

# Scottish Hospitals Inquiry Frequently Asked Questions (v1.2)



Updated: 24 November 2022

## Background

### 1. What is the Scottish Hospitals Inquiry about?

This is a statutory public inquiry set up under the Inquiries Act 2005 to investigate the construction of the Queen Elizabeth University Hospital (QEUH) Campus, Glasgow, and the Royal Hospital for Children and Young People (RHCYP) and Department of Clinical Neurosciences (DCN), Edinburgh, following concerns about patient safety and wellbeing, in order to determine whether issues relating to ventilation, water and other key building systems gave rise to those concerns, how they occurred and what steps could be taken to prevent such issues arising in future projects.

### 2. What is the Inquiry looking into?

The remit sets out that the Inquiry is to report on certain questions and to make recommendations to ensure that any past mistakes are not repeated in future NHS infrastructure projects.

The [Terms of Reference](#) of the Inquiry specify its remit and the issues it will be examining in more detail.

### 3. Who is conducting the Scottish Hospitals Inquiry?

Lord Brodie, who is the Chair of the Inquiry, is responsible for the direction and manner of the Inquiry. He acts in an independent capacity. A Public Inquiry is inquisitorial in nature, not adversarial, so the Chair performs more of an examining role than a judge would in court proceedings.

### 4. What is a Public Inquiry?

A Public Inquiry is a formal, independent review relating to particular events which have caused or have potential to cause public concern, or where there is public concern that particular events may have occurred. The aim of a Public Inquiry is to help to restore public confidence in systems or services by investigating the facts through consideration of documentary and witness evidence, to determine what happened and help prevent recurrence.

### 5. What is the outcome of a Public Inquiry?

The outcome of a Public Inquiry is the production by the Chair, with input from the Inquiry Team, of a report which details key findings of fact and makes recommendations for the future. The Chair cannot make any findings of civil or criminal liability, nor can he award any compensation.

## **6. Is the Scottish Hospitals Inquiry directed at my actions?**

It is the role of the Inquiry Team to gather evidence from varied sources, including witness evidence from individuals with knowledge of the relevant circumstances. You may be asked to provide a witness statement to assist the Inquiry Team with its investigations (see Q.14 below). However, the findings and recommendations detailed in the Chair's report will be directed towards NHS GGC and not at particular individuals.

### **Structure and Format of the Scottish Hospitals Inquiry**

## **7. What is the format of the Scottish Hospitals Inquiry?**

A Public Inquiry is made up of ten stages, which are set out here: [Order of Events | Hospitals Inquiry](#).

The principal sources of evidence will be written statements submitted to the Inquiry by witnesses and documents recovered during the course of investigations by the Inquiry Team, as supplemented by oral evidence where the Chair considers that necessary.

## **8. When are the Inquiry Hearings being held?**

The first formal hearing of the Scottish Hospitals Inquiry was held on 22 June 2021 remotely, in line with COVID-19 restrictions. This was a short hearing where Lord Brodie set out arrangements for the hearings commencing in September.

The first diet of oral hearings was then conducted over the course of five weeks, between 20 September and 5 November.

The next diet of hearings took place in May 2022, where the Inquiry will be focused primarily on the theory and practice of ventilation and matters relating to the Royal Hospital for Children and Young People in Edinburgh.

Two further diets of hearings have been set down in 2023, with a further potential hearing later in the year. Hearings in respect of the Royal Hospital for Children and Young People in Edinburgh will commence on 24 April 2023, with a planned duration of two weeks, and will consider the procurement exercise. Thereafter, a further diet of hearings relating to the QEUH and the RHC has been assigned to commence on 12 June 2023 for two weeks, with a third week reserved, should it be required. The purpose of that hearing is to allow the Chair to hear evidence on the perspective from clinicians and nurses working at the QEUH and the RHC, following on from the evidence of patients and families heard in September 2021. The Inquiry is planning a third hearing on RHCYP / DCN later in 2023, which will focus on the reasoning behind the decision not to open the hospital in 2019 and the reasoning behind opening in 2021.

## **9. Where are the Inquiry Hearings held?**

The Inquiry premises are at: 20 West Register Street, Edinburgh, EH2 2AA. A map of the venue location can be found here: [20 W Register St - Google Maps](#).

Just off St Andrew Square, the venue is close to Waverley train station, Edinburgh bus station and has good tram links. No car parking is available at the venue.

