



"Fw: Date to meet : Re: Contaminated Blood and Blood products: Expert Witness Reports from 1989 Litigation(NB filed in MB- FOI under Advice Provided - Contaminated Blood)"

Document Type:	Formal
File Title:	GHP - Review of Safety of Blood Documents 1970-1985 - Litigation documents
File Reference:	GHP/015/008
Protective Marking:	No Marking
Filed by:	Patrick Hennessy/POLICY/DOH/GB on 20/03/2009 at 15:43
Created by:	Laura Kennedy on 04/03/2009 at 15:52

Named Security Prior To Moving To Archive:

Who can edit?	Nobody
Who has edited?	Patrick Hennessy/POLICY/DOH/GB
Who can read?	All readers of the document database

Modification History Prior To Moving To Archive:

Modified Date and Time	Details

Laura Kennedy/OIS/DOH

04/03/2009 15:52

ToPatrick Hennessy/POLICY/DOH/GB **GRO-C**

cc

bcc

SubjectFw: Date to meet : Re: Contaminated Blood and Blood products: Expert Witness Reports from 1989 Litigation(NB filed in MB- FOI under Advice Provided - Contaminated Blood)

Patrick

The note Graham did on the appendices of the Bloom report is attached. We did have a meeting(Ailsa, me, Graham and Veronica Fraser, but the conclusion was that we needed to get you back in to look at this so we didn't come to any conclusion. Graham did change his mind though and started to think that some of the documents should be withheld under section 41.

Kind regards,

Laura Kennedy

PA to Liz Woodeson, Director of Health Protection

Tel: **GRO-C**

----- Forwarded by Laura Kennedy/OIS/DOH on 04/03/2009 14:32 -----



**"Date to meet : Re: Contaminated Blood and Blood products: Expert Witness Reports from 1989
Litigation(NB filed in MB- FOI under Advice Provided - Contaminated Blood)**

File Title:

GHP - Review of Safety of Blood Documents 1970-1985 - Litigation documents

File Reference:

GHP/015/008

Protective Marking:

Filed by: **Laura Kennedy/OIS/DOH on 17/10/2008 at 10:50**

Created by: **Veronica Fraser/POLICY/DOH/GB on 06/10/2008 at 13:59**

Named Security:

Who can edit? **Nobody**

Who has edited? **Laura Kennedy/OIS/DOH**

Who can read?

**Veronica
Fraser/POLICY/DOH/GB**
06/10/2008 13:59

To Ailsa Wight/PH6/DOH/GB **GRO-C**
cc "Kent Graham LEGAL GROUP DH LEGAL SERVICES"
<Graham.Kent@**GRO-C** Laura
Kennedy/OIS/DOH **GRO-C** William Connors/PD-
PMD/DOH/GB **GRO-C**

bcc

Subject Date to meet : Re: Contaminated Blood and Blood
products: Expert Witness Reports from 1989 Litigation(NB
filed in MB- FOI under Advice Provided - Contaminated
Blood)
E1CD34E2E0D94BB3802574DA00466B19

Ailsa,

I can't do Wednesday i'm afraid and Graham can't do Thursday morning this week. I am not sure who needs to be there but we will be meeting to agree what can/ should be released into the public domain and what should be withheld. Consequently, we will need someone there who can agree this on behalf of your policy area.

If we withhold we will have to have good evidence for our position eg would the Professor's widow suffer additional harassment as a result of us releasing anything ?

There may be a need to approach 3rd parties (Haemophilia Society) to see if they are content with the Department releasing information that originated with them.

best

Graham - the policy leads are based in Richmond House, 78 Whitehall

Veronica Fraser
Section Head, Freedom of Information Casework
Information Management and Governance

Information Services

Direct Line: [REDACTED] GRO-C

GTN Tel: [REDACTED] GRO-C

Mobile: [REDACTED] GRO-C

Email: veronica.fraser [REDACTED] GRO-C

Address: Department of Health | Room 334B Skipton House | 80 London Road | London SE1 6LH

