MUCKAMORE ABBEY HOSPITAL INQUIRY

SITTING AT CORN EXCHANGE, CATHEDRAL QUARTER, BELFAST

HEARD BEFORE THE INQUIRY PANEL

ON TUESDAY, 8TH OCTOBER 2024 - DAY 112

Gwen Malone Stenography Services certify the following to be a verbatim transcript of their stenographic notes in the above-named action.

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THE INQUIRY AFTER LUNCHEON RESUMED AS FOLLOWS:

Open session

COUNSEL OVERVIEW OF ORGANISATIONAL MODULE 4: 13:52

CHAIRPERSON: Thank you. Mr. Doran.
MR. DORAN: Good afternoon Chair and Panel members. I want to say a few words by way of introduction to organisational Module 4 which addresses the police role 14:01
in safeguarding and responding to allegations. The Inquiry will be hearing from a PSNI witness this afternoon, Lindsay Fisher. She is a temporary Detective Chief Superintendent and she currently holds the post of Interim Head of Public Protection Branch 14:02
within PSNI.

DCSI Fisher's oral evidence, which will be taken by Ms. Bergin, will focus primarily on the PSNI's roles and responsibilities within the Joint Protocol, but 14:02
there are other aspects of the module that I want to outline briefly before the witness is called.

The module is described as follows in the summary of the organisational modules that is published on the 14:02
Inquiry's website:

"An examination of the PSNI role in the Joint Protocol and the effectiveness of historical and current

arrangements. The module will also address statistical breakdown and analysis of historical staff on patient complaints and outcomes."

When requesting statements from PSNI to address these matters, the Inquiry also asked PSNI specifically to address its role in the investigation into the allegations relating to Ennis Ward in 2012. The response of the relevant authorities to Ennis was, of course, the subject of focused examination by the Inquiry in evidence Module 6(b) in June earlier this year. It was important from the Inquiry's perspective that it obtained a comprehensive account of how those allegations were addressed within the criminal context in addition to the adult safeguarding process which was the subject of examination in oral evidence by the Inquiry in June.

14:03
14:03
14:04

organisational Module 4 forms an element of the Inquiry's consideration of paragraph 13 of the Terms of Reference which reads as follows:

14:04

"The Inquiry will also examine the response of other relevant agencies, including the Police Service for Northern Ireland, PSNI, the Patient and Client Council, PCC, the Health and Safety Executive, HSE, and the Regulation and Quality Improvement Authority, RQIA, when allegations of abuse of patients at MAH were reported to them."

14:04

It may be worth noting in passing that the roles and responsibilities of the PCC, the HSE and RQIA, as regards the hospital, were examined in evidence Module 5 last year. The work of the PCC and the RQIA has featured more recently in organisational modules 1 and 5 respectively. 14:05

Returning to the PSNI, the Inquiry's request for evidence to address the three areas of 1. The Joint Protocol; 2. Historical complaints and outcomes, and 3. Ennis, resulted in the provision by PSNI of six statements in relation to those matters. Those six statements which are now published on the Inquiry's website are as follows: 14:05

The first organisational Module 4 statement is the first of two statements by DCSI Fisher. This statement is dated the 27th of August 2024. The Inquiry reference is MAHI STM-316. The statement addresses a series of questions posed by the Inquiry about the protocol and related matters. 14:06

DCSI Fisher's second statement is dated the 10th September 2024. Inquiry reference is MAHI STM-321. This statement considers the statistical breakdown of staff on patient complaints throughout the time frame of the Terms of Reference, with particular focus on pre-Turnstone cases. The statement also presents statistical information on the outcomes of files sent 14:06

to the PPS.

The third statement for the purpose of this module is by Sean Clarke. Mr Clarke is a Higher Police Analyst working within the PSNI Public Protection Branch. The statement is dated the 5th September 2024. The statement reference is MAHI STM-322. The statement exhibits a spreadsheet titled "Muckamore occurrences master sheet". The spreadsheet is intended to capture all incident reports emanating from the hospital across the time period of the Inquiry's Terms of Reference. The spreadsheet also has a facility to distinguish between cases linked to Operation Turnstone since 2017 and non-Turnstone cases. 14:07 14:07

The spreadsheet exhibited to the statement is subject to Restriction Order No. 88 which you, Chair, made on the 26th of September 2024. The Order indicates that you are satisfied that the spreadsheet should not be disclosed or published and that this restriction is necessary in the public interest, having particular regard to the circumstances of confidentiality in which disclosures to PSNI were made and to the need to protect the identities of individual patients in accordance with Restriction Order No.2. 14:08 14:08
While the body of the spreadsheet is restricted for those reasons, it has nonetheless been possible to extract the core statistical information contained in the spreadsheet which is provided as Exhibit 1 of the

statement that is published on the website. I will say a little bit more about statistical information in due course.

The fourth statement for this module is by Detective Constable Treacy Hawthorne. It's dated the 11th September 2024. The reference is MAHI STM-326. DC Hawthorne was the Investigating Officer into the alleged abuse in Ennis Ward which she indicates was reported to her on 8th November 2012. The statement addresses a number of issues relating to Ennis. First, whether the PSNI considered a wider investigation at the time into whether abuse was occurring on other wards within the hospital. In summary, the statement explains that the potential for institutional abuse was considered in the course of the joint safeguarding investigation. The statement indicates however, that the information available to PSNI at the time suggested that the issues appeared to be isolated to practices within the Ennis Ward, rather than hospital-wide institutional abuse. There was no information provided at the time to suggest that similar practices were occurring on other wards.

Secondly, the statement notes that a proposal was made by DS McCormill who has also made a statement for this module, that I will come to shortly, on 13th November 2012 that covert CCTV could be installed in Ennis Ward. The statement explains that authorisation was not

provided at that time by the Trust for the installation of CCTV in Ennis. The Panel will recall that the strategy adopted within the safeguarding process at the time was for increased monitoring on the ward by additional staff. DC Hawthorne explains that ultimately, the Trust not having authorised the CCTV proposal, the PSNI did not pursue the matter further. 14:11

Thirdly, DC Hawthorne addresses an observation made at paragraph 8.45 in the Leadership and Governance Review that there was significant delay in police interviews with the two suspects. DC Hawthorne notes that PSNI was not consulted by the Leadership and Governance Review team. In order to assist the Inquiry she exhibits a timeline of events detailing actions taken by PSNI in the course of the investigation. In the body of the statement she goes on to say that in order to assist the Inquiry in understanding any perceived delay, it maybe of assistance to provide some context in relation to the processes at that time and she goes on then to discuss that context in some detail in her statement. 14:11 14:11 14:12

Fourthly, the statement provides a brief sketch of the out working of the criminal proceedings that were initiated against two individuals arising from the Ennis allegations. The statement notes that the PPS directed prosecution in relation to one nurse and one health care support worker. As the Inquiry is aware, 14:12

the nurse was found not guilty of assault and ill-treatment of a mental patient. The health and social care worker was found guilty of assault and not guilty of the ill-treatment offence. The health and social care worker subsequently appealed the conviction and the conviction was overturned. 14:12

Fifthly DC Hawthorne provides further detail of her experiences in Joint Protocol cases beyond the Ennis Investigation. 14:13

Finally in respect of this statement I should point out that Restriction Order No. 87 dated 26th September 2024 requires that some of the text in paragraphs 35 and 53 be redacted as well as exhibits 4 and 5. And the rationale for this redaction is to protect the identification of staff implicated in abuse as required by Restriction Order No.4. 14:13

The fifth statement for this module is a second statement by DC Hawthorne dated 18th September 2024. The reference is MAHI STM-332. I can deal with this one very quickly as it simply exhibits a copy of the outline of case for the Ennis prosecution file that was submitted to PPS by PSNI in March 2013 and the report concludes with a recommendation for prosecution of the two suspects. 14:13 14:14

The sixth and final statement for organisational Module

4 is by Detective Sergeant Elaine McCormill whom I have mentioned. The statement is dated 20th September 2024. The reference is MAHI STM-330. This statement is also made for the purpose of considering the PSNI response to Ennis and should be read in conjunction with the two statements provided by DC Hawthorne. 14:14

At the relevant time DS McCormill supervised a team of six Constables, four Public Protection Arrangements for Northern Ireland, PPANI, Offender Management Officers, one Missing Person Officer and one Adult Safeguarding Officer. The Adult Safeguarding Officer was DC Hawthorne. The area covered by the team included Antrim and they were therefore responsible for dealing with referrals from the hospital. The statement provides some context to the work conducted by the team and some general statistics on annual safeguarding referrals from hospitals and other facilities for the period 2008 to 2014. The statement also records an increase in referrals from 2015 onwards. The statement notes in general terms that the highest number of referrals across the district was from Muckamore. 14:15 14:15

DS McCormill notes at paragraph 19 of the statement that: 14:16

"From these statistics it cannot be determined whether MAH had an increase in incidents occurring or whether staff became more confident in the safeguarding process

and as a result reported more."

