

NPH 23/1/1  
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**Falconer S (Sandra)**

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**From:** Dora C (Christine)  
**Sent:** 26 June 2000 14:43  
**To:** Towers LA (Lynda)  
**Cc:** Keel A (Aileen); Teale TS (Thea); Falconer S (Sandra)  
**Subject:** RE: IMMEDIATE - RESTRICTED - HCV/HASEMOPHILIA REPORT



Lynda

Thank you for this.

On the info from Dr Lowe, I think there is a distinction between the knowledge of the risk that people might contract NANBH from blood products (understood as being pretty high) and the understanding of the risk to their health posed by the condition itself once they had it (perhaps not so clearly understood; some scientists thought it was fairly benign).

Christine

-----Original Message-----

I prefer "non negligent". It would be possible to be inadvertent and negligent you did not mean to harm, but your system was insufficient to prevent an incident and it could/should have been. Inadvertent may be more user friendly but it may be legally misleading.

Does para 39 need to reflect the comments of Dr Lowe on the information available in the early '80s. He seems to be suggesting it was a well recognised potential side effect of Factor VIII and IX treatment. If that was the case can we still say it was "poorly understood"?

Lynda

-----Original Message-----

Dr Keel  
Mrs Towers  
Ms Mc Iver (draft news release only)

Copy: Miss Teale  
Mrs Falconer

**HCV/HAEMOPHILIA REPORT**

I would be grateful if you were able to look at the attached submission and attachments and let me have your comments by telephone before midday. The document comprises a submission, letter from the Minister to the Health and Community Care committee, draft PQ, draft news release and defensive briefing.

I am sorry to have to bother you with this again; I had been hoping to get it away on Friday, but I have over the weekend been looking at the comments which came in from the Haemophilia Directors late on Fri afternoon, and incorporated them where I think proper into the draft text. They also came in with revised figures for the HCV status of previously untreated patients from the period in question, which I have incorporated.

I have also beefed up the Minister's comments particularly on compensation. It has been bothering me that she has balked at draft PQs and communications to the Health Committee (and removed what I thought were helpful explanations of what we were about in this exercise). I am suggesting to her that now is the time to hit this and move on. MSPs are beginning to clamour more loudly (Dorothy Grace Elder was quoted in the newspapers last week as saying in Committee that people were transfused in the 1980s with "Skid Row blood" from the USA) and I think that unless the Minister bites the bullet now this issue is going to get more difficult.

Mrs Towers - am I allowed to say that as a general principle the NHS should not pay compensation for *non-negligent* harm? Our traditional line in relation to this seems to have been "the NHS does not pay compensation for *inadvertent* harm" which I dislike because it implies the NHS only pays compensation where it actually meant to hurt someone. Note I am not saying definitively that this episode is non-negligent - presumably it would ultimately be for the courts to decide that.

Thanks for your help. I really have to get this away to Ministers today, so need a call before midday.

Christine  
Ext **GRO-C**

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