

## **THE VALE OF LEVEN HOSPITAL INQUIRY**

### **MANAGEMENT AGREEMENT (This agreement supersedes previous versions)**

#### **Introduction**

1. On the 1 October 2009, the Scottish Ministers set up an Inquiry under the Inquiries Act 2005 (the Act), regulated also by the Inquiries (Scotland) rules 2007 (the Rules).
2. The Ministers announced that the Inquiry was to be undertaken by a Chairman, Lord MacLean. The Inquiry is to be known as the Vale of Leven Hospital Inquiry (the Inquiry).
3. This document is the Management Agreement between the Inquiry and the Scottish Government, setting out the division of roles and responsibilities where not already specified in the Act and the Rules. The Agreement also outlines the day to day liaison arrangements between the two parties.

#### **Role of Scottish Government**

4. The Scottish Government has two key roles in relation to the Inquiry: as sponsor team and as core participant.

#### *Sponsor Team*

5. The Scottish Government will act as the sponsor to the Inquiry and support the delivery of the Inquiry. The Vale of Leven Hospital Inquiry Sponsorship Team (the sponsor team) has been established within the Chief Nursing Officer Directorate of the Scottish Government to act as the sponsor team for the Inquiry. This team will deal directly with the Inquiry Team and be responsible for assisting the Inquiry on practical matters such as providing and monitoring finances, assets and accommodation for the Inquiry on behalf of the Accountable Officer. Accountable Officers have a personal responsibility to the Scottish Parliament for the propriety and regularity of the public finances for that part of the Scottish Administration for which they are responsible.

6. Postholders within the Scottish Government relating to this Sponsorship roles area as follows:

Accountable Officer	Dr Kevin Woods, Director General, Health and Wellbeing
The Inquiry Sponsor	Dr Mags McGuire, Deputy Chief Nursing Officer, Chief Nursing Officer Directorate, Health and Wellbeing
Sponsor Team	Susan Malcolm, Team Leader, Chief Nursing Officer Directorate, Health and Wellbeing
	Jan Liddle, Policy Officer, Chief Nursing Officer Directorate, Health and Wellbeing

### *Core Participant Team*

7. The Scottish Government has been designated as a core participant in the Inquiry. The Vale of Leven Core Participant Team (the Core Participant Team) will work independently from the Sponsor team to avoid any conflict of interest. The Core Participant team has also been established within the Chief Nursing Officer Directorate of the Scottish Government but to maintain a separation from the sponsor team, there are separate reporting structures for the two teams. The Core Participant Team will deal directly with Scottish Government Legal Directorate (SGLD) and have a co-ordinating role in terms of the Scottish Government's role as participant in the Inquiry including supporting SGLD to ensure that Scottish Government interests are represented at the Inquiry, receiving requests from the Inquiry for information held by the Scottish Government, identifying the relevant information, and providing a collated response to the Inquiry in an efficient manner and within the necessary timescales.

8. Postholders within the Scottish Government relating to the Core Participant roles are as follows:

Core Participant Team	Ms Uriel Jamieson, Head of Policy, Chief Nursing Officer Directorate, Health and Wellbeing Emma Sinclair, Team Leader, Chief Nursing Officer Directorate, Health and Wellbeing Mr Guy Fey, Policy Officer, Chief Nursing Officer Directorate, Health and Wellbeing
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### **Role of Inquiry Team**

9. The Inquiry Chairman is supported by the other members of the Inquiry team. The role of the other members of the team is to provide the administration of the Inquiry and to assist the Chairman in delivering his role.

10. Postholders within the Inquiry team include:

Secretary	Ms Julie-Anne Jamieson
Deputy Secretary	Mr Mark Dorrian
Solicitor	Mr Nigel Orr
Deputy Solicitor	Ms Felicity Cullen
Counsel	Colin MacAulay QC
Junior Counsel	Ms Lauren Sutherland, Advocate
Assessor 1	Dr Geoff Ridgway OBE
Assessor 2	Mrs Mary Waddell OBE

### **Liaison arrangements between the Scottish Government and Inquiry**

11. The sponsor team will ensure that Scottish Government staff facilitate the provision of resources for the Inquiry including accommodation, IT, financial processes and personnel. These arrangements will be made through the sponsor team, at least in the first instance, and the Inquiry team will keep the sponsor team fully informed of any arrangements made between the Inquiry team and other Scottish Government departments in relation to resources.

12. Aside from the general liaison arrangements outlined in paragraph 11, good communication between the sponsor team and Inquiry team in relation to press coverage is extremely important. The Inquiry Team will advise the sponsor team in advance where possible, of any major developments, events or decisions that the Inquiry team consider may attract press coverage. The sponsor team will engage the Scottish Government Communications Office about how such issues should be handled.

