

Dr Maria O’Kane
Chief Executive
Southern Health and Social Care Trust
Headquarters
68 Lurgan Road
Portadown
BT63 5QQ

30 March 2023

Dear Madam,

**Re: The Statutory Independent Public Inquiry into Urology Services in the
Southern Health and Social Care Trust**

**Provision of a Section 21 Notice requiring the provision of evidence in the
form of a written statement**

I am writing to you in my capacity as Solicitor to the Independent Public Inquiry into Urology Services in the Southern Health and Social Care Trust (the Urology Services Inquiry) which has been set up under the Inquiries Act 2005 ('the Act').

I enclose a copy of the Urology Services Inquiry's Terms of Reference for your information.

You will be aware that the Inquiry has commenced its investigations into the matters set out in its Terms of Reference. The Inquiry is continuing with the process of gathering all of the relevant documentation from relevant departments, organisations and individuals. In addition, the Inquiry has also now begun the process of requiring individuals who have been, or may have been, involved in the range of matters which come within the Inquiry's Terms of Reference to provide written evidence to the Inquiry panel.

The Urology Services Inquiry is now issuing to you a Statutory Notice (known as a Section 21 Notice) pursuant to its powers to compel the provision of evidence in the form of a written statement in relation to the matters falling within its Terms of Reference.

This Notice is issued to you due to your held posts, within the Southern Health and Social Care Trust, relevant to the Inquiry's Terms of Reference. The Inquiry is of the

view that as you hold this role you will have an in-depth knowledge of matters that fall within our Terms of Reference. The Inquiry understands that you will have access to all of the relevant information required to provide the witness statement required now or at any stage throughout the duration of this Inquiry. Should you consider that not to be the case, please advise us of that as soon as possible.

The Schedule to the enclosed Section 21 Notice provides full detail as to the matters which should be covered in the written evidence which is required from you. As the text of the Section 21 Notice explains, you are required by law to comply with it.

Please bear in mind the fact that the witness statement required by the enclosed Notice is likely (in common with many other statements we will request) to be published by the Inquiry in due course. It should therefore ideally be written in a manner which is as accessible as possible in terms of public understanding.

You will note that certain questions raise issues regarding documentation. As you are aware the Trust has already responded to our earlier Section 21 Notice requesting documentation from the Trust as an organisation. However if you in your personal capacity hold any additional documentation which you consider is of relevance to our work and is not within the custody or power of the Trust and has not been provided to us to date, then we would ask that this is also provided with this response.

If it would assist you, I am happy to meet with you and/or the Trust's legal representative(s) to discuss what documents you have and whether they are covered by the Section 21 Notice.

You will also find attached to the Section 21 Notice a Guidance Note explaining the nature of a Section 21 Notice and the procedures that the Inquiry has adopted in relation to such a notice. In particular, you are asked to provide your evidence in the form of the template witness statement which is also enclosed with this correspondence. In addition, as referred to above, you will also find enclosed a copy of the Inquiry's Terms of Reference to assist you in understanding the scope of the Inquiry's work and therefore the ambit of the Section 21 Notice.

Given the tight time-frame within which the Inquiry must operate, the Chair of the

Inquiry would be grateful if you would comply with the requirements of the Section 21 Notice as soon as possible and, in any event, by the date set out for compliance in the Notice itself.

If there is any difficulty in complying with this time limit you must make application to the Chair for an extension of time before the expiry of the time limit, and that application must provide full reasons in explanation of any difficulty.

Finally, I would be grateful if you could acknowledge receipt of this correspondence and the enclosed Notice by email to Personal Information redacted by the USI.

Please do not hesitate to contact me to discuss any matter arising.

Yours faithfully

Personal Information redacted by USI

Anne Donnelly
Solicitor to the Urology Services Inquiry

Tel: Personal Information redacted by the USI

Mobile: Personal Information redacted by the USI

**THE INDEPENDENT PUBLIC INQUIRY INTO
UROLOGY SERVICES IN THE
SOUTHERN HEALTH AND SOCIAL CARE TRUST**

Chair's Notice

[No 4 of 2023]

pursuant to Section 21(2) of the Inquiries Act 2005

WARNING

If, without reasonable excuse, you fail to comply with the requirements of this Notice you will be committing an offence under section 35 of the Inquiries Act 2005 and may be liable on conviction to a term of imprisonment and/or a fine.

