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"Meeting with Lord Jenkin of Roding: 13 April 2005"

File Reference: **WRK/001/001**

File Title: **Working Files - General Health Protection - Blood**

Filed by: **Tanya Nickols/HPIHSD/DOH/GB on 04/08/2005 at 13:00**

Created by: **Zubeda Seedat/PH6/DOH/GB on 11/04/2005 at 15:32**

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11/04/2005 15:32

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Jenkin of Roding: 13 April 2005

bcc:
Subject: Meeting with Lord

Shaun,

I attach briefing for the meeting Sir Nigel has with Lord Roding. Annex I and II includes the correspondence that you have already seen between Lord Roding and PS(L).

Zubeda



Meeting with Lord Jenkin of Roding.doc



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Annex II Reply to Lord Jenkin.doc



Annex III Review of papers.doc

Sir Nigel Crisp

From: William Connon

Date: 11 April 2005

Copy: Gerard Hetherington

Ailsa Wight

Zubeda Seedat

Linda Wishart

Steve Wells

Frances Smethurst

MEETING WITH LORD JENKIN OF RODING: WEDNESDAY 13 APRIL 2005

Background to Lord Jenkin's request for a meeting

1. Lord Jenkin has asked to meet with you to discuss his access to all papers which relate to issues on the treatment of haemophilia patients and blood safety which he would have had access to when he was the Secretary of State for Health and Social Security (DHSS), between 1979-1981.
2. He has asked for these papers following a letter he received from [GRO-A] about haemophilia patients who were infected with HIV and Hepatitis C through blood products. In his letter, [GRO-A] requests copies of minutes of meetings that Lord Jenkin had when he was the Secretary of State. There are also various other meeting papers that [GRO-A] has requested. A copy of the letter is attached at Annex I.
3. PS(L) has written twice to Lord Jenkin in response to comments made by Mr [GRO-A] – see Annex II. However, Lord Jenkin appears to be under the impression that we are withholding documents from him. He has also commented on the issue of the Department's filing and document management system.

Previous request from Lord Jenkin

4. We understand from colleagues that on a previous occasion, in 1999, Lord Jenkin wrote seeking access to policy papers, including unpublished research studies, that he had brought with him when he arrived at the DHSS in 1979. On that occasion, colleagues were unable to locate the documents. In fact, it is unlikely that they would have been retained, as they would not have been required either to support administrative needs or accountability.

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- Many key papers from the 1970s and 1980s have been destroyed. During the HIV litigation in 1990 many papers from that period were recalled. We understand that papers were not adequately archived and were unfortunately destroyed in the early 1990s.

- We have been in touch with Departmental Records Office to check which files related to the treatment of haemophilia patients and blood safety are still in existence from the period between 1979-1981. We have obtained a list of some files from this period. However, at first glance it is not clear about the extent to which these files will hold papers that Lord Jenkin will have handled. It would require significant staffing resource to go through these files to identify official papers that Lord Jenkin handled at the time.
- We have not sought to deny Lord Jenkin access to any official papers. The reply from PS(L) focused on addressing some very serious comments from Mr **GRO-A** about blood safety and the transmission of Hepatitis C.
- We are aware of the Civil Service Guidance on access to official papers by former Ministers, produced by the Cabinet Office. If Lord Jenkin is able to be more specific about the subject matter or documentation that he would like to see than we can undertake a search for specific papers.
- Lord Jenkin may be aware that in 2002 Ministers commissioned a review of internal papers to clarify the facts surrounding the drive for UK self sufficiency in blood products in the 1970's and 1980's. We will let Lord Jenkin know when work has completed on this. There has been a long delay in completing the report. A short note is attached at Annex III on this. The report will contain an extensive list of references which may help Lord Jenkin to identify papers he would like to see from his period in office.

5. Background briefing is attached on the issue of contaminated blood products and the record management system in DH, including access to official papers by former Ministers.

William Connon
General Health Protection
Room: 633B Skipton House
Ext: **GRO-C**

Infection of HIV and Hepatitis C through blood products

1. During the late 1970s and early 1980s, the majority of regularly treated patients with haemophilia were infected with either HIV or hepatitis C, and in some cases both through contaminated blood products supplied by the NHS.
2. There are some people in the haemophilia community who allege that the Government knew about the risks of HIV and Hepatitis C and deliberately allowed contaminated blood products to be used, which resulted in many haemophilia patients being infected. They also claim that there was the failure to implement a pledge by the then Health Minister David (now Lord) Owen to make the UK self sufficient in blood products that resulted in patients being infected with plasma imported from the US in the 1970's.
3. The facts are that it was not possible before 1985 to make blood products (clotting factors) free from hepatitis C in sufficient quantities to treat all haemophiliacs in the UK. As soon as the technology was available the NHS introduced it. Donor screening for hepatitis C was introduced in the UK in 1991 and the development of this test marked a major advance in microbiological technology, which could not have been implemented before this time
4. In the 1970s and early 1980s clinicians knew about the risks of non A and non B hepatitis (NANBH). However, the prevailing opinion at the time was that NANBH caused a mild and often asymptomatic illness. The more serious consequences of hepatitis C, which may take 20-30 years to develop, only became apparent after full characterisation of the virus in 1989 and the development of tests for its recognition.
5. Self sufficiency in blood products would not have prevented haemophiliacs from being infected with hepatitis C. Blood products are made with pooled plasma (around 20,000 donations per pool). Even if the UK had been self sufficient, the prevalence of hepatitis C in the donor population would have been enough to spread the virus throughout the pool. That is why the infection of haemophiliacs with hepatitis C is a world wide problem.

