



SCOTTISH HOSPITALS INQUIRY

PROCEDURAL HEARING

10:00

Tuesday 22 February

A P P E A R A N C E S

The Right Honourable Lord Brodie QC PC appeared as Chair to the Inquiry.

Mr J MacGregor QC appeared as Deputy Counsel to the Inquiry.

Mr K McBrearty appeared on behalf of Mott Macdonald Ltd.

Mr N Ellis QC appeared on behalf of Multiplex.

Mr G Thornley appeared on behalf of individual patients and families.

10:00

THE CHAIR: Welcome to those present and those joining by Webex link. We are also being livestreamed on YouTube, and the recording of today's proceedings and a transcript of these proceedings will be available on the website in a few days. Now, can I begin by introducing those of the Inquiry Team who will be involved in this morning's hearing? On my right is Deputy Counsel to the Inquiry John MacGregor QC and Junior Counsel Ross McClelland. Now, they are assisted by Lesley Browne, who's one of the assistant solicitors to the Inquiry, and I am assisted by Mairi MacNeil, who is also an assistant solicitor.

Now, the purpose of this morning's hearing is to set out the subject matter of the first of the hearings that the Inquiry plans for 2022. Now, the dates that we've allocated for that are the weeks beginning 9, 16 and 23 May. Whether all these days will be necessary, we shall see. At the moment, my plan would be to sit five days a week and the normal hours of sitting would be between 10.00 a.m. and 4.00 p.m., obviously with a bit of leeway in the afternoon if it was required, with a break for lunch. Now, if we get through the evidence that counsel

proposes to lead more quickly, we may wish to revise that plan, but that's the starting position. This morning, we also propose to say a little bit about the procedure that we propose for the oral hearings.

Now, can I turn to how I would propose to conduct this morning's hearing? Now, as I've said, it's a hybrid meeting. Some of the legal representatives are joining on a Webex link, and I suppose from my technical position I'm just hoping that the proceedings can be heard clearly. I'm fairly confident that if they can't be that those on Webex will be able to draw that to the attention of our technical team, but I'm proceeding on the basis that not only everyone in the room can hear me, but those on Webex link can hear me as well.

I will very shortly turn to Mr MacGregor and ask him to set out his proposals for the May hearings. There will then be an opportunity for legal representatives to ask any questions of Mr MacGregor or make any comments. First of all, the opportunity will be given to those who are present in the hearing room, and if there are any questions, I would ask anyone wishing to ask a question to come forward to the table and get the benefit of the audio system. I will then, as it

were, turn to those attending by Webex and ask them to, if there are any questions, indicate that by, I think, using the raised hand on the chat system. Incidentally, as a matter of courtesy, I am conscious that those attending by Webex depend on the direction of the camera for their image of me. So I haven't checked this, but I think it is possible that I may appear to be, as it were, looking past someone on Webex, whereas actually I'm facing the screen and doing what I can to engage with them. After hearing from Mr MacGregor, I will say something further about the procedure for May. Again, legal representatives will have the opportunity to ask questions.

Now, counsel for the families has indicated that there's a matter that he wishes to be heard on and he will have that opportunity (inaudible), as it were, turn to him at that stage. There will be a final opportunity for any questions if any questions are required to be asked, and I will then make some closing remarks. But with that, by way of introduction and explanation, can I now turn to Deputy Counsel to the Inquiry for his proposals?

MR MACGREGOR: Lord Brodie, I propose to address four matters today: firstly, the issues to be covered at the main diet; secondly, the issue of

expert evidence; thirdly, procedural matters, including timetabling for the May diet; and then, fourthly, next steps in the Inquiry.

