

Finally, some measure of justice for the victims of the biggest ever NHS scandal

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At last. More than four decades on from what is accepted to have been the greatest treatment disaster in the history of the NHS – the infected blood scandal – the first move has been made towards compensating victims.

Just think about it for a moment. Forty years have passed, and it is only now that those who suffered – often grievously – as a direct result of an NHS mistake (and the subsequent cover-up) have a realistic hope of some recompense.

We are not talking of a few isolated cases. As many as 25,000 people were infected, directly or indirectly, as a result of contaminated blood products. If they were in their twenties or thirties when they were infected, they are now in their sixties or seventies. For many, it is already too late. At least 2,400 have died from the HIV and Hepatitis C they contracted.

Many of those affected were haemophiliacs, for whom regular transfusions had become a life-saver. Others were hitherto healthy people who had gone into hospital and emerged with an incurable disease after needing blood. Then there were their partners and children, who – like many of the primary victims – had been told nothing about what had happened or about the

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risk to themselves.

What may be the crucial breakthrough came this week, when Sir Robert Francis published his report on the specific question of compensation. An eminent QC in the field of medical law, Sir Robert deserves several bouquets: for completing his report just a year after it was commissioned by the Cabinet Office; for his clarity, which contrasts with the report’s ponderous title – the Compensation Framework Study (guess what “they” didn’t want it to recommend) – and last, but by no means least, for the sense of urgency he conveys.

Accepting that many of those affected may not have long to live, he says that some 3,300 survivors should each receive an immediate payment, unlikely to be less than £100,000. He also says – rightly – that a case can be made for payments to many others, including partners and children. In all, the NHS could end up with a bill of more than £1bn.

As indeed it should. To my mind, the whole infected blood saga is without doubt the most disgraceful chapter in the near 75 years of the NHS. This is not, in the first instance, because a mistake was made, even as grave a mistake as infecting otherwise healthy patients with viruses that would blight their lives. No health service can be immune to error. It is rather because of the way in which those in charge of the NHS and in government responded.

There was a reluctance to accept what was happening and a lack of curiosity to find out. There was a refusal to place the plight of those affected ahead of other (bureaucratic and diplomatic) considerations. There was an astonishingly dilatory approach to acknowledging that anything had gone wrong, let alone to

accepting responsibility, and – until Sir Robert’s report – an adamant refusal to broach compensation.

This last has been perhaps the least comprehensible of all the official shortcomings, given the stratospheric sums – £2.2bn in 2020-21 for England alone – routinely paid out by the NHS in respect of negligence claims. It has also been one of the central complaints of the victims: not only – or even mostly – because money could make a difference to their lives, but because money is the most tangible evidence in our society that officialdom has accepted fault and taken note.

Recognition has been a big part of their grievance, and this includes the unconscionable delay on the part of successive governments in accepting the need for any sort of official inquiry. It was not until 2017 that the then prime minister, Theresa May, announced that she would set up a full inquiry into “an appalling tragedy”, as she put it, “which should simply never have happened”.

That inquiry finally opened nearly two years later – in April 2019 – and still has an estimated two years to run. By the time its reports sees the light of day, most of those involved in the decision-making at the time, will be beyond the reach of official sanction, even if they are still alive. In that sense, “justice”, as so often demanded by those wronged today, will not be done.

At the risk of making broad generalisations, other European governments responded more decisively, and with more urgency, to the first evidence of contaminated blood entering the health system, whether in halting imports of blood plasma from the United States – the main source of the problem – or in requiring heat treatment for donated blood. They were also

quicker and more willing to call individuals to account. Laurent Fabius, France’s health minister at the time, resigned and stood trial (as did others). Although he was acquitted, his hitherto gilded career was set back for years.

In the UK, coordination between the different branches of government, the health service and scientific research seems to have been less effective than in some other countries, while institutional buck-passing and bureaucratic obfuscation was in a class of its own. The stewardship of records also left a lot to be desired, with crucial documents being destroyed.

The UK’s medical hierarchy also seemed less open than others to findings from the grass roots – which included a local GP’s suggestion that blood plasma could be a source of infection after a number of his haemophiliac became ill. And despite various parliamentary committee inquiries, no one was called to account; until the present inquiry, almost no names were named. Other countries provided state compensation in some form from a relatively early stage; the UK did not, even though it has long paid compensation for other medical mistakes.

