SCOTTISH HOSPITALS INQUIRY

CLOSING STATEMENT ON BEHALF OF GREATER GLASGOW HEALTH BOARD (KNOWN AS NHS GREATER GLASGOW AND CLYDE)

HEARING DIET: 20 SEPTEMBER 2021 TO 05 NOVEMBER 2021

Introduction:

1. In the Opening Statement made on behalf of NHS Greater Glasgow and Clyde, ("NHSGGC") on 06 September 2021 it was acknowledged that the evidential hearing which has recently concluded would be a limited but vital one; namely to enable patients and their families to share with the Inquiry their respective experiences, and perceptions of how the issues being investigated by the Inquiry impacted upon each of them. It was also made clear in the Opening Statement, and bears repeating at the outset of this Closing Statement, that NHSGGC has the greatest sympathy for the distress, anguish and suffering that has been so obviously experienced by patients and families and is committed, wherever possible, to providing support to all patients and families whose lives have been impacted by the issues to be explored in this Inquiry. Further, on behalf of NHSGGC I would offer to those families who have lost a loved one, their deepest condolences.

2. In preparing this Closing Statement I have obviously had the benefit of being able to consider the very detailed submissions of Counsel to the Inquiry. What follows are submissions which are intended: to assist the Inquiry generally in its consideration of the evidence, to address certain specific issues which Core Participants have been requested to consider in the Direction made by Lord Brodie in relation to Closing Statements[1], and to respond to specific questions posed by Counsel to the Inquiry in their Closing Statement.[2]

Consideration of the evidence:

3. In my submission it is, in many respects, not possible to make any proper assessment of the evidence at this juncture; it would be premature to attempt to do so. As has been noted by Lord Brodie,[3] in recognition of the stated intention that the evidence led was to be of the perceptions of patients and their families, no application was made at any stage of the evidential hearing by those acting on behalf of Core Participants to challenge in any respect the evidence led. As a consequence, the Inquiry has heard unchallenged and untested evidence from a number of witnesses regarding issues, many of which on any view are of a highly technical and complex nature, which they perceive may have adversely impacted on patient safety and

[1] Direction 4 – Closing Statements relative to Hearing commencing 20 September 2021.
[2] Page 10 of Closing Statement of Counsel to the Inquiry.
[3] Page 2 of Direction 4.

care, and their perceptions of how those issues were managed in various respects. They are, however, no more than that, unchallenged perceptions, often based on "suspicion"[4], "assumption"[5], "rumours"[6], "speculation"[7], "media"[8], "research on the internet"[9] and interpretation of documents not produced in evidence[10], and until such time as the Inquiry has had the opportunity to consider evidence from witnesses appropriately qualified to express an opinion about these issues, and to respond to the evidence which has been led it would, in my submission, be inappropriate to do other than to treat the evidence that has been heard as raising important concerns which require to be investigated further; in this respect I agree with the observations made by Counsel to the Inquiry in their Closing Statement.[11]

4. There is, however, a further consequence of evidence having been unchallenged, and it is one which is of the greatest concern: namely that in the course of evidence allegations have been made which call into question the fundamental integrity of NHSGGC. It is a consequence which, in my submission, requires to be addressed as a matter of urgency.

5. It is, in my submission, difficult to overstate the seriousness of the allegations which have been made; allegations which question the professional conduct, honesty and integrity of NHSGGC as a whole, and of named and un-named clinicians and members of management in particular. As I made clear in my Opening Statement the safety and welfare of its patients always has been, and remains of paramount concern to NHSGGC. The management of NHSGGC and its clinicians share the same common values and aims, namely to deliver the highest standard of safe and person-centred care to its patients. Allegations which so obviously call into question the fundamental integrity of members of management and clinicians could not be more serious, in particular in the context of care being provided for some of the most vulnerable patients.

6. At various points in their Closing Statement Counsel to the Inquiry note that in making criticisms of staff witnesses, at certain times, sought to draw a distinction between management and clinicians. As I have indicated, in my submission both management and clinicians share identical values in terms of their concerns for patients. It is, perhaps, worthy of note that many of those holding managerial positions within the Queen Elizabeth University Hospital are clinically qualified, some of whom were working with the affected families at the time of the matters complained of.

---

[4] Page 7 of Closing Statement of Counsel to the Inquiry.
[5] Page 7 of Closing Statement of Counsel to the Inquiry.
[6] Paragraph 121 of Closing Statement of Counsel to the Inquiry.
[7] Paragraph 121 and 141 of Closing Statement of Counsel to the Inquiry.
[8] Paragraph 197 of Closing Statement of Counsel to the Inquiry.
[9] Paragraph 216 of Closing Statement of Counsel to the Inquiry.
[10] See, for example, paragraphs 110-111 of Closing Statement of Counsel to the Inquiry, and references to letter dated 23 July 2018 by Dr Jennifer Armstrong
[11] Paragraph 5 at page 2.