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Ailsa Wight/PH6/DOH/GB

Ailsa Wight/PH6/DOH/GB

06/10/2008 13:51

To: Veronica Fraser/POLICY/DOH/GB [REDACTED] GRO-C
cc: "Kent Graham LEGAL GROUP DH LEGAL SERVICES"
<Graham.Kent [REDACTED] GRO-C>, Laura
Kennedy/OIS/DOH [REDACTED] GRO-C, William Connors/PD-
PMD/DOH/GB [REDACTED] GRO-C
Subject: Re: Contaminated Blood and Blood products: Expert
Witness Reports from 1989 Litigation (NB filed in MB- FOI
under Advice Provided - Contaminated Blood)



Wednesday morning would be better for me, if you think I need to be there. Tomorrow am tied up with Lords Oral, and unfortunately William is away. I don't think there's any great urgency, but obviously better to resolve sooner rather than later.

Dr Ailsa Wight
Deputy Director and Head of Programme
Infectious Diseases and Blood Policy
524 Wellington House
133/155 Waterloo Road
London SE1 8UG

Telephone: [REDACTED] GRO-C


Mobile: [REDACTED] GRO-C

email: ailsa.wight [REDACTED] GRO-C

Veronica Fraser/POLICY/DOH/GB

**Veronica
Fraser/POLICY/DOH/GB**

06/10/2008 13:43

To Laura Kennedy/OIS/DOH [GRO-C]
cc Ailsa Wight/PH6/DOH/GB [GRO-C] "Kent Graham LEGAL
GROUP DH LEGAL SERVICES"
<Graham.Kent [GRO-C] William Connors/PD-
PMD/DOH/GB [GRO-C]
Subject Re: Contaminated Blood and Blood products: Expert
Witness Reports from 1989 Litigation(NB filed in MB- FOI
under Advice Provided - Contaminated Blood)


Laura/Graham

Can we meet tomorrow morning ? If the morning is convenient for all who need to be there, shall we meet at your office Laura ? I can make any time in the morning but would prefer to come here first to collect my set of papers.

10.30am ?

Veronica Fraser

Section Head, Freedom of Information Casework
Information Management and Governance

Information Services

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Laura Kennedy/OIS/DOH

Laura Kennedy/OIS/DOH

03/10/2008 17:38

To Veronica Fraser/POLICY/DOH/GB [GRO-C]
cc "Kent Graham LEGAL GROUP DH LEGAL SERVICES"
<Graham.Kent [GRO-C] William Connors/PD-
PMD/DOH/GB [GRO-C] Ailsa Wight/PH6/DOH/GB [GRO-C]
Subject Re: Contaminated Blood and Blood products: Expert
Witness Reports from 1989 Litigation(NB filed in MB- FOI
under Advice Provided - Contaminated Blood)


Veronica,

Here is some information on Professor Bloom's report

Professor Bloom was an eminent haemophilia clinician. His involvement with the haemophilia community and DH is apparent from the content of this report. Whilst the report itself dates from 1990, and thus does not need to be disclosed, the appendices contain many documents from 1970-1985 that need to be considered for release.

The report, written in June 1990, was commissioned by the Department for use in the 1989/90 HIV/Haemophilia litigation. It was one of a number of expert witness reports that was commissioned by DH. Professor Bloom was only an ad hoc witness for the Department. He was a full expert witness for the Health Authorities, who were also defendants in the litigation. It is highly unlikely that the report was used in court, as in a minute of October 1990 the report is listed as 'preliminary' and the case was settled soon after.

Since then, a section of the report (chapter 23) has been published as a reference to the DH report 'Self-sufficiency in Blood Products in England and Wales'. This is available for download on the DH website at the following

link. http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4130917

I do not think it is possible to release the appendices without identifying Professor Bloom. I also think this would decrease the relevance of the documents. They are valuable as a whole because they show the relationship of Professor Bloom with DH and the Haemophilia Society. To remain relevant they would need to be released as Professor Bloom's documents. I haven't gone ahead and contacted the Haemophilia Society yet (though I can't see why they would object) as I would like to resolve this issue first.

If we release these documents as Professor Bloom's documents we do need to consider the effect on his widow. I have only very vague information about Dr Bloom's widow being harassed by haemophilia campaigners. A member of the UK Haemophilia Centre Directors' organisation, now retired, said there was an incident. I would have thought this would be around the time of one of the litigations in the early 1990s.

