

## **NOTE FOR CORE PARTICIPANTS**

### **DISCLOSURE OF DOCUMENTS FROM THE GENERIC LIST OF DOCUMENTS OF THE CENTRAL BLOOD LABORATORIES AUTHORITY IN THE HIV HAEMOPHILIA LITIGATION**

#### **Introduction**

The purpose of this note is to assist Core Participants and their recognised legal representatives in understanding this tranche of disclosure, comprising:

1. 2,119 documents listed in the Generic List of Documents of the Central Blood Laboratories Authority ("CBLA") in the HIV Haemophilia Litigation [CBLA0014475], which are relevant to this Inquiry; and
2. Advanced drafts of a Proof of Evidence of Dr Richard Lane, prepared for the purpose of the HIV Haemophilia Litigation [CBLA0000005\_002 and CBLA0000034\_002].

These documents were provided to the Inquiry by Bio Products Laboratory Limited, and/or the law firm, Clifford Chance, which acted for CBLA in the HIV Haemophilia Litigation.

To assist with understanding the disclosed material, the Inquiry is also disclosing a draft Glossary and List of Terms [CBLA0000009\_178 and CBLA0000009\_180], which provide brief descriptions of scientific and medical terms which arise in the disclosed material, as well as a Dramatis Personae [CBLA0000009\_174] which refers to the individuals named in the documents. These documents were prepared by Clifford Chance in connection with the litigation.

#### **CBLA**

CBLA was a Special Health Authority established under the Central Blood Laboratories Authority (Establishment and Constitution) Order 1982. The functions performed by CBLA on behalf of the Secretary of State for Social Services included the provision of laboratories for the manufacture of blood products, the preparation of plasma fractions for therapeutic, diagnostic and other purposes, and research and development in plasma protein fractionation. The Central Blood Laboratories included the Blood Products Laboratory, Elstree ("BPL"), the Plasma Fractionation Laboratory, Oxford ("PFL") and the Blood Group Reference Laboratory, Oxford.

At relevant times, CBLA fell under the responsibility of the Department of Health and Social Care and/or NHS Blood and Transplant (as they are now known). Both DHSC and

NHSBT have waived legal privilege in respect of any privileged information contained within this tranche of disclosure for the purposes of this Inquiry.

### **Generic List of Documents of the CBLA**

CBLA was joined as a defendant in the HIV Haemophilia Litigation by order of the Hon. Mr Justice Ognall dated 5 December 1989. The Generic List of Documents of the CBLA (“the List”) [CBLA0014475] was served in the litigation on 17 May 1990. The List is a chronological list of documents, prepared by Clifford Chance, relating to the matters in question in the HIV litigation.

The List documents produced to the Inquiry have been reviewed by the Inquiry team for relevance, and documents of limited or no relevance to the Inquiry’s Terms of Reference have not been disclosed. The List reference number, which is handwritten and circled at the bottom of the first page of each document, has been captured on Relativity in the “reference ID” field.

#### *Commercial confidentiality*

A number of the documents, identified by a single asterisk on the List, were considered commercially confidential by CBLA at the time of the litigation and were subject to a Restriction Order made by the Hon. Mr Justice Ognall on 8 May 1990.

### **Dr Lane’s Proof of Evidence**

Dr Lane was the Director of BPL at Elstree from September 1978, having succeeded Sir William Maycock.

Dr Lane’s draft proof of evidence (“the Proof”) was prepared with the assistance of Clifford Chance for the purpose of outlining CBLA’s / BPL’s response to the allegations of negligence and breach of statutory duty contained in the Plaintiff’s Re-Amended Main Statement of Claim.

#### *Drafts*

The Inquiry has received a number of different drafts of the Proof. It is the Inquiry’s understanding that the latest and most complete text comprise the following:

- Version 6, dated 11 December 1990 [CBLA0000034\_002], runs from pages 1 to 59, paragraphs 1 to 150 – dealing with background matters and issues concerning self-sufficiency.
- Version 5, dated 10 December 1990 [CBLA0000005\_002], paragraphs 1 to 1091. This appears to be a complete draft, save for the drafting notes

contained within it. Parts of Version 5 are repeated in Version 6, suggesting a decision to re-order the statement.

- Within “Version 5”, a number of the pages have the header “Version 4”, dated 4 October 1991 (see paragraphs 838 to 1091, dealing with heat treatment). It is unclear if this is deliberate or simply a failure to change the header of the relevant section.

The Inquiry is conscious that none of the versions of the Proof are finalised and none are signed, presumably because the litigation ended due to settlement out of court in December 1990.

#### *Dr Lane*

When the Inquiry approached Dr Lane in relation to the provision of a statement addressing in first instance questions relating to the Proof, the Inquiry was advised by Dr Lane’s representatives that Dr Lane is unable to engage with the Inquiry by reason of his medical condition. Upon receipt of further information, the Chair of the Inquiry, Sir Brian Langstaff, has accepted this report.

#### *Structure of the Proof*

The Proof appears as a commentary by Dr Lane on the chronological sequence of events under the six headings contained within the Re-Amended Main Statement of Claim, with personal comments from Dr Lane added in places. The headings are:

- (a) Self-sufficiency and the Blood Transfusion Service,
- (b) Manufacture of non-Heat-Treated Concentrates,
- (c) Heat Treatment,
- (d) Screening of Donors and Testing for HIV,
- (e) Hepatitis Risk and/or Risk of Other Viral Infections,
- (f) AIDS Risk.

Dr Lane also provides evidence concerning the background and organisation of BPL and PFL, Oxford.

#### *Appendices and documents referenced*

The Proof has a number of appendices, to which reference is made in the body of the document. It also contains numerous references to other documents as exhibits, usually in the form “(document no. XX)”. The Inquiry understands that these are references to documents which correlate to the numbering within the Generic List of Documents of the CBLA.

To assist in navigating the Proof, its appendices and exhibits, the Inquiry has created the attached spreadsheet. The spreadsheet lists the number given to each exhibit by Dr Lane in the Proof (which reflect the document numbers from the Generic List of Documents), the paragraph number where it is referenced in the Proof, and the corresponding Relativity URN.

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