

FROM THE MINISTER OF HEALTH



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Our ref – SUB-2124-2020

Date: *12* November 2020

Dear

Muckamore Abbey Hospital- Public Inquiry

I wrote to you 12 November to let you know that I have asked the Patient and Client Council (PCC) to arrange a number of events to allow you to give your views on the arrangements for the Public Inquiry into the abuse at Muckamore Abbey Hospital. These will help shape the draft Terms of Reference and identify an appropriate Chair for the Public Inquiry. The PCC is acting as an Independent Public Advocate in relation to the Inquiry. An explanation of this role can be found in Appendix 1 of this letter. An explanation of the roles of the Department of Health as the sponsoring department, and also the role of the Secretariat to the Inquiry is set out in Appendix 2. I have also included a Quick Read Guide to Public Inquiries; a more detailed version of this is available and can be requested from Eleanor.Good@pcc-ni.net or 028 9536 1708.

After consultation with the PCC, I have decided to host 3 meetings initially, in which you will have the opportunity to hear from me and my officials. I want to hear directly from families and carers to ensure your views are fully reflected upon before I take the important decisions I need to make regarding the Inquiry. I have also asked my officials to use this opportunity to explain the inquiry process in detail.

These meetings will take place remotely on Monday 7 December at 6pm, Wednesday 9 December at 1.30pm, and Thursday 10 December at 9.30am. If you wish to attend, please contact Eleanor Good at Eleanor.Good@pcc-ni.net or 028 9536 1708 for further details.

I am pleased to be able to host these meetings as I see them as critical to ensuring that the Inquiry starts on the correct footing. I hope these meetings will be a two-way discussion. I will begin by outlining my expectations for both the meeting and the Inquiry itself, followed by my officials explaining how Public Inquiries are set up and operate. This will include the ways in which family members, carers, current and former patients will have the chance to share opinions on what shape the Inquiry should take. This section of the meeting will be recorded for those of you who are unable to attend, and will be made available upon request.

After my opening remarks and the presentation by my officials, there will be a discussion facilitated by the PCC. During this you will have the opportunity to ask questions and express your views. Prior to the meeting, you may wish to consider the following:

- What do you want the Inquiry to achieve?
- What issues do you think the Inquiry should investigate?
- What time period do you think the Inquiry should cover?
- Is there any particular evidence you think the Inquiry should obtain?
- Who would you like to see appointed as chair of the Inquiry? Should they have a legal or professional expert background?

Next steps and ongoing communications will also be agreed at this stage.

At present, there are three ways in which you can contribute to the process of shaping the Public Inquiry:

1. **Attend a consultation meeting** and share your views.
 - a. In line with public health recommendations, our initial consultation meetings will take place remotely via Zoom. Please contact the PCC for the Zoom login details.
 - b. If you do not have access to Zoom, we will arrange for you to join the meeting via telephone. The PCC will provide the details to dial-in.
2. **One-on-one discussion:** If you would prefer to share your views in relation to the Inquiry on a private, one-on-one basis, please contact Eleanor Good, Patient and Client Council, at 028 9536 1708.
3. **In writing:** If you would prefer to submit your views in writing, please see appendix 4, the attached guide on written submissions. Once you complete the form, please post to the PCC in the stamped addressed envelope provided.

Following these initial discussions we shall facilitate a conversation with current and former residents. The PCC is currently in the process of developing a separate series of accessible engagement processes to which current and former patients will be invited to express their views. These will take place in January 2021.

Yours sincerely



Robin Swann MLA
Minister for Health

Appendix 1

Explanation of PCC's role as an Independent Public Advocate

The Patient and Client Council (PCC) was created 1 April 2009 as part of the reform of Health and Social Care in Northern Ireland. We are an independent, informed and influential voice that advocates for people across Northern Ireland on Health and Social Care.