In relation to the issues to be covered at the May diet, a paper entitled "List of Issues for the Diet of Hearings Commencing on 9 May 2022" has been circulated to core participants. This seeks to outline the issues that will be covered at the hearings commencing on 9 May 2022 and very much builds on communications between the Solicitor to the Inquiry with core participants in the earlier part of this year, including a meeting on 1 February 2022. I would stress that that list is intended to provide general guidance in relation to the issues to be covered at the diet. It is not intended to be a prescriptive list. There will be two broad themes to the hearing in May. The first theme will be the theory and practice of ventilation in hospitals and, secondly, the background to the project for the Royal Hospital for Children and Young People and the Department of Clinical Neuroscience. In relation to some general introductory comments, I would stress that the May diet is not restricted to the Royal Hospital for Children and Young People. The issues that I intend to cover in Theme

1 will seek to introduce the technical requirements for a hospital ventilation system and the role that that plays in patient safety and care. Those issues will very much seek to introduce the topic and provide context for the wider work of the Inquiry at subsequent hearings. The May diet will not consider any specific issues in relation to the planning, design, construction, commissioning and maintenance of the Queen Elizabeth University Hospital campus or the Royal Hospital for Children and Young People, but the issues to be covered will potentially be relevant to both hospitals.

In relation to the issues to be covered in Theme 2, those concern the background to the project for the Royal Hospital for Children and Young People and the key decisions taken in the period up to the commencement of the procurement exercise by the issuing of the contract notice. However, the procurement exercise itself will not be covered at the May hearings. The intention is that that will be covered at a later diet in 2022, at which point there will be a consideration of the procurement exercise in the period to financial close. Now, certain issues may be touched upon in the May diet that are then expanded upon at that

subsequent diet. Those may include issues such as the environmental matrix and the importance, if any, of ADB (inaudible). They may be touched upon in May but would be built upon at the later hearing.

In relation to providing further specific guidance in relation to both of the themes, I would simply refer back to the paper that's already been circulated and I wouldn't propose to go through that in detail unless that would be of assistance, simply to set out that for Theme 1, there are six issues set out in the paper, which sets out in some detail what will be covered, including the key requirements of a ventilation system in a hospital, the relevant technical standards and the consequences, if any, of a hospital ventilation system not complying with relevant standards and guidance. Clearly the role of guidance will be considered at the hearing, including whether compliance is mandatory or not. I would also stress that the Inquiry recognises that it may be difficult to separate general issues from specific issues involving each hospital. However, I would repeat the intention at this stage of the Inquiry is simply to put in place the relevant building blocks for the later stages of the Inquiry, as opposed to considering

any specific issue with either hospital. In relation to Theme 2, there are 13 issues that have been listed in the paper covering the relevant background to the project. Those include how key decisions were made in relation to the project, the development of both the outline business case and the final business case, and the oversight structures in place throughout the preliminary stages of the project, including decisions such as the switch to a non-profit distribution model. That's what's proposed to be covered in Part I, clearly there being some read across to Part II, which will come later this year.

In relation to the second issue to cover today, which is expert evidence, in order to adequately address Theme 1, expert evidence will be required. The Inquiry has instructed expert reports. I would stress that in addition to formal expert reports, there will be a number of witnesses that will address a range of technical matters. For example, witnesses will address the Health Technical Memoranda that apply in England and Wales and the Scottish Health Technical Memoranda that apply in Scotland. Those witnesses will include Mr Andrew Poplett, Mr Ian Storer, and Mr Edward

McLaughlin. Those individuals were involved in authoring Health Technical Memoranda and Scottish Health Technical Memoranda. The intention is that their evidence will not be tightly constrained to such matters, this being a public inquiry as opposed to a standard litigation.

In terms of formal expert reports, expert disciplines will cover engineering and infection prevention and control. In relation to engineering, the Inquiry has instructed a report from Dr Shaun Fitzgerald. Dr Fitzgerald is a fellow at Girton College at the University of Cambridge and he will give evidence on engineering issues, in particular the theory and practice of ventilation. In addition to Dr Fitzgerald, a report has been instructed from a Mr Steven Maddocks, who's with a firm of consulting engineers and designers, the intention being that Mr Maddox will address the more practical issues that arise in the context of design and implementation of a hospital ventilation system. In the context of infection prevention and control, the Inquiry has instructed a report from Professor Hilary Humphreys, Emeritus Professor of Clinical Microbiology at the Royal College of Surgeons in Ireland, and the intention is that his report will

address infection prevention and control in the context of hospital ventilation.