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Public Inquiry

We are aware that some people would like the Government to set up a public inquiry into this issue. Whilst there is great sympathy for those infected with hepatitis C and the Government has considered the call for a public inquiry very carefully, this has been rejected.

In the 1970's non-A and non-B hepatitis infection was generally thought to be a relatively benign condition. Hepatitis C was only identified following major advances in molecular biological techniques. The virus was not fully characterised until 1989.

Self Sufficiency

6. With regards to comments about self sufficiency in blood products. Our understanding is that considerable efforts were made to achieve NHS self sufficiency in clotting factors in the 1970s. The fact that self sufficiency was not achieved appears to have been linked to the massive increase in demand for clotting factors at the time not to any failure to implement Ministerial initiatives.

7. An informal review to clarify the facts surrounding the drive for UK self sufficiency in blood products in the 1970s and 1980s was commissioned in 2002. Work on this will be completed shortly. This includes a review of the surviving papers between 1973 and 1991 and a chronology of events.

Departmental obligations for record keeping

8. The Public Records Act 1958, requires "every person responsible for public records . . . to make arrangements for the selection of those records which ought to be permanently preserved and for their safe-keeping".

9. There have been many changes in record keeping practices since Lord Jenkin was Secretary of State:

- The organisation of Departmental record keeping was de-centralised in the early 1980s
- The number of documents and copies of documents being created in the department grew dramatically as the use of photocopiers became widespread,
- The NHS Executive's move to Quarry House in 1992/3 led to a temporary relaxation of the rules for decision-making on the retention of files,
- The Department carried out a substantial training and awareness programme in 1993/1994 to improve the quality of record keeping and the guidance available,
- We have now rolled out a Department-wide electronic records system to help keep track of email and a range of other electronic records.

10. But the principles of good record keeping and the advice given to staff have been fairly consistent. In particular, the policies and procedures for the management, review and disposal of files and documents are designed to meet the Department's own administrative needs and the Public Records Act.

11. Staff are encouraged to transfer important documents, including email, into registered files at the earliest opportunity, and our electronic records system makes this easy to do. Email messages that form part of the official record are saved for as long as business needs require and stored corporately in accordance with Departmental record management procedures.

12. Staff are also encouraged not to retain information any longer than needed to support departmental business. In giving staff this guidance, we are following best practice advice published by the National Archives.

13. In particular, the advice has always been that copies of documents held as background to policy thinking, or for reference, are unlikely to be needed long-term either to support Departmental business or to be preserved in the National Archives.

Guidance has been to dispose of such documents when they are no longer required for business use.

14. Guidance on the policy and associated procedures is readily available to staff on the Departmental Intranet, and supported by training and a rolling audit of record-keeping practice, linked with the Department's Knowledge Management Programme.

Access by Former Ministers to Official Papers

15. We have obtained the following guidelines from the Cabinet Office website on access to papers by former Ministers.

Civil Service Guidance 2: Access by Former Ministers to Official Papers

“1. By convention, former Ministers are allowed reasonable access to the papers of the period when they were in office, although such access is at the Government's discretion. Since 1993 such access has been conditional on potential authors undertaking to comply with the Radcliffe principles governing Ministerial memoirs (see Ministerial memoirs: the “Radcliffe” Rules and their application). Subject to this point, they may have access in the Cabinet Office to copies of Cabinet or Cabinet Committee papers which were issued to them when in office, and access in the department concerned to other official papers which they are known to have handled at the time.

2. It is a firm rule that access to official papers must be limited to former Ministers personally. The only exception has been, in the case of former Prime Ministers, to extend access to those formerly on the Prime Minister's staff when in office, who had access to the material at the time. To allow access, for example, to other research assistants would breach the conventions about confidentiality of exchanges between Ministers and of civil servants' advice to Ministers. It would also give them an obvious advantage over other researchers, who have to wait until the papers are released in accordance with the Public Records Acts.

3. Departments may provide the former Minister, if s/he wishes, with help in checking references and verifying facts, but their assistance should not extend to “writing up” anything intended for publication. They should, if in any doubt about propriety, consult the office of the Secretary of the Cabinet.”

Freedom of Information

16. Since the FOI act came into force in January this year we have had four extensive requests from people in the haemophilia community requesting numerous documents going back to the 1970 and 1980. We have spent substantial resource meeting these requests. We have sought to provide as much information as we can within the framework of the Act.