

Witness Name: Dr James McMenamin
Statement No.: WITN3495003
Exhibits: None
Dated: 9th March 2022

INFECTED BLOOD INQUIRY

WRITTEN STATEMENT OF DR JAMES McMENAMIN

I provide this additional statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 2nd November 2021.

I, Dr James McMenamin will say as follows: -

Section 1: Introduction

1. Dr James Joseph McMenamin, DOB [GRO-C] 1964, GMC 3244489
My professional qualifications are as follows; MBChB (Glasgow), MRCP, MPH (Glasgow), DTM&H (London), FFPH (UK).
I am Head of Infection, Public Health Scotland, Consultant Epidemiologist (Respiratory Team) and Strategic Incident Director for COVID-19, Public Health Scotland.
I am based in Meridian Court, 4th Floor, 5 Cadogan Street, Glasgow, G2 6QE and have worked there as a Consultant Epidemiologist since 1st October 2003. Prior to this I was a Consultant in Public Health Medicine in Greater Glasgow Health Board from 01/08/2001 to 30/09/2003.

Section 2: Responses to criticism of Mr [GRO-B] outlined in Witness Statements Nos. WITN2239012 & WITN2239013

2. Thank you for the opportunity to respond to the further written statements provided by Mr [GRO-B]. The further criticisms that I have been asked to comment upon follow receipt of my initial statement and provision of supplemental information provided to Mr [GRO-B].
3. I would make the following comments;

In response to Witness Statement WITN2239012

4. I have carefully examined the consent to post-mortem signed and dated by Mr [GRO-B] [GRO-B] for his son. This clearly states the following; "...and to the removal of tissue, if required, for the treatment of other patients or for medical education and research."
This further states that "I know of no previously-offered objection to such examination either on the part of the deceased, his/her next of kin or Executor-in-charge of burial arrangements or other near relative."

5. My clinical practice for obtaining consent from any relative was and remains reading out all of the consent form and explaining this to the person giving this consent. Mr **GRO-B** signed the consent form after I read out and explained what brain tissue and CSF samples would be taken and the need to look at these in the neuropathology laboratories as research in this area could be important in particular for his identical twin son. I clearly recall doing this when I spoke to Mr **GRO-B** as I was particularly conscious of the need to obtain their valid consent since seeing clearly through tear filled eyes is difficult for any relative giving consent.
6. In response to the specific paragraphs that Mr **GRO-B** offers further criticism in this response I make the following points;
7. Paragraph 6 – "...taking of spinal fluid may be beneficial as I had his twin brother's health to consider." I have already stated above that the word "tissue" was included in the consenting process and that Mr **GRO-B** signed this document. It seems possible that Mr **GRO-B** has recalled the part of the conversation where I mentioned "spinal fluid" but not the reference to removal of brain tissue. This is consistent with my original statement. I have no reason to challenge the honesty of his recollection. It is his memory but not my memory of what was covered in the process of obtaining informed consent.
8. Paragraph 7 – "...spinal fluid...body parts including brain were not going to be removed". I refer to my response above to paragraph 6. I do recall explaining that brain tissue was required to allow examination e.g. under the microscope and subject to other tests to attempt to reach a diagnosis for his son's death – Mr **GRO-B** accepts in paragraph 6 that the rationale for this being that he "...had his twin brother's health to consider".
9. Paragraph 8 – "somehow I don't think I would ever have been told". I reject this response. I have already provided in my original statement that routine care of Mr **GRO-B**'s surviving son continued to be offered by Dr Kennedy as his consultant. If I had not met Mr **GRO-B** by chance either I or Dr Kennedy would have passed this information to Mr **GRO-B** or his wife at the next routine appointment as the findings were important for his remaining twin son.
10. Paragraph 10 – "...extent of post-mortem, the samples taken and how some were sent to medical schools around the world...". In my statement I have already explained that the natural history and treatment of HIV infection were still being described during the period in which Mr **GRO-B**'s son deteriorated and sadly died. Rare neurological conditions like that of his son would be subject to intensive investigation by experts across the whole of the UK. To do so meant the sharing of slides of brain tissue/tissue and CSF by these experts in centres across the UK as research was important to inform management of other patients – on a very personal basis particularly of potential importance for an identical twin son. Mr **GRO-B** consented to this sharing for research in his signed consent form. The taking, retention and destruction of tissue and samples is governed by the appropriate bodies in liaison with the Royal Colleges in the UK. The detail of these investigations, including the locations where the tissue would be sent, are not matters that I was aware of at the material time. These investigations would have been arranged by Dr Nichol at the Department of Neuropathology at the Southern General Hospital. For my part, the clinical priority was obtaining the results of the investigations in order to assist with the treatment of the twin brother.