7. Furthermore, it is not in my submission sufficient to address unchallenged allegations of dishonesty merely by speculating that they may not have been meant. At paragraph 239 of their Closing Statement Counsel to the Inquiry submitted,

> "Evidence was heard about the perceived inaccuracy of information communicated by GGC and hospital management. Some witnesses alleged dishonesty on the part of staff. It seems likely that not everyone who made this allegation really intended to suggest that clinical staff in particular deliberately or recklessly told untruths".

The seriousness of such allegations cannot, and should not be dismissed so easily; the professional standing of a number of clinicians and members of management has been called into question, frequently in the most explicit terms.

8. In my submission, it is of paramount importance that an opportunity is provided to all those whose good character and professional conduct have been questioned to give evidence to the Inquiry at the earliest opportunity to address the allegations which have been made against them. At this stage, it is, perhaps, sufficient to state that the allegations are not accepted as having any sound basis in fact. In my submission, unless and until these issues are addressed, individuals (both management and clinicians) will suffer significant and wholly unfair prejudice and, equally significantly, confidence in the Queen Elizabeth University Hospital will inevitably, and quite wrongly, be substantially undermined.

9. In this regard, the level of concern is made clear in an open letter written by Senior Clinical Leaders of the Queen Elizabeth University Hospital to the First Minister and the Cabinet Secretary for Health and Social care on 30 November 2021[12], and I would respectfully invite the Inquiry to have regard to its terms. Whilst It is acknowledged immediately that this letter was written, in part, in the context of matters raised in the Scottish Parliament and therefore not by reference to the evidence led in the Inquiry, it will be noted that the letter was also written with reference to "…the way in which our hospitals, our colleagues and the treatment of our patients is being portrayed in the press…",[13] and in these circumstances in my submission contains highly relevant observations as to some of the very concerning consequences of the unchallenged evidence which has been led.

Issues to be addressed pursuant to Direction 4:

10. <u>Themes:</u>

Counsel to the Inquiry have identified 11 themes which have emerged from the evidence, and which are considered to be relevant to the terms of reference of the Inquiry. I do not take issue with the themes which have been identified, and there are no other themes which I would wish to put forward.

[12] See Appendix 1 to Closing Statement.
[13] Paragraph 1 of letter.

11. Timeline:

Counsel to the Inquiry have produced a timeline containing what are described as "key events"[14]. At this stage it is not possible to comment meaningfully on the terms of the timeline for the following reasons.

a) In the time that has been permitted it has, with regret, not been possible to undertake a line by line analysis of whether, by reference to the evidence led, each event is accurate and capable of agreement; Counsel to the Inquiry have identified 75 "key events".
b) Many of the "key events" are based on witnesses' perceptions ; independent evidence to support these perceptions has yet to be disclosed, or heard in evidence.
c) It will be appreciated that in the course of the evidential hearing, whilst reference was made to several documents in evidence, very few were ever produced in evidence, and beyond those which have been produced, none have been disclosed. Many of the "key events" appear to relate to information contained in documents which have not been disclosed, and until such disclosure is made, it is difficult to agree the terms of "key events" based on such documentation.[15]
d) Further, many of the "key events" have as their source Professor Cuddihy. In his witness statement Professor Cuddihy has stated that he has several documents in his possession to support the issues raised in his witness statement[16], and subsequently spoken to in evidence; none have been disclosed. Until such time as these documents are disclosed it is not possible to comment meaningfully upon the accuracy of the "key events" to which Professor Cuddihy speaks.
e) Furthermore, where reference is made to a document in certain cases a summary is provided of its contents. Without seeing the document it is clearly not possible to confirm that the summary which forms a material part of the "key event" can be agreed.[17]
f) Certain "key events" refer to meetings reported to have taken place, and their purpose. The records of such meetings have not been produced, nor statements from those said to have participated in such meetings. In these circumstances, whilst such events may well be capable of agreement in due course, it is not possible to agree their accuracy at this juncture.[18]

Upon receipt of the source evidence to which I have made reference above, immediate steps will be taken to agree, where possible, the terms of the timeline produced by Counsel to the Inquiry.

[14] Appendix 2 of Closing Statement of Counsel to the Inquiry.
[15] For example, "key event" dated 25 June 2019.
[16] Page 23, paragraph 83 of witness statement.
[17] For example, "key event" dated 23 July 2018 and October 2018.
[18] For example, "key event" dated September 2018 and Mid-end September 2018.

12. Concerns and questions not identified by Counsel to the Inquiry:

    It is not considered that there are any concerns or questions which call for answer arising from the evidence beyond those identified by Counsel to the Inquiry in their Closing Statement.

