

Questions raised in respect of witnesses in various emails by the single Legal Representative for those of the bereaved families and injured survivors who have been admitted as core participants, consented to Mr McGuire representing them and applied for funding for legal representation at public expense.

1. From: Patrick McGuire 18 June 2008 22:20

"Counsel for the core participants for whom I am the RLR have considered in detail the statements provided by the first 14 witnesses on the Inquiry list and have asked me to invite that the following lines be pursued as follows:

1. Witness number 3 – McGoldrick
 - i. What was the extent/degree of corrosion to pipe which he says could be seen where it entered the factory building
2. Witness number 5 – Mavericks
 - i. Was the rotten egg smell reported to management (and if so, to whom and who made the reports etc)
 - ii. Would the smell be obvious to management even if not formally reported
 - iii. How often did the he/the company use the HSE web site for guidance
 - iv. Was that resource ever used in relation to the LPG tank and pipes
3. Witness number 6 – Smith
 - i. To whom did Mr Aitken make the complaints that he could smell gas

Accordingly, it may be assumed that counsel do not wish any questions particularly be directed to any of the other first fifteen witnesses.

I Have additionally been asked canvass with you the following points:

- Mr Smith is speaking to complaints made by Mr Aitken; is there any reason why Mr Aitken himself is not being called?
- We recently received further statements which include people not presently on the list of witnesses; are these people now to be called and/or do you require lines of questioning from us in relation to these witness statements?
- In Mr Downie's statement he refers to the pipes being installed by a company owned by his brother in law, Mr Semple; is there a statement from Mr Semple, what are his qualifications and is he to be called to give evidence?"

Response from Inquiry Solicitor

"While it remains a matter for Lord Gill as to whether he permits any of the questions applied for to be raised with witnesses, we have already sought, or are in the course of seeking, clarification in writing from Mr McGoldrick and Mr Mavericks in respect of the questions you have raised.

Please see my separate email to all Recognised Legal Representatives regarding Mr James Aitken.

A number of statements have been disclosed which relate to the later phase of the Inquiry and so are not relevant to phase 1. The witnesses concerned are not therefore on the list.

Mr Semple is dead and so there is no evidence available from him."

Dear Recognised Legal Representatives

The Inquiry has been asked why James Aitken is not being called. His name has been mentioned by other witnesses.

The Inquiry is not calling eyewitnesses, or those who were injured, unless they have something to say which is relevant to the cause of the explosion.

Mr Aitken's information was "I did not notice any unusual smells or anything untoward in the days or weeks leading up to the tragedy. At times there would be a sewerage smell in the building".

2. From Thompsons 19 June 2008 12:11

"Two issues arose out of consultation which as you know took place on Tuesday, 17 June 2008 at 10am in relation to which Counsel has asked us to return to you.

Firstly, there was much discussion about the contribution that a Laurence Connelly could make to the Inquiry. A large proportion of those who attended the consultation thought that he could make a significant contribution in terms of evidence. We and Counsel are at a disadvantage in so far as we have never been provided with a statement by him and of course the various Determinations preclude us from carrying out our own investigations and obtaining statements of our own. We however understand that he gave a statement to not only the police but also the Fiscal Service.

In the circumstances we have been asked to request that you provide us with a copy of his statement.

Secondly, various members of the core participants whom we represent gave statements. Some only gave statements to the police which others gave statements to the police and separately the Fiscal Service. Before the commencement of the Inquiry those core participants are keen to see copies of their own statements and we would again request that you provide us with such copies."

Response from Inquiry Solicitor

"Mr. Connolly has submitted representations to Lord Gill which are on the website. There is also some further information within the HSE documents disclosed. As Mr. Connolly has not provided any information which is relevant in explaining the cause of the explosion and so has not been approached by the Inquiry for the purposes of phase 1.

Ms Devlin refers to "various members of the Core Participants" having given statements to the Police and to the Fiscal Service and refers to "again" requesting copies. I am not conscious of any previous request having been made. Please assist me by please identifying those individuals who are being referred to by name and, if you know this without needing to carry out any investigation work, what the nature of the information is which they consider they have which relates to the factual cause of the explosion. The Inquiry is not calling eyewitnesses, or injured survivors, unless they have information which is relevant to the cause of the explosion. Lord Gill made it clear that he did not need to trouble individuals with that burden during the preliminary hearing on 8 April.