She also observes as follows in paragraph 20:

"In my opinion I felt confident that MAH staff were carrying out the safeguarding process as would be expected insofar as reporting the matters under the Joint Protocol procedures. Whilst reports were made there was an absence of witness evidence which made investigations difficult. It was practice for staff on duty to be spoken to, to find out if there were witnesses. This was undertaken by the Trust Designated Officer as part of their internal investigation and that of the PSNI. It was practice to formulate this as part of the strategy discussion." 14:16

She also records that relations with the Trust Designated Officer were good and goes on to provide detail about the working of the Joint Protocol in practice. The statement then goes on to address at some length DS McCormill's experience of the difficulties encountered in the investigation and prosecution of safeguarding cases generally, including the Ennis Investigation. 14:17

The statement also exhibits contemporaneous notebook entries in respect of the Ennis Investigation. The statement closes at paragraph 62 with the following reflection:

"Regardless of the minimal resources, which was an obvious additional pressure, and the difficulty in gathering evidence to substantiate a crime, I believe that Constable Hawthorne and I did everything we could to bring perpetrators to justice expeditiously and to protect those most vulnerable from abuse from those who were there to care and protect them."

14:17

Now, before I leave DS McCormill's statement I want to deal with two points of clarification that were raised by DLS on behalf of the Belfast Trust on receipt of the statement. As I've mentioned, the statement refers to relations between the PSNI team and the Trust Designated Officer as being good. That is at paragraph 21 of the statement which is at MAHI STM-330 page 5, I wonder if that could be brought up on screen please. That's MAHI STM-3305. Paragraph 21 reads:

14:18

14:18

"I found the Trust Designated Officer both professional and proactive. We, particularly Constable Hawthorne, had an excellent relationship with involved daily contact with this officer".

14:19

If one scrolls down then to paragraph 25 on the next page it reads:

14:19

"I recall times where it appeared that there were patterns forming of repeat assaults on specific

patients. In response to this, Constable Hawthorne and I would meet with the Trust Designated Officer, Barry Mills and latterly Michael Creaney, to ensure appropriate safeguarding was in place for that individual." 14:19

Now in correspondence of the 4th October to the Inquiry DLS sought clarification of two matters, first clarification of who the designated officer was that Ms. McCormill was referring to in paragraph 21, and whether the reference was intended to be one or both of the individuals referred to in paragraph 25 or someone else. 14:19

DS McCormill has since confirmed in correspondence from the Crown Solicitor's Office of yesterday's date that she was referring to Mr. Mills initially and then Mr Creaney. So both of the individuals mentioned at paragraph 25. 14:20

CHAIRPERSON: Thank you. 14:20

MR. DORAN: Secondly, in relation to paragraph 25 which I have just read, DLS sought clarification of whether the reference to "patterns forming of repeat assaults on specific patients" referred to patient on patient assaults. And DS McCormill confirmed through CSO the reference was indeed to patient-on-patient assaults. No further action is required as regards the statement itself. Those two points of clarification are now on the record. 14:20

CHAIRPERSON: And on the transcript.
MR DORAN: Indeed. I think it's fair to stay, Chair and Panel members, that the statements of DC Hawthorne and DS McCormill will assist the Panel in understanding how the Ennis allegations were addressed within the criminal process. The statements will hopefully serve to complete the evidence as far as the Inquiry is concerned for the purpose of its examination of Ennis which was, as I have indicated, the focus of evidence Module 6(b). 14:21

Now, Chair and Panel, I wish to emphasise that I have given only a broad overview of the various PSNI statements. The full detail is to be found in the statements themselves which have all been published on the website. 14:21

Having reviewed the above evidence, the Panel has decided to call Detective Chief Superintendent Fisher to provide oral evidence in respect of this module. 14:22

Before I conclude my introduction to the module, I want to make two observations. First, as is often the case with the presentation of statistics, further exploration of the numbers may be required. I'm conscious that the Panel and Core Participants have had limited time to consider the various statistics to which reference is made in the statements of Mr Clarke and Ms Fisher. It may be that some further questions 14:22

will arise that PSNI can be asked to address or it may be that for the purpose of the Inquiry's ultimate report the statistics would benefit from some further consideration as to how they might most effectively be presented, but those are not matters for oral evidence today. 14:23

The second observation that I wish to make relates to the current investigation and Prosecution. The Panel and Core Participants are aware that the Inquiry, the PPS and the PSNI have adopted a memorandum of understanding, the objective of which is, and I quote directly from paragraph 7: 14:23

"To state the shared understanding of how the Inquiry, the PSNI and the PPS will discharge their respective statutory responsibilities as the Inquiry, the investigation and the prosecutions proceed." 14:23

The MOU, the third version of which was issued on 12th October 2023, is published on the Inquiry's website. Prior to hearing from the PSNI witness for the purpose of this module, it may also be worth rehearsing some of the basic principles underpinning the MOU which are set out at paragraph 16 to 19 and I am going to rehearse those, Chair. Paragraph 16 says: 14:24

"The Chair of the Inquiry acknowledges the need to make every effort to ensure that the work of the Inquiry

does not impede, impact adversely on or jeopardise in any way the PSNI investigation into abuse at the hospital and the Prosecutions that result from that investigation.

17. The subject matter of the investigation and Prosecution is of direct interest to the Inquiry but the Inquiry is not examining the response of the PSNI and the PPS that has followed by the seizure of the CCTV footage. 14:24

18. The Chair in accordance with s.17.1 of the Inquiries Act shall make every effort to ensure that the procedure and conduct of the Inquiry respects the integrity of the investigation and Prosecutions while continuing to address its Terms of Reference. 14:25

19. In particular the Inquiry will be conducted with due regard to the live nature of the investigation and any ongoing or prospective prosecutions and investigative and disclosure duties that arise in that context in accordance with the arrangements prescribed by this MOU." 14:25 14:25

Now having regard to those principles, the Inquiry has proceeded with caution when issues have arisen in relation to the CCTV footage that came to light in 2017, the ensuing investigation and the ongoing criminal investigations. It goes without saying that the Inquiry will, of course, continue to adopt that approach as it moves forward with its work. 14:25

Finally, it is important also to note that the Inquiry has engaged and will continue to engage with the PPS and the PSNI to ensure that the Inquiry is provided with comprehensive and up-to-date information on the progress of the investigation, the current prosecutions and the consideration of prosecution files by the PPS.

Now, that completes my introduction to the module and I am now going to hand over to my colleague, Ms. Bergin, who will be taking the evidence of DCSI Fisher. 14:26

CHAIRPERSON: Yep, thank you very much for that, Mr. Doran. Okay, Ms. Bergin.

MS. BERGIN: Good afternoon Chair and Panel. The witness is ready to be called.

14:27

DCSI LINDSAY FISHER, HAVING BEEN SWORN, WAS EXAMINED BY MS. BERGIN AS FOLLOWS:

CHAIRPERSON: Detective Chief Superintendent, can I welcome you to the Inquiry. Thank you for your statement and thank you for your attendance this afternoon. You have probably watched some of these proceedings, I imagine, so you now how it works. If you want a break at any stage obviously just ask for one. I imagine you've given evidence in court before. 14:28

A. Yes.

CHAIRPERSON: But perhaps not to a public inquiry but if you do need a break just let me know but otherwise we will break after about an hour, all right.

1 Q. MS. BERGIN: Thank you, good afternoon Detective Chief Superintendent Fisher as you know my name is Rachel Bergin and I am a member of the Inquiry counsel team and I am going to be taking you through your evidence this afternoon. Now you should have copies of three statements in front of you. You should have two of your own statements. The first of your statements is dated 27 August 2024 and the reference is STM-316. And you have attached 11 exhibits to that statement; is that correct? 14:28

A. That's correct.

2 Q. I understand there is a clarification to be made in respect of paragraph 40 of that statement in relation to the wording of the caution?

A. Yes, that's correct. That should read "you do not have to say anything but I must caution you that when questioned on something which you later rely on in court it may harm your defence if you do not say anything." 14:29

3 Q. Thank you. Can I just ask if you could maybe move the microphone closer to you or just speak a little bit louder in aid of the stenographer, please. Your second statement is dated 10th September 2024, that is STM-321, and I understand there is a minor correction at paragraph 7 in relation to referring to a table further down? 14:29

A. That's correct, that should be a table at point 11, at paragraph 11, not 12.

4 Q. And in relation to both of those statements you have

signed the declarations of truth; isn't that correct?

