

Witness Name: William Wright

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**INFECTED BLOOD INQUIRY**

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**EXHIBIT WITN2287031**

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## The Ross Report: Ten Years On

These tables summarise the recommendations of the Report of the Expert Group on Financial and Other Support (The Ross Report), which was commissioned by the Scottish Executive and reported in March 2003.

Recommendations that have been partially implemented, or are in the process of implementation, are shaded yellow. Recommendations that have not been implemented have are shaded red. None of Lord Ross's recommendations have been implemented in full as yet.

### Financial Help for Victims of Contaminated Blood

Lord Ross Recommended	The 2014 Reality for Contaminated Blood Victims
Initial lump sum of £10,000 to cover stress, anxiety and social disadvantage.	Nothing is available for this category of victims, despite the fact that many have suffered from extreme stress, anxiety and social disadvantage.
Additional lump sum of £40,000 for those who develop chronic hepatitis C, to cover pain and suffering.	The Skipton Fund provides an initial payment of £20,000 for those who are currently infected with chronic hepatitis C, or who have cleared the virus following treatment.
Compensation to be calculated under principles of common law damages for those who suffer serious deterioration of their physical condition, e.g. cirrhosis, liver cancer or other serious conditions. In the case of death, all payment passes to beneficiaries.	<p>A payment of £50,000 can be made to people who have received the first stage payment whose hepatitis C has advanced to the stage of cirrhosis, primary liver cancer, B-cell non-Hodgkin's lymphoma, or are on the waiting list for a liver transplant.</p> <p>Those with advanced liver disease also qualify for a regular payment of £14,191 per year. However, the latter payment does not pass to beneficiaries.</p> <p>The bar for receiving the second payment is set much higher than Lord Ross recommended. Many victims of the contaminated blood disaster are living with serious liver conditions, which destroy their quality of life and ability to earn a living, but do not fall within the restrictive criteria for Skipton 2 payments.</p>

# The Ross Report: Ten Years On

## Improving Support for Victims of Medical Accidents

Lord Ross Recommended	The 2014 Reality for Contaminated Blood Victims
The Scottish Executive should consider how to support counselling services for victims of this disaster.	Relevant voluntary organisations can apply to establish/offer suitable counselling services through the Section 16b grant scheme. <a href="http://www.scotland.gov.uk/News/Releases/2011/03/04100602">http://www.scotland.gov.uk/News/Releases/2011/03/04100602</a> However, the continued lack of suitable counselling suggests that a more proactive approach may be necessary.
The Scottish Executive should provide advice and assistance in supporting appropriate and adequate assurance and insurance.	No progress has been made with regard to assurance and insurance.
The Scottish Executive should set up a proactive publicity campaign spearheaded by the Health Education Board for Scotland in order to find as many victims of the disaster as possible.	A full 'look-back' has never been carried out. While the UKHCDO has made efforts to trace possible recipients of contaminated blood <i>concentrates</i> , more work needs to be done to identify and contact those who received <i>whole blood</i> transfusions during the risk period. Any publicity must reach beyond patients who are already in regular contact with medical services. Because no full look-back has been carried out, has not even been sufficient information for the Penrose Inquiry to reach a reliable estimate of the number of victims of the contaminated blood disaster.
Improved access to palliative care and symptom management services when appropriate.	Although treatments for hepatitis C are improving in general, outcomes for haemophilia patients remain worse than average because they are often infected with multiple genotypes of the virus. No concrete steps have been taken to improve palliative care and symptom management for victims of the contaminated blood disaster. (PQ S4W-18894)



