

Statement of Approach:

Selection of witnesses to give oral evidence

Introduction

1. This Statement of Approach explains how the Inquiry will decide who to call to give oral evidence as a person who has been infected or affected.
2. The Inquiry is in the process of obtaining written statements from the many people who have been infected and affected by blood and blood products. The Inquiry expects that there will be approximately 2500 such statements in due course.
3. It will not be possible for the Inquiry to hear oral evidence from each and every one of these witnesses. However, every written statement from a person who has been infected or affected will be read by the Chair and by the Inquiry legal team. Every such written statement will form part of the evidence to be considered by the Chair when making his findings and recommendations. That is the position whether or not the witness also gives oral evidence. Witnesses who are not called to give oral evidence should not think that their evidence is of less value; that is emphatically not the case.
4. When the Inquiry begins to hear oral evidence from 30 April 2019, the first stage of the hearings will be devoted to evidence about the experiences of people who have been infected by blood or blood products or who have been affected as close family members or partners.
5. It is anticipated that over the course of the following three months or so, the Inquiry will hear evidence from around 120 such witnesses.
6. The primary focus of the oral evidence heard during this first stage of the hearings will be on the individual, personal experiences of people who have

been infected and affected, the circumstances in which they (or someone close to them) was infected, and the impact upon them of their experiences.¹

7. The Inquiry expects that there will be further opportunities for people infected or affected to provide oral evidence during later stages of the Inquiry as follows:

- a. The hearings which will follow this first stage are likely to be structured around different aspects of the Terms of Reference. The Inquiry is keen to include the oral testimony of people who have been infected or affected in these hearings, where it is appropriate and proportionate to do so. For example, during the stage of the Inquiry's hearings which focus on consent, communication and information-sharing (Terms of Reference 6 and 7), or on the schemes for financial assistance (Terms of Reference 8), the Inquiry may wish to call a small number of people infected or affected whose evidence is particularly relevant to those issues.
- b. Towards the end of the Inquiry's public hearings, there will be a further opportunity for people infected or affected to give oral evidence (it may be possible to hear from approximately 100 or so such witnesses during this final stage). It is likely that this will be by inviting witnesses to give their evidence by participating in a number of small panels, to discuss where their experiences coincide or differ.

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8. In deciding which witnesses to call to give oral evidence during the first stage of the hearings, the Inquiry's key focus will be the extent to which the oral evidence will assist the Inquiry in fulfilling its Terms of Reference. The

¹ The Inquiry is aware that there are people who, through campaigning, research and other activities over many years, have acquired a substantial knowledge of the wider issues that are being investigated by the Inquiry. That knowledge is highly valued by the Inquiry and the Inquiry's investigative team is keen to work with witnesses in this position. Because the emphasis during the first stage of the hearings is on the personal experiences of people who have been infected and affected, however, witnesses who are called at this point are unlikely to be asked detailed questions about their wider knowledge of the issues under investigation.

principal considerations to which the Inquiry is likely to have regard are (in no particular order) as follows:

- a. Geographical diversity (including the desirability of hearing witnesses from the four constituent parts of the UK).
- b. The desirability of hearing both from witnesses who were infected in consequence of blood transfusions and from witnesses who were infected in consequence of the use of blood products for the treatment of haemophilia or other bleeding disorders.
- c. Insofar as people with haemophilia who were infected through blood products are concerned, the desirability:
 - i. of ensuring that the Inquiry hears from witnesses with mild, moderate and severe haemophilia and those who were referred to as Previously Untreated Patients (PUPS);
 - ii. of hearing about the experiences and circumstances of people who were infected as children as well as those infected as adults; and
- d. of hearing from witnesses whose treatment covers the main haemophilia centres across the UK
- e. Insofar as those suffering from other bleeding disorders or immune deficiencies are concerned, the desirability of calling evidence which covers the range of conditions, severities and treatment centres.
- f. Insofar as people who were infected via transfusion are concerned, the desirability of hearing evidence which covers a range of different experiences – such as transfusion during/following childbirth, transfusion as an emergency treatment and those (e.g. people with thalassaemia or sickle cell anaemia) who received frequent and routine transfusions.

- g. The desirability of hearing oral evidence which covers the range of time periods with which the Inquiry is principally concerned. The Inquiry is keen to select, so far as it can reasonably do so in the available time, witnesses whose experiences cover sufficiently periods in which there were developments in treatment, changes in the source of blood supply, advances in identifying the agents causative of AIDS, or hepatitis, changes in donor selection, screening of donations, introduction of methods of viral inactivation in blood products, developments in scientific knowledge, and developments in the structures in place to deal with patient safety as well as changes in the response of public authorities to the social and financial consequences for individuals of infection and treatment.
- h. The desirability of hearing from witnesses who have been infected with HIV (the Inquiry is keen that the evidence should reflect the different experiences of such witnesses, and should include evidence as to the various treatments for HIV/AIDS).
- i. The desirability of hearing from witnesses who have been infected with HCV (the Inquiry is keen that the evidence should include both those who cleared the infection and those who have suffered the most serious consequences such as cirrhosis, as well as witnesses who can give evidence as to their experiences of the various treatments for HCV).
- j. The desirability of hearing also from people infected with HBV, people who were co-infected, people who were or may have been exposed to vCJD and people who were indirectly infected i.e. infected as the spouse/partner/child of a person given infected blood or blood products.
- k. The desirability of hearing evidence which illustrates issues relating to: testing, treatment and/or research without consent; how people were

given information about their diagnosis; delay in informing people of their diagnosis; the advice given to them; the adequacy of any “look back” exercises; and other issues relating to communication and consent.

- I. The desirability of hearing evidence that encompasses the range of different impacts identified in the Terms of Reference such as physical and mental ill health; bereavement; impact on family life; stigma; career and educational impact; difficulties accessing medical and dental treatment and psychological support; the impact of the actions of the various Trusts and Funds and financial detriment.
9. It is for the Chair to decide which witnesses to call to give oral evidence. Whether a witness is legally represented or not is irrelevant to that decision. There is no room for any “quota” based approach. However, the Inquiry is keen to invite the legal representatives of infected and affected people to put forward suggestions as to which of their clients should be called (together with, if the legal representatives wish, brief reasons for the suggestions) and all such nominations will be considered by the Chair when reaching his decision. The Inquiry is conscious that legal representatives will know their clients best, and welcomes their help in this way in making selections, some of which will inevitably disappoint many of those who would have hoped to give oral evidence.
10. Legal representatives who are assisting their clients to prepare witness statements are encouraged to provide those statements to the Inquiry as soon as they are finalised, and to put forward their suggestions as to who should be called to give oral evidence preferably by 15 February but in any case by 25 February 2019, so that decisions as to which witnesses to call and when can be made as soon as practicable. Those submitting statements to the Inquiry after that date, may still be called to give oral evidence, and legal representatives are invited to make suggestions as to who should be called from amongst their number as those further statements are submitted.

Issued by the Chair on 24 January 2019