Witness Name: Nick Fluck
Statement No.: WITN4746003
Exhibits: WITN47466004-009
Dated: 26/09/2023

INFECTED BLOOD INQUIRY

WRITTEN STATEMENT OF NICK FLUCK

I provide this statement on behalf of NHS Grampian in response to the request under Rule 9 of the Inquiry Rules 2006 dated 20 March 2023.

I, Nick Fluck, will say as follows: -

Section 1: Introduction

Please set out your name, address, date of birth and professional qualifications

1. My name is Nick Fluck my date of birth is GRO-C 1964, and my professional qualifications are BSc, MBBS, DPhil, FRCP. My address is NHS Grampian, Summerfield House, 2 Eday Road, Aberdeen, AB15 6RE.

Please set out your current role at the Lothian Health Board and your responsibilities in that role.

2. My current role is as Medical Director with consequent responsibilities and as Responsible Officer for NHS Grampian.

Please set out the position of your organisation in relation to the hospital/other institution criticised by the witnesses (for example "NHS Foundation Trust ('the Trust') operates from Hospital X and Hospital Y (formerly Hospital Z)").

3. NHS Grampian is responsible for healthcare provision for the population of the Grampian area.

Section 2: Response to Criticisms by W4996

1. **The criticisms I have been asked to address are:**

Paragraph 17

In hindsight, I question why my Hepatitis C infection was not identified sooner. Having obtained an expansive set of medical records from GRO-D Infirmary, I have discovered that I had abnormal liver function tests in 1990. I have also seen, much to my shock and in fact horror, that I was found to be positive for the virus in 2003. This is reflected on page 2 of the letter referred to above at WITN4996002. Yet, it wasn't until 2013 that this information was communicated to me.

Paragraph 18

I do not think the medical staff were transparent about why I was to be tested then. I was led to believe that I was part of a random sample of patients from the practise who were being tested for the virus. Yet it transpires that I was part of a Hep C follow up project when my PCR was rechecked. Why was I not told about my positive status in 2003? I could have been treated earlier if that was the case. Now I wonder how much of an impact the virus being in my system had on my kidneys and subsequent cancer diagnosis.

Paragraph 19

I was so disappointed to realise that medical professionals were aware of my infection in 2003 but omitted to inform me for another 10 years. From looking at my medical notes, I can see that I was in a 'ward 25' in 2003. I think this must have been when I was having one of my craniotomies. Catherine thinks this was a recovery ward. It was during this time that my infection was first identified. A Fibro scan in 2015 indicated cirrhosis but I am unable to recall if I was given the extent of the damage, if any.

The concerns highlighted in paragraphs 17, 18 and 19 of W4996's statement mainly relate to the initial identification of Hepatitis C infection and the delay between this date in 2003 and the point at which she was informed about the diagnosis in 2013. I have been able to review copies of all records held by NHS Grampian and would like to set out the events that relate to the initial identification and then the 10 year delay in informing W4996.

