Witness Name: Andrew Michael March

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INFECTED BLOOD INQUIRY

EXHIBIT WITN1369062

GRO-C
London
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5th November 2010

Mrs Anne Milton, MP
Parliamentary Under Secretary of State for Public Health
Department of Health
Richmond House
79 Whitehall
London. SW1A 2NS

Dear Anne Milton,

I was naturally disappointed with the debate and the content of the WMS of 14th October 2010. Rather than address each of the points in your contribution to the debate, I would like to proffer alternative points which I would ask you to take into consideration during your review of this sorry saga.

In the Written Ministerial Statement of 14th October 2010 you have indicated that Government are conducting a review of the issues surrounding Hepatitis C infection. For the record, I disagree with the apparent exclusion of HIV issues from the review. This matter is far from settled. I was surprised when you claimed in the WMS that the HIV *ex-gratia* scheme in the UK 'compares well' with other countries! Perhaps you only looked at Denmark's scheme and somehow overlooked the far more generous scheme in France; where their 1,250 HIV+ haemophiliacs were awarded in 1991 amounts which ranged from £93,000 to £249,000 *(Vox Sanguis (2007) 93, 159-165)*.

I have had sight of a recent letter of yours which was passed to me by a fellow campaigner, in which you state; in relation to the context of the Equitable Life scheme: *"The size of ex-gratia or compensation payments made by the Government to different groups within the population varies according to the particular circumstances of the issue involved."*

With this statement in mind, I feel that there are a number of pressing issues which should be taken into account during the review. In particular, I would like to highlight the sequence of events surrounding the emergence of the Hepatitis C test and the apparently unethical manner in which many haemophiliacs (most of them?) were non-consensually tested for Hepatitis C and then not told the results for several years.

Prior to the Haemophilia HIV Litigation of 1990/91, Government had unique and private knowledge of the degree to which HCV was infecting the haemophilia community; this knowledge came via the high-powered committee, the ACVSB

(Advisory Committee on the Virological Safety of Blood) the responsibility of whom it was to directly advise Ministers.

It is also evident from the minutes of the Haemophilia Centre Directors (HCDO) held on Monday 9th October 1989, that one of the doctors present, Dr Mortimer of the PHLS was: "*willing to accept samples for Hepatitis C (HCV) testing. The Working Party would be looking at HCV testing in haemophiliacs.*" Please note that "Hepatitis C (HCV) testing" is the exact phrase used, as opposed to a reference to NANBH.

This information is critical, since the date of the minutes was significantly before I was informed of my HCV status – which incidentally was 3 years later. This was also a legally delicate time, since I was six months into the HIV Haemophilia Civil Litigation which had commenced in April 1989.

It is clear from these October 1989 minutes that there was a drive amongst the HCDO Haemophilia Consultants to garner samples of UK Haemophiliacs' blood for what appears to be prototype or early HCV testing – and I would personally say that this was being conducted secretly.

The directive to collect samples appears to have come from a senior level, perhaps the ACVSB. I would go so far as to say that the instruction to collect haemophiliac's blood samples, (which we now know to have been non-consensual HCV testing), came directly from Ministers or their advisors who appear to have been attempting to gauge their level of liability and legal exposure to HCV – just before the HCV test became public, and that this venture was particularly fortuitous for Ministers who were defending litigation from Haemophiliacs over HIV infection and wanted to see if there might be another virus infecting the group who are suing them.

I am also aware that the committee members of the ACVSB had private knowledge of the Chiron HCV test as early as May 1989. By July 1989, there is a specific request for data on Haemophiliacs to go to Dr A. Rejman (DHSS Haematologist). This request, and the date of it, represents a specific request from the DOH to collect information on UK Haemophiliacs at a time when they were litigating against the DOH (i.e. April 1989-1991). There was also written evidence that human clinical trials of the Ortho (Chiron) ELISA hepatitis C tests were already complete by July 1989 and that the HCV test had been used in 'first time' recipients of Factor 8Y. A further study of haemophiliac sera was also being advocated. Dr Mortimer considered the results of the new Chiron test as 'reliable' and was asked to forward all contributions on Non-A Non-B to Dr Rejman of the DHSS. I wonder why?

By November 1989, there is further evidence of what is referred to as "Anti-HCV testing" and it is clear that the ACVSB committee members and the Department of Health are aware (in November 1989) that 70-80% of haemophiliacs were positive for Hepatitis C: *"In general, 70-80% of patients suffering from treated (or severe) haemophilia were anti-HCV positive."*

I stress that this was being conducted during the Haemophilia HIV Civil Litigation which commenced in April 1989.

By April 1990, Dr Christine A. Lee (now Professor) submitted a paper to the ACVSB in which she revealed: *"The use of the Ortho Hepatitis C assay kit has confirmed anti-HCV seropositivity in all haemophiliacs with well documented NANB hepatitis."* This is curious, because Dr Lee has reverted back to NANBH, but retained the new nomenclature in relation to the test, e.g. "Ortho Hepatitis C assay kit". This was stated circa April 1990 - whilst the HIV Haemophilia Litigation was still ongoing.

It is clear to me that the testing of UK haemophiliacs for HCV was enacted over 1 year before the 'waivers of undertaking' emerged.

