

INFECTED BLOOD INQUIRY

SUPPLEMENTARY WRITTEN STATEMENT OF GILLIAN FYFFE

I provide this supplementary statement following my first written statement which was provided in response to a request under Rule 9 of the Inquiry Rules 2006 dated 17 October 2018. It is now provided in response to a request under Rule 9 of the Inquiry Rules 2006 dated 5 July 2022 to provide further information which may be relevant to the Inquiry

Section 1: Introduction

1. My name is Gillian Fyffe. My date of birth and my address are known to the enquiry.

Section 2: Hepatitis C Litigation

2. I wish to provide information relating to the difficulties faced by me, and by those involved in the Scottish HCV litigation group, in attempting to take court action.
3. I was shocked to be advised that the blood transfusion I had received had been infected by Hepatitis C. My immediate concern was to safeguard my family and thereafter to receive the necessary medical treatment.
4. I felt poorly advised regarding what had happened to me and the consequences for my family life. I also felt isolated as anytime I tried to speak to any medical staff about why or how this had happened, I was met by a wall of silence.
5. At the point of diagnosis, I was not directed to any point of financial support or assistance for someone in my situation.

6. In discussing my situation with a family friend in St Andrews, it was suggested that, as we could not afford to take legal action, we speak to their lawyers with whom they had a friendly relationship. Their lawyers were the GRO-C Firm Murray & Donald (later to be known as Murray Donald Drummond Cook LLP) who were based in St Andrews.

Section 3: Access to Funding to Litigate

- 7 We contacted Murray & Donald for legal advice in early 1996. From the outset Murray & Donald advised us that that they did not operate a "no win-no fee" type arrangement. We were advised such an arrangement was illegal at the time and that only our first appointment was pro bono.
- 8 We signed up to receive some initial advice under the legal advice and assistance scheme and paid a certain contribution towards this.
- 9 A court action was raised in my name in 1998. It was against the Scottish National Blood Transfusion Service and the Scottish Ministers. At the time, we also enquired about seeking legal aid to raise a Court action.
- 10 We understood that an application would require to be made for legal aid and until that was determined, we would require to meet the legal costs incurred in raising the Court action ourselves. We also understood that we may not be financially eligible to receive legal aid due to the level of our earnings.
- 11 We paid what was required to raise the Court action including a deposit that was due to the Edinburgh court agents (Fyffe & Ireland) instructed by Murray & Donald to get the case into the Court of Session in Edinburgh.
- 12 Murray & Donald kept me updated on what was happening in relation to funding requests made to the Scottish Legal Aid Board (SLAB) by the Scottish HCV litigation Group. I was advised by Murray & Donald that the group were seeking funding from SLAB in order to allow claimants like me to receive legal aid funding to continue to pursue personal product liability claims.
- 13 From my recollection there was a lengthy period of nearly 2 years during which a decision was awaited from the SLAB on any funding for claims such as my own. This resulted in a serious complaint being made

to SLAB by [GRO-A] on behalf of the Scottish HCV litigation Group) in 1999 [GRO-A] was then the Chairman of the Scottish HCV litigation Group.

14 I understand that once the Court action was raised, it was frozen in the sense that no further court procedure was undertaken for the time being. In any event, we could not afford to take it forward if we required to meet the fees and costs ourselves and with no legal aid.

15 By this time, we had already incurred substantial legal costs in taking the claim forward. We were concerned at the further cost that would be incurred to progress it. Our savings had been depleted and we did not have the excess available funds to meet these legal costs. We were already struggling to pay for other pressing and more immediate family expenses and household bills which had to take priority.

16 We had no choice but to leave the Court action in abeyance once it had been raised as we could not afford to continue to fund it at the time.

17 I understand the Court action remains frozen. Following recent enquiries that Thompsons Solicitors have made with my former agents (Murray Donald Drummond Cook LLP), I have been advised that my former agents have now been taken over by the Firm of Thorntons and that Firm no longer holds any paperwork regarding my case.

18 Following further enquiries that Thompsons Solicitors have made with the Scottish Court Service, I have been advised that my court case was archived. I understand it remains frozen and I have been advised that I would now require to submit a freedom of information request to the Scottish Court Service to access further details.

Section 4: Access to Information About Other Litigations

19 On 13 April 2006 a Freedom of Information (FOI) request was made to the Central Legal Office (CLO) on my behalf by Murray Donald Drummond Cook LLP (formerly Murray & Donald).

20 My attempt to access information about other litigations was driven by my motivation to understand the full extent of my situation before litigating further. I wanted to know how and why this had happened to me.