A. That is correct.

5 Q. And subject to those clarifications this afternoon are you content to adopt both of those statements as your evidence before the Inquiry? 14:29

A. I am, yes.

CHAIRPERSON: Purely out of interest the caution is different, is it, in Northern Ireland than it is --

A. It is slightly different than it is in the rest of the UK. 14:30

CHAIRPERSON: Interesting, thank you.

6 Q. MS. BERGIN: You should also have in front of you the statement of your colleague, DS McCormill, and we may refer to that in your evidence. As we go through your evidence, in addition to the statements in front of 14:30 you, you will be able to follow along on the screen in front of you. Turning to your statement then, your first statement, that's STM-316, and at paragraphs 1 and 3 or between 1 and 3 rather you detail your professional background. It's correct that you are a 14:30 temporary Detective Chief Superintendent in the PSNI?

A. That's correct.

7 Q. You are the Interim Head of the Public Protection Branch also?

A. That's correct, yes. 14:30

8 Q. You were asked a series of questions which you have addressed in your statement. The first of these is on page 2, and you were asked to provide an overview of the role of the PSNI in the Joint Protocol and you

answer this from paragraph 7 onwards. You outline the origins of the protocol and you explain that there were three versions of the Joint Protocol in 2003, 2009, and then the current 2016 version?

A. That's correct.

9 Q. And at paragraph 8 onwards then, in relation to the Joint Protocol, the first version in 2003 and you have exhibited that to your statement. We don't need to go to that but that's at page 23. And you explain that this Joint Protocol draws on a number of documents including Home Office and Department of Health Guidance published in 2000, called "No Secrets, a Guidance on Developing and Implementing Multi Agency Policies and Procedures to Protect Vulnerable Adults From Abuse." You then say that the role of the PSNI under that joint protocol was to investigate alleged or suspected criminal abuse against a vulnerable adult, determine a category of offence following referral and also that the 2003 Joint Protocol introduced the AJP forms, the Adult Joint Protocol forms, is that correct? 14:31 14:31 14:32 14:32

A. That's correct.

10 Q. Pausing there, do you know what the protocol or process was for referrals before the 2003 Joint Protocol was introduced?

A. The referrals would have come in I suppose without the structure that the AJP forms provide, which allow the articulation of those strategy discussions between police and Social Services or health and social care trusts, so they would have come in, in I suppose an ad 14:32

hoc manner. They could have been referred through via telephone call or via an e-mail into the office and that may have been directly to an individual that they had previously had interactions with or it could be to a group e-mail box.

11 Q. Was there any specific adult Safeguarding Team or officers that dealt with that before 2003, before the Joint Protocol?

A. Not before the Joint Protocol.

12 Q. So it would have, as you've said, gone to whoever picked up the call or referral? 14:33

A. Yes.

13 Q. Picking up then at paragraph 11, you go on to say that:

"Following the introduction of the 2003 Joint Protocol PSNI formed a Public Protection Unit, PPU, and that included specialist officers to investigate serious and complex adult safeguarding cases." 14:33

And you explain that that came about due to legislative changes under the Criminal Justice (Northern Ireland) Order 2008 and the publication of the guidance to agencies on public protection arrangements? 14:33

A. That's correct.

14 Q. At paragraph 13 then you say that in addition to that PPU, in 2008 the PSNI also introduced the MVPO role, that is the Missing and Vulnerable Person Officer role within local policing command areas? 14:34

A. That's correct, yes.

15 Q. And at paragraph 14 you say that the this role, the MVPO involved multi-agency and partnership working under the existing 2003 protocol?
A. That's correct, yes.
16 Q. There was one MVPO for each local policing area and the amount of time they could spend on referrals depended on the issues within that local district? 14:34
A. That's correct, yes.
17 Q. You go on then at paragraph 14 to say that the local policing area which Muckamore sits within is the same district as Holywell Psychiatric Hospital and also Lagan Valley Hospital? 14:34
A. That's correct.
18 Q. And if we scroll down then please to page 4, at paragraph 15, you refer to the table that we can see on screen and you say that: "This table shows year on year increases in vulnerable adult and adult safeguarding referrals in the D district" and that's the district within which Muckamore Abbey Hospital sits? 14:35
A. That's correct, yes.
19 Q. And in 2012/2013 the total number of vulnerable adult referrals in that district accounted for approximately 50% of the total referrals across the entire of Northern Ireland? 14:35
A. That's correct, yes.
20 Q. If we look then to this table, this table relates to 2008 until 2014 and we can see in the third column the percentage increase of referrals year on year between

those dates?

A. Yes, that's correct.

21 Q. And we see nine referrals in 2008 compared then with 778 referrals in 2013?

A. That's correct, yes. 14:36

22 Q. Now, do these figures include patient on patient incidents or are they only staff on patient incidents?

A. They would include a wide range of different types of referrals coming in involving vulnerable adults or adults in need of protection. 14:36

23 Q. In terms of what these figures relate to in terms of referrals, are those referrals from Muckamore staff directly to police or are they specifically to the Missing and Vulnerable Person Officer or are they categorised at some point or is it just the general referrals received from the hospital to the police? 14:36

A. They would be referrals received into police.

DR. MAXWELL: Can I just clarify, so this applies to a district and you've said that that includes three hospitals? 14:37

A. Yes, that's correct.

DR. MAXWELL: But the numbers are not exclusively the hospitals, it's the number of referrals coming into that unit?

A. That's correct. 14:37

DR. MAXWELL: Some of these won't have been in any hospital?

A. That's correct.

DR. MAXWELL: And is it possible to get a breakdown of

those numbers to know how many of them were actually from Muckamore?

A. I will go back and look at the manner in which the records are kept.

DR. MAXWELL: I understand. 14:37

A. Just I don't have access to that at the moment but it is something that I will certainly go back and review and try and commit a breakdown of that to the Inquiry.

DR. MAXWELL: But at the moment as it stands, we can't assume where these rises have come from? 14:37

A. No.

CHAIRPERSON: And could I just ask, does vulnerable adult including domestic violence incidents?

A. It would be, I suppose, what we accept now is the definition of an adult in need of protection. It could 14:38 be that there is a cross-over in that arena where somebody is within their home dwelling and are a vulnerable person and have been the subject of a domestic abuse incident.

CHAIRPERSON: Thank you. 14:38

DR. MAXWELL: Sorry just before we move from that table, you may be about to ask it so I apologise, obviously this was noticed within the police force because it was affecting the workload. Was there any analysis about where and why there had been this 14:38 increase?

A. Not that I am aware of specifically. However, as we were looking at the structures and the governance in terms of the wider public protection and vulnerability

sphere, there were a number of factors as to why the public protection branch as it sits now was developed, and increasing demand specialisms within those demands would have been part of those factors.

DR. MAXWELL: I suppose what I'm getting at is was this just more reporting or was there increased incidents. Quite often when you start measuring things more people report it, and the actual baseline incidents hasn't changed, just more of them are reported. Was there any work done to see if there was actually a change in the number of incidents or was there something about the Joint Protocol had made people more likely to report it or --

14:39

14:39

A. There is not anything that I am aware of specifically.

DR. MAXWELL: Okay.

14:39

A. However, I am aware more generally in terms of awareness and our campaigns and the trust in confidence, that does play a factor across a number of disciplines, particularly whenever we consider areas of under reporting.

14:39

DR. MAXWELL: Okay, thank you.

MS. BERGIN: If we then move down to paragraph 16 and here you say that between 2008 and 2014 there was a large number of referrals from Muckamore to police and that resulted in regular communication between Muckamore staff and the police?

14:40

A. That's correct, yes.

24 Q. And you say that then there was a practice during that time for staff to then phone the MVPO for advice,

rather than completing the AJP forms which had been introduced under the 2003 protocol?

A. Yes, that's correct.

25 Q. The effect of this then, really was that referrals couldn't accurately be recorded and managed? 14:40

A. That's correct.

26 Q. And you then go on to say that this then led for the MVPO for the district that Muckamore sits in, D District, to insist that no referrals would be accepted without an AJP form. You then say that in 2014 the 14:40 PSNI Central Referral Unit was formed so the practice of emailing referrals directly to the MVPO changed. If we pause there, do you know why the MVPO insisted on those forms being provided after it not having been the case for a period of time? 14:41

A. Obviously I wasn't part of those discussions, however, I would take the view that it is about that governance. We would have been looking at our systems, structures and processes and there were already a number of other operational changes, not in respect of adults in need 14:41 of protection or adult safeguarding, that were in play in terms of the management of violent and sexual offenders, et cetera. So we would have been looking at the governance processes more generally. So I believe it would have been around that governance and being 14:41 able to manage and articulate an individual's demand.