Graham Kent has identified a number of documents that should be withheld. I don't think I can add anything to his analysis. Many of the documents are quite old and as I said before, they are often discussing matters that are now irrelevant. It is the relationships they show between the different groups that is important. Obviously we would need to redact any names in the documents.

I would welcome a meeting as I would like to discuss how we could release these and maintain their relevance. I am available Tuesday or Thursday morning. Let me know a time that is good for you.

Kind regards,

Laura Kennedy
PA to Liz Woodeson, Director of Health Protection
Tel: [REDACTED] GRO-C

Veronica Fraser/POLICY/DOH/GB

Veronica
Fraser/POLICY/DOH/GB
30/09/2008 16:46

To "Kent Graham LEGAL GROUP DH LEGAL SERVICES"
<Graham.Kent [REDACTED] GRO-C
cc Laura Kennedy/OIS/DOH [REDACTED] GRO-C William Connon/PD-
PMD/DOH/GB [REDACTED] GRO-C MB-DH-FOI-
Request/OIS/DOH [REDACTED] GRO-C
Subject Contaminated Blood and Blood products: Expert Witness
Reports from 1989 Litigation(NB filed in MB- FOI under
Advice Provided - Contaminated Blood)



RESTRICTED - Investigation

Graham

Thank you for your detailed note re this case. The FOI Unit will work with you and Laura to resolve this (we may need to advise our policy colleagues on a submission about disclosure). If so, the points you make will be extremely helpful for this.

I am out of the office now until next Monday.

Graham I have tried to boil down your advice to some actions that Laura can follow now. For example I think Laura should

- agree with Liz that any submission re disclosure will have to wait until we have resolved the disclosure issues
- Ask Liz (or whoever is best placed to decide) what parts of the report are still sensitive. We will also need to know what parts may have already been made available in some way.
- If some of these papers in the appendices are very sensitive it would be helpful to flag these now and ask Graham's advice
- You should consider whether there is a need to contact the Haemophilia Society and

ask if they have any objections to DH releasing any of the documents. 3rd party consultations like this can take some time . You only need say that as part of a review we are considering whether to release information and if we did what are there views.

- We can redact (obscure) personal names but is the issue that the Professor was well known and it would be obvious who it was ?
- Graham says that public interest is considered to increase with the passage of time. I am also new to FOI but my assumption was that the view is that the sensitivity **decreases** rather than public interest increasing.
- When you have gathered more information from your colleagues about sensitivity, we can ask Graham for further views. As he says , he needs to know this before he can advise in more detail. Where there are sensitivities, we will need to know why so that we can evaluate against the Information Commissioner approach which is for disclosure.

I hope this is helpful. [Laura](#) - when you have some more data, we could meet - next week would be OK. Please check my diary. If your request becomes urgent, Steve Wells is aware of your concerns and has had sight of the papers. Our view echoes Graham's that it would be hard to justify withholding many of these papers.

Veronica Fraser

Section Head, Freedom of Information Casework

Information Management and Governance

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"Kent Graham LEGAL GROUP DH LEGAL SERVICES" <Graham.Kent@GRO-C

"Kent Graham LEGAL
GROUP DH LEGAL
SERVICES"

<Graham.Kent@GRO-C

GRO-C

30/09/2008 15:25

To Laura Kennedy/OIS/DOH GRO-C

cc Veronica Fraser/POLICY/DOH/GB GRO-C William
Connon/PD-PMD/DOH/GB GRO-C

Subject RE: Contaminated Blood and Blood products: Expert
Witness Reports from 1989 Litigation

Laura,

Please find a minute attached on this,

Graham Kent,

DH Legal Services
Public Health and Medical Ethics (part of Legal Group)

GRO-C
Fax: GRO-C

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

From: Laura.Kennedy[GRO-C] [mailto:Laura.Kennedy[GRO-C]]
Sent: 25 September 2008 09:51
To: Cohen Paula LEGAL GROUP DH LEGAL SERVICES
Cc: Fraser Veronica DOH GSI; Connon William DOH GSI
Subject: RE: Contaminated Blood and Blood products: Expert Witness
Reports from 1989 Litigation

Paula,

The Professor Bloom's expert witness report is being photocopied and should reach you tomorrow. I attach an inventory of the documents in the appendices. I am also sending a copy of this and the report to Veronica Fraser of the FOI team.