The Patient and Client Council has been asked to act as an Independent Public Advocate in relation to the Public Inquiry into the abuse at Muckamore Abbey Hospital. In the context of public inquiries, Independent Public Advocates are responsible for supporting families, carers, and current and former patients by:

- Understanding their needs and their interests.
- Providing support to ensure that families, carers, and patients can understand the purpose and proceedings of the public inquiry.
- Supporting families, carers, and patients to be able to be fully involved in the inquiry process.
- Providing support to those families, family members, and patients who want it.
- Engaging with other public bodies that are responsible for the inquiry in the best interests of families, carers, and patients.

The PCC cannot provide legal advice to individuals involved in the Inquiry.

In order to fulfil its duties as an Independent Public Advocate, the PCC is independent of the other bodies involved in the Inquiry (e.g.: the Department of Health, the Health and Social Care Trusts). However, the PCC works closely with these bodies in order to communicate the views of families, carers, and current and former patients.

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Appendix 2 – Role of the sponsoring Department and Secretariat to the Inquiry

The sponsoring department

Pre-inquiry

- Preparation of business case for inquiry (staffing, accommodation, IT, security);
- Secure appropriate funding;
- Identification of chair[s] of inquiry (and panellists) and recommendation to Minister for decision;
- Preparation of Terms of Reference for Ministerial approval following consultation with families (in conjunction with Chair) and appropriate legal advice; and
- Record management.

During the Inquiry

- Collection of financial information relating to the Inquiry;
- Regular monitoring of spending and progress; and
- Scrutiny of propriety and regularity.

Post-Inquiry

- Supervision of the timely destruction of departmental records that are no longer required;
- Co-ordination of the Government's response to the report and ensuring that work is taken forward to implement any recommendations in it; and
- Oversight of transfer of Inquiry records for archiving.

Role of the Secretariat

The secretariat of the public inquiry works for the Inquiry and not the sponsoring Department.

Role

Pre-Inquiry

- Securing accommodation, IT, security and staff
 - Establishing appropriate Information management requirements
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- Ensuring design of Website and inquiry logo
- Overseeing the development of a Communication plan

During Inquiry

- General administration and management of the inquiry;
- Budgetary control
- Intermediary for all information requests relating to the inquiry;
- Control and monitor the transfer of information to the inquiry and to witnesses;
- Agree policies and processes for information management;
- Ensure safeguarding and maintaining adequate records of the inquiry work;
- Handling receipt and possibly publication of the final inquiry report;

Post-Inquiry

- Identification of records for archiving and destruction and ensuring this is completed on a timely basis; and
- Lessons learned document.

Appendix 3 - Quick Guide to Public Inquiries

What is a Public Inquiry?

A Public Inquiry is a way for Government to openly and transparently investigate a matter of public concern. The Minister of Health, Robin Swann, MLA intends to establish a Public Inquiry, in line with the legislation set out in the Inquiries Act 2005 to investigate allegations of abuse of patients at Muckamore Abbey Hospital (MAH). A Public Inquiry can only be set up under the Inquiries Act 2005 by a Government Minister; however, once established, it is independent of the Government.

Public Inquiries examine issues of serious public concern. The Inquiry Chair will look at decisions and events that led or contributed to the issues being investigated. A Public Inquiry typically answers at least the following questions:

- What happened?
- Who is responsible?
- What can we learn from this?

The criminal investigation led by the PSNI into the allegations of abuse of patients will continue and be unaffected by the Public Inquiry. The Public Inquiry cannot make any findings of guilt; its role is to provide facts and recommendations to Government and other authorities, if appropriate.

How a Public Inquiry operates

The Inquiries Act 2005 sets down how a public inquiry is run. It covers:

- The setting up of inquiries;
- The appointment of people to run them;
- Their procedures and powers, and
- The submission and publication of inquiry reports.

A Public Inquiry can look and feel like a court case as it can involve a judge, legal representatives, witnesses and evidence. Minister Swann will wish to ensure that whilst the Public Inquiry conforms to the Inquiries Act it will be accessible to all those who wish to be involved. The Public Inquiry will serve the wider public interest by seeking to find out what happened and to make recommendations to prevent it from happening again.

