



Witness Name: Vijay Kumar Mehan

Statement No.: WITN5599001

Exhibits: Two

Date: 24 March 2021

INFECTED BLOOD INQUIRY

SECOND WRITTEN STATEMENT OF VIJAY KUMAR MEHAN

I provide this statement in response to a request under Rule 9(3) of the Inquiry Rules 2006 dated 13 November 2020.

I, Vijay Kumar Mehan, will say as follows: -

Section 1: Introduction

1. My full name is Mr Vijay Kumar Mehan and I live at GRO-C Bristol, GRO-C and my date of birth is GRO-C 1972. On 15 October 2001, I qualified as solicitor of the Supreme Court of England and Wales.
2. Upon qualification I was employed by Messrs Pattinson and Brewer, as a specialist in Claimant Personal Injury. In November 2005, I joined Messrs Fentons Solicitors LLP, again as a Claimant Personal Injury solicitor. I attained salaried partnership at Fentons in 2011. By September 2013, Fentons LLP was acquired by Australian legal firm Slater & Gordon Solicitors LLP, whereupon I became a member of the Alternative Business Structure ["ABS"]. I left Slater and Gordon in June 2016 and joined Co-op

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Legal Services Ltd, in July of the same year, where I am currently still employed. Whilst at Co-op legal Services Ltd I progressed in February 2017 from specialising in Claimant personal injury work, to being Head of Personal Injury and Civil Litigation.

3. I have been a member of the Law Society of England and Wales since my qualification in October 2001 and was a member of the Association of Personal Injury Lawyers [“APIL”] from 1999 to around June 2016.
4. I confirm I have not been a part of or provided witness evidence to any other Inquiry in relation to HIV, HBV, HCV or vCJD, other than being Secretariat to the Independent Public Inquiry into NHS Supplied Contaminated Blood and Blood products, chaired by the late The RT Hon Lord Archer of Sandwell QC.

Section 2: Your role as a Panel Member on The Archer Inquiry

5. My role as Secretariat to the Independent Public Inquiry, was to facilitate and support all the administrative needs of the three members of the Tribunal panel, so they could carry out their work. To be clear I was not a part of the three-person Tribunal panel.

It is important to note that at the time of the Independent Inquiry being conceived in late 2006, I was still working as a full-time solicitor handling my own significant client caseload, and this remained the position until the report was published on 23 February 2009. Hence, I carried out all the administrative tasks on a pro bono basis, by fitting the same in during an often extremely busy working week. The Secretariat role was therefore not my full time employed position but a voluntary one which I was happy to fulfil, absorbing many hundreds of hours of additional work.

Operationally, my tasks included assisting with the formation and maintenance of the Inquiry website, the on-line witness questionnaire, liaising with each member of the Tribunal to help organise diaries, and the

booking of meeting rooms through the Palace of Westminster. I also assisted in the selection of those who were to be invited to give oral evidence (both lay and expert witnesses). I organised a transcription provider so all oral witness evidence would have a written recorded and liaised directly with each witness by sharing their draft witness statement (where provided) with the Tribunal panel. In addition, I collated and shared documentary evidence supplied to the Tribunal with each of the panel members. I basic terms I had the day to day function of operating the Inquiry. I also typed and assisted with editing of the vast majority of the Archer Inquiry Report.

Therefore, any and all administrative needs were met by me and me alone. I did not have the benefit and support from a team of lawyers or other staff to aid the work I was doing.

Section 3: The Department of Health's engagement with The Archer Inquiry

6. The Infected Blood Inquiry refers me to Page 9 of the Report published by the Archer Inquiry ("the inquiry"), where the Report states, "The Department of Health ["DoH"] maintained its view that the Inquiry was unnecessary, and declined to provide witnesses to give evidence in public, but they supplied documents which we requested, and responded to questions from us and sent representatives to three private, informal and unminuted meetings."