I look forward to hearing from you with the names of those concerned to enable your request to be properly considered".

Further from Mr. McGuire Mon 23/06/2008 13:03

I undernote a list of those core participants who we understand to have given statements and whose statements we have been asked to obtain by our client group.

I, and Counsel, are very conscious of the position in relation to any investigation work and that is not our intention here. At the consultation Counsel, to put in context the statements and other documents which we received from the Inquiry Team, wished some explanation from those core participants who attended as to matters of fact about the pipes and the smell of gas leading up to the explosion. There was also the issue of the general attitude of management within the factory towards health & safety which is clearly an issue which the Inquiry will be addressing and which is canvassed in some of the other statements. Those core participants simply indicated that they statements had previously been given on these points when matters were more freshly in their memory and suggested that those statements be obtained. We are merely following our client's instructions.

We appreciate Lord Gill's sentiment about the need not to bother victims by giving evidence should that not be necessary and that is appreciated. The general feeling was however that, if it would assist the Inquiry, noone that attended the consultation indicated that they would have any difficulty in attending and giving evidence. I, and Counsel, are equally aware of the position in relation to funding of any work of an investigatory nature. We do not feel we are going down that road but it is of course a matter entirely for you, in the fullness of time, to make any deduction should you consider that necessary or appropriate.

I look forward to hearing from you.”

Undernote referred to:

James Aitken
William Longridge Aitkenhead
David John Andrews
Alan Christopher Byrne
Stacey Sara Bradley or Eaglesham
Daniel Lochlan Fraser
Daniel David Gilmour
William Gordon Gifford
Linda Johnston
Derek King
Christopher McGinley
Robert McMillan
Antony Northcote
Tammy Nelson
Maureen MacPhail

Further response from Inquiry Solicitor

“You have now named the core participants on whose behalf you are requesting their precognitions as taken by the Procurator Fiscal and their statements as taken by the Police.

David John Andrews Inquiry Statement has been provided (16 May)

James Aitken (we have provided the information he was able to give in relation to what other witnesses have said regarding smell)

Those remaining are:

William Aitkenhead
Alan Byrne
Stacey Eaglesham
Daniel Fraser
Daniel Gilmour
William Gifford
Linda Johnston
Derek King
Christopher McGinley
Robert McMillan
Antony Northcote
Tammy Nelson
Maureen MacPhail

While we have had access to the Crown information, we have only had use of information for the purposes of obtaining Inquiry statements. We have not obtained statements from the above people other than as indicated. This being the case, you must request the Precognitions from the Procurator Fiscal, and copies of any Police Statements from the Police.

How widely the Inquiry will canvas general issues of health and safety has yet to be decided. If you seek to broaden the scope of the Inquiry in these respects, it will be for you to satisfy the Chairman of the relevance to his terms of reference."

3. From: Patrick McGuire Mon 23/06/2008 13:14

I note that Jean McGoldrick has now been added to the List of Witnesses. I also note that she is to give oral evidence rather than to have her statement read out. May I inquire whether any of the other Recognised Legal Representatives have made applications under the procedures for particular supplementary questions to be asked of this witness or if you or Counsel to the Inquiry have taken the view that you wish to ask supplementary questions? If supplementary questions are to be asked perhaps you could provide some indication as to nature of those questions.

Response from Inquiry Solicitor

"In your email of 23 June 2008 (13.14) you note that Jean McGoldrick has now been added to the list of witnesses. It has not.

Jean McGoldrick's statement was issued to Core Participants recognised legal representatives on 16 May and was included in the provisional list issued on 4 June and the final list issued on 23 June.

You have also requested to know what applications to ask questions have been made in respect of this witness and what those questions are.

The Chairman is not at present releasing any information concerning any applications for questions which have been received other than where it is incidental to the work we are doing. If you, or those you represent, have questions that you wish to put forward to be asked of this witness then it is open to you to do so within any application you may decide to make. As you will be aware from my letter of yesterday, the Chairman has granted your clients a special extension to close on Tuesday 1 July. Should you lodge any application, please ensure it is copied to Kathryn McCartney and Trevor Lodge as well as to myself.

(Compiled by Inquiry 1 July 2008)