



"Re: Self-Sufficiency in Blood Products: Public Inquiry issues"

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Colin Phillips/CQEG-IIU/DOH/GB
23/06/2006 12:01

ToAilsa Wight/PH6/DOH/GB@GRO-C
ccAgatha Ferrao/CQEG-IIU/DOH/GB@GRO-C; Mihailovic Anne
LSPG Sol LIT <Anne.Mihailovic@GRO-C>, Brian
Bradley/HP-SL/DOH/GB@GRO-C; Gerard
Hetherington/HPIHSD/DOH/GB@GRO-C; Hugh
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Seedat/PH6/DOH/GB@GRO-C
bcc

SubjectRe: Self-Sufficiency in Blood Products: Public Inquiry
issues7268A76E70123A5080257195005CA3EB



RESTRICTED - Investigation

Ailsa

Thank you for an opportunity to input to the Ministers' brief.

I will follow your list of pros and cons:

Pros

Shows a high level response to calls from affected parties and often the general public that the issue is being dealt with seriously and will be full and transparent. Minimises the risks of a

Judicial review of whatever other action the Department might take and avoids the impression that would create of being dragged in to a "proper" investigation. Given that some sort of investigation is essential, this is the gold standard and is seen to be that. It can be seen as independent and impartial if properly constituted and with satisfactory terms of reference.

It is seen as an appropriate and adequate response by interested parties and pressure groups. It affords them the chance to submit evidence in the full glare of public scrutiny and to see the evidence of others. It ensured transparency and public scrutiny. It (usually) diminishes calls for other scrutiny from MPs, the Press and interested Parties. It shows transparency.

If Article 2 of the European Convention on Human Rights (the Right to Life) is thought to be engaged, then it is an appropriate and adequate response. It pre-empts any Court petition by families of the deceased and gives them a fair hearing.

It creates a statutory framework under the Inquiries Act 2005 and the proceedings will follow the requirements of that Act so will meet Parliaments standard of being comprehensive where issues of public concern are involved.

It enables the Chair to compel witnesses to attend and for evidence to be provided.

Cons

A Public Inquiry under the Inquiries Act is an expensive and time consuming and labour intensive undertaking. It raises the profile of the problem it seeks to address significantly. It engages the Press and Public interest at the highest level. It takes time to plan and set up and is not a quick response to the problem it examines. Costs are difficult to assess in advance and fully control. They range from Major Inquiries (Bloody Sunday-8 years so far at an estimated cost of over £120 million; Stephen Lawrence- two years, over £4million; BRI-3 years, over £14 million; Shipman over 4 years at a cost of £21 million; Alder Hey 14 months at a cost of £3.5million; Victoria Climbe 2 years at a cost of £3.8 million.)

If Article 2 is not engaged it is an overreaction not a proportionate response.

Public Inquiries often raise expectations for interested parties that cannot be met. They can be seen at the outset as the vehicle to provide all the answers and settle the worries of those concerned with the issues; they rarely manage to do this. (The Inquiry uses valuable resources in terms of workforce (those servicing the Inquiry and giving evidence) that is removed from normal duties. DN *may not be a strong point*).

Creates a perception that there is a national problem that needs to be addressed, and one that cannot be addressed by local action. Ensures that Parliament are engaged as the establishment of the Inquiry has to be notified to Parliament, and a Report on it's conclusions layed before Parliament . (DN-*realise this may be regarded as a pro too !*).

We did have the power to conduct an Inquiry such as in Ayling, Neale and Kerr/Haslam- which became known as a "modified form of private Inquiry". Such an Inquiry can still be established under section 2 of the 1977 NHS Act, but the Secretary of State can no longer delegate powers of compulsion to the Chair as the Inquiries Act 2005, repealed section 84 of the 1977 Act that created those powers.

Hope this is helpful

Colin

Ailsa Wight

Ailsa Wight
23/06/2006 10:28

To: Phillips/CQEG-IIU/DOH/GB@GRO-C; Colin
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bcc:
Subject: Re: Self-Sufficiency in Blood Products: Public Inquiry issues

Colin

Jacky's note below refers. I left a message with your office yesterday, which you or Agatha may have picked up.

In consultation with Gerard and Peter Whitehurst at HMT SOL, I have come up with a few pros and cons on the Hep C inquiry issue. I'd welcome your input, particularly in relation to costs, legislation constraints and recent examples:

Pros of a full Public Inquiry

Satisfy patient groups (experience suggests they are unlikely to be satisfied simply by offering increased payouts through Skipton Fund)

Mitigate media/FoI/party interest

Show DH has nothing to hide

Patient groups could press for action under Article 2 'right to life' of Human Rights Act

Decision not to hold could be subject to judicial review, which could find against Ministers

Option of Modified Inquiry [**DN:** *what does this entail and is it an option? I understand it has no powers as such, and not fully 'public'*]

Cons

Burden and expense [**DN:** *detailed examples with costs: ?Skipton, Bristol*]

Expense of running Inquiry under 2005 Inquiries Act (except possibly Modified form) likely to be [**DN:** highly] disproportionate to any final settlement for patients

