Witness Name: Dr Ben Cole
Statement No.: WITN6912001
Exhibits: WITN6912002
Dated: 22.12.2021

INFECTED BLOOD INQUIRY

FIRST WRITTEN STATEMENT OF DR BEN COLE

I provide this statement in response to the request under Rule 9 of the Inquiry Rules 2006 dated 1 October 2021.

I, Ben Cole, will say as follows: -

Section 1: Introduction

1. My full name is Benjamin Cole of GRO-C London, GRO-C GRO-C My date of birth is GRO-C 1967.

2. I worked as a Policy Manager in the Blood Policy team in the Infectious Disease Policy Branch in the Department of Health between 1999 and 2014. I worked on matters related to the historical contamination of blood and blood products with HIV, Hepatitis B and Hepatitis C, as well as general policy related to Hepatitis C.

3. In 1990 I was awarded a BA in History from the University of Birmingham and in 1991 I was awarded an MA in International Relations, also from the University of Birmingham. In 1996 I was awarded a PhD in International Relations from the University of Southampton. For the sake of clarity, I am therefore not a doctor in the medical sense and I do not have a medical background.

4. My employment history includes:

1994-1996	Research Officer	Arms Control and Disarmament Research Unit	Foreign and Commonwealth Office
1997	Research Fellow	International Relations	University of Southampton
1998	Researcher	International Relations	Freelance
1999 – 2014	Policy Manager	Infectious Disease Policy Branch	Department of Health
2014 – present	Honorary Lecturer	Department of Psychology	University of Liverpool

Section 2: Opening remarks

5. I would like to begin my statement by emphasising that I wish to express my sincere compassion and sympathy for those infected and affected by what happened. I am fully dedicated to providing information within my knowledge that may assist this Inquiry.

Section 3: Rule 9 request

6. I am grateful to the Inquiry for giving me notice of criticisms contained in:

    a. the First Written Statement of Lynne Kelly dated 30 July 2020; and

    b. the oral evidence of Mrs Kelly on 10 June 2021.

7. I was notified of the criticisms contained within the First Written Statement of Lynne Kelly on 7 June 2021 and Mrs Kelly gave oral evidence before the Inquiry on 10 June 2021. Due to the short time frame, it was not possible for me to give a comprehensive response to the criticisms of me contained within the First Written Statement of Mrs Kelly before the hearing on 10 June 2021.

8. I have since reviewed the transcript of Mrs Kelly's oral evidence to the Inquiry dated 10 June 2021, particularly those parts highlighted in the request under Rule

9 of the Inquiry Rules 2006 dated 1 October 2021, where Mrs Kelly elaborates on the criticisms made against me in her First Written Statement.

9. I provide this written statement in response to the Inquiry's request under Rule 9 of the Inquiry Rules 2006 dated 1 October 2021, inviting me to provide a single written statement in response to the criticisms outlined in Mrs Kelly's written and oral evidence.

10. I will respond to the overlapping written and oral criticisms by subject matter, rather than addressing the interrelated written and oral criticisms in turn. I will address each criticism by referring to where it can be found in Mrs Kelly's statement and/or the relevant pages of the transcript dated 10 June 2021.

Section 4: Response to Mrs Kelly's criticisms

Preliminary matters

11. I understand that the Haemophilia Alliance was a UK-wide partnership of patients, doctors and others involved in haemophilia care. Meetings between the Department of Health ('DH') and the Haemophilia Alliance were set up following the publication of the Archer Report in 2009, which recommended the establishment of a committee to advise the Government on the management of haemophilia in the UK (see Recommendation 1 of the Archer Report). DH funded, hosted and provided the secretariat for the meetings of the Haemophilia Alliance because it was responsible for preparing and implementing the Government's response to the Archer Report. DH officials attended because officials provided the secretariat functions at the meetings and because various matters discussed at the meetings fell within the remit of DH. It was the Blood Policy team specifically that provided the secretariat for the Haemophilia Alliance meetings. I was the secretary for those meetings because I had responsibility for matters pertaining to the Archer Report and the historical infection of blood supply as Policy Manager in the Blood Policy team in the Infectious Disease Policy Branch in DH. I do not recall how many meetings I attended in total, or their dates.