I would indicate to core participants that if they consider that, in addition to those experts, once they've seen the reports that there are either additional experts or additional disciplines that they consider would be of assistance to the Inquiry, they should contact the Inquiry Team. I would highlight to any of the core participants if they wish to put forward either an expert or an expert report that they are welcome to do so. I would simply remind core participants of the general guidance provided in the Protocol on Witness Statements, para.2.1, that:

“The Inquiry welcomes approaches from all who believe they have relevant evidence to give. All such approaches, and documents and other evidence submitted with them, will be carefully considered to determine the extent to which it might assist the Inquiry.”

I would therefore encourage any core participant that considers that they have any relevant evidence, including expert evidence, to make contact with the Inquiry's legal team to

discuss the assistance that could potentially be provided. While at this stage no core participant has put forward any expert, if such experts are put forward, the Inquiry may be open to having open sessions for such expert evidence akin to hot-tubbing of experts that may take place in civil litigation. However, clearly, your Lordship could make no such decision at this stage on such matters.

Turning then to the third topic, the procedural matters including timetabling, I propose to address four issues: timetabling for expert reports; secondly, witness statements; thirdly, documents; and then, finally, to address the order of the evidence. In relation to expert reports, draft reports have been received by the Inquiry from Dr Fitzgerald and Professor Humphreys. Mr Maddocks has been instructed to provide a report. The Inquiry is aiming to provide the reports to core participants as soon as is reasonably practicable, with an aimed backstop date of the provision of all reports by the end of March. I would stress that, while no precise date can be provided at this stage, the Inquiry recognises that it's important that the reports are in circulation as early as possible, as I say, with an aimed backstop date of the end of March. In

relation to witness statements, requests for witness statements have been issued to a number of potential witnesses. The remainder will be issued in short order. Drafts of the first witness statements have been received. Clearly, until drafts have been received, I'm not in a position to confirm when witness statements will be finalised and disclosed, but certainly the Inquiry is working towards a backstop date of disclosing witness statements one month before the hearing commences, if that is reasonably practicable. Clearly, until the Inquiry has obtained all relevant witness statements, it won't be possible for your Lordship to give an indication of which witnesses will be required to give oral evidence, but an update will be provided on such matters as soon as possible.

In relation to the scheduling of witnesses, again, further guidance will be provided in due course. Certainly, my current thinking is that the first week of evidence would deal with Theme 1 with the remaining two weeks being devoted to Theme 2. In relation to the issue of documents, again the Inquiry is aiming to provide those a month in advance with a backstop day of two weeks before the hearing. But, again, the Inquiry wishes to provide

relevant documents as soon as reasonably practicable. Simply in relation to the order of evidence, the current plan is to deal with the theory and practice of ventilation first. That may be a slight change to what had previously been indicated to core participants, but the current thinking is that it may be appropriate to deal with those general issues in the first week and then to move on to deal with the specific issues in relation to the Royal Hospital for Children and Young People in the second and third weeks.

The final issue that I would then touch upon today, Lord Brodie, would simply be next steps in the Inquiry, simply to indicate that the work of the Inquiry in relation to the Royal Hospital for Children and Young People in particular continues at pace. Significant work has been undertaken to review the documents concerning the procurement exercise conducted, and certainly in relation to that tranche of the Inquiry, the anticipation on the part of the Inquiry Team is that the Inquiry could move forward to a second set of hearings later this year, potentially – subject to any observations your Lordship has – two weeks in October, perhaps the diet beginning on 3 October. The final issue that I would simply wish to raise

is that both Mr McClelland and myself are entirely open to discussions with representatives of core participants to seek to address any queries or concerns that arise either before the May diet or at the May diet. That would really conclude everything that I would wish to cover, unless I could be of any further assistance at any point.

THE CHAIR: Thank you very much, Mr MacGregor. Now, turning first to the legal representatives in the room, are there any questions for Mr MacGregor? I take silence as a no. I'm sorry, I hadn't noticed Mr McBrearty. So can I invite you to come forward, Mr McBrearty?

MR MCBREARTY: Thank you, my Lord. Just a quick query, really, about the expert evidence. As I understood it, I think the backstop date was the----

THE CHAIR: I wonder if you could keep your voice up.

MR MCBREARTY: Yes.

THE CHAIR: Remember that some of us are not as keen of ear as you younger people.