On 30th November 2003 at 22:30 W4996 was seen by the 'Out of Hours' GP service known as G-Docs. She had suffered a seizure the night before and now had a high temperature in the context of loin pain (WITN4746004). She was known to have had a neurosurgical operation with subsequent epilepsy and was receiving anti-epileptic medication. She was referred into the GRO-D Medical Assessment Unit and admitted to Ward 25 under the care of a consultant General Physician who was also a Kidney specialist (WITN4746005 and WITN4746006). The working diagnosis was a kidney infection (Pyelonephritis) and she was started on antibiotics. There was also a concern that her epilepsy was not well controlled and a neurology opinion was requested. She was seen by the neurology registrar on 1st December 2003 (WITN4746005). He noted that one of her liver enzymes was elevated (GGT) and felt that this was most likely due to a drug effect from one of her anti-epileptic medications (Phenytoin). He suggested that some additional tests were arranged to look at other causes of liver dysfunction which included Hepatitis B and C serology. She clinically improved and with resolution of her urinary infection and some improvement in her GGT. She was reassessed by the neurology consultant who recommended changes in Phenytoin dosage and asked that the GGT be followed up by her GP and that she be informed if there were any issues (WITN4746005). She was discharged on 3rd December 2003. The discharge letter was dictated by the Senior House Officer on 4th December 2003 and typed on 18th December 2003 (WITN4746007). He recorded the admission diagnosis as Pyelonephritis and Epilepsy. The abnormal liver enzyme test was noted and ascribed to the anti-epileptic treatment with recommendations of follow up as set out by the neurology consultant. The outstanding results for the Hepatitis B and C serology were not noted and no General Medical follow up was arranged. The Hepatitis B and C serology result would have come back as a paper copy to either Ward 25 or the admitting consultant's office (WITN4746008). The report indicates that the request was made on 2nd December 2003 and the report was issued on 17th December 2003. The result confirmed that the patient was Hepatitis C positive (Serology + PCR) and should be referred to a specialist clinic for assessment. This paper report was filed in the patient records along with detailed guidance notes outlining advice to infected patients and clinicians (WITN4746009). It is not possible to determine when these were filed or if they were seen by one of the doctors working on Ward 25. It is clear that we cannot find evidence in the available notes that any action was taken in light of this result. I would conclude that this was a very unfortunate administrative error as it seems highly unlikely that any doctor seeing this result would have not made some record or followed up with a referral in line with the recommendations on the report. In summary the Hepatitis test in 2003 was carried out as an investigation in the light of an abnormal liver enzyme following an acute medical admission. The clinical suspicion was that there was an alternative cause

for that enzyme abnormality and the expectation was that the result would be negative. The positive result arrived two weeks after discharge from hospital and was at some point after that filed in the notes. There is no evidence that it was seen by a clinician and no actions were taken. This is most likely a significant administrative error and I would like to offer my sincere apology for all the subsequent distress that this has caused.

Following this episode of care W4996 was seen by a number of specialist teams over the next decade. The main specialists involved were neurology, dermatology, and rheumatology. A review of all correspondence held in the copied records found no evidence that the positive Hepatitis C result was referred to or recorded again. Abnormalities in liver enzymes were recognised and attributed to medications used to manage either epilepsy or arthritis. It is likely that the paper case record file was large and the Hepatitis C result would not have been easy to see without a deliberate review of the records. During this follow up she was not seen by any of the doctors who had originally requested the investigation.

The retest for Hepatitis C was carried out in 2013 by the patient's GP in response to a communication from our Public Health team. The background to this communication was that in 2013 Direct Anti-Viral Drugs were becoming available and the Public Health Team were keen to ensure all patients who might be eligible for this treatment had an opportunity to be assessed. The Public Health team set up a 'Look Back' project where they screened the virology results of all patients in Grampian between 1997 and 2012 who had tested positive for Hepatitis C using a serology test. Further they examined the electronic records to identify what follow up arrangements had been in place for those patients. They categorised individuals into 13 groups based on laboratory and clinical follow up status. W4996 was identified as a 'Category A' patient (*HCV antibody positive and HCV PCR positive, no record of referral to specialist Liver Service*). W4996's GP was written to by a Public Health consultant outlining this information and how it had been identified. Her GP repeated the test and referred her on 1st October 2013 for specialist assessment. He also recorded that neither the GP practice or the patient were aware of the result from 2003. In summary the eventual recognition of the Hepatitis C diagnosis was a proactive action set up in 2013 to help identify patients who might benefit from newly available treatment. Specifically it was unconnected with the original test in 2003 and was not a long term follow study or project but a new 'look back exercise'.

I would like to restate my profound apology on behalf of NHS Grampian. Our failure to act on the initial test in 2003 was very regrettable and will have caused significant distress. I

do not think that this was through any act of poor clinical judgement, but most likely started with an administrative filing error. The form of medical records at that time and the relative state of computer results systems, from that time, would have contributed to the failure to recognise this result over the following years until it was picked up by a proactive public health initiative in 2013.

Section 3: Other Issues

4. None.

Statement of Truth

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

Signed GRO-C

Dated 26/09/2023

Table of Exhibits

Date	Description	Exhibit Number
30/11/2003	Document from correspondence file – page 214	WITN4746004
December 2003	Notes – pages 23-29	WITN4746005
December 2003	Notes – page 37	WITN4746006
18/12/2003	Letter to GP – page 210-213 correspondence file	WITN4746007
17/12/2003	Report	WITN4746008
	HCV Guidance	WITN4746009