Further, if you fail to comply with the requirements of this Notice, the Chair may certify the matter to the High Court of Justice in Northern Ireland under section 36 of the Inquiries Act 2005, where you may be held in contempt of court and may be imprisoned, fined or have your assets seized.

**TO: Dr Maria O’Kane
 Chief Executive

 Southern Health and Social Care Trust
 Headquarters
 68 Lurgan Road
 Portadown
 BT63 5QQ**

IMPORTANT INFORMATION FOR THE RECIPIENT

1. This Notice is issued by the Chair of the Independent Public Inquiry into Urology Services in the Southern Health and Social Care Trust on foot of the powers given to her by the Inquiries Act 2005.
2. The Notice requires you to do the acts set out in the body of the Notice.
3. You should read this Notice carefully and consult a solicitor as soon as possible about it.
4. You are entitled to ask the Chair to revoke or vary the Notice in accordance with the terms of section 21(4) of the Inquiries Act 2005.
5. If you disobey the requirements of the Notice it may have very serious consequences for you, including you being fined or imprisoned. For that reason you should treat this Notice with the utmost seriousness.

WITNESS STATEMENT TO BE PRODUCED

TAKE NOTICE that the Chair of the Independent Public Inquiry into Urology Services in the Southern Health and Social Care Trust requires you, pursuant to her powers under section 21(2)(a) of the Inquiries Act 2005 ('the Act'), to produce to the Inquiry a Witness Statement as set out in the Schedule to this Notice by noon **on 13th April 2023**.

APPLICATION TO VARY OR REVOKE THE NOTICE

AND FURTHER TAKE NOTICE that you are entitled to make a claim to the Chair of the Inquiry, under section 21(4) of the Act, on the grounds that you are unable to comply with the Notice, or that it is not reasonable in all the circumstances to require you to comply with the Notice.

If you wish to make such a claim you should do so in writing to the Chair of the Inquiry at: **Urology Services Inquiry, 1 Bradford Court, Belfast, BT8 6RB** setting out in detail the basis of, and reasons for, your claim by noon **on 6th April 2023**.

Upon receipt of such a claim the Chair will then determine whether the Notice should be revoked or varied, including having regard to her obligations under section 21(5) of the Act, and you will be notified of her determination.

Dated this day 30th March 2023

Signed

Personal information redacted by USI

Christine Smith QC

Chair of Urology Services Inquiry

SCHEDULE**[No 4 of 2023]**

1. The following extract is taken from your evidence on Day 15 of the Inquiry hearings:

TRA-01438, Lines 11 - 29

Q. Do you see that then as a failing, from you as Medical Director, in having proper oversight to ensure that you got proper information on which you could assess whether the action plan was effective or something else needed to be done?

A. In hindsight, I would do things differently. Right? I would have asked probably different questions in that context. But I think the context is important. I had just arrived in an organisation. It takes a year to get into a job like that properly. I didn't know anybody. I didn't know the systems and processes. One of the experiences I had was that when I asked questions, you know, I think some people felt that those were critical rather than curious, and that was a really difficult environment to work in. In hindsight, if I were doing this again I would do it differently, but at the time what I was reliant on was people who had worked in the organisation for a long time, understood how it worked, to give me information

TRA-01438, Lines 1 - 29

and responses to the questions that I asked in relation to systems and processes. I think, you know, one of my concerns in referring Mr. O'Brien to the GMC was in relation to insight. I also think, looking back on all of that, we didn't have full insight either in terms of how we managed that process.

Q. You have mentioned you didn't know anybody at the time. Sometimes that can be an advantage in a new job where you don't have friends or enemies. You are coming in as a new brush and that gives you the

opportunity to do things that are more difficult had you been promoted from within. Essentially your answer is you got a little bit of push back from some staff. You felt they thought your queries were criticisms. Did that play a part in your decision making as to how to manage this situation?