27 Q. Do you know when that occurred, when the MVPO insisted that the AJP forms were provided?

A. I am not sure, apologies.

28 Q. I suppose just to orientate it some time between 2008 to 2014 but you cannot be more specific than that; is that correct?

A. No, sorry.

CHAIRPERSON: That presumably would have meant your statistics got rather better? 14:42

A. Absolutely, yes.

29 Q. MS. BERGIN: Do you know, I appreciate you have already said you weren't directly involved at that time with this issue, but in addition to the statistics improving, do you know if there was any tracking or analysis of the types of referrals that were then coming in or any differences in the severity of referrals that were being made to police? 14:42

A. More generally in terms of the introduction of the Central Referral Unit, we would have then been able to look at the processes and track the number of referrals and what they would have been in connection with more readily because they were coming into a central location. However, in terms of the severity, criminally speaking, I'm not sure that I would be in a position at this point in time to track and trend those. 14:42 14:43

30 Q. You've indicated that during the period 2008 to 2014 this practice developed of the AJP forms not being submitted. Looking back to the period prior to that, so from 2003 when the AJP forms were brought in until 2008, can you say anything about what the practice was at that time in terms of the use of the AJP forms? 14:43

A. Again, without direct knowledge of the adult safeguarding referrals in this nature, I am aware directly in terms of other disciplines around the Joint Protocol and that practice would have been commonplace in the seeking advice, trying to get, I suppose, a steer as to the requirement to or not to submit the AJP forms.

31 Q. At paragraph 16, touching again on the regular communication between Muckamore staff and PSNI in the context of making referrals, you have in front of you, and we can bring up on screen but I don't know that we need to, the statement of Detective Sergeant Elaine McCormill and that's on the Inquiry website and the reference is STM-330. I just want to refer to a discrete paragraph of that statement. In Detective Sergeant, McCormill's statement at paragraph 36 to 37, she describes in summary her belief that staff, many of whom were family members and close friends, had difficulties in challenging behaviour of other staff or reporting staff to police and that this might have had an impact on the ability of police to gather evidence in relation to investigations. Now, Detective Sergeant McCormill's statement primarily relates to Ennis matters but I want to ask in I suppose a non-Ennis context or just more generally, is that something you are aware of as having presented an issue in terms of staff engagement with police in terms of reporting or making referrals to police, there being issues around familial or close staff friendships?

A. It is not something that has ever been brought to my attention, no.

32 Q. Moving then to paragraph 17 and 18 and you go on to say that:

14:45

"The 2003 version of the Joint Protocol was reviewed and the new Joint Protocol was agreed in July 2009 between the health and social care bodies, the PSNI and RQIA."

14:45

At paragraph 18 you then refer the Joint Protocol and you have attached that at page 179. Now we don't need to go to that but you've summarised some of the changes that came in with the new version of the protocol and those include a wider definition of what constitutes a 14:46 vulnerable adult. At 5.1, so that's page 189 for the reference:

"The right of vulnerable adults were enhanced in relation to understanding and being involved in 14:46 investigations."

And then at page 196, that's paragraph 7.9 of the 2009 Joint Protocol, you've indicated that it requires AJP forms to be used to record any strategy consultation 14:46 between agencies and in fact they must be used for those meetings. You say:

"This enabled PSNI MVPOs to manage and to record

referrals more effectively and enhance the accountability of this process."

So from summer 2009 onwards with the introduction of the Joint Protocol, do you know if this was around the same time that the MVPO insisted that the AJP forms were submitted or is that separate, is that in relation to another issue? 14:47

A. I would assert that because there had been work ongoing around the Joint Protocol and what that would look like and there was a revision of the AJ, of how we record and the development of the AJP forms as they stood at that time, that that would have been linked, knowing what is coming, knowing that the governance that is going to be put in place, that people were trying to make sure that that is put in place efficiently. 14:47 14:47

33 Q. Where there is a requirement to record any strategy consultations between PSNI and other agencies, in practice did that mean that more informal contact between Muckamore staff and the MVPO seeking advice didn't continue to occur, or did that mean that it did occur but had to be recorded or --

A. I'm not sure directly in terms of how much contact or whether that would have changed the style and tone of that contact. 14:48 14:48

34 Q. And in practice, insofar as you are able to say, are you aware of there being any major changes in terms of the procedures the police were following then with the introduction of the 2009 protocol?

A. Just in terms of the forms being adhered to and the structures of the training that would go alongside that, that would be reflective of the new protocol.

35 Q. And we'll come to training in just a moment. Now moving to paragraph 20, here you describe the role of the MVPO for the D District based in Antrim Police Station. I won't go through every step that you have outlined in your statement but this includes tasks from receiving the initial phone call or e-mail referral, right through to agreeing with the referrer whether the matter should be Joint Protocol or police only or Social Services only and then completing relevant forms, conducting ABE interviews and submitting Adult Safeguarding Investigations to the PPS? 14:48 14:49

A. That's correct, yes. 14:49

36 Q. Can you say at all how frequently the MVPOs in Antrim and the referrers would have agreed that a referral should be Joint Protocol rather than a single agency matter?

A. I wouldn't be able to comment on that without going through each of the records. 14:49

37 Q. If we move then to paragraph 22, and you say here that then in 2014 the Public Protection Branch, of which you are the Interim Head, was formed and that aligned geographically with the five Health Trusts and that was to enable better partnership working between the Trusts and the police? 14:50

A. Yes, that's correct, it allowed -- there were very different boundaries previously. We would have been

working on police boundaries and that would have made those relationships challenging at times, in terms of knowing who to contact, so being aligned with the Health Trusts we felt made for a more effective and efficient practise.

38 Q. So in addition to this, as part of this rather, the CRU, the Central Referral Unit was also established, that was in or around 2014 also?

A. That's correct.

39 Q. You say this created a team of specialist officers who were trained in the Joint Protocol. They were to be the first point of contact for referrals from other agencies and also indeed referrals from PSNI officers to the specialist officers? 14:50

A. That's correct, they were essentially a gateway in terms of those initial discussions. 14:51

40 Q. And we will come to training in more detail in a moment but if I can just clarify at this stage, when we differentiate between those specially trained officers or specially trained in joint protocols versus other PSNI officers, can you give us some idea of the differences in training. I suppose what I am really focussed on here is whether the other non-Joint Protocol trained officers would have had any degree of training in that? 14:51 14:51

A. It was very briefly ABE interview I suppose would come in three main categories. We would have those for significant witnesses which would include adults without a requirement for a Joint Protocol. There

would be ABE interviews for children and then ABE interviews for adults in need of protection or vulnerable adults. So there may be district officers or local policing command officers who would be trained effectively in single agency ABE interviews so that would allow them to conduct an interview with an adult who did not require Social Services to aid them. So they maybe aware of the processes more generally in terms of open questions, not leading a witness, but they wouldn't have had the in detail training around joint working with health and social care teams. 14:52 14:52

41 Q. Then staying between paragraphs 22 onwards, in the paragraphs that follow then you say that:

"From late 2014 the functions and responsibilities of the MVPO were then assumed by Public Protection Branch. Then PPB then had a dual role in terms of both on the one hand investigating serious crime but on the other hand also as a stakeholder in terms of developing policy." 14:53 14:53

And you give the example in your statement of the PPB being involved in the draft Adult Safeguarding Bill for Northern Ireland 2023, discussions around that?

A. Yes, that's correct. PPB is, I suppose, an anomaly within policing in that we own the policy areas across the public protection and vulnerability disciplines really as well as leading on the investigation, so it is a different set up and allows for us to be involved 14:53

in those key stakeholders and be involved in that policy that is going to impact on the investigations that we lead on.

42 Q. And then if we move to paragraph 26, that then brings us through to August 2016 and here you say that the current version of the Joint Protocol was then published in 2016 and you've exhibited that at page 233 and we will come to that in just a moment. 14:54

So moving then to question 2, you were then asked by the Inquiry: 14:54

"Do standards exist regarding the timescale to complete a safeguarding investigation. And if so, please provide an overview of those standards." 14:54

At paragraph 27 you describe how the Joint Protocols don't have prescriptive time scales to complete ASG investigations, but the PSNI have internal file timeliness protocols to regulate submission of files to the PPS? 14:55

A. That's correct, yes, but that's at the point at which the investigative steps are completed.

43 Q. Can you tell us a little bit more about what you mean by that and also then the file timeliness rules? 14:55

A. In terms of an investigation, whenever that is reported to police there may be a number of actions, whether that is, I have outlined in my statement, CCTV inquiries, witness statements and suspect interviews.