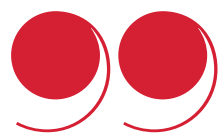
It can be argued that at least some of the UK’s failings – characteristically perhaps – reflected the best of intentions. At the start, both HIV and Hepatitis C infections not only amounted to death sentences, but carried great social stigma. This is why, it appears, some hospitals and GPs did not inform their patients that they were infected. Many of those who did find out one way or another found themselves and their families shunned. Concern about stigma also helped explain delays in issuing official advice. Sir Robert Francis notes the strength of social stigma in his report, and it is one reason why he says

partners and children have a good case for compensation.

Whether and how soon any compensation will be paid, however, is another matter. Sir Robert is to be commended for insisting that time is of the essence, but it is not at all clear that even his voice will be heard. The official response from the paymaster general, Michael Ellis, was this:

“There is a great deal of complexity to the issues that the study covers and a wide range of factors to be taken into account... This analysis cannot be completed hurriedly but officials across government are focusing on this so that the government can be ready to respond quickly to the Inquiry’s recommendations...”

Alas, even after 40-plus years, the survivors and their families may have a while yet to wait.



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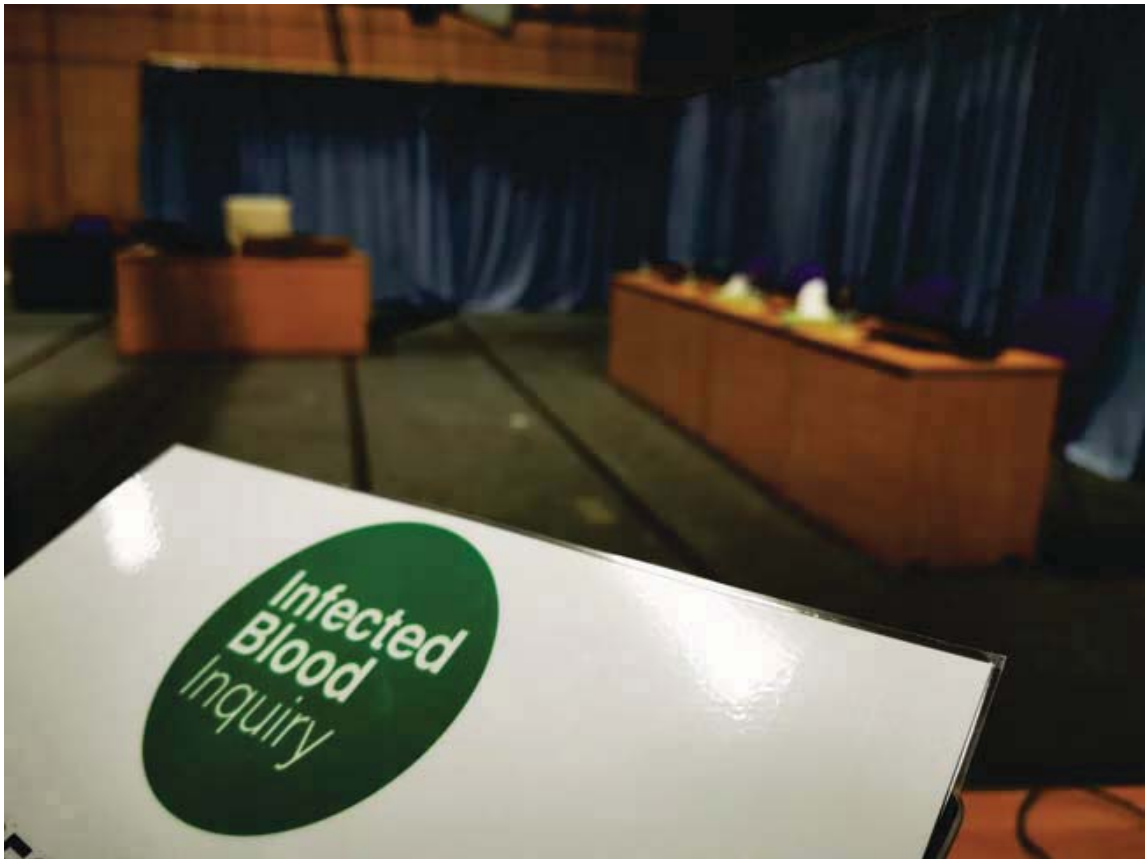


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The infected blood scandal cost the lives of at least 2,400 people (PA)