

Witness Name: Samantha Baker

Statement No.: WITN0713001

Exhibits: WITN0713002-WITN0713009

Dated: 8 November 2018

INFECTED BLOOD INQUIRY

FIRST WRITTEN STATEMENT OF SAMANTHA BAKER

I, Samantha Baker, team leader within the Scottish Government with responsibility for infected blood, will say as follows: -

1. An account of the archiving system of the Organ Donation, Blood Policy and Abortion Services.

1.1 The archiving system of my team – and previous teams which have dealt with matters relating to infected blood - is the same as the standard system for the rest of the Scottish Government. I have set out information below on this in relation to our paper files and also to our electronic files - known as the electronic Records and Document Management (eRDM) System. More details of our current records management policies are available in the Scottish Government's Records Management Plan [WITN0713002].

Legacy Paper Files (pre-eRDM)

1.2 When a Branch (in other words a team within the Scottish Government) sends a file to central storage (effectively into the ownership of the Records Management Branch) they would mark an instruction on the file to either:

- Destroy the file;
- Set it for a first review – the file would then be reviewed within 5 years of closure;
- Set it for second review – the file would be reviewed between 5 and 25 years of closure (note: a file was able to go straight to second review without a first review if the team responsible felt on closure of the file that it would not be possible to make a decision on its retention and disposal within 5 years. In that case, they would opt to review it at some time between 5 and 25 years after closure);

- Send the file to the National Records of Scotland (NRS) for permanent preservation.

1.3 Should they opt for one of the review options, the file would be stored for the appropriate period and then:

Prior to 2001

- the policy team would have been invited to carry out the review at the appropriate time and decide whether to mark it for destruction at that point, set it for a second review (if it was a first review), retain it in the team or mark it to be sent to NRS for preservation.

Since 2001

- the Records Management Team would carry out the review at the appropriate time and decide whether to mark it for destruction or to be sent to NRS for preservation at that point.

1.4 When a file was/is being reviewed by either the policy team or the Records Management Team, the individual reviewing the file would need to consider the following when deciding how long to retain a record before final disposal (note: since 2001 the Records Management Team have been reviewing files, but there has sometimes been the requirement to refer some of the below questions back to the responsible policy team before taking a decision):

- Is the record still required for the day to day running of the team/Department?;
- Is it required for legal purposes (e.g. contracts)?;
- Does any legislation or official regulation govern how long it must be kept?;
- Is it likely to be of ongoing or recurrent public interest?

1.5 The individual should also refer to the paper records retention schedule (see Scottish Government paper records retention schedule pre-eRDM document which is attached to our Records Management Plan [WITN0713003] prior to making any decision on whether the file is to be destroyed or should be sent to NRS for permanent preservation. Note: NRS will advise as to whether they feel the file meets the criteria for permanent preservation; if it doesn't we have to decide whether to challenge that decision or accept it and arrange for the file to be destroyed.

Files created and stored on our eRDM system

1.6 My team began using the eRDM system in 2006. All files are managed in line with the records schedule for the file type which has been attached to the file on its creation. Details on this can be found within the File Type Guidance which accompanies the Scottish Government Records Management Plan [WITN0713004]. The majority of my team's files will be 'policy' files, although some may for example contain only correspondence. The Information Management Support Officer for the Division is responsible for selecting the file type which is to be attached to a file when requesting its creation. Our eRDM system will manage the retention and disposal

schedule of the information held on the file from there with input from the Records Management Team.

2. A list of all Organ Donation, Blood Policy and Abortion Services repositories, including those storing documents and information in hard copy, electronic format, and any other form (whether the documents and information stored within the repositories are considered relevant to the Inquiry's terms of reference or not), together with an indication of the quantity of documents and information stored at each facility.

2.1 As for question 1, the great majority of our paper files are either stored by Records Management team in one of their repositories or, where it has been decided that they should be preserved permanently, they are sent to the National Records of Scotland (NRS). There are a number of paper files stored in locked cabinets within St Andrew's House which contain information, some of which are or may be relevant to the Inquiry. There are also some retained files in locked cabinets within St Andrew's House which contain information regarding the Penrose Inquiry proceedings; almost all of this information which was judged relevant by the Inquiry will form part of the Penrose Inquiry record held by NRS.

2.2 As above, apart from email inboxes (which are used for short-term storage), since 2006 our documents are all stored in the Scottish Government's eRDM system (Objective). I have attached lists of, firstly, paper files **[WITN0713005]**, secondly, the paper files contained within locked cabinets in St Andrew's House **[WITN0713006]**, and, thirdly, electronic (eRDM) files **[WITN0713007]**. This includes a number of files which do not belong to my team, but based on the file titles could contain some relevant information. However, it has not been possible to look at any of the files and so I cannot confirm this at this stage. I have marked in bold within the spreadsheet of eRDM files **[WITN0713007]** each of the files which belongs to my team. We have also added, as requested, the number of documents in each file where this is available to my team; however, in the case of many of the files which do not belong to my team, we do not have access to these files as they are only accessible to certain staff within Scottish Government Legal Directorate. It is also worth noting that, while I have included all the files we have, checks have shown that some of these files do not actually contain any documents – for example, there were six files opened in eRDM regarding the Penrose Inquiry warning letters, but litigation colleagues have informed me that only the first file contains any documents. As requested, I have included files relating to abortion and organ donation in the lists of eRDM files, although these do not contain information likely to be relevant to the UK Inquiry's terms of reference.