The time that we have to submit the file is at the point at which we make a decision either to charge a suspect or that we know that we are going to submit a file to the Public Prosecution Service for them to make a decision, whether that is prosecution or a no 14:55
prosecution decision. That will depend, the length of time that that takes will depend on the complexity of the investigation. There may be aspects where, if there are digital forensics or if there are financial inquiries, that they may be more complex and therefore 14:56
lengthier. However whenever an investigation is reported to police, we then have interim time scales that we have to review and discuss those with the investigating officer. That is that the investigating officer and their first line supervisor, normally that 14:56
is their sergeant, they have to have that discussion every 28 days. Second level supervisor, that is normally a Detective Inspector, will review that at 56 days. So they are the SIO and they would put an SIO update on each investigation. 14:56

I, as the Head of Public Protection, then Chair monthly meetings around performance. That wouldn't have necessarily been the case in 2016 but certainly over the last four years there would be monthly meetings 14:57
that will look at performance, file timeliness, our outcome rates and our files over six months old. So once a file that has been reported to us is over six months old, then it will be flagged on our performance

paperwork each and every month.

PROFESSOR MURPHY: Sorry, proportionately how many of the files get flagged in that way?

A. In terms of adult safeguarding?

PROFESSOR MURPHY: Yes. 14:57

A. That will depend on a month by month basis because there will be numbers that will come off, but across the different Trust areas that can be up to half or 50% of the investigations. What we normally find that add delays to those files or add lengthier investigative 14:57 time scales is where there are financial checks, where there are multiple victims potentially and obviously Muckamore sits outside of that, given the complexity and the vast amount of exhibits and evidence that needed to be reviewed. 14:58

PROFESSOR MURPHY: But essentially that means that some files could be reviewed over years; is that right?

A. Yes, that's correct. There will be, and apologies, this is a very police system comment, there will be times where we are awaiting something else, so it might 14:58 be that it is filed pending further information. And again, as I have referred to in my statement, that can be where capacity and capability of a witness has fluctuated. There may be those occasions that that is filed and it isn't appropriate to continually go back 14:58 to a witness. However, each of those cases is reviewed on a case by case basis.

DR. MAXWELL: And you've talked about three lines, the first line supervisor, the second line supervisor and

you as the third line supervisor. But when these cases are open for years, as in the case of Muckamore, does it get escalated, does somebody oversee you?

A. Yes, I have a responsibility to report on a regular basis, not only to my ACC, to my Assistant Chief Constable, but also the Northern Ireland policing Board. So there will be occasions that questions will be asked for updates on progress, not just about Muckamore, but about other thematic areas that the Policing Board have an interest in. But there is a gold, silver and bronze structure that is well recognised in terms of policing and that structure is put in place for complex or investigations that are going to be lengthy, as is the case for Muckamore. 14:59 14:59

DR. MAXWELL: So the Northern Ireland Policing Board has got a system of satisfying itself that this, the Muckamore Inquiries are proceeding as quickly as they can? 15:00

A. The Policing Board have asked for an update on progress on a number of occasions over the time that the Muckamore Inquiry has been running. 15:00

DR. MAXWELL: So they are getting information about why it's taking this long?

A. Yes.

DR. MAXWELL: They have satisfied themselves that it is progressing as fast as it can, have they? 15:00

A. Well, yes, I suppose that is a question for the Policing Board in terms of their level of satisfaction, however they haven't asked any additional questions

whenever those reports have been provided.

DR. MAXWELL: Okay.

44 Q. MS. BERGIN: You've referred to the complexity that attaches in particular to various cases involving vulnerable people, including Muckamore, and one of the examples that you have given is both in your statement and in your evidence is of a patient who, for example, might have fluctuating capacity. I just want to ask you about capacity issue. Is a decision as to capacity in this type of circumstance made by the patient's own doctor or do the police have, for example, a Forensic Medical Officer who makes that sort of assessment? 15:01 15:01

A. We do have Forensic Medical Officers, however where there is a particular individual that has fluctuating or complex needs, then information is sought from all sources, whether that is from their own medical and support staff as well as seeking consideration from experts on top of that. 15:01

45 Q. So if a referral is made in relation, for example, to a patient from Muckamore and police had either a concern or where alerted by Muckamore staff that there was a capacity issue, if police were told by Muckamore staff, for example a consultant psychiatrist, that the patient lacked capacity, would the police still then go and make their own inquiries to obtain their own capacity assessment or is there any procedure around that? 15:02 15:02

A. It would very much depend on a case by case basis and the complexities that are available. But we are evidence-led around that and that would include

evidence that's been provided to us by medical professionals.

46 Q. And in terms of the test for capacity, that's not something that then the police have a separate FMO to conduct? 15:02

A. No.

47 Q. Just on a case by case basis?

A. Yes.

48 Q. So then in terms of the test for capacity, you may have in part already answered this, but is there a different 15:03 test for capacity when police are looking at someone who is the accuser or someone who is being accused of wrongdoing when we are dealing with vulnerable adults?

A. Sorry, can you just clarify?

49 Q. Is there a different test for capacity if police are 15:03 looking at a vulnerable adult, if that vulnerable adult, police are looking at them in the context of them being the accuser or the accused, is it the same test for capacity that's applied by police?

A. Yes, we would have to apply a similar test. The 15:03 measures are in place again for vulnerable adults who are suspects again has changed over the last decade as well in terms of who would represent them as an appropriate adult.

50 Q. You've referred in your statement elsewhere to the fact 15:04 that there are some investigations that have taken in the region of six years relating to Muckamore, we are not going to go into the detail of any of that specifically today, but my question is around time

scales for Joint Protocol investigations generally. Would police have an average time frame in terms of how long a Joint Protocol investigation in relation to a vulnerable adult would typically take?

A. We would be able to provide an average time and that's something that certainly if the Inquiry is interested in that, I can go back and provide that in writing. However, that is based on number and overall length of time for all investigations, so it is simply an average of the overall amount of time. There will be cases that are referred that are straightforward and the evidence is readily available and therefore a decision can be made quickly and efficiently. And there are those that are significantly more complex, though in terms is there normative time? I don't believe that there is. 15:04 15:04 15:05

PROFESSOR MURPHY: Can I just ask because I am not really clear about this, supposing you see something on CCTV that is very clearly in your view potentially a criminal act, do you then look through all the rest of the CCTV to see if that particular suspect appears elsewhere or not? Do you just go ahead with the one that you've got, so to speak? 15:05

A. I don't want to obviously refer in terms of Muckamore specifically. However, if we have CCTV that we are looking at around offences or offenders then we would review to look to see what CCTV is available. Some systems will overwrite quite quickly and therefore not be available. However, if we have any suspicion or 15:05

practices appear as such that would give rise to that concern then, yes, we should be looking at the CCTV that's made available to us.

PROFESSOR MURPHY: Okay, thank you.

51 Q. MS. BERGIN: If we move then to page 10 and at question 4 you were asked whether safeguarding investigations are managed differently, if the subject of the investigation is in a place of safety such as a hospital and if so to explain those differences. If we scroll down to paragraph 32 then please. Here you say: 15:06

"Under the current 2016 Joint Protocol there is no difference in the investigation if someone is in hospital or not."

15:06

And you say that the originating protocol --

CHAIRPERSON: Where are we, which paragraph?

MS. BERGIN: Paragraph 32.

CHAIRPERSON: Yes, sorry.

52 Q. MS. BERGIN: And you say that: 15:07

"The 2003 protocol says that it applies equally to suspected crimes in domiciliary, community or hospital settings."

15:07

Now, if we could just go then to the Joint Protocol, that's at page 233, and if we could scroll down to page 271, please. Paragraph 3.3 deals with the application of joint protocol threshold by HSC Trust DAPOS and it

states:

"The DAPO will determine which threshold for intervention is appropriate. This includes referring crime to police for joint agency investigation, joint agency consultation with PSNI or following ASG procedures where criteria to report to PSNI isn't met."

