Witness Name: MARK FLYNN
Statement No.: WITN7591015
Exhibits: WITN7591016 – WITN7591023
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INFECTED BLOOD INQUIRY

SECOND WRITTEN WITNESS STATEMENT OF MARK FLYNN

I, Mark Flynn, will say as follows: -

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Introduction

1.1. I make this second statement in response to two supplementary requests under Rule 9(1) of the Inquiry Rules 2006 dated 9 November 2022 and 5 January 2023 ("**Rule 9 Request**").

1.2. I have been asked by the Inquiry to set out my understanding on a series of issues related to the Inquiry's Terms of Reference on behalf of the Registrar General ("**RG**"). The Inquiry's Rule 9 Request asks after events that occurred during the relevant period which is 1970 to date (the "**Relevant Period**", with the exception of paragraph 11 of this Second Written Witness Statement which discusses the inaugural meeting of the Brodrick Committee, which was set up in 1965). To answer these questions, I have relied on a review of written material, including the documents provided by the Inquiry, and also documents compiled for this Inquiry by colleagues in the General Register Office ("**GRO**", who represent the RG) following careful searches of the often dated, paper-based documentation that the GRO holds for the purposes of this Rule 9 Request. The paragraph numbering in this statement is designed to accord with the question number of the Rule 9 Request, for ease of reference.

1.3. It might be useful to explain at the outset the present and longstanding system of certifying deaths and the subsequent death registration in England and Wales which is as follows: the first requirement is the certification of the cause of death by a registered medical practitioner, to the best of their knowledge and belief. A medical cause of death certificate ("**MCCD**") which is completed by the medical practitioner and provided to a registrar, enables the deceased family to register the death. This process is commonly known as 'death *certification*.'

1.4. 'Death *registration*' is carried out by a registrar with an informant (typically a family member) and creates a permanent legal record of the death. The Registration of Births and Deaths Regulations 1987 prescribe the information to be registered following a death. All details, except the cause of death, must be obtained by direct personal questioning of the informant. Death registration enables the family or other qualified informant to arrange disposal of the body and to settle the deceased's estate. Once the death registration has taken place, a certified copy of the death entry (commonly referred to as a 'death

certificate', which is distinct from the process of death certification) can be provided.

1.5. I am referred to a document [HOME0000081] and told that this document involves a discussion between members of the committee on death certification and coroners. I am directed to page 3 which refers to an assumption by the committee that the death certificate should be used to provide vital statistics for medical research but that no decision had yet been made as to whether the original purpose of the certificates (i.e. to prove a factual basis for death and that there had been no felony), should be extended. I am asked to confirm if the original purpose of death certificates was extended in order to provide vital statistics for medical research, and if so, what date this occurred.

1.6. There has always been provision, since 1837, for the inclusion of the cause of death in a death entry (compiled from an MCCD as noted above). This data was, from the outset, used for statistical purposes in respect of 'numerical analysis' of the causes of death. Reference to mortality statistics formed part of the first 'Annual Report' of the RG for England and Wales following the introduction of the Births and Deaths Registration Act 1836. Beyond knowing that statistics have always been collected on such matters, the date of this and the precise terms of any extension are beyond the GRO's knowledge.

2.1. I am asked to provide an outline of each body that was (and is) responsible for gathering statistics and/or monitoring prevalence of diseases and infections based on causes of death on death certificates, during the Relevant Period. For each body I am asked to outline:

(a) The systems and procedures that were in place for such surveillance;

(b) The scope of their responsibilities;

(c) The extent to which surveillance was utilised with a view to prevent further spread of disease or infection;

(d) The circumstances in which data regarding a disease would be reported to a government body or department; and

(e) Whether deaths related to HIV/AIDS and Hepatitis were reported as a concern to any governmental bodies or departments.