2.3 Please also note that within the paper file lists **[WITN0713005]** and **[WITN0713006]**, I have marked in bold those files where the file name contains personal data – in other words the names of individuals (these are all files in the series with the cipher NQL/1). Please ensure that those individuals' names are redacted before these file lists are shared more widely. I have not marked in bold papers regarding the named individuals whose deaths were considered by the

Penrose Inquiry as details about them are in the Penrose Inquiry report so their names should not need to be redacted.

3. An account of the process for archiving Organ Donation, Blood Policy and Abortion Services documents and information at National Records of Scotland (NRS).

3.1 National Records of Scotland (NRS) is a Non-Ministerial Department. NRS has been selecting government records for preservation for many years. The archiving process for Scottish Government records is agreed between the Scottish Government and NRS, and Scottish Government retains responsibility for files following transfer – these do not pass into NRS ownership. I am therefore responding to your question using advice I have received from NRS.

Legacy Paper Files

3.2 Once paper files have been reviewed by Scottish Government all files marked for destruction or preservation pass through the NRS archiving appraisal process. This process, which falls under the overarching 'NRS Policy for the Selection of Government Records' [WITN0713008], is designed to ensure that records which have sufficient historical value are permanently preserved. This Policy includes a detailed set of criteria used to identify records for permanent preservation at NRS (see Annex 1 of the Policy).

3.3 The NRS appraisal process differs depending on the disposal decision assigned by Scottish Government staff:

- Files marked for preservation – all 'Preserve' files are physically inspected by NRS to assess their content. Files which meet the criteria for permanent preservation are selected for transfer to NRS. Files which do not meet the criteria are rejected by NRS and returned to Scottish Government for disposal. SG staff may contest NRS decisions not to select files before their final disposal.
- Files marked for destruction – lists of all files marked for destruction are reviewed by NRS. The lists provide basic details of each file – the Scottish Government file reference (departmental cipher), the file title and theme. Based on these details, NRS staff select some files for physical inspection. Following inspection, any files which meet the criteria for permanent preservation are selected for transfer to NRS. Those files which are not selected for inspection from lists, or which are inspected and rejected by NRS, are returned to Scottish Government for disposal.

3.4 As well as the criteria for permanent preservation set out in Annex 1 of the Policy [WITN0713008], NRS archivists also follow more specific procedures when appraising Scottish Government files. For example, files which only contain routine administrative information, printed material available elsewhere (such as official publications or excerpts from Hansard), or are routine, unexceptional case files are

not usually selected for permanent preservation. Currently, all NRS staff who appraise Scottish Government records are professionally qualified archivists.

3.5 All files remain in the custody of the Scottish Government Records Management Team while NRS appraisal takes place. Following completion of the NRS appraisal, files confirmed for preservation at NRS are reviewed by the Scottish Government Records Management Team to establish whether any exemptions (under the Freedom of Information (Scotland) Act 2002) prevent their release to the public. This sensitivity review also confirms the date that exemptions fall away and files can be opened. Following sensitivity review, the files are transferred to NRS for secure storage and cataloguing. As part of the cataloguing process files are issued with new NRS references which are also added to the Scottish Government Legacy Paper Files database. The NRS catalogue is available online in order that the public are aware of the existence and status of the files (i.e. available for viewing or closed for a period of time as a result of an applied exemption(s)). Files which do not contain exempt information are available for viewing in the NRS public search room under the terms of the NRS 'Historical Search Room Information and Regulations' [WITN0713009].

3.6 Files held at NRS are transferred under the terms of the Public Records (Scotland) Act 1937. This means they can be temporarily retransmitted to Scottish Government if required for business purposes.

Files created and stored on eRDM

3.7 No files created on eRDM are due to be sent to NRS for permanent preservation as yet. It is anticipated that the first batch of eRDM files will be sent to NRS for archiving in the year 2020. NRS archivists have inspected the eRDM File Plan against the criteria outlined in Annex 1 of the Policy [WITN0713008] and agreed the file types which should be transferred to NRS for permanent preservation.

4. An account of Organ Donation, Blood Policy and Abortion Services retention and destruction policies and processes from 1948 to date, together with an account of any material known to have been destroyed with potential relevance to the Inquiry's terms of reference. Please also provide copies of Organ Donation, Blood Policy and Abortion Services destruction policies from 1948 to date as exhibits to the written statement.

4.1 Our Records Management Plan contains details of how we manage our Legacy Paper and eRDM files [WITN0713002] and the accompanying paper records retention schedule pre-eRDM document [WITN0713003] and File Type Guidance for eRDM files [WITN0713004] contain details of the timescales for retaining, reviewing and destroying different types of policy files. This Plan includes information on retention and destruction policies as set out in response to question 1 above. Unfortunately we have been unable to locate any records which confirm the policies that business areas applied to the retention and destruction of their files prior to the introduction of the corporate record schedules referred to in our Records

Management Plan. The statement provided by Ben Plouviez, the Scottish Government's former records manager, to the Penrose Inquiry [PRSE0001465] provides information on our records management, retention and destruction policies, along with an account of material known to have been destroyed which could be relevant to the UK Inquiry. This statement remains relevant and we do not believe that any material relevant to the UK Inquiry has been destroyed since that statement was made. Please note though that the IMPReS system referred to in the statement above has been replaced by the Legacy Paper File database.

Statement of Truth

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

Signed: GRO-C _____

Dated 8/11/2018