- (a) "Please confirm the names of the officials, and their roles, that the Inquiry engaged at The Department of Health":

As described at paragraph 2, I changed employers in July 2016 to my current employers, Co-op Legal Services Ltd, and as such I do not now have access to any of my previous emails or network drives, where I might have saved documents. These might still be held by my former employers Slater and Gordon LLP. I did not copy any of this data, as

it would have been owned by them, and I was under contractual restrictive covenants not to copy any data held by them.

Further, considering the passing of the Data Protection Act of 2018 (GDPR), I suspect Slater and Gordon LLP would have by now deleted all my emails and any electronic data held, which is older than 7 years (under their data retention policy)?

It has been nearly 12 years since the Archer Inquiry published its report on 23 February 2009, and as such I cannot now recall any of the names of the officials or their roles, that the Inquiry engaged with at the DoH.

I do however know we were in contact with The RT Hon Patricia Hewitt MP at the Department of Health, based at Richmond House, 79 Whitehall, London. In addition, with Ms Caroline Flint MP.

Ms Flint MP put us in touch with an official from her department Ms Linda Page, Project Manager Blood Policy.

Whilst fully appreciating that secrecy fosters suspicion, I genuinely cannot, after this length of time, recall any of the names of the officials or their roles.

I am not in any way attempting to harbour a secret, but I simply cannot recall events which took place some 14 years ago.

- (b) Please explain the justification, if any, that The Department of Health provided to the Inquiry in its observation that “the Inquiry was unnecessary”. Did you agree with The Department of Health’s observation?

The Inquiry report makes clear at page 6, that Lord Warner the Minister of State at The Department of Health, said in answers to a

parliamentary question on 12 January 2006, (at column 299 in Hansard):

“We do not consider that a Public Inquiry is justified as we do not believe that any new light will be shed on this issue as a result”

The Inquiry’s very existence was as a direct result of the government’s firmly held view (at that time), not to hold either a judicial or government appointed Public Inquiry.

The above was the view held at that time, which has clearly changed since, considering the creation of this Infected Blood Inquiry.

Being Secretariat to the Inquiry I was professionally bound to remain both objective and independent throughout, and not be influenced by any witness or government department.

However, my personal view is that a statutory Public Inquiry has been long overdue, and it should be obvious to all that only through the determination and tenacity of those afflicted and affected by this horrific human tragedy, and a few parliamentarians, that they have successfully secured a statutory Public Inquiry.

- (c) Please state which Department of Health officials the Inquiry wished to call to provide witness evidence? What reason, if any, was given, for The Department of Health’s decision to decline to provide witness evidence? Did you agree that it was not necessary for the Department of Health to provide witness evidence?

Given Lord Warner’s view, I clearly understood at the time of the Inquiry’s formation that the DoH would not be sending any officials to our Inquiry to provide either written or oral witness evidence.

Had we had the powers to compel witnesses, parliamentarians, government officials and experts to give evidence, I am sure we would have sought to engage with a broad range of officials from the Department of Health.

The reason The Department of Health declined the provision of any witness evidence is self-explanatory, as it would have been incongruent with the official view of the government, i.e. not to have a Public Inquiry.

In addition, the Inquiry, although it attempted to abide by the principles of the Inquiries Act 2005, could clearly not provide the protections that some department officials might have sought, providing further reason for their non-appearance.

Therefore, all those giving evidence to the Inquiry did so freely and voluntarily.

From a personal perspective, I did not agree with the DoH position that their officials be prohibited from giving witness evidence, as it made our roles of hearing direct evidence, and finding and corroborating documentary evidence more difficult.

- (d) Please explain, to the best of your knowledge, how the Department of Health determined which documents were to be provided to the Inquiry. Did the Department of Health withhold documents that were requested? If so, which documents or class of documents were withheld and what justification, if any, was provided for this?

As I have already explained, I was working alone, whilst holding down a full-time job as a solicitor in a very busy practice. In hindsight, I ought to have created processes which would have dealt more readily with this question. However, time and resource were a major inhibitor to the recording and storing of all evidence. That is not to say we did not have

some 20,000 documents and did not listen to and carefully consider all the evidence, but that attendance notes and tracking of all evidence could not be fully accomplished given the extremely limited resource.