21 I also wanted to find out how other people in the same situation had fared in their attempts to take court action. I did not want to be prevented either from seeking this information or from providing evidence in future as I am able to provide it now.

22 The process that followed in seeking access to this information from the Common Services Agency (CSA) was lengthy and protracted. My access to information was also resisted at every stage by the CSA who appealed the decision made in my favour by the Scottish Information Commissioner (ICO).

23 The stance taken by the CSA in response to the FOI exacerbated the difficulties of my situation. Together with the lack of official acknowledgement to that date, it compounded the fact that, as there had been no recognition of any wrongdoing, no one could understand what we were going through.

24 In the Freedom of Information (FOI) request that was made to the Central Legal Office (CLO) on my behalf by Murray Donald Drummond Cook LLP on 13 April 2006, I was seeking information regarding the following:

- Have any patients who received blood transfusions intimated compensation claims to the Scottish National Blood Transfusion Service?
- How many of the claims have been settled?
- What amount of compensation was paid to each patient whose case had settled?
- How many cases remain outstanding?
- How many of these cases related to individuals who contracted Hepatitis C?
- How many of these claims intimated by patients suffering from Hepatitis C remain outstanding?

25 In their response to my request, the CSA advised that it was refusing to provide this information claiming it was exempt from disclosure under section 36(1) of the Freedom of information (Scotland) Act 2002 (FOISA). It was claimed it was confidential claiming in being held by

CLO as solicitors for the Scottish National Blood Transfusion Service and the Scottish Ministers.

26 The Common Services Agency advised that was no public interest argument which would justify the release of this information.

27 I then sought a review of the CSA's decision.

28 In June 2006, the CSA wrote to advise me of the outcome of their review. They advised that in the last five years no cases had gone to proof and no information regarding settlement already in the public domain. The CSA refused to divulge the information requested claiming once again that the information was covered by legal professional privilege (that is, exempt under section 36(1)).

29 It was also claimed that to my request for information regarding the amount of compensation that was paid to each claimant whose case was settled would prejudice substantially financial interests of an administration the UK.

30 In October 2006 I wrote to the information Commissioner's Office to advise that I was dissatisfied with the outcome of the CSA's review and applied for a review by the ICO.

31 The ICO investigated the matter and issued a decision dated 26 July 2007. The ICO held that the CSA had failed to comply with my request for information and required the CSA to release the information to me within 45 days.

32 The CSA lodged an appeal to the decision in September 2007. I was advised by Murray Donald Drummond Cook LLP that it could take up to 18 months to be determined and I could face another substantial delay in the information being provided.

33 I had no further involvement in the Appeal. In February 2009 I was eventually advised that the CSA had agreed to disclose the information in response to my request for information that had been submitted back in April 2006.

34 The information I received in response to the FOI was detailed in a letter from the CLO to Murray Donald Drummond Cook LLP dated 18th February 2009. I exhibit the letter dated 18th February 2009 **Exhibit WITN0363027.**

35 It stated as follows: -

- Have any patients who received blood transfusions intimated compensation claims to the Scottish National Blood Transfusion Service?

I was advised that there were patients who received blood transfusions who had intimated compensation claims against the CSA as being statutorily responsible to the Scottish National Blood Transfusion Service.

- How many of the claims have been settled?

I was advised that the number of claims that had settled were 14

- What amount of compensation was paid to each patient whose case had settled?

I was advised that the levels of compensation paid to these 14 claimants were as follows: - £90,000, £11,000, £5,000 (interim), £105,000, £10,000, £25,000, £50,000, £15,000, £15,000, £9,000, £18,000, £5,000, £12,000, and £10,000 (all exclusive of adverse expenses).

- How many cases remain outstanding?

I was advised that there were 28 cases outstanding

- How many of these cases related to individuals who contracted Hepatitis C?

I was advised that there were 26 cases relating to individuals who contracted hepatitis C.

- How many of the claims intimated by patients suffering from Hepatitis C remained outstanding.

I was advised that there were 26 cases relating to individuals who contracted hepatitis C that remained outstanding.

36 In my experience to date I would say that one of the main difficulties faced in taking forward court action is the lack of funding to enable a

claimant to obtain the necessary legal advice to take forward their claim if they are not in a position to fund it themselves.

37 Furthermore, I found the process to obtain access to information was not easy or straightforward and resisted by the CSA. As can be seen from the timeline I have provided, it took years of time and effort on my part and by my solicitors, to go through a process I required to undergo before the CSA were forced to divulge the information. I could have easily given up if I had not been so tenacious and intent in seeking answers.

Statement of Truth

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

Signed _____
Dated 8 July 2022

GRO-C