



Parliamentary Commissioner  
for Administration  
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From the Commissioner  
Anthony Barrowclough QC

01-212 0190/GRO-C

Our ref: C.65/88

The Rt Hon Dr David Owen MP  
House of Commons  
London SW1A 0AA

14 March 1988

*Dear Dr Owen*

Thank you for your letter of 2 March giving me further information about the case of your constituent, Mr ~~George Cunningham~~ whose complaint against the Department of Health and Social Security (DHSS) you have asked me to investigate.

I am grateful for the additional details you have provided, and I note that Mr ~~George Cunningham~~ - for whom I have the very greatest sympathy - was aware of your intention to refer the matter to me. But I am afraid I remain very doubtful whether the facts presented provide me with a sufficient basis for embarking on an investigation. For that I would need not only prima facie evidence of maladministration on DHSS's part but also evidence that any maladministration which there may have been was relevant in terms of causation and foreseeability to the injustice suffered by Mr ~~George Cunningham~~ (or other haemophiliacs who need to be treated with Factor VIII or similar blood products).

I am at something of a disadvantage in assessing the prima facie merits of the case in that I do not, of course, know - as you presumably do - the full background to the decision you announced (in your Written Answer to Mr George Cunningham of 22 January 1975) regarding intended self-sufficiency as soon as practicable in the production of Factor VIII. But on the face of things, the purpose of the domestic production envisaged in 1975 was to secure the best available treatment for haemophiliacs at a lower cost than was involved in using imported products. I discern a similar emphasis in the Answers you gave (on 22 April 1975) to the later questions put by Mr Spence. Indeed the fact that no reference was made to relative contamination risks in any of the Answers concerned (or, so far as I am aware, in any other communication to Parliament by the government of the day) suggests that, at the time, such risks were not seen as a major consideration influencing the decision to achieve early self-sufficiency.

In rather the same vein (and we are concerned here, of course, with the period before the HIV virus was known about) both imported and UK-produced blood products would presumably have been tested for all known blood infections before being put on the market. Does it not follow - given the state of medical knowledge at the time - that the UK product would have been seen as carrying neither a lesser nor greater risk than that of imported Factor VIII? After discovery of the HIV virus, both would surely be tested to ensure that they were not contaminated with it. And I have also to ask myself, in relation to your constituent's particular case, whether there is sufficient (or indeed any) evidence that it was imported Factor VIII which infected Mr ~~George Cunningham~~ in the first place.

I do not doubt that you will find these further comments disappointing. I hope, however, that they will help to explain to your constituent why - as things stand - I do not see his case as one which I can take up. If there is additional

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/evidence to  
further your case

evidence which you or he wish to submit and which you feel might lead me to a different conclusion, I shall of course be happy to consider it. (If you do send me any further material, perhaps you would be kind enough to include a copy of the letter which you told me you had sent to the Secretary of State last November, and of the reply he sent you in February?.)

*Yours sincerely*

GRO-C