And this then refers to a Joint Protocol flow chart for the DAPO and if we could go to that on page 313, please. And we see here appendix 10 is the HSC Trust flow chart for decision making and referral to PSNI CRU. And if we scroll then down to the next page, if we could stop there please, thank you. So if you could just briefly describe to us what these flow charts deal with? 15:08

A. Yes, that's the crime being reported through or the suspected crime being referred through to the Central Referral Unit.

53 Q. And at the bottom of page 314, if you could scroll down to the last box, please, and here there is a list of relevant offences? 15:09

A. That's correct, yes, including sexual offences, domestic offences, financial investigations, et cetera.

54 Q. And those are a list, if I'm correct, of offences which are considered then under this protocol? 15:09

A. Yes, but not exhaustive.

55 Q. Yes. At the second last entry from the bottom states "Institutional abuse". Do you know if there is a

definition within the protocol documents or any guidance in relation to what constitutes institutional abuse?

A. I would have to go back to find the exact reference however there is an understanding practically in terms of what that would mean, where there is systemic abuse likely in an institution. 15:09

56 Q. And insofar as you are able to say in open session this afternoon to the Inquiry, do you know if that institutional abuse category has been considered in relation to the Belfast Trust? 15:10

A. I would have to look back and see whether or not that has ever been considered.

57 Q. In terms of the types of potential defendants or parties that could be prosecuted for an institutional abuse offence, can you tell us about who that might be, would that apply to individuals or corporate bodies, or... 15:10

A. It would be individuals that are in that position of care and responsibility. 15:10

58 Q. And would allegations of institutional abuse be treated differently by police from single allegations of abuse in an institutional setting?

A. They are, by their nature, more complex because they have the potential of being widespread. However, in terms of the investigative steps, they follow a similar structure around the actual investigative steps that would be taken, albeit they would have to be extended across potentially multiple suspects, multiple victims. 15:10

59 Q. Are there any additional specific policies or police procedures in relation to dealing with institutional abuse?

A. They would still come back to the Joint Protocol first and foremost in terms of agreeing the responsibilities for those investigations. 15:11

60 Q. If we can go back then, please, to paragraphs 33 and 34, it should be on page 10 or 11 please, thank you. At paragraphs 33 and 34 you say that the 2003 protocol had additional notifications to be made where abuse was in a residential or nursing facility, including notifying the RQIA and the Registration and Investigations Unit, but that this didn't provide for the investigation to be managed differently. 15:11

Further down if we could scroll down to paragraph 37, please. Here you say: 15:12

"A practical difference is that when investigating an alleged incident in a hospital, police may liaise with hospital social workers and professionals in addition to or instead of community based social workers when carrying out the Joint Protocol aspects of an investigation." 15:12

So in practice that would mean that sometimes an ABE might involve both a Joint Protocol trained community social worker and also a hospital social worker who knows the patient? 15:12

A. That's correct. This is about achieving the best

evidence of that individual.

61 Q. So whilst the Joint Protocol might not say that investigations were to be managed differently, in practice where or are Adult Safeguarding Investigations managed or at least carried out in some way differently then if they relate to someone who is it in a hospital setting? 15:13

A. This practical difference, I suppose, in terms of supporting the vulnerable adult, the adult in need of protection is about doing exactly that. The structures of the investigation, from a criminal perspective, remain the same in terms of gathering all available evidence and identifying and either arresting or inviting the suspect in for interview. 15:13

MS. BERGIN: Chair, I am just mindful of the time. 15:13

CHAIRPERSON: Yep, sure, how long do you think you've got, you are about half way through?

MS. BERGIN: Yes.

CHAIRPERSON: All right. Okay we'll just take a 10 minute break. Please don't talk about your evidence, as you know, thank you very much. 15:14

THE INQUIRY RESUMED AFTER A SHORT BREAK AS FOLLOWS:

62 Q. MS. BERGIN: Picking up at page 10 then, please, and we're still dealing with question 4 and at paragraphs 35 and 36 you say that: 15:27

"During a Joint Protocol investigation, consideration

has to be given during the investigation to safeguarding the vulnerable adult or other adults at risk of harm from the alleged perpetrator."

And you say that: 15:28

"PSNI and Social Services work together to put appropriate safeguarding arrangements in place."

And you say that: 15:28

"In the community this is generally done via a safe care plan drawn up between Social Services where, for example, an alleged offender is to have no or only supervised contact with the subject but then in a 15:28 hospital or residential setting where there are limited staff such arrangements may be challenging."

You say that:

15:28

"Where PSNI have sufficient grounds to arrest an alleged offender, bail conditions may be imposed as an additional protective measure where there is a high level of risk, but not as an alternative to the health and social care safeguarding measures." 15:28

A. That's correct.

63 Q. Thank you. When you refer to PSNI and Social Services working together to put appropriate safeguarding

arrangements in place, can you tell the Inquiry a bit more about what the PSNI's role was?

A. As I said, each individual investigation will be different, however that is our responsibility to allow an effective safety plan to be put in place without compromising the criminal investigation. That would be about information sharing or potentially alerting to information that has been disclosed during the course of a suspect interview, for example, but this would be on a case by case basis. 15:29

64 Q. And in terms of the types of interventions or what involvement the PSNI have in terms of working together with the Trust, would they be, for example, attending meetings and taking a view or providing a view to the Trust in relation to the safeguarding arrangements they have put in place, was it as involved as that? 15:30

A. There will be times where there are Joint Protocol meetings as part of the Joint Protocol, not only a strategy discussion but post ABE interview, for example, there will be a review of the structures that were put in place and an agreement as to whether or not they remain effective. 15:30

65 Q. And in terms of the PSNI, for example, bail conditions, presumably they trump any of the health and social care conditions as to the person working at Muckamore? 15:30

A. Specifically in respect of Muckamore then, yes, we would be looking at the bail conditions trumping, as you say.

66 Q. When the PSNI are making decisions about bail

conditions, would they take into account any of the Trust conditions or restrictions on those employees?

A. It will depend on the circumstances and what we feel is appropriate managing the risk that we are aware of. There may be live investigative factors that we would not be able to disclose and, therefore, we have to manage that information sensitively and carefully. 15:31

67 Q. When PSNI consider issues of arrest, bail conditions or charging, would they also take into account the wider implications for patient safety if, for example, a member of staff then had to be removed from the workplace? 15:31

A. That would be a consideration. However, bail conditions are imposed based on threat risk and harm in terms of the risk that we feel that we have the evidence around. 15:31

DR. MAXWELL: But do you balance risks? So you have evidence there may have been a criminal offence and, therefore, you think that the person is a risk, but actually there is a risk to vulnerable people if there is nobody to care for them. Do you balance those risks... 15:32

A. Those risks are balanced and that's where there would be different levels of plans put in place and it is our responsibility to review the information that we are able to provide at various junctures of an investigation to allow those decisions to be made and to allow safety plans to be put in place. 15:32

DR. MAXWELL: So you would consider the fact that

somebody was relatively new in post, under staffed, did something that, maybe a criminal offence, but has recognised that and now working with more support would not be a risk to a patient?

A. Our responsibility, and certainly for those mitigating factors, that is where under the Article 3 caution post-arrest or post-interview as a voluntary attender, that is where they are invited to explain mitigating factors, lack of training, that is for the suspect to bring that to police to assess the impact that that would or wouldn't have had. However, ultimately, that evidence is then presented to the Public Prosecution Service for a decision around whether or not a criminal offence requires a recommendation of prosecution or a no prosecution decision, the evidence is collected. 15:32 15:33 15:33

DR. MAXWELL: So, it's incumbent on the suspect to explain what the mitigating circumstances were?

A. Whenever we do a suspect interview across any offence type, that is their opportunity to identify those areas of mitigation or alibi or something that would say that they didn't do or they didn't intend to do so that is their opportunity. 15:34

DR. MAXWELL: So it is their responsibility rather than the police to see whether there were mitigating circumstances? 15:34

A. We have to investigate all of the circumstances so if we are aware of information through other means we would also have to do that. So, for example, if somebody else in a witness statement had alluded to a

shortage or something or a different person being involved, we would, as independent investigators, have a responsibility to assess that.

DR. MAXWELL: So you would look at staffing at the time? 15:34

A. Yes.

CHAIRPERSON: Well would you?

A. In a roundabout way.

CHAIRPERSON: Do you really have the capability of looking at systemic issues like that? 15:35

A. It would depend on exactly what that looks like. If it was brought up in a statement we wouldn't seek it I suppose.

CHAIRPERSON: Yes.

A. We would not seek out whether or not there were appropriate staffing levels... 15:35

CHAIRPERSON: No, I understand.