The venue has been prepared for the hearings with ongoing Covid-19 restrictions and safety measures in place.

#### **10. Are the hearings public?**

Public inquiries are open to the public and the media. However, numbers of attendees at the Inquiry premises are currently severely restricted because of the Covid-19 restrictions which are in place. Therefore reporting on the hearings is largely happening remotely and proceedings are being live-streamed on the Inquiry's [YouTube channel](#).

#### **11. Can I catch up with the proceedings at a later date?**

The hearings will be available to watch on the Inquiry's [YouTube channel](#) after the hearing. Transcripts of the hearings will also be published following the hearing, unless any contrary order or restriction notice is in place.

#### **12. What did the first hearings cover?**

Evidence from patients and their families in respect of QEUH and RHC was heard in 2021 about their perceptions of the impact on patient safety and care of issues arising in relation to ventilation, water and drainage and other matters, and the communication with patients and their families in relation to those issues.

Evidence was heard in respect of RHCYP in May 2022 in relation to ventilation and other matters relating to the project governance and funding model at the hospital.

#### **13. Has the Health Board, or the staff mentioned in the witness statements or first hearings, had a chance to respond to the perceptions put forward by the patients and families?**

The focus of the first hearings was to hear the experiences of the patients and families. The core participants did not have the opportunity to respond to the evidence heard. However, closing submissions were subsequently submitted by core participants, which identified emerging themes as well as concerns arising from the evidence. There will be an opportunity for core participants and their staff to respond to the evidence of patients and their families, families at the forthcoming diet of hearings in June 2023.

### **Investigations by the Inquiry Team: Witness Statements**

**14. Will I be approached by the Inquiry Team to provide a witness statement?**

The Inquiry Team is carrying out investigations, which include reviewing all relevant documentation and interviewing individuals with knowledge of the circumstances surrounding the issues in relation to adequacy of ventilation, water contamination and other matters which arose in the construction and delivery of the QEUH, as well as the response to emerging issues related to infections of patients at the hospital after it was opened.

If you have knowledge of these issues, you may be asked by the Inquiry team to provide a witness statement.

**15. Do I have to provide a witness statement if requested to do so?**

Yes. Lord Brodie has powers under the Inquiries Act 2005 to compel a person to give evidence to the Inquiry. If you do not comply with a requirement by the Chair, you may be found to have committed a criminal offence.

**16. As a former NHS employee, do I still have to cooperate with the Inquiry?**

Yes. Lord Brodie has powers under the Inquiries Act 2005 to compel any person to give evidence to the Inquiry. If you do not comply with a requirement by the Chair, you may be found to have committed a criminal offence.

**17. What happens next?**

If the Inquiry Team considers that it might be useful to speak to you in respect of your knowledge of these issues, you will be contacted by a named team member from the Inquiry Team's Witness Engagement and Support Team to arrange a suitable time for an interview appointment. Your named team member will confirm the interview details in writing, provide the name of the person who will conduct the interview, the location (or whether it will be appropriate to take the statement remotely), and will also ensure that you understand what is involved in providing evidence, giving statements and attending hearings.

The Inquiry team will inform you in advance of the issues about which you will be asked, as well as providing you with copies of the documentation you may be asked about.

**18. Who can I take with me to the witness interview?**

You may have somebody present with you at the witness interview, such as a work colleague, friend, official from your Trade Union or Professional Organisation, or a solicitor from the NHS Central Legal Office's ("CLO") dedicated Scottish Hospitals Inquiry team (which is acting for NHS GGC in the Inquiry). It is recommended that whoever accompanies you is not themselves likely to be asked to provide a statement. The recommendation is that a solicitor from CLO attends with you to provide as full legal support as possible.

## **19. Can I obtain separate legal representation?**

NHSGGC will support you as fully as possible throughout your involvement in the Scottish Hospitals Inquiry. However, if you would prefer to be accompanied by an independent solicitor, the Inquiries Act 2005 allows for the possibility of an award of funding for legal representation for witnesses; applications for funding for legal representation must be approved in advance. There is further information on this on the Inquiry website and you can speak with the Inquiry's witness support team about this.

## **20. What happens at the witness interview?**

There are likely to be two members of the Inquiry team in attendance, who will take your statement, by asking you questions and referring you to documentation for your comment. Giving a witness statement may take some time. The statement takers will allow regular breaks, but you should feel free to ask for breaks whenever you want. If a meeting is likely to last a long time, the interview will be spread over more than one day. Consider making your own notes of the interview; this will help in remembering what was said when you receive the draft statement of your interview.