12. At paragraph 49 of the statement WITN3988001, Mrs Kelly states that the Haemophilia Alliance meetings were chaired by Rowena Jecock and me in her absence. This statement is repeated at page 53 of the transcript dated 10 June 2021. It is not correct that I chaired the Haemophilia Alliance meetings in Rowena Jecock's absence. I have never chaired any Haemophilia Alliance meeting. The co-chairs of the Haemophilia Alliance at the time of the meeting on 14 November 2011 were: (1) Dr Jonathan Wilde from the United Kingdom Haemophilia Centre Doctors' Organisation ('UKHCDO'); and (2) Ms Liz Rizutto from the Haemophilia Society, as illustrated by the UKHCDO Annual Report for 2012 on the Haemophilia Alliance [WITN6912002]. Dr Wilde chaired every Haemophilia Alliance meeting that I attended, including the meeting on 14 November 2011. This is shown in Annex 1 to the Summary Minute of the meeting, which outlines a list of attendees clearly indicating that Dr Wilde was chairing this meeting [WITN3988039]. As secretary, my role at the Haemophilia Alliance meetings was to take a note of the meeting. I do not recall making any significant contribution to the discussions at the meeting on 14 November 2011. This is reflected by the fact that there is no mention of my name throughout the record of the discussion at the meeting on 14 November 2011 in the Summary Minute. It is therefore possible that when Mrs Kelly refers to me in her statement, she may actually intend to refer to Dr Wilde. In any event, I have responded to the criticisms that Mrs Kelly directs at me below.

Recording of deaths on death certificates

13. At paragraph 52 of the statement WITN3988001, Mrs Kelly states that at the Haemophilia Alliance meeting on 14 November 2011, Mrs Kelly "[…] *raised issues about the accurate recording of deaths due to contaminated blood"* and questioned why the DH "[…] *only ask for the fact of death to be recorded on Death Certificates and not the cause of death".* I have no recollection whatsoever of this discussion at the Haemophilia Alliance meeting on 14 November 2011. The Blood Policy team had no responsibility for death certification, and I do not recall what role DH itself even had in this issue.

14. The discussion that Mrs Kelly refers to regarding the accurate recording of deaths on death certificates is not recorded in the Summary Minute of the meeting held

on 14 November 2011 [WITN3988039]. I do not intend to suggest that this means that the discussion to which Mrs Kelly refers did not happen, as the Summary Minute is not an exact recording of all matters discussed at this meeting. However, as explained at paragraph 12 above it is possible that Mrs Kelly may have had this discussion with Dr Wilde, since he was chairing the meeting.

15. Mrs Kelly goes on to allege that I "[...] *said it was up to the doctor who was certifying the death to decide the cause of death recorded on the death certificate."* Again, I have no recollection of speaking on this subject at the Haemophilia Alliance meeting on 14 November 2011 and the minutes of that meeting do not record this discussion. It is possible that this discussion took place between Dr Wilde and Mrs Kelly. Dr Wilde was better placed to deal with the issues that Mrs Kelly apparently raised because he is a doctor. He would therefore have personal experience of the current guidance and practice regarding death certification. I had no knowledge whatsoever about the recording of the cause of death on death certificates because it was not pertinent to my role. As noted at paragraph 3 above I do not have a medical background.

16. If I did speak on this issue, I would have contacted the relevant DH policy team or NHS body prior to the meeting for speaking notes and I would have restricted my comments to those notes. I would have contacted the relevant DH policy team for speaking notes because standard practice within DH with regard to any subject matter was to obtain speaking notes from the policy team which had responsibility for the topic in question in order to ensure that DH was providing an up-to-date and consistent line on an issue. My legal advisers have carried out document searches of the contemporaneous DH documents for any speaking notes or briefing sent to me ahead of the Haemophilia Alliance meeting on 14 November 2011. No such speaking notes have been returned by these document searches and therefore, as far as I am aware, I was not briefed on this issue prior to the meeting and did not engage in any discussion with Mrs Kelly on the recording of deaths on death certificates.

Consideration of issues at Haemophilia Alliance meetings

17. At paragraph 54 of the statement WITN3988001, Mrs Kelly states that she "[…] *felt that all real issues were blocked by Rowena Jeacock and Ben Cole."* Mrs Kelly makes interrelated comments in her oral evidence at page 53 of the transcript dated 10 June 2021, stating that DH would dominate the Haemophilia Alliance meetings, to the extent that "[…] *you wouldn't really know you were in a meeting to do with haemophilia or infected blood"* and there was "[…] *no real focus on the issues that I knew were affecting the community in Wales."*

18. It is unclear to me whether Mrs Kelly means that DH blocked: (i) discussion at the meetings; and/or (ii) action on the issues raised at the meetings. For completeness I will address each in turn.

19. In respect of the former, DH did not set the agenda of the Haemophilia Alliance meetings. Agenda items were set by Dr Wilde and Mr Chris James, the Chief Executive of the UK Haemophilia Society. The Haemophilia Alliance relied on Mr James to liaise with the stakeholders of the Alliance to ensure that any issues they wished to discuss were included on agendas for the meetings. I do not recall ever objecting to the inclusion of any item on the agenda. If I did, it would have been because the issue fell outside of the scope of the Terms of Reference of the Haemophilia Alliance and not any attempt to block discussion of certain issues at Haemophilia Alliance meetings. If discussion of an issue during any Haemophilia Alliance meeting was impeded or closed down before it had reached a conclusion satisfactory to Mrs Kelly, that would have been a decision for the chair of that meeting. I did not ever attempt to influence the way that Dr Wilde chaired the Haemophilia Alliance meetings, either before or during the meetings. I also did not ever interject to shut down any debate during a meeting. As stated at paragraph 12 above, my role at the Haemophilia Alliance meetings was to take a note of the meeting.

