



STATEMENT OF APPROACH – EVIDENCE 2: WRITTEN STATEMENTS

1. This statement aims to ensure that all witnesses understand the procedure by which written statements are to be provided to the Inquiry.

Who will be a witness?

People infected and their families

2. The Inquiry will contact those who submit a form to express interest in giving evidence (see Infected Blood Inquiry Statement of Approach – Evidence 1) and, where it is believed that a person has relevant evidence, and has indicated a desire to provide a written statement, they will be asked to provide such a statement in accordance with this statement of approach.

Other witnesses

3. Potential witnesses, including, but not limited to, public officials (such as government ministers and civil servants), medical practitioners, and directors and employees of relevant private and public companies, charities and trusts, will be contacted by the Inquiry where it is considered that they may provide relevant evidence.

Those who may have evidence to offer

4. Any other person who has relevant evidence to provide, or who believes they may be able to provide evidence but is unsure how relevant it is, should contact the Solicitor to the Inquiry at:

solicitor@infectedbloodinquiry.org.uk (alternative contact details are

Infected Blood Inquiry

Fleetbank House, 1st Floor, 2-6 Salisbury Square, London EC4Y 8AE

contact@infectedbloodinquiry.org.uk

Freephone 08081691377

available on the Inquiry website) as soon as possible. The Solicitor to the Inquiry, or one of his colleagues, will establish what the evidence is and advise the person how to proceed.

Request for a written statement

5. In accordance with Rule 9 of the Inquiry Rules 2006 requests for a written statement (“Rule 9 request”) will be made in writing of all persons from whom the Inquiry proposes to take evidence.
6. The Rule 9 request will contain a description of the matters or issues to be covered by the written statement.
7. The Rule 9 request will be sent directly to the witness unless the witness has appointed a qualified lawyer to act on their behalf and the Chair has designated the lawyer as the witness’s recognised legal representative.

Responding to a request for a written statement

8. A witness may draft their own written statement, or seek assistance from a lawyer, or seek the assistance of the Inquiry Team, or engage with any combination of these options.
9. Should a witness in receipt of a Rule 9 request require assistance from the Inquiry Team in drafting a statement, he or she should contact the Inquiry as soon as possible, and in any event within 14 days of receipt. The witness may seek such assistance from the Inquiry Team whether or not he or she is legally represented.
10. The witness should aim to include in the written statement evidence relating to all matters or issues referred to in the Rule 9 request. Documents that are relevant to the Inquiry’s Terms of Reference may be referred to in the written statement (see the guidance in Annex A on reviewing and referencing medical evidence in written statements).

11. The written statement must be written in the witness's own words and approved by the witness as being complete and accurate in the format set out in Annex B to this statement. Unless the Rule 9 request specifies that the process in paragraph 12 is to be followed, it must then be signed as final and submitted to the Inquiry within the period specified in the Rule 9 request.

11A. Witnesses who are infected or affected will be asked to confirm their consent to the Inquiry disclosing or publishing their written statement (described below in paragraph 14) by completing the form set out at Annex C to this statement. Any application for anonymity or a restriction order should be made at the stage the written statement is submitted to the Inquiry (see paragraph 16 below, and the Infected Blood Inquiry Statement of Approach – Anonymity and Redaction).

Initial statement

12. The Inquiry may specify within a Rule 9 request that a written statement should be submitted as an unsigned, "initial statement". Upon receipt of the initial statement, the Inquiry will either:

- a. Indicate there are no points for clarification or requests for further information in relation to the initial statement at that stage and request the witness to sign the draft as a final written statement, in which case the witness should return it, signed as true, within 7 days of notification; or
- b. Produce a further Rule 9 request to the witness either:
 - i. Describing issues in the initial statement which require clarification; or
 - ii. Describing further evidence sought.

13. Where a witness amends their initial statement, that statement should be returned to the Inquiry and the procedure at paragraph 12 will be followed.

Procedure following receipt of final signed written statement

14. As soon as reasonably practicable following receipt by the Inquiry each final signed written statement will be uploaded to the Inquiry's database and issued with an Inquiry unique reference number ("URN"). It will not be 'disclosed' or 'published' before the steps outlined below have been taken.

- "Disclosed" means made available to core participants and (in some instances) persons from whom the Inquiry proposes to take evidence, subject to a strict undertaking to the Inquiry of confidentiality by the recipient of the disclosure (and their recognised legal representative, if any), not to reveal the information to others;
- "Published" means made available on the Inquiry website, which is accessible by members of the public, or published as part of any interim or final report.

15. The Inquiry regards it as important that its proceedings are conducted in public and in as open and transparent a manner as is possible. The Inquiry will therefore publish on its website written statements provided to the Inquiry (which will include relevant documents exhibited to the written statement), unless there is a compelling reason not to. In addition, written statements and their exhibits will be disclosed to core participants and (in some instances) witnesses by making the documents available on the Inquiry's database.

