

Witness Name: Gaynor Lewis

Statement No: WITN2368019

Exhibits: WITN2368020-WITN2368051

Dated: 4 December 2020

INFECTED BLOOD INQUIRY

EXHIBIT WITN2368046

You can contact me on: 0845 015 4033
Phso.enquiries@ombudsman.org.uk

Our reference: PQP-13565/0007

In Confidence
Mr Haydn W Lewis

GRO-C



9 May 2006

Dear Mr Lewis

I am writing to you to let you know that we have received a complaint on your behalf about the Department of Health from Ms Jennifer Willott MP.

We can consider complaints about government departments, agencies and organisations where there is evidence that they have not acted properly or fairly, or have provided a poor service.

For us to investigate your complaint properly, we may need to obtain or share information about your case with our specialist advisers and the Department of Health. After your complaint has been investigated, we may keep some information about your case for training purposes or to help us investigate other complaints. You may also wish to know that, where you provide information about other parties, those parties may be entitled to see that information. We will treat your complaint in confidence in all other respects. If there is any reason why you feel we should not disclose the information we hold in your case, or you have any questions about how we handle it, please write to us.

We are now considering whether the Ombudsman can help with your complaint. Once we have decided whether we can help we will let you know. We aim to let you know whether we can investigate your complaint within a month and will write to you either accepting your complaint for investigation or telling you why we cannot investigate in the way you ask.

I am sorry to have to tell you that because of the large number of complaints we are receiving there will be a delay before we can allocate your complaint to an investigator. We will though review it to see if there is any reason for us to treat it as especially urgent. If necessary, we will also make enquiries about your complaint while it is waiting in our queue. We will keep in regular contact with you about progress. We are sorry for the delay but we are conscious that bringing your complaint to the Ombudsman is a last resort, and it is vital we investigate all complaints properly.



Millbank Tower
Millbank
London SW1P 4QP

Switchboard: 020 7217 3000
Fax: 020 7217 4000

Email: phso.enquiries@ombudsman.org.uk

www.ombudsman.org.uk

P189

WITN2368046_0002

Finally, we may contact you in the future to take part in some research to improve our services. If you would prefer not to take part, please call us on 0845 015 4033.

Yours sincerely

GRO-C

Darren Packer
Advice Officer

Enc.

From the Ombudsman: Ann Abraham

GRO-C

Our reference: PA-13565/0027

In Confidence
Mr Haydn W Lewis

GRO-C



30 June 2006

Dear Mr Lewis

Your complaint against the Department of Health

A member of my staff spoke to you on 5 June 2006 and discussed with you why I have decided not to investigate your complaint about the Department of Health. I have now written to Ms Jennifer Willott MP setting out the reasons for my decision, and I enclose a copy of my letter for your information.

