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Rt. Hon Dr. John Reid MP,
Health Secretary
Richmond House
79 Whitehall
London
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Date 7th February 2004

Ref: Exclusion of widows from Government favour, rather than legal obligation scheme for
Hep C. Lords 5/2/04

Dear John Reid MP (secretary of state for health)

May I begin this letter by reminding you and asking why? I still have not received a response to my letter dated (28th June 03), requesting an appointment to speak with you concerning the above ex-gratia scheme? I will be instructing my legal advisers to proceed with a Judicial Review of your announcement (23rd Jan 04) with regards to its illegality and unfairness. I repeat my request for an immediate appointment to discuss the above and what I can only describe as your dereliction of duty.

Ministers are elected to uphold the law, not act with profanation or to procrastinate when considering this injustice and legal dilemma.

Anomalies:

- £20,000 considerably less than the figures arrived at in other jurisdictions (e.g. Ireland, Canada) and less than the £50,000 suggested by the Ross committee for the Scottish scheme; also less than the figs for HIV infection.
- Those whose partners died before the August cut-off date (the date the announcement was made that there would be a scheme) are to be left with nothing.

Possible grounds for review:

1. **Illegality:** *as to the widows' situation*, the failure to take account of relevant considerations (loss and financial need), and taking account of irrelevant considerations (saving of public money; too much weight being given to the desire to preserve the principle that no compensation is given for no-fault injuries caused by a public service)

As to haemophiliacs' position, failure to take account of their needs, and the best estimates arrived at by everyone who has tried to calculate these figures; £20,000 appears to be driven by a wholly irrelevant consideration – an estimate as to how much money the govt is prepared to pay out overall, divided by the likely nos. of claimants.

2. **Procedural impropriety:** whilst the Haemophilia Society was consulted, it appears to have been consulted only as to detail – it would appear from Lord Morris' comments in his Feb 2004 intervention in the House of Lords that the HS does not feel it has been consulted about the fundamentals of the scheme. In short, it would appear that the Govt closed its ears to further argument on the fundamentals – who would be compensated and how large the payments would be. And certainly Haemophilia Wales has never been approached in relation to any of the issues.

Irrationality: this is a long shot, but conceivably it could be argued that the scheme is irrational – so unreasonable that no reasonable health minister could have arrived at it. The best support for this ground is precisely the fact that it is meaner than any of the other schemes in other jurisdictions – and a good deal meaner than the UK's own HIV scheme – suggesting that on this issue, the health minister has behaved in a grossly unreasonable way.

Please can we integrate the “many” Moral, Legal and Ethical hypotheses, which may have been discussed by Lords, PM's, MP's, Doctors, Privy Council's, Queens Council and hopefully the Queen, over the past 30 years. Unless the Governor General of Canada, has not deemed it necessary to inform the Queen, that they have gave her consent, for a Full Public Inquiry into the Contamination of British Commonwealth Citizens with imported Blood Products. It may help if ministers start their debate with a look back at the history of this matter so all members of this continuing debate, will have a sound understanding of the chain of events which led to this current position after 30 years.

This question hits the nail on its head, Lords 5/2/04 Lord Addington: My Lords, do the Government accept that we have been hearing Questions on this subject for a long time? The impression that many of us have gained from listening to the Answers is that the Government have moved slowly and only when pushed. They seem to have been hiding behind a curtain of legal restriction, and have not been addressing the point that people have died and are dying through no fault of their own, but through government action. Do the Government accept that, in future, quicker action should be taken and that there should not be this ritual dance around legal niceties?

It's a sad fact that the only hypothesis put forward “entirely factual” are by the patients infected, so I would strongly advise the ministers to concentrate on the facts which have been well documented, ref; Krever Inquiry (Canada), Lyndsey Tribunal (Southern Ireland).

I would ask the minister to consider three points of which I think may help when making their conclusions.

1.
Morally, was it right to sacrifice and exclude a minority patient group from a safer supply (British donor population), to protect the majority of the population from the “higher known risk” from imported blood products?
2.
Legally, is it right to hide behind the privileges of Government to conceal any embarrassment over the handling of this matter?
3.
Ethically, was it right for the medical profession to avoid telling patients the risks from contaminated products because they had no test or treatment?

Can I also ask if the Queen and the present Government are aware of the feeling of “discrimination” felt by members of the Commonwealth, when approval for one member to hold a Public Inquiry is not offered to all members of this Commonwealth? This basic principle of “Human rights” seems to have been overlooked by present and former Governments, also for that matter, by the honorary members of the British Judicial System.