13. Where possible and in accordance with procurement law, the Inquiry will be expected to use Scottish Government pre-existing contracts for the supply of goods or services. The sponsor team will assist the Inquiry in terms of providing the appropriate contact details and procurement guidance. If the Inquiry team need facilities that the Scottish Government cannot provide, the sponsor team will establish new contracts on the Inquiry team's behalf.

14. The Inquiry team will develop a provisional timetable for the progress of the Inquiry from initial investigation to oral hearings to provision of final report to Ministers. An initial timetable should be shared with the sponsor team by 13 November 2009. The Inquiry Team will continue to revise the timetable as the Inquiry progresses. Revised versions should be sent to the sponsor team.

## **Finances and Governance**

### *Finances*

15. The Chairman should prepare an indicative budget detailing the likely cost of the Inquiry for consideration by the sponsor team by 13 November 2009. Costings should be broken down as follows:

- Staff salaries
- Staff travel and subsistence
- Staff training
- Accommodation
- Office supplies and services (including stationery, postage, IT, office equipment, telecoms)
- Hospitality
- Awards for expenses and compensation for loss of earnings to witnesses and Core Participants
- Awards for legal representation to witnesses and Core Participants
- PR/media
- IT consultancy/media technology
- Document management
- Court reporting systems
- Research/specialist publications

16. It will be for the Chairman, through the Secretary, to manage the Inquiry expenditure. The Inquiry will have regard to the indicative budget, section 17 (3) of the Act on the need to avoid unnecessary expense and sections 39 and 40 of the Act on the obligation on Ministers to meet certain expenses. The Inquiry will also make specific reference to the Scottish Public Finance Manual (SPFM) with regard to the management of the finances. In addition, the sponsor team will inform the Inquiry of relevant Scottish Government policy and procedures relating to financial management in a timely manner, advise as appropriate on the interpretation of that policy and issue specific guidance to the Inquiry as necessary

17. The Secretary will ensure that procedures are in place for the control of expenditure and payment of invoices. The Secretary will:

- i) provide a quarterly report showing expenditure against budget to the sponsor team, containing accurate and robust budget phasing and a detailed narrative describing year to date performance and the estimated forecast outturn against budget. This process will be supported by the Health Finance division via the provision of monthly management accounts and detailed reconciliations through the sponsor team;
- ii) ensure that all invoices are settled in a timely fashion, in accordance with the terms and conditions imposed by suppliers and, ideally, within 10 days as per the current Scottish Government payment performance target;
- iii) alert the sponsor team if the Inquiry has spent, or is likely to spend, more than
  - o 25% above the budget within an individual budgetary head, or
  - o 10% above the overall total budget;
- iv) not, without the sponsor's and, through them, Health Finance Division's, prior written consent, lend money, charge any asset or security, give any guarantee or indemnities or letters of comfort, or incur any contingent liability;
- v) obtain the sponsor team's prior consent to any agreement e.g. to lease additional property outwith the period of public hearings or for credit finance (team credit card or procurement arrangements);
- vi) obtain the sponsor team's prior consent to any insurance arrangements other than those required by law such as third party insurance under Road Traffic legislation, in line with the SPFM;
- vii) obtain the sponsor team's prior consent to any expenditure outwith the terms of reference or scope of the Inquiry;
- viii) ensure that adequate internal management and financial controls are maintained by the Inquiry, including effective measures against fraud and theft.

18. The Inquiry will have no authority in terms of the write-off of losses and/or special payments.

19. The Inquiry has no authority to reclassify expenditure between the existing categories, as set out in paragraph 15, without the prior written consent of the sponsor team.

20. The sponsor team and Secretary will meet on at least a monthly basis to discuss the Inquiry finances.

21. The following limits on delegated financial authority apply:

Position	Type of Expenditure	Expenditure limit
Secretary	General Inquiry Operating Expenditure	Up to £20,000 per transaction
	General Inquiry Capital Expenditure	Up to £2,000 per transaction
Chairman	General Inquiry Operating Expenditure	Up to £50,000 per transaction
	General Inquiry Capital Expenditure	Up to £5,000 per transaction

22. Where the expenditure limit per transaction needs to be exceeded, prior written consent from the sponsor team and, through them, Health Finance Division, must be obtained.

22. By 31 January, two months prior to the end of the financial year, the Chairman, through the Secretary, will provide a full breakdown of expenditure for that year to date and forecast of expenditure to the end of the financial year. Any underspend will be returned to the central budget and no carry forward is permitted.