Yours sincerely

GRO-C

Ann Abraham
Parliamentary and Health Service Ombudsman

Enc: 1



Millbank Tower
Millbank
London SW1P 4QP

Switchboard: 020 7217 3000
Fax: 020 7217 4000

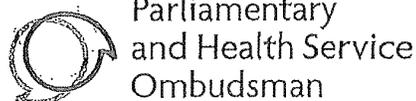
Email: phso.enquiries@ombudsman.org.uk

www.ombudsman.org.uk

P191

WITN2368046_0004

In Confidence
Ms Jennifer Willott MP
House of Commons
London
SW1A 0AA



30 June 2006

Dear Ms Willott

Mr Haydn Lewis,

GRO-C

1. On 28 April 2006 you referred to me Mr Lewis's complaint about the Department of Health (the Department). I am sorry that I was unable to let you have an earlier reply.
2. Mr Lewis, a haemophiliac who contracted HIV and Hepatitis C through infected blood products, complains that the Department of Health prematurely destroyed important papers relating to this issue. Mr Lewis says that the Department have not conducted an enquiry into the destruction of the documents, or a public inquiry into how infected blood products were used on UK patients. Mr Lewis says that he would like a full explanation of what papers were destroyed, by whom and when, to enable a public inquiry to take place into how haemophiliacs were originally infected.
3. Before I go on to consider Mr Lewis's complaint, perhaps it would be helpful if I explain something about my remit for the benefit of Mr Lewis. The first point to make is that I have no power to question discretionary decisions taken in the absence of maladministration, or to reach different conclusions on the same evidence. Disagreement or dissatisfaction with such a decision is not sufficient to justify my intervention. Only if I had some reason to believe that there was administrative fault in the way in which the decision had been reached, could my intervention be justified. However, even if I were to find maladministration in the decision-making process, I have no authority to overturn the decision or substitute my judgment for that of the person or body that made it, although I might ask them to review it if I considered that this was justified by the circumstances.
4. The government's decision not to hold a public inquiry was a discretionary one and, as I have said above, I may not question its merits unless it was taken maladministratively.



Millbank Tower
Millbank
London SW1P 4QP

Switchboard: 020 7217 3000
Fax: 020 7217 4000

Email: phso.enquiries@ombudsman.org.uk

www.ombudsman.org.uk P192

The papers provided by Mr Lewis indicate that the government made their decision in the light of the Department's assessment that patients were contaminated with HIV and/or Hepatitis C as a result of infected blood products before the development and introduction of viable screening tests, and not because of any wrongful practices. I see no evidence here of maladministration in the government's decision-making process and so there is no basis on which I could reasonably question the merits of the decisions reached, or ask for them to be reviewed.

5. I can, in principle, investigate Mr Lewis's complaint about the Department's premature destruction of papers relating to the infection of haemophiliacs through infected blood products. Before doing so, I would need to see some evidence of administrative fault on the part of the Department having caused Mr Lewis an unremedied injustice. I would also want to see a reasonable prospect of my intervention achieving a worthwhile outcome. I do not see that these criteria are met in Mr Lewis's case.

6. It is not in dispute that the Department destroyed relevant papers prematurely. The Department accepted that they had done so in their letters of 9 February 2006 to Mr Charles Clarke MP and 14 March 2006 to The Lord Morris of Manchester, copies of which Mr Lewis provided to my staff, and which, I understand, you have also seen. They apologised for the error and explained that they had investigated the matter and had determined that the papers had been destroyed in error, most probably by an inexperienced member of staff. The Department also explained that, following the discovery that the papers had been destroyed, they had reviewed their procedures on the retention and destruction of records, as a result of which they had implemented a number of records management improvements to help prevent such errors in future. While I do not, of course, condone the Department's premature destruction of key papers, they have investigated how and why this occurred; and they have taken appropriate action to help prevent a recurrence. They have also apologised.

7. I recognise that Mr Lewis does not believe the Department's explanation and that he considers that an independent investigation would provide a fuller, more detailed account which would then enable a public inquiry into the wider issue of how haemophiliacs came to be infected by blood products. However, I can find no evidence in the papers that would lead me to question the Department's explanation, and so there is no basis to justify my intervention. Furthermore, I do not consider that my intervention on this aspect of Mr Lewis's complaint would lead to a public inquiry taking place, given the government's decision as set out in paragraph 4 above.

8. A member of my staff spoke to Mr Lewis on 5 June 2006 to discuss with him the outcome of our consideration of his complaint. I understand that Mr Lewis told my staff that solicitors acting for a group of haemophiliacs had copies of the papers that had been destroyed, and that the solicitors recently provided copies to the Department. In view of that development, I can only suggest that it is open to Mr Lewis, or his representative, to

ask the government, through the Department, to review their decision on holding a public inquiry in the light of the information available in those papers. If Mr Lewis is dissatisfied with their reply, he would, of course, be free to come back to me, explaining the reasons for his dissatisfaction. I would ask him, though, to bear in mind the limits of my remit as described in paragraph 3 above.

9. I realise that Mr Lewis feels very strongly about this matter and I am sorry to have to send a disappointing reply. I trust, however, that you and Mr Lewis understand why I cannot help with his complaint.

10. I am sending a copy of this letter to Mr Lewis for his information.

Yours sincerely

GRO-C

Ann Abraham
Parliamentary and Health Service Ombudsman