MR MCBREARTY: (Inaudible), my Lord. Just a query about the backstop date for the expert evidence: I think there is an appreciation, of course, about the difficult timescales for the Inquiry and the difficulty in

getting that evidence in time. I think there's perhaps a slight concern that the end of March will present quite difficult timescales potentially for core participants in making a decision about whether or not they wish to lead any expert evidence on their own part, as I'm sure the Inquiry will understand. It may be that the expert evidence is relatively uncontroversial, and when core participants see it, they may take the decision that they need to do relatively little in terms of advancing things. But the earlier that that expert evidence is seen would be very welcome from the core participants. Appreciating the timescales and the difficulties, I wonder whether it would be possible to advance that date even slightly from the very end of March, even for a week or two earlier. I pose it, I do appreciate that these matters are no doubt due to other people's commitments and so on, but I raise that query that's been (overspeaking)--

THE CHAIR: I mean, I will allow Mr MacGregor to answer the question, but you do appreciate, Mr McBrearty, having heard Mr MacGregor, only a certain amount is in the control of the Inquiry. The other matter is that I imagine those for whom you act are not simply sitting back and waiting. I

imagine you're thinking and trying to identify where you might assist the Inquiry. This is not a litigation.

MR MCBREARTY: Absolutely, my Lord. The points are well taken. It's being looked at very proactively, absolutely, and entirely in presenting the question, I view it in that entirely collaborative approach, my Lord, in the sense that I completely appreciate that it's not within the Inquiry's hand. There's no doubt all sorts of other people who are required. So I raise it in the most open of spirits, my Lord, in saying if it were possible, and only if it were possible, even if it were a short time before the end of March, I'm sure that that would be appreciated. But it is only in that spirit that I raise it, my Lord.

THE CHAIR: Mr MacGregor.

MR MACGREGOR: I think, certainly, to answer Mr McBrearty's question, the expert reports will be provided as soon as they reasonably can and earlier than the backstop date, if possible. I simply wanted to give that indication as a backstop date, but if the reports can be provided earlier, then they will. I would simply reiterate the point that the Inquiry has sought to make core participants aware of the topics that would be covered at the earliest opportunity, and equally if core

participants consider that they have an expert or expertise that they could offer to the Inquiry, that would be gratefully received.

THE CHAIR: Thank you, Mr McBrearty. Does anyone else in the room have any questions? Thank you. Now, can I turn to those attending by Webex? Do any of the legal representatives have a question for Mr MacGregor? Sorry, Nick Ellis, right. Right, now, if you give me a moment. Right, Mr Ellis, I think acting for Multiplex, is that correct?

MR ELLIS: Yes, that's right, my Lord. I hope Your Lordship can both see and hear me over the magic of the Internet. (Overspeaking)----

THE CHAIR: Mr Ellis, I'm having a little difficulty hearing you. I'm sure the fault is mine.

MR ELLIS: I'll try and speak up. I wonder if your Lordship can hear me now.

THE CHAIR: I think you're succeeding rather well.

MR ELLIS: Good. I have one question, which I appreciate is really one that Mr MacGregor may be more in a position to answer than your Lordship, and it's to do with the issues that are going to be considered at the May diet. As your Lordship may be aware, Multiplex has submitted that

the Inquiry ought to consider the question of the application of guidance on ventilation in practice generally, whether it's always followed in practice, and if not, why not? These questions about general practice would seem to be relevant to both hospitals, and the question really is whether these questions will be considered at the May diet, or if not, will they be considered at a later diet?

THE CHAIR: Mr MacGregor.

MR MACGREGOR: Certainly, the intention for the May diet is to provide a general introduction. What is the guidance? What role does it play? Is compliance with it mandatory or not? But certainly, in relation to the issues that Mr Ellis raises, those issues will be considered during the course of the Inquiry. But, again, I would stress that the May diet is seen as very much putting in place the building blocks for later stages of the Inquiry, as opposed to considering any specific issues. But certainly, over the duration of the Inquiry, such issues (inaudible).

THE CHAIR: Mr Ellis, is that a sufficient answer for your present purposes?