Time to resolution - minimum 2 years

Out of step with Scottish ministers

Release of all relevant papers as soon as possible could remove need for inquiry

Grateful if we could have a word please, or if you could email me relevant amended text to insert.
Many thanks

Ailsa

Dr Ailsa Wight
Head of Programme
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SE1 8UG
GRO-C

----- Forwarded by Ailsa Wight/PH6/DOH/GB on 22/06/2006 17:51 -----

Jacky Buchan
22/06/2006 14:33

To: Ailsa Wight/PH6/DOH/GB@GRO-C
cc: Mihailovic, Anne LSPG Sol LIT <Anne.Mihailovic@GRO-C>, Brenda Irons-Roberts/COMMS/DOH/GB@GRO-C, Brian Bradley/HP-SL/DOH/GB@GRO-C, Catherine Pearson/PR-OFF/DOH/GB@GRO-C, Clare Simpson/PSCS/DOH/GB@GRO-C, Colin Phillips/CQEG-IIU/DOH/GB@GRO-C, David Harper/HPIHSD/DOH/GB@GRO-C, Gerard Hetherington/HPIHSD/DOH/GB@GRO-C, Gerry Robb/PH6/DOH/GB@GRO-C, Gregory Hartwell/PR-OFF/DOH/GB@GRO-C, Hugh Nicholas/PH6/DOH/GB@GRO-C, Rebecca Spavin/ICB/DOH/GB@GRO-C, William Connon/PD-PMD/DOH/GB@GRO-C, Zubeda Seedat/PH6/DOH/GB@GRO-C, Dani Lee/PR-OFF/DOH/GB@GRO-C
bcc:
Subject: Sufficiency in Blood Products 
Re: Self-



RESTRICTED - Policy

Ailsa,

Thank you for this submission.

At the meeting MS(PH) and MS(R) asked for a draft note for them to send to SofS which, among other things, discusses the possibility of conducting a Public inquiry.

On the inquiry issue this just says "DH officials have advised an inquiry would be disproportionate and not justified in the circumstances". There is no argument, no pros and cons and no costings. Both MS(R) and MS(PH) will expect to see an argument for this decision and the pros and cons of having a public inquiry which would presumably include the cost. There is

nothing in here about the steps that would have to be taken and nothing about the consultation with the Patient Safety and Investigations Branch that Gerard referred to in his note of 26 May.

Can you please provide a redrafted note for MS(PH) and MS(R)'s consideration, which takes account of the above points as soon as possible and no later than close on Monday 26 June.

Jacky Buchan
Assistant Private Secretary
to Caroline Flint MP
Minister of State for Public Health

Tel: GRO-C

Ailsa Wight

Ailsa Wight

21/06/2006 14:20

To: Rebecca
Spavin/ICB/DOH/GB@GRO-C; Jacky Buchan/PR-
OFF/DOH/GB@GRO-C

cc: Gerard
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Roberts/COMMS/DOH/GB@GRO-C

bcc:
Subject: Self-Sufficiency
in Blood Products



RESTRICTED - Policy

Jacky

Your note below refers. Please see attached documents sent on behalf of Gerard Hetherington, setting out the current position.

Importantly we have identified someone to carry out an analysis of the various papers. This will take some months to complete. SOL will very shortly be providing a report on the returned papers too.

You will see we have also had a clear steer from Scotland rejecting the call for an inquiry.

A note for Ministers to send to SoS if they wish is included.

Gerard Hetherington
Head of Health Protection
Department of Health
170 Richmond House
Te; **GRO-C**

Jacky Buchan
19/06/2006 15:45

To: Gerard
Hetherington/HPIHSD/DOH/GB@**GRO-C**
cc: Ailsa
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bcc:
Subject: Re: LORD
JENKIN PQ - SELF SUFFICIENCY IN BLOOD PRODUCTS 

Gerard,

You stated in your response to Becca that you would get back to us regarding the note for SofS which Becca requested by last Friday.

MS(PH) has asked for an update please on where we are and when you expect to be able to provide the draft note for her and Lord Warner's consideration.

Jacky Buchan
Assistant Private Secretary
to Caroline Flint MP
Minister of State for Public Health

Tel: **GRO-C**

Gerard Hetherington

Gerard Hetherington

To:

Rebecca

26/05/2006 12:07

Spavin/ICB/DOH/GB@GRO-C

cc:

Mayerling

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bcc:

Subject:

LORD JENKIN

PQ - SELF SUFFICIENCY IN BLOOD PRODUCTS

Becca

I attach a minute in response to your e-mail earlier this morning.

Gerard Hetherington
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London
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<< Attachment Removed : LORD JENKIN PQ.FOLLOW UP.doc >><< Attachment Removed :
Lord Jenkin Draft letter May 2006.doc >>

<< Attachment Removed : bl prods sub.doc >><< Attachment Removed : Annex A Self-
Sufficiency in Blood Products 26 May 06.doc >><< Attachment Removed :
Annex B Hepatitis C Health Committee 18 April call for public inquiry
draft reply Minister for Health and Community Care rev1.doc >><<

Attachment Removed : Annex C Funding of the Macfarlane and Eileen
Trusts.doc >>< Attachment Removed : Annex D blood inquiry.doc >>