A. ... unless somebody identifies it.

CHAIRPERSON: The suspect says -- let's put hospitals to one side completely. But if a suspect puts forward a proposition, you will explore that, let's take an alibi, you would explore that alibi presumably? 15:35

A. Yes, if there is a line of inquiry, a reasonable line of inquiry, then it is our responsibility to review that. However, it doesn't change the role of PSNI to gather the available evidence and to present that to the Public Prosecution Service for a final decision making. 15:35

CHAIRPERSON: Yes, thank you.

68 Q. MS. BERGIN: And in fact, on page 11, at question 5 you were asked by the Inquiry about whether safeguarding investigations considered system factors and you have provided a response there in addition to your evidence this afternoon. 15:36

You go then at paragraph 46 to say that:

"Before the Public Protection Branch was created investigations involving vulnerable adults were 15:36 categorised by crime type which wasn't an effective practice because it didn't enable officers to gain experience and understanding of adults with learning disabilities or mental health issues."

15:36

A. Yes, that's correct.

69 Q. And:

"On reflection that could have been ineffective and failed to address or identify the root issues and 15:36 potentially have caused distress or confusion to the adult at the centre of the referral."

You then go on to say:

15:36

"The formation of the bespoke, specially trained ASG teams in the Public Protection Branch in 2014..."

Which we've referred to previously.

"...Was key to addressing this issue."

A. That's correct, yes.

70 Q. And at paragraph 58 you then go on to say: 15:37

"Police officers receive training throughout their careers to enhance their understanding and practice when dealing with calls for service involving people in need of protection and at risk of harm." 15:37

And we've touched on training very briefly already. At paragraph, at page, rather, 343 of your exhibits you provide a copy of some of the Garnerville Police College adult safeguarding training materials. Thank 15:37 you.

For some offences, whether a criminal offence has been committed or not may depend upon the state of mind of the alleged perpetrator and any intent behind the 15:37 actions. Did PSNI officers, or do they, do PSNI officers receive any training in relation to learning disability individuals to inform them about the potential for intent behind actions?

A. I suppose the wider understanding of that is very 15:38 complex and it's not something that officers would have a wide knowledge base around.

71 Q. And from 2014 onwards then when the Public Protection Branch was brought in, did the level and nature of

training in terms of the depth of training change?

A. It has changed, yes. There is the opportunity for formal training in terms of ABE interviews, PIA assessments, et cetera, but there is also a continuous professional development structure in place that allows more bespoke and informal training to take place. 15:38

72 Q. Is there any baseline learning disability and/or mental health training for police officers, not those involved in the specialist branches, but for every officer is there baseline training in relation to learning disability? 15:39

A. There will be information available within various vulnerability category training.

73 Q. But there is not a specific learning disability, mental health, that falls within the vulnerable... 15:39

A. Yes.

74 Q. ...persons training?

A. Yes, that's correct.

75 Q. At question 6, then, and that's on page 13, please, you were asked whether PSNI consider previous safeguarding referrals when investigating new allegations at Muckamore. You answer this at paragraph 43 and you say that: 15:39

"When the Central Referral Unit receive a referral an officer will carry out research which includes information on both the number and severity of any previous referrals and where there are repeat referrals, the PSNI will explore with the Trust what 15:39

mechanisms can be put in place to mitigate risk of repeat incidents."

A. That's correct, yes.

76 Q. Can you tell us anything more about the PSNI engagement with the Trust about these types of mechanisms? Are there particular meetings that you are referring to there or particular procedures? 15:40

A. That would have been, sorry, in the initial discussion, though if this was being referred in to Central Referral Unit there is that initial discussion with the trained person who is making the referral. That will make up part of those discussions at that time around whether or not it should or should not be Joint Protocol, whether or not it should be police only or whether it should be Social Services led. So there is a fluid sharing of information at that point to allow for that strategy discussion to take place. 15:40 15:40

77 Q. And at page 13 then, question 7 you were asked:

15:41

"How effective were historical arrangements in adult safeguarding?"

And you go on at paragraph 44 to 46 to describe significant improvements in the effectiveness of adult safeguarding in Northern Ireland, but that Northern Ireland is still the only part of the UK without specific adult safeguarding legislation. You say that: 15:41

"PSNI and partner agencies rely on protocols, policies and provisions to respond to the ever growing number of referrals."

Can you tell the Inquiry in, I suppose, some brief detail what types of policies, protocols and provisions you are referring to there? 15:41

A. So as a learning organisation we will reflect on policies and practices and that will be why there has been collectively a change in the Joint Protocols over the last two decades. That will also look at our structures, our policies. We have, since this time, looked at and started to look at repeat referrals, repeat locations, repeat victims. But we are always refining our ability to capture, collate and interrogate information that is available to us and that is part of the development of police information systems as well. Whenever we think just about the information that we hold within Public Protection Branch, we have a number of internal documents that allow us to identify the areas that we are focusing on across the disciplines of vulnerability. So it would be documents like that that have been borne out of cases, reviews, changes, new legislation and the requirement to flex around that. 15:42 15:42 15:42 15:43

78 Q. At question 8 then you were asked about the effectiveness of the current arrangements in adult safeguarding. At paragraph 47 you say:

"The Central Referral Unit, dedicated teams of ASG detectives and internal indicators improve the effectiveness of the current ASG arrangements."

And you refer again to the development or police involvement in the development of Northern Ireland's first Adult Safeguarding Bill and also the development of an updated Joint Protocol. 15:43

At paragraphs 48 and 49 you also refer to the use of registered intermediaries under the Joint Protocol. You say that the increased use of CCTV in facilities, including hospitals, has enhanced the effectiveness of adult safeguarding arrangements? 15:43

A. Yes, that's correct. 15:44

79 Q. Now, at question 9 then on page 15 you were asked the following:

"The Inquiry has heard evidence that on a number of occasions police were called to private residences or residential care homes to violent patients who required emergency admission to Muckamore." 15:44

And you were asked about the procedure and the legal requirements for police to attend. At paragraph 50 you say that police receive around 1,600 calls for service on a monthly basis relating to mental health in public and private places. You go on to outline the statutory powers of the PSNI under The Mental Health (Northern 15:44

Ireland) Order 1986, in particular Articles 129 and 130, which govern emergency admissions to Muckamore and other health care settings and also enable police to remove someone to a place of safety; is that correct?

A. That's correct, yes.

80 Q. And do you know if PSNI record and categorise calls received relating to people with mental health or learning disability issues?

A. They will be captured in a number of ways, depending on the response required. That will include concern for safety, for example. So there will be a number of ways that that information will be categorised.

81 Q. And are some of those categories though mental health or mental illness and another category of learning disability, is it categorised in that way at all?

A. Not in terms of how we capture the originating call, it wouldn't be.

82 Q. And what about later down the line, is there any further analysis or breaking data down into service users that you have engaged with, who are mental health or learning disability...

A. There will be information that is available on police systems. That will depend on the information that is available on that individual person. A person who is vulnerable through multiple means may have multiple flags on them for notification, that could be in terms of for mental health or learning disabilities or other factors including addictions, for example.

83 Q. You go on then on page 17, at paragraph 44 onwards to

describe some of the proposed changes with the draft Adult Protection Bill. For example, one change is that police will only be able to obtain a warrant to attend and enter a private premises if the warrant is obtained by health and social care staff rather than by police themselves?

A. That's correct. We wouldn't be obtaining the warrant, that would be for Trust staff within the new bill provisions.

84 Q. And that's a change from the current legislative provisions? 15:47

A. It is, yes.

85 Q. Under the Mental Health (Northern Ireland) Order?

A. It is, yes.

86 Q. You go on at paragraph 55 to say that: 15:47

"Another change is that the Chief Constable has recently indicated the introduction of the Right Care, Right Person Policy. This means that the threshold for PSNI to attend will be for investigating a crime that has or is occurring where there is a real and immediate risk to life." 15:47

And you say that:

"It is likely that Trust requests for police attendance at private residences as a precautionary measure will be declined unless that threshold is met." 15:48

Can you tell the Inquiry about why this policy is being introduced, the Right Care, Right Person policy?