16. At the stage that the witness' written statement is submitted to the Inquiry (see paragraph 11A above), and before any written statement is disclosed or published, the witness may ask the Inquiry not to disclose or

publish his or her name, or not to disclose or publish particular information contained within the statement. This request will be dealt with in accordance with Infected Blood Inquiry Statement of Approach – Anonymity and Redaction.

17. In general, where the witness is a person who is infected or affected and requests anonymity, it is likely that the Chair will grant the request in light of the fact that most such statements will contain highly sensitive and personal medical information. This approach seeks to ensure the effectiveness of the Inquiry by not deterring persons from giving evidence who would otherwise wish to do so.
18. A witness who is infected or affected who seeks to prevent disclosure or publication of information contained in their written statement (including information contained in documents exhibited to the written statement) other than by a grant of anonymity, should submit an application in accordance with Infected Blood Inquiry Statement of Approach – Anonymity and Redaction (paragraph 21).
19. Any other person who seeks anonymity or who seeks to prevent disclosure or publication of information contained in their written statement (including information contained in documents exhibited to the written statement), should submit an application in accordance with Infected Blood Inquiry Statement of Approach – Anonymity and Redaction (paragraph 22).
20. Written statements will generally be disclosed to core participants with the identity of a witness who has been granted anonymity removed.
21. Having received the final signed written statement the Inquiry will decide whether to invite the witness to attend to give oral evidence in person at an Inquiry hearing or inform the witness that their statement is to be read as their evidence to the Inquiry. An invitation to attend to give oral evidence will ordinarily be made not less than 14 days before the date on

which the witness will be asked to attend.

22. The statement to be disclosed by the Inquiry will ordinarily be the final signed written statement and not any preparatory material. However, in the event that a witness refuses to return a signed written statement, or delays to an unacceptable extent in returning such a signed statement, the Inquiry may proceed to disclose the initial statement or a statement from a written statement-taker who was present at an interview or meeting with the witness, but before doing so will give an opportunity to the person concerned to make representations why that should not happen.

Criticism of another person or organisation

23. Some, perhaps many, of the written statements provided to the Inquiry will contain criticism of another person or organisation. It will not be practical or proportionate for the Inquiry to investigate every criticism that is made by a witness about a person or organisation. Nor will it be necessary to do so in order to fulfil the Terms of Reference.
24. The Inquiry will publish written statements on its website unless there is a compelling reason not to do so (see paragraph 15). Fairness requires that criticisms of a named person or organisation which the Inquiry will be investigating further, or which are to be published by the Inquiry, should be disclosed to that person or organisation.
25. Where a written statement provided to the Inquiry contains criticism of a named person or organisation, the Inquiry will consider the nature and seriousness of the criticism, the significance of the criticism in relation to the Terms of Reference and the issues being investigated by the Inquiry, and whether the person or organisation has been the subject of criticism in other written statements.
26. Where, having considered these factors, the Inquiry considers:

- a. that the criticism of the named person or organisation should be investigated further; and/or
- b. that the nature, seriousness and/or significance of the criticism is such that – in keeping with the Inquiry’s commitment to openness and transparency - it would be wrong to redact details of the criticism when publishing the written statement;

then the Inquiry will endeavour to locate the person or organisation criticised and provide them with the witness’s written statement. The Inquiry will make a Rule 9 request for the person or organisation criticised to respond to the criticism raised. If and when a response is received, it will be provided to the witness making the criticism. This is to provide that witness with an opportunity to review the criticisms made, in light of the response. If the criticism is maintained, the witness statement and the response will (absent any compelling reason) be published by the Inquiry in due course. Core participants will receive relevant disclosure at appropriate times during the process.

27. In circumstances where the person criticised is dead, the Inquiry will undertake such investigations as are reasonable and proportionate. Relevant evidence revealed by such investigations will be provided to the witness making the complaint for the same reason as given above. The Inquiry will, in light of the available evidence and having regard to the duty to act fairly, take a decision as to whether the name of the deceased person should be redacted prior to disclosure and/or publication of the witness statement.

28. The Inquiry may take the view that it is not reasonable or proportionate to investigate a criticism or seek a response from the person criticised. An example may be an instance where a doctor was said to be discourteous in their dealings with a patient; or an allegation not directly related to the use of blood or blood products. In such cases, where the

Inquiry does not seek a response to the criticism, it is likely that the Inquiry will, as a matter of fairness, redact the name of the person criticised before the relevant statement is published. In cases where there is an allegation of not just a single instance but a pattern of behaviour which emerges in respect of the same person from a number of such statements, the Inquiry will review any redaction and is likely to lift it, after giving notice to the person concerned that it intends to do so, and time for a response by that person if they wish to make one.