23. At the end of the financial year, a detailed budget outturn statement will be provided to the Inquiry and sponsor team by Health Finance Division. This statement and underlying records may be inspected by Scottish Government Internal Audit Division and Audit Scotland, or such other persons as the Scottish Ministers may reasonably specify.

24. At the time of the Final Report of the Inquiry, the Chairman, through the Secretary, will provide a provisional summary of Inquiry expenditure to the sponsor team.

25. The Chairman, through the Secretary, will ensure that a final financial account for the Inquiry is provided to the sponsor team at the conclusion of the Inquiry's winding up period and is also published on the website.

#### *Assessors Expenses*

26. Where applicable, travel expenses relating to Inquiry business will be paid in line with current Scottish Government Travel and Subsistence rates.

### *Risk management*

27. It is the responsibility of the Chairman of the Inquiry to manage risks and ensure that an appropriate risk management strategy is adopted. In particular, the Secretary will maintain a detailed risk register outlining individual risk ratings (high, medium or low) in respect of the Inquiry together with an assessment of the impact on the Inquiry should the risk materialise. Each risk area should be quantified where possible.

### *Staff management*

28. The Secretary shall ensure that staff are managed fairly and in line with their contracts of employment and the HR policies of their employing organisation. The sponsor team should be contacted if any formal grievance procedure is initiated and is available for advice and guidance if required.

29. The Secretary shall ensure that effective personnel management practices are maintained.

30. The Inquiry team and those engaged to support them shall act in accordance with their wider responsibility to:

- i) Comply at all times with the rules relating to the use of public funds and to conflicts of interest, specifically the Civil Service Code:

<http://www.civilservice.gov.uk/about/work/cscore/index.aspx>

- ii) Have heed to any relevant paragraphs on impartiality and conflicts of interest in their secondment and employment terms and conditions;
- iii) Ensure that information gained in the course of their public service is not misused for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
- iv) Comply with Government guidance on the acceptance of gifts and hospitality, and of business appointments; and
- v) Act in good faith and in the best interests of the Inquiry.

31. In supporting the duty of care owed to the Inquiry staff, the sponsor team shall be given access to the Inquiry's relevant management and personnel records, if required.

### *Register of interests*

32. The Inquiry shall maintain a written register of interests and provide a copy of that document, and any changes to it, to the sponsor team. The Chairman, other members of the Inquiry team and others engaged on Inquiry business (including contractors or consultants) should declare any interest they have in respect of the nature of the Inquiry. Similarly, records should be kept of any financial interest in the matters being considered by the Inquiry by the Chairman, other members of the Inquiry team or others engaged by the Inquiry. A record should also be kept if the Chairman, or other members of the Inquiry team know any of the parties or witnesses.

### **Reports**

33. Scottish Ministers have asked the Chairman to be responsible, under the Act, for the publication of the Inquiry report. In that respect, with a view to allowing Scottish Ministers appropriate opportunity to respond to the Report and arrange for it to be laid before the Scottish Parliament, the Chairman, through the Secretary, will:

- i) Give at least two months advance notice to the sponsor team of the intended timetable for the Report's publication;
- ii) Agree timing, and practical and publicity arrangements, for the publication with the sponsor team;
- iii) In accordance with the Act and Rules, the Chairman will deliver the report to Scottish Ministers two weeks in advance of the publication date and, following delivery of the report, provide an appropriately embargoed copy of the report to Core Participants and their Legal Representatives.

34. On conclusion of the Inquiry, the Inquiry team will submit a "lessons learned" report to the sponsor team within two months of the publication of the Inquiry report. The "lessons learned" report will provide an operational evaluation of the Inquiry, which will seek to help guide future Inquiry teams.

### **Access to Scottish Government witnesses**

35. If the Inquiry wishes to identify or contact particular officials from the Scottish Government who have moved post or retired, the sponsor team will assist in tracing them or other appropriate officials.

### **Assets**

36. The Secretary will keep a register of Inquiry assets. Any Inquiry assets which do not revert to the provider at the end of the Inquiry (for example those bought rather than loaned) will be transferred to the Scottish Government for use or disposal.

## Notes

37. This Management Agreement does not confer any legally enforceable powers or responsibilities on the Chairman, Inquiry team, sponsor team or Scottish Ministers. The arrangements described in this Agreement may be amended (only with agreement of the sponsor team and Inquiry) at any time.

Signed *Julie - Anne Jamieson* Date *14/7/10*

Julie-Anne Jamieson  
Secretary for the Vale of Leven Hospital Public Inquiry

Signed *Margaret McGuire* Date *14/7/10*

Dr Mags McGuire  
Scottish Government Sponsor