents and interactions that have been brought to the Inquiry's attention with a view to making specific findings of fact or adjudicating on them. This may come as a disappointment to some. Individuals may very naturally wish their own particular circumstances to be investigated including some against whom allegations of poor practice have been made. Organisations and authorities too may take issue with some of the accounts that have been given by witnesses about individual incidents or interactions with staff and others with responsibility for care at the hospital. It is important, however, that the Inquiry does not lose sight of the larger picture. As counsel to the Inquiry noted in his opening remarks back in June 2022, the Inquiry will need to adopt a "suitably proportionate approach" to the issues in order to complete its work within a reasonable timeframe.*

7. It is inevitable perhaps that some of the evidence from members of staff will be critical of the actions of other members of staff. Some may wish to recount positive experiences of their time working at the hospital. Others may be highly critical of their colleagues. Some may have critical things to say about how the hospital was managed or about how they were treated as staff. Some may wish to criticise the Trust, the Department or other organisations and authorities responsible for care, inspection and regulation of the hospital.
8. What we as a Panel must do, is to focus on the terms of reference and the evidence which is most likely to assist us to meet them. It will neither be helpful nor edifying for the Inquiry to attempt to explore or investigate the numerous disputes either professional or personal which will inevitably arise in any large organisation employing a large number of people.
9. So, when statements are taken and when those witnesses are called, they will not be asked to deal with complaints or allegations made against them, unless an examination of those complaints or allegations will assist the Panel better to understand some feature of the work or management of the hospital which falls within the terms of reference.
10. It is important that the Inquiry does not get lost in a quagmire of cross allegations which do not assist the Panel in relation to the terms of reference.
11. As the Inquiry has progressed, we have moved away from the process of having entire statements read into the record. Counsel to the Inquiry, whose job it is to call the evidence, will be expected to focus on that material which is most likely to assist the Panel. This is a public inquiry and so it is important that anyone listening can understand in general terms the evidence upon which the Panel will focus its attention.
12. There may therefore be material in the witness statements, which is important to the individual witness to express, but which in fact will not be adduced in evidence because it is unlikely to assist the Panel in its primary function.
13. Although individual witnesses may want to use the Inquiry's process to raise issues or allegations which are of great personal significance to them, it is not part of an inquiry's function to resolve such issues.
14. Finally, it is worth bearing in mind that all members of staff who may find themselves criticised have been given, or will be given, a cipher to protect them as far as possible from public exposure. A very precautionary approach has been taken to that issue of ciphering and that will continue.
15. It is important however to bear in mind that Restriction Order No. 4 which allowed for the ciphering of members of staff was explained by the remarks I made on 20 June 2022: *"This Order prohibits the identification of past and present staff*

members who are implicated in abuse on patients in evidence received by the Inquiry. Their names will be redacted in statements and replaced by ciphers. This does not apply to non-ward based staff in a management or governance role, including members of the Trust Board”.

16. As we move forward to hear from those in senior positions or management roles dealing with the operational side of MAH, I will be much less willing to impose restriction orders to allow witnesses to be ciphered or to give evidence anonymously. It is an important part of a public inquiry to allay public concern and part of that function is the public seeing and hearing senior people giving evidence and where appropriate being held to account. Further, the more senior the individual the less practical it will be to try to protect their identity even if such a course were otherwise appropriate.

Tom Kark KC

MAHI Chair