29. In all cases where criticisms are to be provided to the person or organisation criticised (and their legal representative, where instructed), it is likely that it will be necessary to provide to that person the identity of the witness making the criticism, in order that they are afforded a fair opportunity to respond to the criticism. However, anyone to whom information is disclosed in this way must keep it confidential and it must not be disclosed to any other person (save for the purpose of obtaining legal or other professional advice in connection with the criticisms and, in such circumstances, it is incumbent on the person criticised to ensure that their professional advisor(s) agree to keep the information confidential before the information is shared). The Inquiry will provide at least 14 days' notice if it intends to disclose the identity of a witness who has been granted anonymity so as to allow that witness an opportunity to make an application requesting that the Inquiry considers not disclosing this information.
30. It does not automatically follow from the fact that a witness's name has been provided to a person or institution that this witness will be identified by name (or in another way) in the Inquiry's oral hearings or on its website. There may still be good reasons why that witness is entitled to give evidence anonymously.

Procedure where a witness fails to respond to a Rule 9 request

31. The Chair has a number of powers exercisable by Notice to require the provision of evidence under section 21 of the Act including, under section 21(2)(a), the provision of a written statement within such period as seems reasonable to the Chair.
32. The Chair may also issue a Notice (pursuant to section 21(1)(a) of the Act) to a witness to attend at a time and place to give evidence, or (section 21(1)(b)) to produce any documents in his or her custody or under his or her control that relate to a matter in question at the Inquiry, or (section 21(1)(c)) to produce any other thing in his or her custody or under his or her control for inspection, examination or testing on behalf of the Chair.
33. A person may claim pursuant to section 21(4) that they are unable to comply with the Notice or that it is not reasonable in all the circumstances for them to comply with such a Notice. The Chair will determine any such claim and may revoke or vary a Notice on the ground claimed. In doing so the Chair must have regard to the public interest in the information in question being obtained by the Inquiry having regard to its likely importance.
34. A person is guilty of an offence pursuant to section 35 of the Act if he or she fails without reasonable excuse to comply with a Notice issued pursuant to section 21. The offence is punishable on summary conviction by fine or imprisonment. Certification may also be given to the High Court pursuant to section 36 of the Act for enforcement proceedings which may also result in imprisonment.

Issued by the Chair on 2 July 2018.

Amended by the Chair on 3 October 2018.

Amended by the Chair on 1 November 2018.

Amended by the Chair on 29 January 2019.

Annex A: Medical Records

1. This statement sets out the Inquiry's approach to referencing medical evidence in written statements of witnesses who are infected or affected.
2. It is not necessary for a witness to have access to their medical records in order to provide a written statement to the Inquiry. The Inquiry recognises that some individuals who are infected do not wish to obtain their medical records or know that key parts of their medical records are missing. Their personal accounts are highly valuable to the Inquiry, with or without reference to contemporaneous medical records. A written statement does not need to be cross-referenced to medical records for it to be treated as reliable.
3. The Inquiry has paid close attention to the opening submissions made on this issue at the Inquiry's preliminary hearings by the legal representatives for the core participants. It recognises that many individuals will wish to review contemporaneous records to assist them in recalling and dating events from many years ago and there will be value in this. Evidence from medical records will also assist the Inquiry in investigating broader issues within the Terms of Reference, such as patterns of behaviour in relation to treatment decisions, advice on risk, consent, the nature, accuracy and timeliness of information provided, or (as the case may be) showing when medical professionals knew about the infection of a patient even though the witness did not, and in assessing whether there have been attempts to conceal details of what happened from the medical records.
4. Where core participants and witnesses who are infected and affected have legal representation, their legal representative will be able to provide assistance in reviewing medical records to identify and summarise key relevant documents when preparing the written statement. This work will be included in any legal expenses awards granted to the legal representative for the purposes of taking written

statements.

5. The Inquiry will provide assistance to core participants and witnesses who are not legally represented in reviewing their medical records for the purposes of identifying and summarising key relevant documents.
6. Not every document in the medical records will be relevant – for instance, many may contain details of other medical problems of no relevance to the Terms of Reference. Only key documents from medical records (if they are available) should be exhibited to the written statement, together with any other documents that may be relevant to the matters outlined in the Rule 9 request. The Inquiry does not at this stage wish to be provided with a full set of each witness's medical records: if it considers it may need more details from the records, it will ask.
7. The Inquiry has recognised that accessing medical records is not always straightforward and has provided guidance on its website at: www.infectedbloodinquiry.org.uk/requesting-medical-evidence.
8. Where individuals are unable to access their records, or their records appear to be unavailable, the Inquiry will provide assistance.