## **21. Do I get a chance to see, and make changes to, my statement before it is finalised?**

Shortly after your interview, you will receive a draft copy of your witness statement. This must be read thoroughly and any changes, additions or deletions can be made at this stage. You should sign the statement once you are satisfied that it accurately reflects your evidence. You may be asked to provide electronic verification in place of a signature, if the process is taking place remotely. Once the statement is signed, it then becomes your evidence to the Inquiry. If you subsequently wish to say something more, you can make a further statement.

## **22. Will my witness statement be public and will it attract media interest?**

Witness statements are published on the Inquiry website several days prior to witnesses being called to give evidence, so the media will have access to materials before and during each stage of the Inquiry hearings. This could lead to witnesses being quoted in media reports prior to appearing at the Inquiry.

### **Appearing as a witness**

## **23. Will I be called as a witness at the Inquiry?**

Any member of staff who has been interviewed and provided a statement to the Inquiry Team may then be called as a witness at the Inquiry. However, in many cases, a witness' statement will be sufficient and they will not also be required to give evidence at a hearing.

## **24. What should I do to prepare before giving evidence to the Inquiry?**

If you are called to give evidence, it is important that you prepare for this by:

- Reviewing all personal notes and files, as well as the documentation provided to you by the Inquiry Team in advance of giving your witness statement.
- Familiarising yourself with the hearing surroundings by viewing the film of the venue provided by the Inquiry Team in advance.
- Being prepared for possible media interest in the lead up to the hearing.
- Being aware that you may have to wait at the hearing venue before you are called as a witness.

## **25. What should I expect when giving evidence to the Inquiry?**

When called to give evidence, you must take an oath, or affirm, declaring that you will tell the truth at all times.

You are then likely to be questioned on who you are, your qualifications and experience, and your place of work before going on to the circumstances surrounding the issues in relation to adequacy of ventilation, water contamination and other matters which arose in the construction and delivery of the QEUH and thereafter.

## **26. What are the key tips to remember when giving evidence?**

Listen carefully to the questions you are asked and take time to consider your response. Do not feel pressured to give a “yes” or “no” response and be ready to explain your view. If you can’t remember the date of an event or don’t know the answer to a question, say so – don’t try to guess and do not speculate. If a question has multiple parts, break down your answer. If you are unsure of the question, ask for it to be repeated. Be calm, courteous and honest. Remain objective, and do not get personal. Speak clearly and concisely, and be ready to confirm your evidence from notes taken at the time, or by reference to your witness statement. If your role is a central one, be prepared for a possible lengthy session in the witness box which may last several hours.

Do:

- Prepare in advance
- Be fully familiar with the issues in the case
- Give detailed and relevant answers
- Say if you cannot remember
- Be alert and astute to the atmosphere in the venue
- Direct your answers to the Chair, even though counsel to the Inquiry is asking the questions: the Chair is the decision maker
- Be clear in what you say and speak loudly enough for the Chair and Counsel to the Inquiry to hear you
- Be ready and willing to expand and explain your answers if requested
- Be ready and willing to see the argument in opposing views but be firm and clear about your own evidence
- Be prepared for delays
- Be aware that this is a formal proceeding and dress appropriately
- Try to remain calm

- Try to avoid appearing defensive
- Stick to the facts – don't make assumptions about what other people did or did not do
- Try to avoid jargon, medical or hospital language that others may not understand

Try not to:

- React emotionally
- Be arrogant, impatient, aggressive, rude, argumentative or appear patronising

## **27. What happens if I am approached by a journalist?**

Given the restricted number of attendees at the Inquiry premises, it is unlikely that the media will approach witnesses to the Inquiry. Should you be approached by a journalist, however, there is no obligation for you to make comment. The media may also take photographs of witnesses arriving at or departing from the Inquiry.

The NHSGGC Communications team is on hand to advise and support you if you are in any doubt about what to do if contacted by the press. They can be contacted by telephone, 0141 201 4429, or email, [press.office@ggc.scot.nhs.uk](mailto:press.office@ggc.scot.nhs.uk) 24 hours a day.