MR ELLIS: I do appreciate Mr MacGregor indicating that these issues will be considered at some stage in the

Inquiry, for which I'm grateful. For planning purposes, though, and I appreciate Mr MacGregor may not be able to answer this today and I wouldn't press him to if he can't, but obviously it would help to know whether they will be considered at the first diet or not. The reason I think that they may want to be considered at the first diet is, as I said, the issues of general practice would seem to apply to both hospitals. It would seem convenient to consider them at the one occasion rather than considering them separately in relation to each hospital.

THE CHAIR: Mr MacGregor.

MR MACGREGOR: I'm not sure that I can really advance matters beyond what I've said at this stage, given the fact that expert reports have been instructed at this stage. But certainly, updates can be provided to Mr Ellis and his instructing agents in due course. I would equally encourage all core participants, including those that Mr Ellis represents, that if core participants have specific issues they think should be covered in May and have relevant expertise to offer to the Inquiry, then they should make that known to the Inquiry Team sooner rather than later.

MR ELLIS: (Overspeaking).

THE CHAIR: (Overspeaking).

Sorry, Mr Ellis, I spoke across you.

MR ELLIS: Sorry, and I spoke across your Lordship, for which I do apologise. I was just going to say I'm grateful for those comments and I'll keep in touch with Mr MacGregor to see how things develop.

THE CHAIR: I would say this generally, at the risk of repetition, the Inquiry as a whole – and I know Mr MacGregor in particular – is always open to an informal dialogue on any matter which concerns a core participant, and I would encourage Mr Ellis – and I'm sure he requires no encouragement – to raise matters with Mr MacGregor informally with a view to essentially sharing information. Again – and I am repeating myself – this is not a civil litigation where one side produces a statement which has to be responded to. We would very much welcome those for whom Mr Ellis acts to come forward with any of their observations and expertise. Thank you, Mr Ellis. Are there any other legal representatives attending by Webex who wish to ask Mr MacGregor a question? Apparently, no further questions.

Well, can I now say something about the procedure which I would propose will be followed in May? A reminder that, all being well, it's

intended to hold the hearings in presence. The hearings will be livestreamed and recorded, so it is not necessary to be present to view what is going on. But if core participants wish to participate with their legal representatives the primary way of doing that will be to attend in person. Accommodation is, however, limited, and therefore anyone wishing to attend – and when I say anyone, I am including members of the public – should get in contact with the Inquiry in order to book a place. Those core participants wishing to participate through their legal representatives will require to obtain leave to appear. Now, as legal representatives will be familiar, the procedure for obtaining leave to appear set out in a protocol of 14 June of last year. Applications for leave to appear should be made no later than 25 March, 2022; and in making such an application, it would be helpful if core participants indicate whether they propose to attend for all of the three weeks or a shorter period within that three weeks.

As far as documents are concerned, legal representatives will be aware that the Inquiry has published protocol on public access to information which explains how the Inquiry publishes documents. Now, in

terms of that protocol, bundles of the documents to be referred to at the May hearing will be released to legal representatives of the core participants at least two weeks ahead of 9 May. If it can be provided earlier, they will be provided earlier. In addition to bundles being provided to legal representatives, these documents will be published on the Inquiry website ahead of the hearing in order to allow members of the public and media who are interested to follow the proceedings where documents are referred to.

Now, when it comes to questioning at the hearing, other than my specific permission, all questions will be asked by Mr MacGregor or Mr McClelland. The formal procedure for regulating the asking of questions is, as legal representatives will be familiar, be found in r.9 of the 2007 Rules. But again, I strongly encourage legal representatives to liaise informally with Mr MacGregor with a view to proposing any lines of questioning that they wish him to follow or indeed particular questions. I would anticipate that Mr MacGregor will be very open to any proposals from legal representatives. But if matters can't be resolved informally, legal representatives should make a

written application to me in terms of r.9(4). Any application should be made not later than 1PM on the day before the relevant witness is to give evidence.

It may be that, in the course of a hearing, a witness gives an answer or counsel embarks on a line of questioning which legal representatives reasonably did not anticipate. So, I will be open to listen to any further application on the day of a hearing if any legal representative wishes a question to be put. However, I should say that a legal representative who has not without good reason followed the line of, first of all, communicating with Mr MacGregor and, secondly, if appropriate, making a written application on the day before, may have challenge in persuading me that it's appropriate for the question to be pursued. But the decision will be made within the framework provided by r.9.

