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**HAEMOPHILIA AND HEPATITIS C:**
**DRAFT REPORT ON THE HEAT TREATMENT OF BLOOD PRODUCTS IN THE MID 1980s**

**Purpose**

1. To:
   - let the Minister see and comment on a draft report (Annex A) resulting from the exercise she asked us to carry out to find out the facts behind an apparent difference between the development of heat treated blood products for haemophiliacs in Scotland and England;
   - seek her approval to send the draft to the major parties who have contributed separately to the exercise so far, to seek their further contributions to ensure that the exercise has indeed captured the facts as accurately as possible;
   - to seek approval of a holding line for MSPs who have made the plight of haemophiliacs with hepatitis C the subject of motions, Parliamentary Questions and correspondence;
   - to take her mind on further action in relation to haemophiliacs infected with the hepatitis C virus.

**Timing**

2. Routine, although this has been so long in preparation I imagine the Minister will wish to make progress. I am sorry it has taken longer than anticipated.

**Background**

3. The Minister met with the Haemophilia Society on 14 September, and had been very concerned to hear from them both about the general plight of haemophiliacs who had been infected with the hepatitis C virus through blood products, and assertions that heat-treated blood products were developed for use more quickly in England than in Scotland (1985 as opposed to 1987). She offered to look into the relevant facts, and this exercise was the result. The Haemophilia Society have made it their mission to seek a public inquiry into the whole issue of infected blood products (not just the difference in progress on heat treatment and the alleged lack of care by clinicians in not warning of the risks or not offering patients tests, which are the subject of this exercise). This call has been taken up by some MSPs.

4. Background on the nature of haemophilia and HCV infection is contained in the draft report itself and need not be repeated here.

5. I reported on progress to the Minister in a minute dated 21 January, and cleared the formal remit of the exercise at that time. I also pointed up the need to consult fully with our own Solicitors and with Department of Health officials, in order to safeguard the position of both the Scottish Executive and the UK Government in the face of pending litigation.

**The Draft Report**

6. The draft report details our interpretation of the evidence available to us. The first part of our remit was:

> *"to examine evidence about the introduction of heat treatment in Scotland for Factor VIII in the mid-1980s, to assess whether or not patients in Scotland with haemophilia were exposed to the risks of HCV longer than they should have been, given the state of knowledge at the time".*

We think it wise not to include "conclusions" with the draft report until we are indeed satisfied that each of the parties to the exercise (SNBTS, the Haemophilia Society and Haemophilia Directors) has no further facts or arguments to add (see below - *Circulating the Draft Report*). However, the evidence we have seen up to now suggests that there was no undue delay in introducing appropriately heat-treated blood products in Scotland. Scotland was indeed behind England in managing to crack the technique of advanced dry-heat treatment; this was due in part to variations in equipment and processes. More importantly, it seems to us also entirely valid to explore different heat treatment methods, at a time when an effective method of heat treatment was being pursued worldwide. SNBTS believe that Scotland is the first country which managed to produce enough heat-treated Factor VIII for **all** its health service needs – in 1988.

7. The second part of our remit was:

> *"to examine evidence about the information given to patients with haemophilia in the 1980s about the risks of contracting HCV from blood products".*

This was much more difficult to research than the first part, since we could not find many papers from so long ago. However, Haemophilia Centre directors told us verbally what they could remember, and we were able to source some very relevant documentation. There

appears to be no evidence that clinicians had a policy to deliberately mislead their patients about the risks of using Factor VIII.

8. For the sake of completeness, see Annex B for a more detailed picture of the kinds of conclusions we would suggest if the terms of the draft did not change.

9. I would be grateful to know if the Minister has any points she would wish to be reflected in the draft before it goes any further.

**Circulating the Draft Report**

10. As the Minister knows, we do not believe that this report will satisfy the Haemophilia Society. Having heard a presentation by SNBTS, they will be prepared for some part of the content. We believe that it is important to share the draft at this point with the people who have the principal interest: SNBTS, the Haemophilia Society, and Haemophilia Directors. If any of them disputes any of the material contained in the report, it would be better to know about it now, both in order to be able to rectify any errors and to gain the presentational advantage of being able to say that we shared the information and sought corrections.

**Presentation**

11. We believe that circulating the draft ought to be kept as low-key as possible. If any of the parties to the exercise seeks to make unhelpful press noise at this stage, it should be a relatively simple matter for the Minister to say that the draft has been sent to relevant people with the express intention that they should contribute further to the process; and while the draft is no secret she regrets that [whoever] is being so unhelpful as to go to the press instead of engaging with us in discussion of any further evidence.

12. I would also like the Minister to approve a line to keep interested MSPs informed. They had expected that the Minister would have received a draft by the end of March. If she approves this line, then we can follow up some of the PQs and Ministerial Correspondence accordingly. The line we propose is:

> "Officials have now presented me with a draft report resulting from this fact-finding exercise. I have asked them to copy it to the major parties which gave evidence in the exercise – the Haemophilia Society, SNBTS and Clinical Directors of Scottish Haemophilia Centres – and to seek further comments or evidence based on the content of that draft. I shall be back in touch again when the final report is ready to be published."

**Further Action**

13. The Minister has said she will consider whether further action is warranted. If the circulation of the draft uncovers nothing further, then we think that there will be no basis for dealing with people infected during the period in question any differently from the rest. The issues to be considered will be:

- whether the Minister will agree to calls to commission an independent inquiry into the wider issue of HCV infection of haemophiliacs (a call which Department of Health Ministers and the Prime Minister himself have previously rejected);

- the possible provision of financial help to haemophiliacs who have been infected through blood products and/or who develop liver disease as a result;
- the availability of treatment for hepatitis C and whether priority should be given to haemophiliacs who contracted the virus through their NHS treatment;
- whether she wishes to convey any kind of apology to people infected through blood products.

Is the Minister satisfied that these are indeed the issues to be considered?

14. Department of Health officials suggest that Ministers in Whitehall and the devolved administrations should try to develop a common approach to following up the whole issue of HCV transmission through blood and blood products, and we think that it would be wise to at least engage in discussions at Ministerial level. The Minister has already asked to meet Lord Hunt over transfusion-transmitted HCV litigation. We understand in addition that he may be considering the pros and cons of a hardship fund along the lines of the Macfarlane Trust which provides for HIV victims of contaminated blood and blood products.

15. The main advantages of a common approach are:

- it would ensure consistency on what is ostensibly the same issue throughout the UK;
- it would avoid undue pressure from interest groups who seek to exploit differences in approach rather than engage with the merits of any particular action;
- two (or three, or four) heads may be better than one.

16. The main disadvantages of a common approach are:

- it may take more time;
- it may produce a compromise which suits nobody;
- it may appear to devalue devolved government.

17. Of course, it is open to Ministers from the different administrations to seek discussions but to reserve their right to make their own decisions at the end of it all. It would be useful to have a steer on whether the Minister is attracted by the idea of developing a common approach and indeed whether the issue might be discussed at a future Joint Ministerial Committee on Health.

**Conclusion**

18. I invite the Minister to:

- note the terms of the Draft Report and make any comments;
- if she is content, to approve the sending of the Draft Report to the parties who have contributed to the exercise seeking comments;
- approve the line suggested to keep MSPs informed;
- agree the issues for further action, as at paragraph 13 above, in relation to haemophiliacs infected with the hepatitis C virus;
- give a view on joint working with the other administrations.

# CCD

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25 April 2000

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