2.2. Before answering the specific questions above it might be helpful to provide the following background information. The GRO shares death registration data, including the cause of death recorded in the death register, with the NHS (NHS Digital) via the Office for National Statistics ("**ONS**"). This data is shared for the NHS to fulfil its statutory functions including maintaining the Personal Demographics Service database held on NHS Digital processing systems and to support health research and analysis through the publication and dissemination of data obtained under the statutory regime. This may include forms of surveillance relating to the prevalence of diseases and infections; however, this is a matter for NHS and/or ONS, and GRO cannot comment on that aspect. Likewise, the historic situation (during the Relevant Period) may be better explained by NHS and/or ONS. Currently, registration data including the cause of death as recorded in the death register is shared by the GRO under the Health and Social Care Act 2012, the NHS Act 2006 and/or the National Health Service (Wales) Act 2006.

2.3. In answer to (a) and (b), there was and are numerous legal provisions delineating systems, procedures and responsibilities in the field of gathering statistics and/or monitoring the prevalence of diseases and infections based on causes of death on death certificates, so my answers in this paragraph 2 are necessarily generalised and reflect the 'GRO' perspective. The key bodies to note are the RG / the GRO, the UK Statistics Authority ("**UKSA**"), NHS Digital, and the ONS. The ONS is the recognised national statistical institute of the UK and collects data sourced from death registrations in England and Wales.

2.4. Some of the key legislation in this area – statistics as used for medical research and monitoring purposes – is as follows:

- Population (Statistics) Act 1938: addresses the statistical information collected at death registration.
- Population (Statistics) Act 1960: makes further provision for collecting statistical data at death registration.
- National Health Service Act 2006 and National Health Service (Wales) Act 2006: provides for notification of deaths to the local authority and the clinical commissioning group where the death

occurred. Both Acts include provision for the supply of information on individual deaths to the NHS by the RG.

- Registration Service Act 1953: requires the RG to produce annual abstracts of the number of deaths.
- Statistics and Registration Service Act 2007: transferred some of the statistical functions of the RG to the UKSA and ONS (the ONS being an executive body of the UKSA). This provides a legal gateway for the RG to disclose any information about a birth, death or stillbirth to the UKSA for statistical purposes. When this Act came into force, the arrangement where the National Statistician was also the RG ended. At the same time, the GRO also stopped being part of the ONS and was moved to the Identity and Passport Service. This transfer of functions helps explain the modern position on the collation of statistics in this area, which largely sits with the ONS, including information of a historic nature on the collation of statistics. Where older documentation refers to the 'Registrar General', for example, it may in fact be referring to the National Statistician/ ONS rather than the 'Registrar General' as such role is understood today (see [MRC0000003_009]). Equally, where Anna McCormick is a person involved in documentation, for instance, in the present day, she would likely be sat within the ONS (after this transfer of functions), albeit on occasion she has made comments regarding civil registration matters.

2.5. In answer to (c), searches of the GRO's documentation have not revealed any relevant information. It is possible that such information is held by the ONS.

2.6. In answer to (d), from the GRO's perspective the RG provides statistics to the ONS as a statutory function. Additionally, each registrar has a legal obligation to refer deaths under certain circumstances to a coroner.

2.7. In answer to (e), searches have not revealed any specific concerns relating to HIV/AIDS and Hepatitis being reported to government departments or bodies by the GRO. However, we did locate a series of documents, which may interest the Inquiry, where discussions relating to HIV/AIDS, the MCCD, and referrals

to coroners were raised. These are addressed further in paragraphs 6 and 11 of this Second Written Witness Statement below.

Medical Certificates for Cause of Death

3.1. The questions and responses in this section, 'Medical Certificates for Cause of Death', aim to cover the Relevant Period, as such phrase is defined in paragraph 1.2 of this Second Written Witness Statement. I refer to my statements in paragraphs 1.3 and 1.4 of this Second Written Witness Statement which also address this topic.

3.2. I am asked whether the GRO/ Registrars' offices ever have sight of the MCCD.

3.3. Yes, this is a legal requirement in section 22 of the Births and Deaths Registration Act 1953. A registered medical practitioner who has attended the deceased during their last illness should give a certificate (the MCCD) stating to the best of their knowledge and belief the cause of death. The MCCD must be delivered to the registrar to register the death. Before beginning a death registration, the registrar must check the MCCD for the following:

- That the appropriate prescribed form has been completed;
- That the MCCD relates to the person whose death the registrar is required to register;
- That the medical practitioner is a registered medical practitioner with a licence to practice and has certified that they were in medical attendance upon the deceased during the last illness;
- That the deceased was seen by a certifying practitioner either after death or within 28 days of death (if not a referral to the coroner will be made);
- Whether the correct box has been ticked to show the death may be linked to the deceased's employment;
- Whether the medical practitioner has indicated that they have referred the death to the coroner; and
- Whether the cause of death is one that requires the registrar to report the death to the coroner.