As I am not privy to the minutes of the meetings and the content of Lord Owens letters to ministers and the Department of Health, or the findings of the internal inquiry with reference to his remarks. The only rational comment, which comes close to an explanation for this tragedy has come from Lord Owen, he seems to think, it was some kind of “systematic failure”.

A vague analogy at best, from someone who was so personally involved in decisions made during the Labour government of (1974-1979). If the current Secretary of State for Health would indulge the haemophilia community by showing them a copy of the product safety licence issued by government, required under the Medicine Act of 1968 for all imported products to the UK for medicinal use, then we may have our first clue to how this so called systematic failure started.

A plea for some sanity after 30 years of debate would have been my opening gambit in the House of Lords on Thursday (5/2/04). As the fact that the present, and past, governments and members of the House of Lords with all their legal boffins, can't sort this bloody mess out. Then I think it is about time we gave the public an opportunity to conclude this matter, once and for all, what ever the findings may be.

For no other reason then, I think the haemophilia community deserve an explanation after their display of humility and patience over the many years that have past.

It is not surprising that there is so much confusion concerning this matter, when even the current Lord Warner (minister for health), 24/1/04 and the Prime Minister, Tony Blair PM need to be corrected on their use of the word compensation (quote;) 14/11/01.

"Government have made it clear there is a limit to the amount of compensation that we can pay". The PM was referring to the haemophilia population who over the past 25 years have been infected with HIV, Hep C and now it seems vCJD by contaminated blood products given by the NHS. As I'm sure the PM is well aware that compensation can only be made when it is proven that Government are responsible, for what has been seen by many ministers from all party's, (quote) Lord Morris **"This is the worst, treatment disaster, in the history of the National Health Service, a tragedy, indeed"**. Sadly this has never been resolved in a court of law, due to the fact that government refused to allow evidence to be submitted, as requested in Rule 14, of the British Legal System. **Re: Sunday Times Article 5th August 1990 page 1.7: "Haemophiliacs demand end to official secrecy"**.

I can forgive the PM for his Freudian slip due to the fact of the current World News and his involvement in trying to right an injustice to all Faiths of this Global Nation we live in. So if I may suggest- no- Request, that the PM makes a correction to this comment in the next PM question's as I am sure he would agree it does the Government great harm to be seen misleading the public on matters of this tragic nature.

Lord Morris has been the only person speaking from the heart about this matter, but only when you study your dictionary, do you discover what he really means when he said, this is,

"(THE WORST)-(TREATMENT)-(DISASTER)-IN - (THE HISTORY) - OF (THE NHS). (A TRAGEDY) - INDEED."

This is "the worst" possible case, where by a process or manner of behaving towards, or dealing with a person's "treatment". Which resulted in a complete failure of persons, or enterprise, that ends in "disaster". That only, by looking into and making a systematic and critical account of research into the past events in "history".

Do you discover that the (NHS), a system of national medical care, paid for mainly by taxation, failed in its duty of care. This is a "tragedy" or crime "indeed".

As the system is the responsibility of the DOH and Government, then they have a legal obligation to conclude this matter, not exclude, widows.

I think any rational person would have to agree, in the current situation, the Haemophilia community hold the Moral High Ground. After listening to the debate last Thursday and many more over the past 30 years, in both chambers of our Parliament. This fact is probably an even bigger "tragedy" then the issue they have been discussing.

It has become untenable to defend government's arrogant assumptions that they hold the moral high ground, concerning this matter.
Especially when you the current secretary of state for health, concedes on the BBC (5/2/04) that, "the NHS has been grossly under funded over the past 50 years.

May I remind you that the Labour government of (1976-79) falls within his damning admittance of fault, also I might add it is worth considering Lord Owens remark " if this issue ever gets to a court of law government would not have a leg to stand on legally"
All I know for sure is the fact that "shortly", one or the other of the two departments, of this or future cabinets, will have to show some humility to eat their humble pie, because in my current state of health, I could barely throw my little book of calm at them.

As then and only then! Will this nightmare end and justice will finally be done. More importantly finally justice will be seen, to be done, by the few remaining co-infected people with haemophilia and the partners of those who have already died.

I still await your response.

Yours Sincerely,

GRO-A

Wish list of people I would like to discuss this with

1. James Callaghan (Lord)
2. Dr David Owen (Lord)
3. John Ried (MP)
4. S. Orme (Lord)
5. Mr Justice Ognall (QC)
6. Mr Justice Rougier (QC)
7. Kenneth Clarke (MP)
8. Sir Donald Acheson (CMO)
9. Margaret Thatcher (Baroness)
10. Tony Blair (PM)

Why No health minister 76/79

Public spending, April 76 - May 79-Social Security/Social Services.

David Ennals, Secretary of state for Social Services 76/79
Conduct - misadministration - drug addiction 76/79