40/96

Your ref. JG/AB Our ref. XT2/1 RFM/MBH Direct Line Tel No. GRO-C

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Dr. J. Gillon,
Consultant Physician,
Scottish National Blood
Transfusion Service,
Blood Donor Centre,
Lauriston Building,
41 Lauriston Place,
Edinburgh, EH3 9HB

20 June 1996

Dear Dr. Gillon,

Thank you for your letter of 11th June. As indicated in my letter of 16th May I do not consider that the duty of care to the donor extends to advising the donor of infections or possible infections which may be identified in his donation. Accordingly there would be no requirement to go back to the donor except possibly as a matter of good practice. I note that the service operates a two year cut-off point for donors and I would consider that the use of a two year cut-off point relative to a good practice, if such a practice were to be adopted, would be reasonable. If I can be of further assistance, please let me know.

Yours sincerely,

GRO-C

MR. R.F. MACDONALD
LEGAL ADVISER

Correspondence please —
Copies to take to SACGTT

SCOTTISH NATIONAL BLOOD TRANSFUSION SERVICE
EDINBURGH & S.E. SCOTLAND
BLOOD TRANSFUSION SERVICE

JG/AB

11 June 1996

SHCTT1

Mr R F MacDonald
Legal Adviser
Scottish Health Service
Common Services Agency
Trinity park House
South Trinity Road
EDINBURGH
EH5 3SE

Dear Mr MacDonald

Many thanks for your letter of 16 May 1996. Your advice is most helpful, but I wonder if I could press you to elaborate just a little on the advice contained in your last sentence, ie:

"In the absence of a general practitioner, it would be acceptable to advise the donor in an appropriate manner of an infection which, in the first instance, would pose a risk to later recipients of his donations, and secondly, that which may pose a risk to himself if untreated."

This would describe the current situation, in which it is unusual for us to know the identity of the donor's GP, and we therefore contact the donor directly if one of our screening tests is positive, or if, as is rare, we identify a disease in the recipient which makes it likely that the donor has a disease requiring treatment. In the case under discussion, however, the difficulty is caused by the lapse of time between the donation, and the identification of disease in the recipient (over 10 years). It may be that the donor is still harbouring disease unknown to himself or herself, but we are far from clear that our fiduciary duty to the donor would extend over such a long period of time. When donors have not given for 2 years we consider them "lapsed", and no longer send them call up cards. Would there be any justification for regarding this as the arbitrary cut-off point beyond which our duty to the donor no longer pertains?

Yours sincerely

GRO-C

Dr J Gillon
Consultant Physician

Blood Donor Centre
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Dr. J. Gillon,
Consultant Physician,
Scottish National Blood
TransfusionService,
Blood Donor Centre,
Lauriston Building,
41 Lauriston Place,
Edinburgh, EH3 9HB

16 May 1996

Dear Dr. Gillon,

Thank you for your letter of 24th April. I regret the delay in replying.

I would agree that the Transfusion Service should not ask the donor to return for testing for the purposes of establishing whether he was the source of the infection. While the Transfusion Service has a duty of care to the donor relative to the donation of blood, it is considered that the duty does not extend to advising the donor of infections or possible infections which may be identified on his donation . However, as a matter of good practice, I would have no objection to the donor's general practitioner being advised of any such problem so that the general practitioner can take a view as to the prudence or otherwise of advising the donor. In the absence of a general practitioner, it would be acceptable to advise the donor in an appropriate manner of an infection which, in the first instance, would pose a risk to later recipients of his donations, and secondly, that which may pose a risk to himself if untreated.

I would be pleased to discuss this matter with you further if you so wish.

Yours sincerely,

GRO-C

MR. R.F. MACDONALD
LEGAL ADVISER

SCOTTISH NATIONAL BLOOD TRANSFUSION SERVICE
EDINBURGH & S.E. SCOTLAND
BLOOD TRANSFUSION SERVICE

JG/AB

24 April 1996

SNCTTI.

Mr Ranald McDonald
Senior Legal Advisor
Central Legal Office
Common Services Agency
Trinity Park House
Trinity Park Road
EDINBURGH

Dear Mr McDonald

I would be most grateful for your advice about a matter which was raised at the Specialist Advisory Committee for Transfusion Transmitted Infections. A consultant colleague at the North London Transfusion Centre has been asked by a clinician who has responsibility for a patient with hepatitis C whether the donor of a unit of blood which the patient received in 1984 can be recalled for testing to try to establish the source of the infection. The donor has not donated blood for many years, and there was a general view expressed that it would not be right for the Transfusion Service to attempt to contact a donor in such circumstances, particularly if, as is believed to be the case here, the outcome would be unlikely to affect the patient's treatment. However, an opposite view was expressed that we have a duty of care to the donor, and since there is a reasonable suspicion that the donor may be infected with hepatitis C, we owe it to him or her to bring this to their attention and offer testing and counselling as necessary.

I would be most grateful for your opinion on this matter. If you feel it would be helpful, please do not hesitate to contact me.

Yours sincerely

GRO-C

Dr J Gillon
Consultant Physician

cc Professor J D Cash, National Medical Director, SNBTS HQ Unit, Ellen's Glen Road, Edinburgh

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