There are plans to introduce a statutory medical examiner scheme in order to scrutinise all non-coronial causes of death.

4.1. I am asked whether statistics were ever garnered from MCCDs or whether they always derived from Death Certificates.

4.2. Statistical information regarding the cause of death is taken verbatim from the MCCD when presented to the registrar. Other information, such as marital status and occupation, can be taken during the registration as provided by the informant.

5.1. I am asked whether the MCCD contains more detail about the conditions relating to death than do Death Certificates, and also whether statistics subsequently compiled lose some of the data on MCCDs.

5.2. As stated above, the cause of death must be recorded at a 'death registration', and therefore the information is included in a 'death certificate.' The information must be precisely as stated in the MCCD, without omission, addition, abbreviation or alteration. The way statistics are subsequently compiled is outside the scope of the GRO's responsibilities. The ONS may be able to provide further information.

Concerns about the quality of medical information being provided

6.1. I am asked whether I am aware of any concerns expressed regarding the quality of information being provided on Death Certificates and MCCDs, and if so, to indicate what these concerns might be and what documentary evidence there might be to support this view.

6.2. The GRO's role in this area is principally to act as a conduit between medical practitioners and the ONS; the registrar registering a death does not evaluate the quality of information provided except where there is a referral to the coroner for a cause listed in The Registration of Birth and Death Regulations 1987.

6.3. I have been made aware of certain documents as a result of searches conducted by GRO colleagues for the purposes of this Second Written Witness Statement that may be of interest to the Inquiry.

6.4. The GRO holds a file dated 29 June 1989 [WITN7591016]; this file includes a draft paper on 'Improving Cause of Death Information' for the Medical Advisory Committee.

6.5. The most relevant passage in this draft paper is where Professor Bernard Knight is reported as having written to the RG in February 1988. In that letter he expressed his concerns about unsatisfactory causes of death being accepted by registrars. The draft paper includes a direct quote from the letter:

> I realise that registrars cannot be expected to have significant medical knowledge and I do not know what the answer may be to this problem without screening by a more senior or experienced doctor…..junior house officers and even more senior hospital doctors, together with general practitioners, have a very poor appreciation of death certification and even when they are aware of the true disease process, the way in which they write the certificate is often unacceptable.

William Jenkins is then reported to have taken the matter up with Andrew Bosi at the British Medical Association. Andrew Bosi is recorded as having written to Professor Knight in response stating the following:

> The problem in [sic] which you raise can only really be resolved by adequate training for junior house officers. We felt that there was no substitute for adequate certification by those who have the medical knowledge and training. I explained to Mr Jenkins that you were well aware of this need and had been campaigning for many years for the return of the compulsory paper for undergraduates in legal medicine.

Searches within the GRO have not revealed the letter referred to in this draft paper. It is possible that the ONS have more information on this paper and the related exchanges.

6.6. Please also see paragraph 11 of this Second Written Witness Statement. This addresses the historic practice of medical practitioners of not stating AIDS on death certificates as the cause of death or an underlying/contributory factor. This discussion relates to the present question of the quality of information on death certificates/ MCCDs.

6.7. To promote a high standard of certification the GRO – in conjunction with the Department of Health and Social Care ("**DHSC**") and the ONS – provides and

updates comprehensive guidance on Gov.uk to medical practitioners on how to complete an MCCD [WITN7591017]. There is also guidance in the booklets / 'notes to doctors' provided to medical practitioners on how to complete the MCCD [WITN7591018]. As far as our records show, medical practitioners have been provided with some form of guidance similar to the present-day guidance on how to complete the MCCD throughout the Relevant Period.

7.1. I am asked whether the GRO feel information provided on Death Certificates is (or was) generally adequate to record conditions that might later be seen as relevant to a cause of death.