If a witness is called to give evidence at a Public Inquiry, or produce documents for it, they must do so, as it is a criminal offence not to. Public Inquiries are also usually held in open view to the public, unless there is a good reason for the Chair to ask for it not to

be. A Public Inquiry may produce a written report with their findings and recommendations if this is set out in its terms of reference; this must be made public.

Appointment of a Chair

Under the terms of the Act, appointments are solely at the discretion of the responsible Minister. The Chair may be from a judicial background, like a judge or barrister, or they may be an expert in the field of the Inquiry.

Judges are:

- Politically independent;
- Experienced at running hearings;
- Able to analyse information and uncover facts;
- Legally experienced in instances when an inquiry is running at the same time as criminal proceedings (as is the case with the MAH Public Inquiry), and
- Able to understand legal and procedural complexity.

An expert Chair is able to:

- Incorporate specialist knowledge and expertise within the role of the Chair, such as an understanding of the particular issues of relevance to the inquiry, or experience of policy making, and
- Potentially develop detailed implementation plans for the Inquiry's recommendations.

Whoever is chosen as Chair they will be supported by a dedicated team.

Terms of Reference

The Terms of Reference (ToR) will set out the purpose and scope of the Inquiry. The Inquiry will have to stick to the ToR through all their work. The ToR is decided by the relevant Minister in consultation with the Chair. The ToR will be carefully worded to ensure that all matters that should be investigated are investigated. If the Inquiry is to make recommendations this must be stated in the ToR.

In Northern Ireland the ToR should not include anything which would require the Inquiry to examine events occurring prior to 2 December 1999, or during any period when devolution is suspended, unless the consent of the Secretary of State is sought and confirmed. Devolution was suspended from 11 February 2000 until 30 May 2000, and again from 14 October 2002 until 8 May 2007.

Appendix 4 - Guide for written submissions

If you wish to express your views on the Inquiry in writing, through a written submission, please use the following questions as a guide.

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- What happened?
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- What can we learn from this?

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Question 1:

Time frame of the Inquiry (what period in time should the Inquiry cover?)

The Inquiries Act 2005 specifies that in Northern Ireland, Public Inquiries can only cover periods in which the Northern Ireland Assembly was in session unless the Minister seeks the Secretary of State's consent to extend the period outside these timeframes. This means that events prior to 2 December 1999 cannot be examined and also the periods 11 February 2000 to 30 May 2000 and 14 October 2002 to 8 May 2007 without the permission of the Secretary of State.

In your response you might want to consider:

- ***What period of time do you think the Inquiry should focus on?***

Question 3:

Evidence (what should the Inquiry look at?)

Think about the reports, documents and communication that your family had with Muckamore Abbey Hospital.

In your response you might want to consider:

- ***Is there any type of evidence, such as documents, communications, or reports that you think it is essential for the Inquiry to obtain?***

Examples of evidence could include documents, communications, video footage, recordings or reports

Question 4:

Power of Inquiry to make recommendations (what should the Inquiry do?)

A Public Inquiry typically answers at least the following questions; What happened? Who is responsible? What can we learn from this? The Inquiry will seek to establish responsibility for the abuse at Muckamore Abbey Hospital. It should also make recommendations to prevent future occurrences.

In your response you might want to consider:

- ***Do you agree that this is what the Inquiry should do?***

- ***Are there any other functions you think the Inquiry should have?***

Question 5:

The Inquiry Chair (what sort of background should the person who is running the Inquiry have?)

Public Inquiry chairs may have a strong legal background, and can be former judges. This ensures that they are able to manage the legal complexities associated with running a Public Inquiry. When chairs are from a non-legal background, they tend to be drawn from professions that the public trust, such as social workers, nurses and doctors. Chairs that are from a non-legal, relevant professional expert backgrounds may have a higher level of expertise in the subject areas related to the Inquiry.

In your response you might want to consider:

Do you think the Chair of the Inquiry should have a legal or a professional expert background?

Question 6:

Additional views (do you have anything else to add?)

In your response you might want to consider:

- **Do you have any other views or information that you would like the Inquiry to consider?**

Thank you for taking the time to complete this written submission. Please return this form in the stamped addressed envelope provided to:

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9th floor
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5 Lanyon Place
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