

Ailsa White

*Carol,  
Can you fax this page*

*to Bob with @ CORN*

*(or email if you have it  
electronically). r.g.wille@*

*Thanks.*

*Bob  
As discussed.*

From: Chris Warncke  
SOLC4

Date: 5 June 2000

Copy: Howard Roberts SOLC4  
David Dunleavy SOLC2  
Mike McGovern  
Alan Harvey  
Peter Jones  
John Stephenson  
Charles Lister  
Pat Troupe

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# CJD AND BLOOD DONATION

Thank you for your note dated 18 May 2000 and copy correspondence. I apologise for the delay in replying which was due to my absence after managing to break my foot. However, I have now had a look at the papers and my views are as follows:

1. I do not consider that the Data Protection Act 1998 (DPA) will present an obstacle to the proposed extended sharing of data. It seems to me that condition 8 of Schedule 3 of the DPA would apply on the basis that the purpose falls within the definition of "medical purposes" as set out in the Schedule. Nevertheless, since the information is confidential health information, the common law of confidentiality continues to apply (and indeed, is part of the lawful processing requirement under the DPA) and, as Professor Will has already recognised, it is this that might cause problems rather than the specific provisions of the DPA.

2. To recap on the law of confidentiality, there will generally be a public interest justification for the notifications proposed but as concerns the extended notification scheme, the issue may turn on whether or not this would be regarded as proportional. It seems to me that three matters in particular are likely to weigh heavily in the consideration by a Court. These are, first, the risk factor. Secondly, the possibility or viability of obtaining consent. Thirdly, whether anonymised information would suffice. As ever in public interest cases, individual assessments will need to be made.

I hope this helps. Happy to discuss.

CHRIS WARNCKE  
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EXT **GRO-C**