However, I was conscious at the time for the need and importance to properly record all information gathered and stored, but our Inquiry would have taken a lot longer than 2 years to publish its report, had I had the time to do so. I can only apologise that given the length of time; I am unable to provide an audit trail of the work done.

More specifically, in response to a letter from Lord Archer dated 16 February 2007 to The Rt Hon Patricia Hewitt MP (exhibited and marked ARCH0003331), the Department of Health confirmed they would be sharing the results of their own review, pertaining to documents held between 1970 and 1985. The said response is date stamped 30 March 2007 and exhibited and marked as ARCH0003333.

I do recall that if the DoH declined to send us requested documents, they would have sighted legal or public interest privilege, or that they could no longer find the said document. However, I have no written evidence to support this.

(e) When and under what circumstances did The Department of Health agree to hold three meetings with the Inquiry? In your response, please explain who had responsibility for arranging these meetings, the dates of these meetings as well as how the agendas for these meetings were set, and by whom they were set.

In or around the first quarter of 2007, I felt the DoH wished to help the Inquiry, as much as was possible for them, given all the circumstances. I also gained the impression they were sympathetic to our cause but could not assist in a formal capacity.

The offer of meetings was set out by The Rt Hon Patricia Hewitt MP, in her letter date stamped 30 March 2007. It was thus an olive branch from the DoH. It would have been, in my view, naive to have rejected the offer out of hand, as we might have had access to more documents through the said meetings.

In terms of practical arrangements, Lord Archer and I would have most likely collaborated with the DoH to put in place the said meetings. I cannot now specifically recall given the length of time that has passed, exactly who contacted whom first.

- (f) To the best of your knowledge, please provide the names of attendees, and their roles, at the three meetings that were held with the Department of Health.

I genuinely do not recall the names of the attendees or their roles. I very much appreciate I might be criticised for this now, but the meetings were meant to be informal and unminuted. They took place nearly 14 years ago and I cannot now recall the details.

However, I do recall that they had several lawyers attend the private but informal meetings, whereas the Inquiry panel attended with Lord Archer and myself, and or with all three tribunal members (I cannot properly recall if all three panel members attended one or more of the three of the meetings). I know I attended all three meetings.

- (g) Please provide an account of what was discussed at the three meetings that were held with The Department of Health.

Again, I cannot now genuinely recall, what was discussed at these meetings. In the main they would have been about missing documents or signposts of where we might look to find more information which might aid our Inquiry.

We were of course transparent in the Inquiry report that the private meetings took place. Although, I recognise the suspicion will perhaps always remain, that in some way we might have been influenced adversely by these meetings. In response I would say that the tribunal panel and myself had personal reputations at stake, which influenced our behaviour, such that we must provide our honest independent findings and recommendations.

Moreover, the unblemished reputation of the Inquiry architect, the late The Rt Hon Lord Morris of Manchester, was also at stake.

We were motivated by our independence, and if it was called into question and or we were somehow adversely influenced by the DoH, it would have made our work worthless and meaningless. The truth of the matter is we held our independence above all else, so it would lend credibility to the Inquiry mission and our report.

- (h) What conditions, if any, were attached to these meetings? Who requested these conditions?

The only condition was that the meetings were private, informal and not to be minuted. To the best of my recollection this was by mutual agreement, considering the government's official view that an Inquiry was unnecessary.

- (i) Why was no written record kept of these meetings? Who took this decision?

It was to no doubt recognise that the meetings were informal. I believe it was by mutual agreement.

- (j) Why do you believe The Department of Health agreed to three meetings with the Inquiry, but declined to provide witness evidence in public?

During the early days following the formation of the Inquiry, I formed the impression the DoH had a sympathetic position with regards to the many challenges we faced, as we did not have powers to compel witnesses to give evidence.

The Rt Hon Patricia Hewitt MP made clear in her letter, date stamped 30 March 2007, that the Government's view had not changed, and a Public Inquiry was unjustified and would provide no further benefit to those affected. However, she goes on to say "Nevertheless, the Department is willing to assist you as far as we can;...". Ms Hewitt states the Government has great sympathy for those infected, and I assume the offer of meetings was a form of acknowledgment and help for the work we were trying to carry out.