7.2. As previously stated above, it is the statutory responsibility of registrars to record in the death registration precisely the information on the cause of death that is contained in the MCCD without omission, addition, abbreviation or alteration. It is not, and was not, the GRO's statutory role to consider whether the information provided in the death registration is adequate in terms of reflecting conditions that might later be seen as relevant to a cause of death. Medical practitioners are required to certify causes of death to the best of their knowledge and belief. The death register entry is the definitive legal record regarding the event of death including the cause of death, not the Death Certificate.

8.1. I am asked to provide examples of any policy/practice which existed within the GRO during the Relevant Period used to link chronic diseases with new viruses. I am asked, if no policy/practice existed 'at the time' – which I take to mean towards the earlier end of the Relevant Period – whether such a practice exists at present.

8.2. Assuming this question is referring to the recorded statistical linkage of chronic diseases with new viruses, this is outside the scope of the GRO's knowledge. The ONS may be able to provide information and/or have records on this.

9.1. I am asked whether the GRO believes that it might be, or have been, feasible to include known chronic diseases on Death Certificates in order to enable better linkage between disease and outcome. I am told that the Inquiry is interested to understand how the link between Hepatitis C and its various long-term outcomes was understood during the Relevant Period.

9.2. The guidance provided to medical practitioners certifying a death covers the sequence leading to death, underlying causes, and contributory cases [WITN7591017]. The MCCD is in two parts. Medical practitioners are asked to state the immediate, direct cause of death in the first part, and in the second part to go back through the sequence of events or conditions that led to the death until the one which started the fatal sequence is reached. If more than one disease or condition that was compatible with the way in which a person died but a medical practitioner cannot say which was the most likely cause of death, then the medical practitioner is advised to list them all on the MCCD. Therefore, chronic disease which led to a person's death should have been recorded by the certifying medical practitioner on the MCCD if they believe it had contributing factors which led to the death. The information we have found indicates that this guidance has been consistent throughout the Relevant Period.

10.1. I am asked whether the GRO has discussed, internally and/or with other agencies, whether and how more detail – for example on underlying chronic conditions, infections presumed not responsible for death – could be included in Death Certificates. If so, I am asked to describe these discussions and any outcomes or conclusions reached.

10.2. Searches have not revealed any evidence of such discussions.

11.1. I am told that in their first meeting in 1965 the Brodrick Committee referred to a practice of obfuscation of the true cause of death in certain circumstances [HOME0000073]. I am referred to a minute which states:

> […] the committee also noted that the practice, in the case of deaths attributable to diseases having some social stigma, of using a form of words on the medical certificate of death with [what] was medically accurate but afforded a measure of concealment from the lay reader as follows.

I am asked whether the GRO was aware of such a practice, and if so, what efforts were made to address this tendency in the compilation of statistics.

11.2. From the GRO's perspective, the position is that medical practitioners are required to certify causes of death to the best of their knowledge and belief. In

terms of the compilation of statistics, this would be a matter for the ONS and/or DHSC.

11.3. We have not found any evidence of awareness of a 'practice of obfuscation' in 1965 (the first meeting of the Brodrick Committee). We have, however, seen exchanges spanning a number of years in archived documentation found as a result of our searches [WITN7591019 – WITN7591021]. This documentation may be of interest to the Inquiry as it makes reference to concerns regarding whether medical practitioners stated AIDs or HIV on MCCDs. I am also directed to a note of a meeting of 22 May 1989 of the Coroners' Working Party by the Inquiry [MOJU0000013_055] which summarises a discussion around how deliberate omission of reference to AIDS in death certificates could lead to a failure to refer cases to coroners which require investigation. This documentation makes it clear that the GRO did have an awareness of this issue, at least from the date of that document, November 1989.

