

- Medical reports were to be exchanged by 8 December 2000.
  - Any supplementary witness statements were to be served by 22 December 2000.
  - Any admissions as to liability, causation or limitation by the defendants were to be made by 22 December 2000.
  - The final pre-trial CMC was listed for 2 February 2001.
  - It was confirmed that the trial was to begin on 26 February 2001 with an estimated duration of six and a half weeks
51. Disclosure was only partially completed owing to delays in the provision of social services records, of which I shall say more below. Overall, disclosure consisted principally of documentation supplied by the claimants, because most of Bryn Alyn's documentation had been destroyed in a huge fire at a Pickfords warehouse in Chester in October 1996. HD had secured some very sparse documentation from the Official Receiver, which was dealing with the liquidation of Bryn Alyn Community (Holdings) Ltd, but nothing of any real significance.
52. Witness evidence was then served, albeit that the only witness evidence upon which RSA relied was a short statement from the head of insurance at Pickfords, confirming the fact of the fire in October 1996 when their entire warehouse, in which Bryn Alyn documentation was stored, had been destroyed.
53. Medical reports were also served (to the extent that this had not already been done).
54. Finally, on 22 December 2000, HD served a document on behalf of RSA in which it was stated that no admission was made as to the fact of the abuse, the injury, existence or breach of any duty of care and any consequent damage. Limitation was also put in issue.
55. Since RSA was a defendant to the proceedings in its capacity as an insurer which was disputing its liability to indemnify the principal defendant, it was not in a position to make admissions on any of those issues. RSA had no direct knowledge or information on which it could make admissions or denials about whether abuse had occurred or whether

Bryn Alyn had been negligent as alleged. Furthermore, RSA could not made admissions that might bind the principal defendant.

56. The position in relation to disclosure and the finalising of medical evidence was complicated by the fact that, by 22 December 2000, only 4 of the 14 lead claimants had disclosed their social services records, which were fundamental to any properly informed assessment of the evidence. A further 4 sets were served on 23 December but the final set was not served until 20 February 2001, less than one week before trial.
57. On 6 January 2001, junior counsel and solicitors met in Nottingham on a without prejudice basis to agree the mechanics for trial, which was going to be an extremely challenging logistical exercise in trying to fit the evidence of up to 15 claimants and numerous professional witnesses into the six and a half weeks that had been set aside. The parties discussed admissions, medical evidence, the potential use of a social care expert, a provisional scheduling order for the cases and disclosure.
58. On 31 January 2001, less than a month before trial, UT issued an urgent application to be heard at the final pre-trial CMC on 2 February 2001, seeking:
  - permission to rely on the findings of the Waterhouse Inquiry as proven facts without the need to call witnesses (by reference to the report itself and transcripts of the evidence of seven former Bryn Alyn personnel);
  - an order for the parties' medical experts to produce joint statements containing areas of agreement and disagreement with reasons
59. RSA instructed counsel to oppose this application, which (as mentioned above) came very shortly before trial. Having heard submissions, Mr Justice Connell ordered that the claimants should have permission to call as witnesses three former members of staff who had given evidence to the Waterhouse Inquiry. In the event, it was agreed that it made sense for RSA to call those witnesses so that they could then be cross-examined by the claimants' counsel, thereby achieving the objective behind the order. Significantly, the judge also granted the claimants permission to rely on expert social care evidence. A report from Professor Chris Payne was duly served by UT on 13 February 2001, less than two weeks before trial.