I have already addressed above the reasons why I believe the DoH could not provide its own witnesses and or witness evidence.

- (k) How did the three meetings with The Department of Health further the Inquiry's understanding of the issues to which the Inquiry related? Please explain your answer.

I genuinely cannot recall fully, but as I have said above, we gained documents related to the government review of documents held between 1970 and 1985. We might also have wished to better understand the structure of blood transfusion service, during the relevant periods/decades.

- (l) Why were three meetings with The Department of Health necessary? Was anything further discussed that necessitated meeting on three separate occasions?

I do recall that at the end of the first meeting, we asked the DoH that if we had specific questions, or needed documents, as we were now on

our journey of discovery, if we could return to the them. Clearly, we were learning all the time, and if we got really stuck on an avenue of inquiry, we wanted to know if the door was open for the Tribunal to become unstuck, by seeking an informal meeting with the DoH.

Section 4: Other issues

7. Please explain, in as much detail as you are able to, any other issues that you believe may be of relevance to the Infected Blood Inquiry insofar as The Department of Health's engagement with The Archer Inquiry is concerned. To assist, we have provided the Inquiry's List of Issues (**attached**).

During my engagement with the Department of Health, albeit they appeared to be sympathetic to the enormous task ahead of the Archer Inquiry, I gained the impression they would only accept our findings, if the Government were to be found at fault or legally liable (i.e. civil negligence) for this tragic NHS treatment disaster (in most cases sadly fatal). It was clear from their correspondences that any Public Inquiry was unnecessary, as the Government were not legally liable. The Archer Tribunal was not a Court, nor did it have any powers under the Inquiries Act 2005, which the DoH were fully aware of.

In a letter from Dawn Primarolo MP to the RT Hon Lord Morris of Manchester, dated 19 May 2009 (exhibited and marked as ARCH0003332), she says, and I quote,

"We acknowledge the strong moral case for Government to do what it reasonable can to ensure those affected are supported".

The Department of Health, in my view, clearly took the view a moral case had to be made out, and clearly one had been made out by the Archer Inquiry since the same letter makes commitments for further support to those afflicted.

In the overall context of Ms Primarolo's letter, the increased funding proposed for those infected with HIV seems inadequate and was nowhere near the provision made by the Irish Government, to which the Archer report referred.

No help is proposed for those infected with Hepatitis C in the years following the Archer Inquiry, and in particular the anomalies regarding the widows of patients. Further, in view of the sums involved sadly this seemed to lack both understanding and compassion.

I am not aware of what became of the review being carried out by Professor Gilmore and it would be interesting to know the outcome.

In closing, I would very much like to say that the notion Government must first be held responsible (legally liable), thus compelled to take accountability, before acting responsibly, is in my view misguided in these circumstances. Acting responsibly is not the same as being responsible, just like when a parent or adult cleans up a child's spillage. Doing the right thing does not require a legal order to compel one to act responsibly. I understand the relationship between Government and citizen is not one of parent and child, but here the Government provided the treatment, and must surely act responsibly for any unwitting adverse consequences.

Lessons must be learned as the past cannot be undone.

As a society we compensate those who are victims of crime under the Criminal Injuries Compensation Award scheme, and the victims of Thalidomide. Clearly the Government are not legally liable for the act of violence perpetrated by an individual or the terrible consequences of unknow side effects of drugs, but obviously sees that it the right thing to do, to help those who are the innocent victims of physical and or mental harm.

Those afflicted and their families have suffered and endured greatly, and their experiences must be heard, in order as a society, we do the right thing and act responsibly, and not compare our moral duty to that of the law where legal liability and restitution is at the heart of its thinking.

In closing, I would like to say every single one of the innocent victims of this Inquiry have my deepest sympathy and best wishes in their fight to attain innocent status, acknowledgement, an apology, and financial and other practical support.

Statement of Truth

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

Signed _____
[Signature Box] _____
GRO-C

Dated _____ 24 March 2021 _____