

Direction 4 – Closing Statements relative to Hearing Commencing 20 September 2021



In terms of section 17 of the Inquiries Act 2005 (“the Act”), Lord Brodie (“the Chair”) of the Scottish Hospitals Inquiry (“the Inquiry”) directs that in respect of the diet of hearings which commenced on 20 September 2021 (“the hearing”):

1. Counsel to the Inquiry submit a written closing statement to the Inquiry by no later than **03 December 2021** which shall then be distributed by the Solicitor to the Inquiry to all core participants with leave to appear at the hearing;
2. Thereafter, pursuant to rule 10(1)(b) of the Inquiries (Scotland) Rules 2007, core participants with leave to appear at the hearing may submit written closing statements to the Inquiry by no later than **17 December 2021**.
3. In framing their closing statements Counsel and core participants should have regard to the terms of the following Note.

Lord Brodie – Chair of the Scottish Hospitals Inquiry
4 November 2021

NOTE

The scope of the evidence to be led at the hearing was set out in the [Appendix to Direction 3 - Opening Statements at the Hearing Commencing 20 September 2021](#). In summary the purpose of the hearing was to hear the perception of patients and their family members as to the physical, emotional and other effects on them of issues arising in relation to ventilation, water and drainage and other matters adversely impacting on patient safety and care and the communication with patients and their families in relation to those issues. These are matters which Term of Reference 8 requires the Inquiry to investigate, but it may be considered that the evidence led at the hearing is relevant to other of the Inquiry’s terms of reference.

The Chair’s expectation is that core participants will wish to do what they can to assist the Inquiry in fulfilling its terms of reference. He sees the submission of closing statements as one means of doing so: first, by ensuring that he properly understands

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the evidence led at the hearing; second, by explaining the implications of that evidence and indicating what future investigations and further evidence are necessary in order for the Inquiry to complete its consideration of the matters referred to in Term of Reference 8 and (to the extent that this is different) such other matters which were the subject of evidence led at the hearing.

The Chair is conscious that the evidence led at the hearing was evidence of the perceptions of patients and their families. No challenge was offered to that evidence. While it is open to a core participant or the recognised legal representative of a core participant to make an application in terms of rule 9 of the Inquiries (Scotland) Rules 2007 to examine a witness, it was consistent with the stated intention to lead evidence of the perceptions of patients and their families that no such application has been made. Accordingly, core participants other than the patients and their families have not had the opportunity to put forward their perspectives on events and the causes of events. As a matter of fairness, but also in order that the Inquiry fully understands the issues that the Inquiry is required to examine, they must be given that opportunity. There will be opportunity for core participants to respond to evidence heard at this diet either during the course of the Inquiry's investigations or at future hearings.

Whereas Counsel to the Inquiry and core participants may include anything they consider relevant to the evidence led at the hearing and the preparation necessary for the further investigations, the following matters should be addressed.

Counsel to the Inquiry will include in his closing statement: –

- A discussion of the themes which have emerged from, and the concerns that have been identified in, the evidence where relevant to the terms of reference of the Inquiry;
- Provisional timeline or number of timelines identifying material events in chronological order; and
- A summary of the identified concerns and overview of questions that appear to arise from those and which Counsel consider should form part of the further work of the Inquiry.

Core participants should include in their closing statements: –

- In so far as they differ with Counsel to the Inquiry, what themes they submit have emerged from the evidence which are relevant to the terms of reference of the Inquiry;
- Where the timelines proposed by Counsel to the Inquiry are said not to be accurate or to require the addition of further material events which should be included in them; and

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- In so far as not identified by Counsel to the Inquiry whether there are any concerns or questions which call for answer and which arise from the evidence and how the core participant proposes that they should be investigated in preparation for any further hearing.

Where a core participants submits a closing statement, it should be submitted electronically to legal@hospitalsinquiry.scot. and be no longer than 20 pages of A4.

Should core participants consider that their experience, interests and responsibilities are not such that they are able to assist the Inquiry at this stage by submitting a closing statement, they are at liberty not to do so. The Chair would, however, anticipate that any core participant whose conduct or the conduct of whose employees has been the subject of evidence would wish to submit a closing statement.