11. Paragraph 11 – Whilst Mr **GRO-B** states that he had “...not given informed consent to the post-mortem; instead we were purposely misled, kept in the dark, and our wishes ignored and disrespected in total”, my response to Paragraphs 6, 7 and 8 I refer. Informed consent was obtained, there was no attempt to mislead, information was conveyed to Mr **GRO-B** in advance of any routine clinic attendance and the wishes of Mr **GRO-B** and his wife met – conduct a post-mortem examination to provide information to him re the deceased “as he had his twin brother’s health to consider”.

In response to Witness Statement WITN2239013

12. Further to my response to Witness Statement WITN2239012 I would make the following responses;
13. Paragraph 6 – Mr **GRO-B** states that Dr Kennedy and I were “...determined to persuade me and my late wife to agree [to a post mortem]”. I can speak for my intention and Dr Kennedy should speak for his intention. I refer to my response to WITN2239012 in which Mr **GRO-B** accepts in paragraph 6 that the rationale for this being that in relation to the death of his son he “...had his twin brother’s health to consider”. I wholeheartedly agree with Mr **GRO-B** that he, myself (and almost certainly Dr Kennedy – but he should confirm) as medical practitioner(s) caring for both of his sons had this same aim in proposing a post-mortem. This was not as stated being “...determined” but rather presenting information and rationale to allow Mr **GRO-B** and his wife to consider this and if appropriate then proceed to give informed written consent. Mr **GRO-B** did provide this signed consent.
14. Paragraph 7 – Mr **GRO-B** states that neither he nor his wife “...fully understood what we were being asked to agree to”. In my response to WITN2239012 I have outlined that I covered in obtaining informed consent that Mr **GRO-B** signed the consent form after I read out and explained what brain tissue and CSF samples would be taken and of the need to look at these in the neuropathology laboratories as research in this area could be important in particular for his identical twin son.
15. Paragraph 8 – Mr **GRO-B** states that as “...I did not complain points to the fact I did not know. I was in the dark” but as I have covered in my responses to WITN2239012 and in these prior paragraphs of response to WITN2239013 that I had explained and made clear the process during obtaining informed written consent and in imparting the findings of the post-mortem. I further refer to my response in my original statement in paragraph 14 **GRO-D**
- GRO-D**
16. Paragraph 9 – Mr **GRO-B** states that in the future there should be revision of the written consent form for post-mortem; “It would be useful to set out in straightforward language, in writing, why a post mortem is required, the potential “benefits”; and the downside to not giving consent.” This is a general comment which I would suggest be relayed to NHS GGC Board and NHS Scotland should this be felt appropriate.
17. I hope this further background provides **GRO-B** and his family with explanation which is to their satisfaction. I reiterate that I cannot begin to understand the pain and suffering of the family and I am sorry that **GRO-B** had not raised any of these concerns with me directly at the time or in the period that followed.

I would have been only too glad to discuss any of these concerns, I wish him and his family nothing but the best for the future.

Statement of Truth

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

Signed

GRO-C

Dated 09/03/2022