11.4. With regard to the general issue of concealment of AIDS within the medical profession, the GRO – as directed by the RG – issued advice to the Coroners' Society of England and Wales that can be seen in the letter of 30 March 1995 to Mr Burgess from Dr Anna McCormick [pages 3 – 5 of WITN7591018]. The advice was (and is) that a doctor is legally required to state AIDS or HIV in Part 1 of the MCCD if they believe this to be the cause or one of the causes of death, or – if contributing to the death but not relating to the cause of it – in Part II of the MCCD. This advice is a restatement of what was – and is – the general legal requirement placed on medical practitioners when MCCDs are provided. Additionally, if a doctor anticipates they may later have additional information as to the cause of death for the purpose of one or more precise statistical classifications, Box B can be initialled on the reverse of the MCCD to avoid delaying disposal of a body due to withholding the MCCD. In the present day, the GRO publishes guidance in conjunction with other government departments and bodies on how to complete the MCCD, see paragraph 6 of this Second Written Witness Statement, and WITN7591017 and WITN7591018.

11.5. Throughout the Relevant Period a death certified as due to AIDS or with a mention of "HIV infection" or "HIV – (sero) positivity" was and is normally considered to be a death from a natural cause. Such a death should therefore

not be referred to the coroner under Regulation 41(1)(d) of The Registration of Births and Deaths Regulations 1987 as "unnatural". These Regulations set out the position for where a death should be referred to a coroner. A death from infected blood would be, and would have been, considered to be unnatural and therefore requiring referral to a coroner. Otherwise, registrars must follow the cause of death as stated on the MCCD. Informants may provide information to take into account on the MCCD, but this would not alter the cause of death.

11.6. That certain MCCDs were inaccurate is shown in the documentation to have caused concern and necessitated guidance from the GRO, a practice which continues to exist in the present day. Ultimately, though, as mentioned in my First Written Witness Statement, the RG's and GRO's position is that, per the model letter mentioned previously [WITN7591015], information relating to cause of death (including contributory/underlying causes) which is evident to medical practitioners at time of certification should appear on the MCCD and therefore the death certificate.

Cause of Death

12.1. I am asked to describe, in as much detail as possible, the coding system used during the Relevant Period for describing the medical cause of death.

12.2. I am unable to provide information relating to this as it is outside the GRO's responsibilities. I believe the ONS are the responsible body for the coding of deaths and may be better placed to answer this question. Having said this, searches conducted for the purposes of this Rule 9 Request have revealed some records the GRO holds which discuss the format for cause of death provided by coroners and how using a non-WHO format could delay coding [WITN7591022 – WITN7591023], which may be of relevance to the Inquiry.

13.1. I am asked to explain if the GRO, in certificating death, adheres to the WHO standards for the Certification of Death. If it does not, I am asked to explain why and how it differs from such standards.

13.2. The GRO does not certify deaths. As explained earlier within this statement, there is a fundamental difference between 'death certification' and 'death registration'. Death certification refers to the process of the medical practitioner certifying the death. DHSC may therefore be better placed to answer this question.

14.1. I am told that items are recorded under four groups 1(a)(b)(c) and then under section 2 on the Death Certificate. I am asked how the entries under section 2 are treated statistically, and whether they are ever noted as the Cause of Death.

14.2. This is outside of the GRO's responsibilities. The ONS may be better placed to answer this question.

Collation of information on deaths

15.1. I am asked to what extent data on deaths was processed by the GRO or any predecessor.

15.2. ONS are the responsible body for the coding of deaths and may be better placed to answer this question, assuming this question is referring to the processing of data on deaths for the purpose of compiling statistics. The GRO does (and did) process data to fulfil its statutory functions.

16.1. I am asked what organisations receive or received data for the purposes of compiling statistics on deaths and in what form is and was the data transmitted to those organisations.

16.2. I refer to my answer in paragraph 2 of this Second Written Witness Statement above, as regards what organisations receive or received data for the purposes of compiling statistics on deaths.

16.3. In terms of the form such data is and was transmitted in, current death registrations are fed to ONS via an automated electronic data feed, but earlier in the Relevant Period the data would have been supplied in the form of paper reports.

17.1. In respect of documentation provided by the Inquiry in its Rule 9 Request but not specifically referred to in this Second Written Witness Statement, the RG and GRO would be happy to answer any further questions the Inquiry has after reading this Second Written Witness Statement.

Statement of Truth

I believe that the facts stated in this witness statement are true.

Signed:

GRO-C

Dated: 26 January 2023