## **Staff support**

### **28. Is there anyone at NHSGGC I can talk to about my participation in the Inquiry?**

Yes. NHSGGC is fully committed to providing support to all staff who may be involved in the Scottish Hospitals Inquiry. NHSGGC Legal Office operates a "Witness Service" that offers support and guidance to all witnesses asked to give evidence at a hearing. The service they can provide which would be helpful to any NHS staff member if required is:

- Practical help
- Information on Inquiry procedures
- Guidance regarding further support
- A listening ear for anxieties/concerns
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If you would like support from this service generally, or if you are invited to give a statement / evidence, please contact Rachel McGowan, **07583 121674** or [rachel.mcgowan@ggc.scot.nhs.uk](mailto:rachel.mcgowan@ggc.scot.nhs.uk)

Additionally, the NHS Central Legal Office ("CLO") is acting for NHSGGC in the Inquiry. The CLO has a dedicated Scottish Hospitals Inquiry team which is working alongside the Witness Service and can provide you with as full legal support as required, including accompanying you, if requested, to any witness interview meeting.

Of course, you may also seek support and advice from your Trade Union or Professional Organisation.

### **29. Am I obliged to provide a precognition to the CLO if requested to do so?**

A precognition is an informal statement, used for internal purposes only, and not for wider disclosure, and is covered by legal privilege. The CLO might suggest that they take a precognition from you as part of its fact-finding phase. While you are not obliged to provide such a statement to the CLO, we would strongly advise you to do so: this process assists with building your own picture of the events to which you can speak; and if called by the Inquiry to give evidence, you must do so, so having taken the preparatory step of assimilating your recollection of matters in advance of that more formal process is hugely beneficial.

### **30. Will what I say to a CLO solicitor be in the public domain?**

No. Any conversation you may have with a member of the CLO team is confidential and is covered by legal professional privilege, whereby written or oral confidential communications between a lawyer and a client are protected for the purpose of giving or receiving legal advice.

### **31. Is there anyone on the Inquiry Team I can speak to for support?**

Yes. The Inquiry has set up a Witness Engagement and Support Team which is available to anyone who is a witness to the Inquiry, i.e. anyone who is either giving a witness statement, or giving evidence at an Inquiry hearing. They can provide information about what the Inquiry does and how they do it.

The witness support team can be contacted either via the NHSGGC Witness Service and/or CLO, or using the following details:

- By phone on 0808 196 5000
- By email to: [public@hospitalsinquiry.scot](mailto:public@hospitalsinquiry.scot)
- By post to: Scottish Hospitals Inquiry, PO Box 27126, Glasgow, G2 9NB.

## **Provision of documentation**

### **32. If asked to provide certain documentation relating to the issues set out in the Terms of Reference by a solicitor from the CLO, should I do so?**

Yes. The CLO is supporting NHSGGC in the information-gathering stage of Inquiry preparations. Part of that exercise comprises a review of documentation and an assessment of its relevance to the Inquiry's Terms of Reference and to the specific Requests for Information which the Inquiry Team has made. The provision of any documentation to the CLO does not mean that there will be automatic onward provision of this documentation to the Inquiry Team.

Subject to certain exceptions, should any material be considered to be relevant to these Requests, there is a legal obligation for this to be provided by NHSGGC, or the CLO on its behalf, to the Inquiry Team.



**33. What if the material is sensitive, contains personal data or is legally privileged?**

There are protocols in place to deal with the provision of sensitive or legally privileged material, including an application by the CLO to the Inquiry Team for an order for redaction (obscuring parts of text) or restriction of the publication of the material.

**Police Scotland Investigation**

**34. I have heard that there is also a Police investigation, is that correct?**

The Lord Advocate has instructed an investigation by Police Scotland into the deaths of four patients at the hospital. This investigation is to establish whether, in relation to water and ventilation, any offences have been committed by NHSGGC. At this stage we understand the focus of the investigation is directed at NHSGGC as an organisation and not at individuals.

**35. I have received a letter from Police Scotland which makes reference to the Corporate Manslaughter and Corporate Homicide Act 2007. What does this mean for me?**

As noted above, the Police are investigating a number of deaths at the hospital to establish whether there have been any health and safety failings by NHSGGC. This includes investigating whether offences have been committed under the Corporate Manslaughter and Corporate Homicide Act 2007.