A. This is in development stage. The timeline for full introduction across Northern Ireland is not yet agreed. However, the Right Care, Right Person is something that has been implemented across other parts of the UK and it focuses, as it sets out, as it says, to think about the right care for that person at that point in time. It is easily identifiable that police attending to somebody who is in the midst of trauma, mental health collapse or similar, that police attending in uniform can be or may be traumatic and may heighten their vulnerability and the impact that that will have on them. So it is about thinking about that person at the centre of that demand. It is also recognising that there is a significant demand on police that does not require a warranted power. It relates to not us saying that we will not be there if somebody needs our assistance, but it is about making sure that it is right person intervening at the right time. 15:48 15:48 15:49 15:49

87 Q. Does this effectively mean that the threshold for police attending is raised?

A. I think threshold for attendance, I suppose, makes it sound like we are saying no to something that other, that previously would have been a police responsibility. I think it is about aligning where our responsibilities are and what they are as a police service. 15:50

88 Q. In terms of the requirement that there would be, and I

appreciate it is still in development stage, but in terms of the requirement that police would really only attend where a crime has or is occurring, where there is a real and immediate risk to life, how is that to be assessed? How are police to know whether or not there is a real or immediate risk to life?

A. And this is why it is in development and it is in discussions and it is something that would be considered and implemented in a phased approach to make sure that the training is there, that the data is collected around the impact that this will have and that it allows organisations and other officials the time to review and assess the changes.

89 Q. Does this mean in practice that health care professionals, rather than police, are going to have to increasingly, or more frequently, deal with violent patients where police otherwise might have attended?

A. As I've outlined in my statement where there is a risk that a crime is or has occurred, and that would include a breach of the peace, for example, then police would still be attending. So where somebody is being violent or has the potential or is showing displays of an escalation, then there may still be a requirement for police to attend.

90 Q. The remainder of your statement then between questions 10 and 14, you were asked some further questions about the role of police in investigating safeguarding incidents and in dealing with patients requiring emergency admission to Muckamore or elsewhere, and then

in relation to reporting staff to regulators, and you've set out your responses in your statement. I am not going to go into those any further but if we could then look to your second statement, that's STM-321 dated 10th September 2024. 15:52

In this statement you consider the statistical breakdown of staff-on-patient complaints throughout the timeframe of the Inquiry's Terms of Reference and particularly focusing on the pre-Turnstone, pre-2017/18 15:52 cases relating to the CCTV. Now, looking to page 2 and paragraphs 5 and 6, here you say:

"At the outset of the Inquiry in 2022 and in order to assist the Inquiry, PSNI provided information to the 15:53 Inquiry detailing how, during the years 1999 to 2022, almost 5,000 occurrences had been recorded by PSNI relating to Muckamore Abbey Hospital."

Those figures come from a spreadsheet "Muckamore 15:53 Occurrences Master Spreadsheet" which has been provided to the Inquiry along with Mr Clarke's statement which was referred to by senior counsel to the Inquiry this afternoon already. We don't necessarily need to go to Mr Clarke's statement, although we can bring it up if 15:53 we have to, but the figure of 5,000 occurrences that you have referred to, could you tell us anything else about that figure. Are they simply in relation to staff-on-patient incidents or are they for the entirety

of Muckamore referrals to police?

A. That is across the period of time. Later in my statement I go into the information about the breakdown of those and had sought further information and advices from other parts of Criminal Justice Department. 15:54

91 Q. If we go to those now then. So at paragraphs 8 to 10 you discuss the statistics which have been provided in relation to staff-on-patient complaints prior to Operation Turnstone. You say that you have been informed by a colleague in the Criminal Justice 15:55 Department that 3,890 incidents were recorded at Muckamore during the Inquiry's Terms of Reference before Operation Turnstone; is that correct?

A. That's correct, yes.

92 Q. And of those 3,890 incidents, 358 are staff-on-patient 15:55 complaints, that represents 9.2% of incidents being staff-on-patient complaints; is that correct?

A. That's correct, yes.

93 Q. If we then look further down to paragraph 10, you say here that of the 358 incidents, 104 files were sent to 15:55 the PPS to review and the remaining 252 incidents, many of those were submitted as part of the Operation Turnstone investigation but aren't yet reflected on the PSNI system because there is no outcome from the courts yet? 15:56

A. That's correct, yes.

94 Q. Can you explain what you are saying there, because in the previous paragraph you appear to say that the 358 incidents were pre-Turnstone, but then here you are

describing that 252 incidents were submitted as part of Turnstone, so could you just clarify that, please?

A. In terms of the detail around those incidents, that would be something for the SIO to comment on. I don't have a breakdown of who those investigations would relate to in terms of the suspects.

95 Q. Okay. But all 358 files have gone to the PPS; is that correct?

A. Yes. The breakdown, sorry, that cuts across at point 11 will give a breakdown of the 358 and the different outcomes or progress that have been achieved by each of those. 15:56

96 Q. Yes, and if we look then to the table at paragraph 11. So we see here in this table three columns, the middle column describes the outcome or the action in relation to the referral and then the final column refers to the number of times that action was taken? 15:57

A. That's correct, yes.

97 Q. And that relates to the 358 files?

A. Yes, that's correct. 15:57

98 Q. And at No. 9, NFPA, can you confirm does that refer to No Further Prosecutorial Action?

A. Police Action, No Further Police Action.

99 Q. And at categories 5 and 6 "File to PPS"?

A. Yes, that's correct. 15:58

100 Q. If we understand that these files have all gone to the PPS, can you help us understand what that refers to, please?

A. The 358 are investigations that have seen a conclusion.

There is an opportunity for those to be closed before they get to PPS. My apologies if that wasn't clear.

CHAIRPERSON: Sorry, they've seen a conclusion?

A. If they have seen a conclusion. So, where an adult caution is given or where there has been no file, no further police action. So, for example, at point 9, that 146 will not have been reviewed by PPS. There has been a decision by police that there is to be no further action.

15:58

CHAIRPERSON: I am a bit lost and I am probably the only one in the room but I just want to understand. If we go back to paragraph 9:

15:58

"3,890 incidents were recorded at Muckamore Abbey within the time period covered by the Terms of Reference prior to the beginning of Turnstone."

15:59

Now what's the date of the beginning of Turnstone?

A. In terms of the Inquiry, 2017 I believe.

CHAIRPERSON: But do you know when in 2017?

15:59

A. I am not sure, my apologies.

CHAIRPERSON: Can I just follow because otherwise I am going to remain confused. If we go to paragraph 10, from the information provided, of the 358 incidents, so we are talking about the same 358 of staff-on-patient complaints, 104 files were sent to the PPS as part of Operation Turnstone?

15:59

A. Some of those will be part of Operation Turnstone and that is at point 8, "Incidents under investigation by

Op Turnstone."

CHAIRPERSON: So the 358 are actually potentially Turnstone cases?

A. There are 51 of those identified at point 8, that would be "Incidents under investigation by Op Turnstone." 16:00

CHAIRPERSON: So 104 have gone off to the PPS and are still with the PPS?

A. There will be those, there will be those cases that have been decided upon and that's where points 11, 12, outline no prosecution has been directed. So it's not 16:01 that they are awaiting decision necessarily.

CHAIRPERSON: No, okay.

DR. MAXWELL: Can I just go back to 358? So this is the number from the start of our Terms of Reference 1999, and when you say to the start of Operation 16:01 Turnstone, do you mean they could have arisen independently of Turnstone up until September 2017 and the ones that related to March to September then got moved to Turnstone?

A. I would have to go back to the SIO to comment 16:01 specifically on the 51 that were identified as part of Op Turnstone where, when and how they were identified.

DR. MAXWELL: Because it would be -- yeah. And would it be possible to have that breakdown to see if there was increasing incidents over the years or whether the 16:02 incidents were spread equally over the years, it would be quite interesting to see the trend data.

A. Because this information was provided by Criminal Justice Branch, I haven't personally reviewed each of

the 358.

DR. MAXWELL: Okay.

A. So I wouldn't be able to comment specifically on the pattern of when those cases would be referred or whether or not they increased at a point in time. 16:02

DR. MAXWELL: Okay. Thank you.

101 Q. MS. BERGIN: So to summarise that if we can, and it may be that the Inquiry will require some further clarification on these figures, but of the 358 incidents of staff-on-patient incidents, is it correct 16:03 that in terms of reading this table then three, so the first row, three resulted in an adult caution?

A. Yes.

102 Q. Four resulted in prosecution, one has an ongoing investigation and four have decisions pending? 16:03

A. Yes, that's correct.

MS BERGIN: I have no further questions but it may be that we will require some further clarification of those figures.

CHAIRPERSON: I think certainly we will. I think we 16:03 will be writing to the PSNI for further help. But can I thank you in the meantime for attending this afternoon and assisting the Inquiry.

A. Thank you.

CHAIRPERSON: Right. I think it's 10 o'clock tomorrow. 16:03 Yes, 10 o'clock tomorrow. Thank you very much.

THE INQUIRY ADJOURNED UNTIL 10.00 AM ON WEDNESDAY, 9TH OCTOBER 2024