I expect that many of these documents will be exempt from release under the FOIA act because they will be commercial in confidence and I am hoping that we can exempt all of them as a group under legal professional privilege. I want to be sure though, as I can see they could be relevant to the Archer inquiry because Professor Bloom felt that they were important, and because they show the involvement of clinicians in advising the Haemophilia Society and the Department of Health.

One final consideration is that although Professor Bloom is dead, apparently his widow is still harassed by Haemophilia campaigners, and it would be difficult to publish these documents without any identification of Professor Bloom.

(See attached file: Inventory of 1970-1985 documents in Professor Bloom report.doc)

Documents that have not been released are highlighted yellow on the inventory.

Kind regards,

Laura Kennedy
PA to Liz Woodeson, Director of Health Protection
Tel: GRO-C

"Cohen Paula

LEGAL GROUP DH

LEGAL SERVICES"

To

<Paula.Cohen[GRO-C] Laura Kennedy/OIS/DOH[GRO-C]

GRO-C

cc

24/09/2008 17:13

Subject

RE: Contaminated Blood and Blood

products: Expert Witness Reports

from 1989 Litigation

Laura

Thanks. It would be helpful to know which documents which have been annexed to the report have not already been disclosed since the report is 400 pages long it would be a shame to spend time looking at documents which have already been disclosed.

Paula

Paula Cohen

Head of Public Health and Medical Ethics Division (SOL C4) Department of Health Legal Advisers Room 535 New Court

Tel: GRO-C

Fax: GRO-C

(Part-time non-working day is Monday)

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

From: Laura.Kennedy[GRO-C] [mailto:Laura.Kennedy[GRO-C]]

Sent: 24 September 2008 17:05

To: Cohen Paula LEGAL GROUP DH LEGAL SERVICES

Cc: Cannon William DOH GSI

Subject: RE: Contaminated Blood and Blood products: Expert Witness Reports from 1989 Litigation

Paula,

I have just sent an email off to you and the FOI team setting out the issues. Because we need to get a submission up to Hugh soon, at the moment, I am only interested in finding out whether the appendices are exempt from release under FOIA at the moment. We do not need to release the main report as it was written in 1990, though I would like to know whether it is possible for this to be considered for release at some stage in the future, either to the public or to the Scottish Inquiry.

The report is 400 pages long so I will organise for a copy to be made and sent to you tomorrow.

Kind regards,

Laura Kennedy
PA to Liz Woodeson, Director of Health Protection
Tel: [GRO-C]

"Cohen Paula

LEGAL GROUP DH

LEGAL SERVICES"

To

<Paula.Cohen [GRO-C] Laura Kennedy/OIS/DOH [GRO-C]

[GRO-C]

cc

William Connon/PD-PMD/DOH/GB [GRO-C]

24/09/2008 16:12

Subject

RE: Contaminated Blood and Blood

products: Expert Witness Reports

from 1989 Litigation

Laura

Thanks for your phone call. I will need to see the report and annexes please.

Thanks.

Paula

Paula Cohen
Head of Public Health and Medical Ethics Division (SOL C4) Department of
Health Legal Advisers Room 535 New Court
Tel: **GRO-C**
Fax: **GRO-C**

(Part-time non-working day is Monday)

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

From: Laura.Kennedy **GRO-C** [mailto:Laura.Kennedy **GRO-C**]
Sent: 23 September 2008 11:17
To: Cohen Paula LEGAL GROUP DH LEGAL SERVICES
Cc: Connon William DOH GSI
Subject: Contaminated Blood and Blood products: Expert Witness Reports
from 1989 Litigation

Dear Paula

We have found some expert witness reports, written for DH to use in the 1989 Haemophilia HIV Litigation. They are helpful in understanding the background to the contamination of blood and blood product as some of them are from prominent doctors who advised the Haemophilia community. I don't think they were ever used as the case was settled and I can't find any reference to them in any of the haemophilia campaigners websites so I don't think they are in the public domain. However, an appendix from one of them was published as a reference in the DH report on Self-sufficiency in Blood Products in England And Wales. What is the legal position on releasing these to the Scottish Inquiry or to the public?

Kind regards,

Laura Kennedy
PA to Liz Woodeson, Director of Health Protection
Tel: **GRO-C**

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