A. I don't think so, but I do think it made it a bit more difficult.

Q. Can you expand a little bit more on what that criticism was aimed at and how it may have impacted your choice of behaviour at that time?

A. There were, certainly, on a number of occasions, when I was very robustly challenged by middle managers within the Trust -- not Martina Corrigan and not any of the other people who worked to her -- in relation to what my role and function was, why I was asking these questions, and I think were a bit alarmed, I think, about the level of curiosity in relation to how this worked. That didn't stop me asking the questions but

TRA-01439, Lines 1 – 20

it did make it more difficult in that I had to keep coming back and back and back to try to get the answers that I needed.

Q. Did you consider that to be a difficult working environment, that the culture of being robust towards the Medical Director –

A. Yes.

Q. -- probably a little bit ambitious for people to take on the most senior medic in the SMT. Did you see that as a sign there was some reluctance to do things differently?

A. Yes.

Q. You've mentioned who it wasn't. You haven't mentioned who it was in your Section 21. You're clearly not going to say any names. You're very free to do so now if you wish to, but obviously the Inquiry would like the opportunity to ask certain individuals, if we had the information, how

their behaviour may have impacted on clinical decision making. I'll leave that thought with you.

2. The Inquiry asks that you:

- (i) Identify by name and position the *middle managers* to whom you referred in your oral evidence.
- (ii) Set out the detail of your interactions with these individuals, including:
 - (a) the content of discussions and dates/times/locations as appropriate,
 - (b) what you took to be being communicated to you by these *middle managers*, and
 - (c) what, if any, impact these interactions and reluctance to do things differently had on your:
 - 1. ability to obtain answers to your queries and
 - 2. respond appropriately to issues, make decisions and take actions?
- (iii) Did you consider these interactions to be reflective of the culture existing in urology at that time? If so, in what way?
- (iv) Did you raise the content of these discussions with anyone else? If yes, please provide full details.

NOTE:

By virtue of section 43(1) of the Inquiries Act 2005, "document" in this context has a very wide interpretation and includes information recorded in any form. This will include, for instance, correspondence, handwritten or typed notes, diary entries and

minutes and memoranda. It will also include electronic documents such as emails, text communications and recordings. In turn, this will also include relevant email and text communications sent to or from personal email accounts or telephone numbers, as well as those sent from official or business accounts or numbers. By virtue of section 21(6) of the Inquiries Act 2005, a thing is under a person's control if it is in his possession or if he has a right to possession of it.

**UROLOGY SERVICES INQUIRY**

USI Ref: Notice 4 of 2023

Date of Notice: 30th March 2023

Witness Statement of: Dr Maria O’Kane

I, Maria O’Kane, will say as follows:-

1. The following extract is taken from your evidence on Day 15 of the Inquiry hearings:

TRA-01438, Lines 11 - 29

Q. Do you see that then as a failing, from you as Medical Director, in having proper oversight to ensure that you got proper information on which you could assess whether the action plan was effective or something else needed to be done?

A. In hindsight, I would do things differently. Right? I would have asked probably different questions in that context. But I think the context is important. I had just arrived in an organisation. It takes a year to get into a job like that properly. I didn't know anybody. I didn't know the systems and processes. One of the experiences I had was that when I asked questions, you know, I think some people felt that those were critical rather than curious, and that was a really difficult environment to work in. In hindsight, if I were doing this again I would do it differently, but at the time what I was reliant on was people who had worked in the organisation for a long time, understood how it worked, to give me information

TRA-01438, Lines 1 - 29



Urology Services Inquiry

and responses to the questions that I asked in relation to systems and processes. I think, you know, one of my concerns in referring Mr. O'Brien to the GMC was in relation to insight. I also think, looking back on all of that, we didn't have full insight either in terms of how we managed that process.

Q. You have mentioned you didn't know anybody at the time. Sometimes that can be an advantage in a new job where you don't have friends or enemies. You are coming in as a new brush and that gives you the opportunity to do things that are more difficult had you been promoted from within. Essentially your answer is you got a little bit of push back from some staff. You felt they thought your queries were criticisms. Did that play a part in your decision making as to how to manage this situation?