I am not inviting opening statements in relation to the May hearings. I will invite closing statements. Now, as Mr MacGregor has indicated, it is proposed that there will be further hearings broadly dealing with the topic of procurement, and the dates proposed for that by Mr MacGregor and now by me (inaudible)

proposed, I mean what I'm indicating is that this is, all being well, what will happen will be in the weeks beginning 3 October and 10 October. Only after the closing of the October hearing will, first of all, Mr MacGregor, and then the legal representatives be invited to provide closing statements. I would anticipate but legal representatives will be advised of this a timetable of, broadly speaking, three weeks for Mr MacGregor to provide his closing statement. And then, once that has been issued to legal representatives, they will have two weeks to respond. Can I just emphasise the importance for the Inquiry that closing statements engage with what is set out in the closing statement provided by counsel to the Inquiry. And I do see this inquiry as a collaborative exercise with the core participants in which the Inquiry is looking for, and I appreciate that I'm repeating myself, but I think I'm going to say this probably on other occasions, the help of the core participants in bringing forward information that they have to enable the Inquiry to fulfil its terms of reference. So, although I will not be calling for closing statements from core participants until after the October hearings, it may be that legal representatives will find it useful to be

thinking of what they will be saying at least in relation to the evidence that's been led in May before October.

Now, I think that is all that I would propose to say at this stage. Again, can I turn first to those present in the hearing room and ask if there's any questions arising out of what I've said. Now, I think I can take silence on this occasion as no. Turning to those attending by WebEx, are there any questions that anyone would wish to raise? Right. Now, I understand Mr. Thornley has indicated a question. Can I ask you, Mr Thornley, is that in relation to what I've just said? Or perhaps I should just invite you to ask the question you wish to ask.

MR THORNLEY: Yes, my Lord. I (inaudible)----

THE CHAIR: Again, Mr Thornley. I'm not hearing.

MR THORNLEY: I'll get closer to the microphone. Can you hear me now?

THE CHAIR: Still not hearing you.

MR THORNLEY: Can you hear me now?

THE CHAIR: Much better, thank you.

MR THORNLEY: Super, super. My Lord, my question is in with your Lordship's reference to the (inaudible)

approach. As you're aware, I appear on behalf----

THE CHAIR: Sorry, sorry, reference to?

MR THORNLEY: Your Lordship's reference to the collaborative approach----

THE CHAIR: Yes.

MR THORNLEY: -- of the core participants. And we're mindful, on behalf of the families, of the indication Your Lordship gave at the end of the hearings of all the various family members and some of the patients. And at the present time, the families are in something of a-- they're not really aware of the documentation that is available which the various other core participants are likely to have access to -- probably not all of the documents, but a considerable amount.

Now, with a view to helping the Inquiry, my question really is whether it would be possible for the Inquiry Team to provide some sort of list of available documents, and by available documents, my Lord, I mean those that aren't going to be subject to legal privilege but are those documents particularly which the experts are likely to be considering for their expert reports. And also, following on from the evidence of the family members,

the questions-- as your Lordship will recall there were numerous questions that were raised by the family members about what was known and when by the hospital, in particular the Queen Elizabeth Hospital, and with a view to assisting the Inquiry going forward, our position is it would be very helpful if we could see what documents were available with a view to considering those and trying to assist the Inquiry in that respect.

THE CHAIR: Where does this take you, Mr Thornley? I think it would be very helpful if you could see what documents were available seems to be the bottom line.

MR THORNLEY: Yes, I think that's right, my Lord. I mean, obviously there will be documents which are privileged, and I understand there is a huge volume of documentation, and there's quite a bit of duplication. But at the moment, it's difficult for the family members as core participants to be able to actively engage in that process given the evidence that was put forward at the previous set of hearings and also going forward into the-- Your Lordship's already addressed the questions as to the documents that are going to be made available for the forthcoming hearing. It was more so that the family members could have an

idea of what documentation was available, outwith that already in the public domain.

THE CHAIR: An idea what documentation was available?

MR THORNLEY: Is held by the Inquiry.

THE CHAIR: (After a pause) As you say, Mr Thornley, the Inquiry has a lot of documents. Now, which of these---

MR THORNLEY: (Overspeaking)

THE CHAIR: Which of these are you talking about?