It is well-known that these legal waivers, which were issued to the Haemophiliac Plaintiffs in the HIV Litigation, were designed to protect Government from potential legal liability for any further viral agents. When these waivers were issued, that vast majority of persons with haemophilia **did not know** they had been exposed to Hepatitis C. In terms of my own experience, I had no knowledge of being exposed to HCV until September 1992 and I had not even heard of hepatitis C or HCV until then, *(please see final page for an account of taken of how I came to know).*

It was noted in the hearings of the Archer Inquiry that some patients had been tested for Hepatitis C, with positive results, of which they had not been informed by their doctors. Mr Haydn Lewis commented: *"I found it pretty disgraceful to ask them (the patients) to sign a waiver to disregard any future responsibility when at that time they actually knew that I was infected with it."* Haydn was not then aware of the HCV test.

The above examples represent material non-disclosure and serious deception on behalf of the then Defence (DOH) during litigation. It is not beyond the realms of possibility to re-opening the original 1990 HIV Haemophilia Litigation. I believe that expert legal opinion has already been sought from a QC by another campaigner and these waivers of undertaking would most likely be deemed unlawful and void.

The current Government tack of constantly reiterating the fact that the Government and DH have not been found negligent is forcing the infected haemophilia community down an increasingly litigious road. This stance being taken by Government that you have not been proven to have been negligent is also forcing me to look at how negligence; in more overarching strategic terms, can be unequivocally proven once and for all. As far as I'm concerned, there are countless examples of breach of duty and negligence. It is all the more insulting to the infected community when Government dwell on the fact that there has never been a Judicial Inquiry.

I believe that the response of Government to the historic and ongoing needs of the infected and affected family members has been wholly inadequate and I feel that the circumstances described in this letter must be borne in mind in your review.

Yours sincerely,

Andrew Michael March

Cc: Michelmores LLP, Exeter

My Account of Discovering I had been tested & was HCV positive:

My own medical notes evidence a strong example of non-consensual, undisclosed testing for Hepatitis C. In 1992, when I transferred my medical care from the Haemophilia unit at Coventry & Warwickshire Hospital to the Royal Free Hospital in London, on arrival at his new hospital, I attended an initial consultation with Dr Marion Wood, a Locum Consultant, at the Royal Free Hospital. This was on 26th October 1992. During this induction-style consultation, it suddenly became clear to me that I was infected with some other kind of virus, a new hepatitis virus called "HCV" which was something that I had never heard of before.

Dr Wood spent some time attempting to explain it to me and bring me up to speed. She was concerned that my previous hospital clearly knew of the HCV status and test result, since they had recorded it in their transfer (referral) letter of 14th September 1992. In this transfer letter, Dr Maurice Stevens, Consultant Haematologist at Coventry and Warwickshire Hospital wrote to the Royal Free ahead of me going to London to study at the Royal College of Music. This letter was addressed to Dr Christine Lee. Please note that I was entirely unaware of this letter until 2003 when I acquired my medical notes.

Dr Strevens stated in this transfer letter of 14.09.92: *"He is anti HCV positive and has intermittent elevation of liver enzymes."*

Dr. Christine Lee at my new hospital, the Royal Free, recorded the following in my medical notes a month later, on 26th October 1992 (see pages 8-9*):*

"HIV status known. Understands transmission. Uses condoms. Told staff (but not me) that he is homosexual. Did not know anything of HCV. Apparently not told of this in Coventry. Some discussion of our present understanding."

The new doctor's concern that I did not know about my diagnosis of HCV was confirmed in a reply letter to Dr Strevens of Coventry & Warwickshire Hospital on 28th October 1992 in which Dr Wood expresses the following:

"On further discussion he did not seem to be aware that he was Hepatitis C antibody positive and we therefore spent some considerable time discussing our understanding of Hepatitis C infection and the implications of antibody positivity."

From my personal perspective, on arrival at the Royal Free Hospital in September 1992, I was informed for the first time of my HCV status. This indicates that I had been tested (specifically for HCV - as opposed to NANBH surrogate testing) some considerable time *prior* to this at Coventry & Warwickshire Hospital, without consent, and without being informed of the result. I believe this was part of a national approach.

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19 November 2010

Dear Mr March,

Thank you for your letter of 5 November to Anne Milton about the contaminated blood review, and for taking the time to raise your concerns with the Department of Health. I have been asked to reply on Ms Milton's behalf.

I was very sorry to read about your experience of being diagnosed with hepatitis C, and your concerns about the Written Ministerial Statement of 14 October.

I should explain that the Department of Health cannot comment on your account of how you discovered that you were hepatitis C positive. That is a matter that you need to take up with your former clinicians at Coventry and Warwickshire Hospital.

You have not provided any evidence that Ministers or Government officials ordered the secret testing of all haemophilia patients for hepatitis C in order to gauge their level of liability during the HIV litigation. The issue of liability was tested during the HIV litigation, and as you will be aware, the litigants' own legal advice was that they had only a 20 per cent chance of success.

The Department has compared the current provision for financial assistance to those infected with HIV in the UK by contaminated blood and blood products to provision in Canada, Germany, Switzerland, the US, Denmark, France and the Republic of Ireland. To date, HIV infected patients in the UK have received in the region of £150,000 depending on circumstances. With flat rate payments of £12,800 and access to additional discretionary payments going forward, payments in the UK do compare favourably with the figures that you cite for France.

With regard to further letters that you have sent to the Department raising particular questions for the Secretary of State, the Department has recently received a significant number of other letters raising a large number of similar questions. Unfortunately, due to the time it would take to go through historical files and the numbers of questions received, the Department does not have the resources to respond to them individually.

Thank you for taking the time to write to the Department. I really am sorry I cannot be more helpful.

Yours sincerely,

GRO-C

Kate Hartley
Customer Service Centre