The offence of corporate homicide in Scotland (corporate manslaughter in England) is one which is committed by a company or organisation in relation to a work-related death, where a gross breach of duty of care to the deceased by the organisation is established which has caused or contributed to the death, and the way in which the organisation's activities were managed or organised by its senior management constituted a substantial element in that breach.

The offence is concerned with corporate liability and does not apply to directors or other individuals who have a senior or junior role in the company or organisation.

**36. Will I be interviewed as part of the Police Investigation?**

If you have knowledge of matters relevant to the Police investigation, you may be asked to attend for interview to provide a statement.

**37. Do I have to attend for interview and provide a statement to the Police if asked?**

No. Attending an interview and providing a statement to the Police is voluntary. However, NHSGGC wishes to cooperate fully with the Police investigation and would therefore ask that you consider this when deciding whether to agree to a request for an interview.

**38. What should I do if I am contacted by Police Scotland requesting an interview?**

Please see Q.28 above.

**39. Who can I take with me to a Police interview?**

Please see Q.18 above.

**40. Can I obtain separate legal representation?**

NHSGGC will support you as fully as possible and should you wish NHSGGC will make a solicitor from the CLO available to speak with you beforehand in order to answer any questions you may have, and to attend with you to the interview. However, if you would prefer to be accompanied by an independent solicitor, please contact your Trade Union or Professional Organisation.

**41. Do I need to prepare for a Police interview?**

It is unlikely that Police Scotland will provide details on what they intend to cover at the interview in advance. If so, preparation will not be possible. It is recommended that you do not bring any documentation or notes with you to the interview as the Police Officers can take possession of these – see also Q.43 below.

**42. What happens at a Police interview?**

Similar to Q.20 above, there will be two Police Officers in attendance. One of the Officers will hand write the statement during the interview. Although you will be responding to questions, the statement will be written as a first person narrative. This interview process therefore may take some time. You should feel free to ask for breaks whenever you want.

**43. What are the key tips to remember when being interviewed by the Police?**

These are similar to Q.26 above:

- Listen carefully to the questions you are asked and take time to consider your response.
- If you do not understand the question or are unsure about what you are being asked, then ask for clarification.
- Do not feel pressured to give a “yes” or “no” response where that would not be correct, but instead provide a full response explaining the position.
- If you don’t remember or don’t know the answer to a question, just say so – don’t try to guess and do not speculate.
- If a question has multiple parts, break down the question and your answer.
- If you feel someone else would be better placed to answer a particular question, feel free to say so, as part of the purpose of the questions is to find out who is best to answer them.

- If you need to see a particular document in order to answer a question, ask for this document and if the Police have it available they will show it to you. If the document is not available, the Police Officer will request a copy from NHSGGC.
- Be calm, courteous and honest. Speak slowly, clearly and concisely, as that will make it easier for the Police Officer who is writing down your responses.

#### **44. If requested, should I provide documents to the Police?**

If the Police ask you to provide any copies of documents including clinical notes, technical information or organisational information please advise the Police that all information is available through contacting Rachel McGowan, Legal Claims & Witness Support Manager directly at: [Rachel.McGowan@ggc.scot.nhs.uk](mailto:Rachel.McGowan@ggc.scot.nhs.uk) or on telephone number: 07583 121674.

#### **45. Do I get a chance to see, and make changes to, my Police statement before it is finalised?**

Yes. At the conclusion of the interview, or at multiple points during the interview if it is a long interview, you will be asked to read through the statement that has been written by the Police Officer to check that it is accurate. You must read the statement carefully and make any corrections, changes, additions or deletions that you wish. Once this has been completed you will be asked to sign every page of the statement as well as sign at the end to confirm that the statement is a true and accurate record. You will not be provided with a copy of the final statement.

#### **46. Will my Police statement be made public?**

No. Your Police statement is confidential.

## **Version control**

<b>Date</b>	<b>Version</b>	<b>Revision</b>
08 March 2022	V1.0	Document published
27 June 2022	V1.1	<ul style="list-style-type: none"><li>• Addition of Q.35</li><li>• Renumber of subsequent questions</li></ul>
24 November 2022	V1.2	<ul style="list-style-type: none"><li>• Revision to Q.1 - abbreviations added</li><li>• Revision to Q.8 - updated with revised timescales and plans</li><li>• Revision to Q.12 - updated with revised timescales and plans</li><li>• Revision to Q.13 - updated with revised timescales and plans</li><li>• Reformatted document to meet accessibility requirements.</li></ul>