Annex B: Format of Written Statements

If any person has difficulty in meeting the requirements of this annex, for whatever reason, they should contact the Inquiry team who will try to provide assistance and support. Contact details are as follows:

- ***leave a message to speak to a member of the witness support team on: freephone 0808 169 1377***
- ***by post or in person to: Infected Blood Inquiry, Fleetbank House, 1st Floor, 2-6 Salisbury Square, London, EC4Y 8AE***
- ***email: witness.support@infectedbloodinquiry.org.uk***

Written statements submitted to the Inquiry, whether initial or final, should be provided electronically where possible, designed to be printed on single-sided A4, and unless an alternative template is provided by the Inquiry in accordance with the template appended to this annex (Arial font, size 12, line spacing of 1.5 and default Word settings for header, footer and margins). They should also comply with the following requirements:

- a. Each page should be numbered sequentially and each paragraph (other than those dealing with the matters set out in paragraphs (b) and (c) below) should be numbered sequentially from the beginning to the end of the written statement.
- b. A written statement should commence by setting out the witness's full name. In the case of a witness who is giving evidence in relation to their current or former occupational capacity, the statement should indicate the name of the employing organisation, and the witness's current or former position or role within that organisation. A witness who is giving evidence in a private capacity need not include their home address in the body of the written statement, provided that address has previously been notified in writing to the Inquiry.

- c. The Inquiry will allocate each witness a unique four-digit identifier which will be provided in any Rule 9 request issued by the Inquiry.
- d. The “Statement No:” to be included in the header of each statement should be in the following format “WITNXXXX001”, where XXXX is the unique identifier issued by the Inquiry.
- e. Where a witness wishes to refer to a document or material during the course of a written statement (having regard, where necessary, to paragraph 6 of Annex A to this Statement of Approach) the following procedures should be adopted:
 - i. A copy of such document or material must be submitted with the written statement as an exhibit, unless it is known that the document or material is already held on the Inquiry’s database in which circumstance the document should be identified in the written statement by its unique reference number (“URN”);
 - ii. Where exhibits are submitted alongside a written statement (and are not available on the Inquiry’s database), they should be given sequential numbers following the format outlined at (d) above. The first exhibit to the statement should be referred to as “WITNXXXX002”, and subsequent exhibits will continue in sequential order;
 - iii. Whenever a document is referred to in a written statement the full title or description of the document should be given on the first occasion reference is made to it (thereafter an abbreviation will be sufficient). This should be followed by square brackets in which the exhibit number, as described at paragraphs (i) or (ii) above, is placed.
 - iv. Exhibits should be referenced in the header of the written

statement alongside “Exhibits:”. The information to be included will depend on the number and nature of the exhibits to the statement; for example:

- WITNXXXX002
- ABCD1234567
- WITNXXXX002 – WITNXXXX004
- WITNXXXX002 – WITNXXXX004, ABCD1234567

- f. Where a witness makes a second or further supplementary written statement that fact should be stated at the outset in the heading (e.g. SECOND/THIRD/FOURTH WRITTEN STATEMENT OF...). The numbering of second or further supplementary statements and their exhibits should be sequential, for example, if the URN of the final exhibit to the first statement was WITNXXXX004, then the URN of the second statement will be WITNXXXX005, and the first exhibit to the second statement will be WITNXXXX006, and so on.
- g. The statement should end with confirmation that the facts stated in the written statement are true, the signature of the witness, and the date signed.

Template for written statements

Witness Name:

Statement No.: [WITNXXXX001]

Exhibits: [WITNXXXX002 -
WITNXXXX004]

Dated:

INFECTED BLOOD INQUIRY

[SECOND / THIRD / FOURTH ...] WRITTEN STATEMENT OF [*]**

I, [***], will say as follows: -

1.
2.
3. Etc

Statement of Truth

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

Signed _____

Dated

Annex C: Witness consent to use of statement

Consent to use my statement

I, [] (insert name) confirm that by submitting my signed written statement to the Infected Blood Inquiry, I consent to its use in the following ways:

- publication on the Inquiry website;
- reference and/or inclusion in any interim and/or final report;
- disclosure to core participants and where instructed, their legal representatives via the Inquiry's database or by any other means as directed by the Chair of the Inquiry;
- disclosure to any person or organisation, including any instructed legal representatives, who is the subject of criticism in my written statement, as set out in the Inquiry's Statement of Approach - Anonymity and Redaction.

I also confirm that I have been advised of the option to seek anonymity and that if granted my identity may nevertheless be disclosed to a person or organisation, including any instructed legal representatives, who is the subject of criticism in my written statement in order that they are afforded a fair opportunity to respond to the criticism.

Please tick this box if you are seeking anonymity, in which case consent is considered to be provided subject to the determination of any application for anonymity

Signed.....

Date.....

The Inquiry takes its obligations in respect of handling personal and sensitive information seriously. Please see the Inquiry's Privacy Notice which sets out the approach to processing this information at <https://www.infectedbloodinquiry.org.uk/privacy-notice>.