MR THORNLEY: Well, it may well be more appropriate for us to deal directly with counsel to the Inquiry and also the solicitor to focus that more. I was going to wait to see what was said today and simply flag up that as a question for the Inquiry to consider.

THE CHAIR: Sorry, flag that up as a question? I haven't actually got a question. What will your question be?

MR THORNLEY: The question is whether the core participants can have access to a list of documents which the Inquiry hold which are not privileged.

THE CHAIR: Well, can I answer your question this way? You have no doubt read the protocol on public access to information and evidence.

MR THORNLEY: Yes.

THE CHAIR: And that explains that access to documents held by the Inquiry will be given by means of formal bundles of documents prepared by the Inquiry in relation to each set of hearings that it holds. These bundles will contain all material held by the Inquiry that it considers relevant to the subject matter of the hearing to which the bundles relate. Now, that is what the Inquiry said it would do. Don't know if I have a date for that protocol, but it was last year. And that is what the Inquiry will do in relation to the May hearings, the subject of this procedural hearing and the October hearing. And it is also what the Inquiry will do in respect of hearings which-- the next diet of hearings, the next set of hearings in relation to Glasgow. That is what we've said we'll do, that is what we will do, and that, to me at least, is consistent with the legal structure that is provided by the 2005 Act and the 2007 Rules. In addition to the protocol on public access, as you're aware, the Inquiry has issued its policy on data protection. Now, if you're looking for an answer to the question, that's the answer to the question. If you consider there is anything further to be said about the Inquiry's protocol policy, indeed there's also the protocol on information handling, then I think I

would require a rather more formal approach than anything I've heard from you so far. It appears to me it would be a formal approach in a context where those others who have an interest, to the extent they can be identified, I have in mind the other core participants, would have the opportunity to be heard, and I would (inaudible) they have the benefit of being addressed by counsel to the Inquiry. I mean, absolutely no disrespect to Mr Thornley when I make two observations. The first observation is that, as I think as we've identified, your question is somewhat imprecise at best and you're not giving me the benefit – and indeed this is not really the moment for this benefit – of a consideration of what seem to me possibly quite difficult legal issues, leaving aside the practicality of what you're proposing and the implications for additional public expense. Now----

MR THORNLEY: Yes.

THE CHAIR: -- do you feel I've answered your questions?

MR THORNLEY: Yes. Yes, my Lord. I'm content with that. I simply wanted to raise it, and if we need to come back, we will come back. I'm grateful that your Lordship listened.

THE CHAIR: Right. Thank you, Mr. Thornley. You did give us notice

that you wish to raise a matter. Do I take it that is the matter that you wished to raise?

MR THORNLEY: Yes, it is.

THE CHAIR: Right. Thank you, Mr Thornley. Now, is anyone else who is participating by WebEx link-- does anyone else have a question arising out of what I've said? No questions. Thank you.

Now, I think we've probably given an opportunity to legal representatives to raise anything they wish to. Is there anything else that we should address this morning? I'm first of all looking at those present in the room. And again, those attending by WebEx. Thank you. Well, thank you very much for your attendance and participation today. As you will appreciate, the work of the Inquiry will go on with, if anything, a greater pace. As I said in the-- I think in our most recent newsletter, a visible part of the Inquiry's work is a hearing like this, and more particularly the hearings of evidence about which we've discussed at this hearing.

However, the greater part of the work of the Inquiry is the preparation and investigation which are necessary before evidence can be led at a hearing. Addressing our wider audience, can I just stress if there's anyone-- perhaps those with

professional connections to the issues set out in the Inquiry's terms of reference who have information to provide to us, I would encourage them to get in touch with our witness engagement and support team. We are, as I've tried to emphasise today, looking to be assisted. Looking to be assisted by the core participants by bringing forward what they know and what they have to observe, but also any others who have yet to contact or engage the Inquiry but who may have something to provide us with which will help us determine the-- or give us an understanding of the issues which the terms of reference direct us towards. However, I think that is the business for the day, and subject to my being reminded of having omitted anything. Well, thank you, and that concludes today's hearing. Thank you.

10:54