A. I don't think so, but I do think it made it a bit more difficult.

Q. Can you expand a little bit more on what that criticism was aimed at and how it may have impacted your choice of behaviour at that time?

A. There were, certainly, on a number of occasions, when I was very robustly challenged by middle managers within the Trust -- not Martina Corrigan and not any of the other people who worked to her -- in relation to what my role and function was, why I was asking these questions, and I think were a bit alarmed, I think, about the level of curiosity in relation to how this worked. That didn't stop me asking the questions but

TRA-01439, Lines 1 – 20

it did make it more difficult in that I had to keep coming back and back and back to try to get the answers that I needed.

Q. Did you consider that to be a difficult working environment, that the culture of being robust towards the Medical Director –



Urology Services Inquiry

A. Yes.

Q. -- *probably a little bit ambitious for people to take on the most senior medic in the SMT. Did you see that as a sign there was some reluctance to do things differently?*

A. Yes.

Q. *You've mentioned who it wasn't. You haven't mentioned who it was in your Section 21. You're clearly not going to say any names. You're very free to do so now if you wish to, but obviously the Inquiry would like the opportunity to ask certain individuals, if we had the information, how their behaviour may have impacted on clinical decision making. I'll leave that thought with you.*

2. The Inquiry asks that you:

- (i) **Identify by name and position the *middle managers* to whom you referred in your oral evidence.**

Mrs Anne McVey Assistant Director Acute Medicine;

Mr Ronan Carroll Assistant Director ATICS and Surgery and Elective Care.

- (ii) **Set out the detail of your interactions with these individuals, including:**

- (a) **the content of discussions and dates/times/locations as appropriate,**



Urology Services Inquiry

I had contact with both Anne and Ronan through clinical directorate meetings throughout the overlap in their tenure and mine, usually in different formats and on average about 1-2 times weekly.

(b) what you took to be being communicated to you by these *middle managers*, and

They both adopted a defensive approach to my questions around clinical and social care governance. The general explanation for this appeared to be that when staff were asked about any activity in the past that they had felt criticised. This then seemed to have set the tone across the Acute Directorate. I was left with a strong sense that they viewed me as interfering and that inquisitiveness was viewed as questioning with a negative agenda rather than curiosity in a bid to understand. Comments were made about me being an outsider. The approach to me at times was of sarcastic comments being made particularly by Anne to me in front of others if I asked questions even as a relatively new person learning my way in a new organisation. When I drew others' attention to this there seemed to be an acceptance that this was the way business was done in the Trust and couldn't be challenged. This was disappointing as, when I worked in a previous Trust and had studied together with Anne (Ulster University Business School – MSc in Health and Social Services policy Management), I had thought the working relationship was constructive.

On one memorable occasion in 2019 I was in the patient flow control room with senior nurses and Anne reviewing patient activity in the context of overcrowding and waits in Craigavon Emergency Department. I asked why pathways that had been agreed the previous week were not being implemented. Anne abruptly left the room demanding to speak to me in her office stating that she had "had enough of" me and she wouldn't be asked questions like this again. I spoke to her but her determined attitude was that I was interfering and



Urology Services Inquiry

she would not engage with me. I spoke to Vivienne Toal, Director of HR, and explained the situation and was then asked to the office of Melanie McClements, Director of Acute Services. Melanie was angry that Anne had been “upset” and reiterated that I had to stop asking questions. I discussed this with the Chief Executive, Mr Devlin, and his view was aligned with mine: that as Medical Director I should be curious in relation to patient care. I discussed this at a later stage with Melanie when she was less irritated and explained that she had only been given one side of the story and that I was disappointed that she would choose to give credence to an Assistant Director and none to an Executive Director with a responsibility for Patient Safety and Governance. I reminded her that I would not be able to do my job if I didn’t try to understand how systems worked. She accepted this and acknowledged this and stated that she had not had a full appreciation of the role of Medical Director.

Until she retired the relationship with Anne was professional but not warm. This was disappointing. I don’t believe that she recognised the impact that her behaviours had on the relationship. I also was aware that she had the capacity to be extremely kind towards others, particularly patients.