    Questions posed by Counsel to the Inquiry:

13. Do Core Participants accept that the Closing Statement accurately sets out the accounts given by witnesses?

    It is accepted that in general terms what is set out in the Closing Statement is an accurate summary of the evidence given.

14. At this stage, are Core Participants able to identify any areas of the narrative provided by the patient and family evidence that is capable of agreement?

    Having regard to the limited nature of the evidence given, having been based on perception only, there are no areas of the narrative which are capable of agreement at this juncture.

15. On the particular question of infection risk, are Core Participants able to say whether they consider that there is evidence that either establishes or indicates links between infections and the built hospital environment?

    Standing the submissions which have been made regarding the evidence which has been led[19] it is not considered that said evidence either establishes or indicates links between infections and the built hospital environment.

    Peter Gray QC

    15 December 2021.

[19] See paragraph 3 above.

Dear First Minister and Cabinet Secretary

Queen Elizabeth University Hospital/Royal Hospital for Children

As NHS Greater Glasgow and Clyde clinicians and clinical leaders, we write to express our immense disappointment and frustration about the way in which our hospitals, our colleagues and the treatment of our patients is being portrayed in the press and the chamber of the Scottish Parliament.

Our highly specialist services care for, treat and support some of the most vulnerable adults, young people and children in the country. Our sole aim is to deliver high quality, person centred care to our patients and focus on what matters most to them; fundamental to this is the strong working relationship between our clinical teams and infection control teams to keep our patients safe.

We have been, and remain, fully committed to being completely open and transparent in all that we do and we are dismayed that the integrity of our staff has been repeatedly called into question. Do we always get everything right when we discuss issues with families? Perhaps not. Do we ever wilfully withhold information from them? Absolutely not.

We have grave concerns that the continued undermining nature of the current negative headlines will result in an erosion of trust between clinical staff and patients and their families. Indeed, we have already seen evidence of the impact this is having on individual patients and carers, with staff reporting that families are very anxious about the safety of their relative while in our care.

We are particularly disappointed that individual patients are being discussed in Parliament without the knowledge of the families concerned, causing untold distress to families already grieving the loss of their loved one.

This unfounded criticism of our clinical teams and staff as well as the safety of our hospitals, is also hugely detrimental to staff morale at a time when so much is being asked of them. Our staff across NHS Greater Glasgow and Clyde, including the Queen Elizabeth University Hospital campus, provide professional, dedicated care to their patients and as we prepare for a challenging winter, this sustained criticism of our staff is undoubtedly causing them distress and worry.

We are proud of all of our teams, many of which include leading specialists, but we fear that such negativity will have an enormous impact on our ability to recruit and retain such skilled individuals in the future as well as those of wider clinical, nursing and support staff. We will always treat our patients with integrity, dignity, respect and honesty and this should never be in doubt.

We accept that there will always be improvements we can make and learning we can implement, but at the heart of all that we do, is the commitment from every clinician working within NHS Greater Glasgow and Clyde to provide the best quality of care for all of our patients and to be open and honest with them and their loved ones about their diagnosis and treatment. Anything less would undermine the professional code of practice each of us sign up to at the start of our careers and adhere to throughout.

Yours sincerely

Dr Jennifer Armstrong, Medical Director
Dr Margaret McGuire, Nurse Director
Dr Scott Davidson, Deputy Medical Director (Acute)
Angela O'Neill, Deputy Nurse Director (Acute)
Dr Chris Deighan, Deputy Medical Director (Corporate)
Dr Kerri Neylon, Deputy Medical Director, Primary Care
Mr Wesley Stuart, Chief of Medicine, South Sector
Dr Claire Harrow, Chief of Medicine, Clyde Sector
Ann-Marie Selby, Interim Associate Chief Nurse Clyde Sector
Hon. Professor Colin McKay, Chief of Medicine, North Sector
John Carson, Chief Nurse, North Sector
Hon. Professor Alistair Leanord, Chief of Medicine, Diagnostics
Dr Alan Mathers, Chief of Medicine, Women and Children's Services
Mandy Meechan, Interim Chief Nurse, Women and Children's (designate)
Patricia Friel, Interim Chief Nurse, Women and Children Services
Dr David Dodds, Chief of Medicine, Regional Services
Lorna Loudon, Interim Chief Nurse, Regional Services
Dr Martin Culshaw, Associate Medical Director, Mental Health
Gail Caldwell, Director of Pharmacy
Fiona Smith, AHP Director
Evelyn Frame, Chief Midwife
Margaret Connelly, Assistant Chief Nurse, Governance and Regulation
Lesley Rousselet, Chair, Area Clinical Forum