## The Ross Report: Ten Years On

Lord Ross Recommended	The 2014 Reality for Contaminated Blood Victims
<p>Improvement of Legal Aid in medical negligence cases, including: a) increased legal aid fees for solicitors pursuing clinical negligence cases; b) the possibility to pursue class actions; c) increased ease of application; d) allowance for increased expenditure for medical reports etc. Lord Ross and his team offered to be involved in the development of revised guidelines. (paragraph 5.14).</p> <p>Lord Ross also recommended that the Scottish Executive should invite the Scottish Legal Aid Board to proceed with developing a template for Advice and Assistance as soon as possible. He was also concerned about the 'inequality of arms', which makes it very difficult to patients to bring medical negligence cases against the NHS.</p> <p>Medical professionals have access to unlimited professional advice and have first hand knowledge and understanding of what happened. The aggrieved patient, on the other hand, often finds it very difficult to access relevant information and expert advice. (paragraphs 7.2 and 7.3)</p>	<p>No steps have been taken to improve access to Legal Aid in medical negligence cases. Solicitors continue to argue that the main reason that fewer clinical negligence cases are brought in Scotland than in England is the restrictive Legal Aid environment.  <a href="http://www.digbybrown.co.uk/index.php/site/news_main/clinical_negligence_medical_treatment_when_it_all_goes_wrong">http://www.digbybrown.co.uk/index.php/site/news_main/clinical_negligence_medical_treatment_when_it_all_goes_wrong</a>  A 2012 study of clinical negligence noted that patients still complain frequently of difficulties accessing medical notes, poor communication and other problems. This echoes the experiences of haemophilia patients over the years.  <a href="http://www.scotland.gov.uk/Publications/2012/06/2348/3">http://www.scotland.gov.uk/Publications/2012/06/2348/3</a></p> <p>Rather than extending access to Legal Aid, the Scottish Government appears to favour the introduction of a no-fault compensation scheme. However, no progress has made towards implementation of such a scheme.</p>
<p>Establishment of a special health board, NHS Quality Improvement Scotland, from January 2003. Lord Ross and his team concluded that incidents were not currently being investigated in a supportive, honest and open environment, and that lessons were not being learned.</p>	<p>This was formed on 1st April 2011.  <a href="http://www.healthcareimprovementscotland.org/home.aspx">http://www.healthcareimprovementscotland.org/home.aspx</a>. However, the 2012 study of clinical negligence suggested that lessons were still not being learned when clinical errors were made.</p>
<p>Establishment of a Scottish branch of Victims of Medical Accidents</p>	<p>AVMA does not have a branch or an office in Scotland. Although they hold a short list of Scottish solicitors who litigate on medical accidents, they do not accredit solicitors in Scotland. They receive no direct funding from the Scottish Government (PQ S4W-18895)</p>
<p>Greater use of NHS Trusts and Boards' power to make ex-gratia payments, particularly to compensate for 'lesser injuries' such as time off work, pain and suffering.</p>	<p>As of January 2014, the NHS has not been encouraged to make use of ex-gratia payments. However, in response to a Parliamentary Question, the Scottish Government stated that 'It is hoped that an announcement on the Government's proposed way forward will be published shortly'. (PQ S4W-18890)</p>

## The Ross Report: Ten Years On

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<p>The Scottish Executive should encourage the Central Legal Office to continue and develop its practice of offering structured settlements early in the negotiating process.</p>	<p>Parliamentary Question S4W-18889 revealed that, since Lord Ross's report, only <i>one</i> structured settlement was made between 2002 and 2013, in 2003. However, structured settlements have since been superseded by Periodical Payment Orders, which involve annual payments over the lifetime of the pursuer. Five cases have been settled in this way.</p>
<p>If there was any question over the <i>vires</i> of what Lord Ross proposed (i.e. whether the Scottish Executive had the authority to implement such a deal without the permission of Westminster), Lord Ross suggested that immediate steps should be taken to refer the matter to the Judicial Committee of the Lord Advocate.</p>	<p>We asked the Scottish Government whether it would publish its legal advice regarding its powers to (a) award compensation and (b) make ex-gratia payments. However, the Scottish Government declined to publish this legal advice (Parliamentary Question S4W-18893). There is nothing to suggest that the matter was ever referred to the Judicial Committee of the Lord Advocate, as recommended by Lord Ross.</p>
<p>Lord Ross was insistent that payouts should be called 'compensation' as distinct from 'damages', pointing out that only the latter is the result of a legal process. He recommended that payments should be made directly rather than via a discretionary trust (paragraph 4.23).</p>	<p>Payments were made via the Skipton Fund, a discretionary trust.</p>
<p>The Scottish Executive should undertake a fully research mediation project.</p>	<p>Pilots are currently planned for Edinburgh Royal Infirmary and Glasgow Royal Infirmary.</p>