I was very mindful of the fact that, as someone who was recently new into the role of Acute Director with limited experience in that Directorate, Melanie was extremely dependant on the support of the ADs in order to get the job done. Particularly before the onset of the pandemic, the organisation felt quite split at times. Acute held onto its own information under the guise at that time of managing its own governance, which is a system that had been instigated in the past. As a result of this it was very difficult for the Director of Nursing and me, as Medical Director, to access the governance information we required in order to provide accurate assurance to the organisation. By the same



Urology Services Inquiry

token, Acute regularly believed that it was left to fend for itself in isolation while regularly being wary of those of us trying to support it.

On another occasion, while Director on Call soon after my arrival, the Emergency Department was under pressure, I asked Ronan about processes with surgical patients. He became extremely angry on the phone with me, told me that none of this was my business and that he would be complaining about me to his Director.

As time went on, particularly as we have progressed through the process of the Urology Services Inquiry, the relationship with Ronan improved.

When I spoke to others in the organisation about these behaviours by the Assistant Directors in Acute Services there seemed to be an acceptance that this was the way in which individuals behaved and business was done and everyone worked around them. I hadn't encountered attitudes like these from middle managers in previous organisations in which I worked where the approach to patient management was more collective and less defensive.

(c) what, if any, impact these interactions and reluctance to do things differently had on your:

- 1. ability to obtain answers to your queries and**
- 2. respond appropriately to issues, make decisions and take actions?**

These interactions and the reluctance to share information resulted in slowing me in identifying and piecing together relevant information and understanding governance in the organisation. At times I seemed only to be given information on a 'need to know' basis, rather than as a complete narrative and I didn't always know what I didn't know.



Urology Services Inquiry

A prime example of this was the eventual realisation in 2020 that the MHPS investigation that had been undertaken in relation to Mr O'Brien was not in relation to his whole practice but had excluded urology cancer services which were in a different division. In the course of that investigation, it appears that it hadn't been mentioned that Mr O'Brien did not include the Cancer Nurse Specialists in patient care, that he didn't always follow the expert advice of the Multidisciplinary Team and that his cancer patients were not always being followed up. I had to rely heavily then on being guided by governance staff within the Medical Director's Office. Generally, there was manifest an underlying competitive and controlling culture of defensiveness, particularly in Acute services. When asked, the rationale for this given by middle managers in the Trust for this stance appeared to be historic, that the Trust had been high performing (that is, undertook significant activity without comment on quality and experience, knew its own internal business best and that given the previous and recent turnover of personnel, Medical Directors and Chief Executives were viewed as not fully committed, as only passing through and more to be tolerated than heeded.

This culture contributed to the first 8 months or so in the Southern Trust being some of the most challenging of my career.

- (iii) **Did you consider these interactions to be reflective of the culture existing in urology at that time? If so, in what way?**

I considered these interactions to be largely reflective of the culture in the Acute Directorate.

- (iv) **Did you raise the content of these discussions with anyone else? If yes, please provide full details.**



Urology Services Inquiry

Yes, as outlined above. I also discussed the challenges generally with Shane Devlin, the Chief Executive, in the context of how different staff could be approached to access information without them perceiving this as an attack on their performance rather than curiosity to improve.

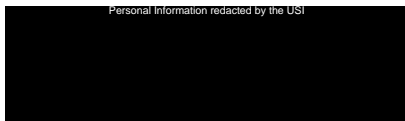
NOTE:

By virtue of section 43(1) of the Inquiries Act 2005, "document" in this context has a very wide interpretation and includes information recorded in any form. This will include, for instance, correspondence, handwritten or typed notes, diary entries and minutes and memoranda. It will also include electronic documents such as emails, text communications and recordings. In turn, this will also include relevant email and text communications sent to or from personal email accounts or telephone numbers, as well as those sent from official or business accounts or numbers. By virtue of section 21(6) of the Inquiries Act 2005, a thing is under a person's control if it is in his possession or if he has a right to possession of it.

Statement of Truth

I believe that the facts stated in this witness statement are true.

Signed:

Personal Information redacted by the USI


Date: 18th April 2023