20. In respect of the latter, I was neither involved in, nor aware of any efforts to block action on anything that fell within the Terms of Reference of the Haemophilia Alliance. The Blood Policy team did not have any policy responsibility for

haemophilia services. The Blood Policy team was the sponsor team of NHS Blood and Transplant ('NHSBT'). The team managed all matters related to the historical contamination of blood and blood products as well as Hepatitis C policy in general. Other DH policy teams or NHS bodies were responsible for issues connected with haemophilia services and I recall emphasising that issues raised at Haemophilia Alliance meetings needed to be discussed on a bilateral basis between the haemophilia community and the relevant DH policy team or NHS body. If necessary, I would identify the relevant DH policy team or NHS body and facilitate contact but beyond this I did not have a role in taking steps to action points raised at Haemophilia Alliance meetings. If another DH policy team or NHS body wanted to introduce changes to haemophilia services for which they had policy responsibility as a result of representations made at Haemophilia Alliance meetings, that was entirely their decision and was not something that the Blood Policy team ever sought to block. Equally, if another DH policy team or NHS body refused to introduce changes to haemophilia services following representations made at Haemophilia Alliance meetings, the Blood Policy team had no power to instruct them to do so.

21. In addition, the agendas and minutes of each Haemophilia Alliance meeting clearly show what was discussed at these meetings. Mrs Kelly does not point to any evidence in support of the allegation that DH would dominate Haemophilia Alliance meetings. The agendas for each meeting were set by the chair and the Haemophilia Society, not DH. A DH official would speak to an agenda item if that was required and relevant, but DH would not intervene in discussions at Haemophilia Alliance meetings on issues on which we had no locus. Given that Mrs Kelly seems to have confused me with Dr Wilde, it is possible that these comments do not relate to me or DH. As I have stated above, my role at the meetings was to take notes and as I was busy notetaking I would not have been able to dominate any discussions.

22. I note that the UKHCDO Annual Report for 2012 on the Haemophilia Alliance [WITN6912002] mentions that representatives from DH blood policy units of Scotland (Mr Robert Girvan) and Wales (Ms Jenny Thorne) were in attendance at the Haemophilia Alliance meetings. However, as far as I can recall, there was no

real focus on issues in Wales during the Haemophilia Alliance meetings and the representative for Wales was not present at all meetings, for example Annex 1 to the Summary Minute of the meeting on 14 November 2011 [WITN3988039] indicates that Ms Thorne was not in attendance at this meeting. As Mrs Kelly notes at page 58 of the transcript dated 10 June 2021, the *"[...] Welsh Government were really disinterested in"* the Haemophilia Alliance meetings. Without consistent representation from the Welsh Government it was not possible to make meaningful contributions to issues in Wales. Similarly, these meetings did not discuss issues in Scotland or Northern Ireland because there was no consistent representation from those health administrations either. DH could not have intervened on issues in Wales with the Welsh Government on Mrs Kelly's behalf. I do not recall anyone apart from Mrs Kelly insisting that we discuss Wales or other devolved administrations for that matter. This is because the devolution settlement meant that DH could not intervene in these areas.

23. At page 54 lines 1 to 18 of the transcript dated 10 June 2021, Mrs Kelly states that the contributions of affected individuals who attended the meetings *"fell on deaf ears"* and that meeting agendas and minutes were not circulated to her. Mrs Kelly describes feeling like she was *"perceived as a bit of a troublemaker"*, and that the issues she raised did not receive proper consideration at the meetings.

24. To the best of my recollection it was Mr James at the Haemophilia Society's responsibility to liaise with his stakeholders, which included circulating agendas ahead of the Haemophilia Alliance meetings and minutes of the meetings. In terms of Mrs Kelly's comment that contributions of affected individuals who attended the meetings *"fell on deaf ears"*, I have two points to make. First, DH set policy, but delivery was entirely the responsibility of other NHS bodies, which was all part of the move away from top-down DH management of the NHS at the time. Likewise, following devolution, each health administration took responsibility for its own part of the NHS and, to the best of my knowledge, DH did not co-ordinate UK wide approaches on health issues. Therefore, DH did not have a significant degree of control over the delivery of changes that the affected individuals who attended the meetings may have desired. Secondly, as mentioned at paragraph 20 above, the Blood Policy team itself did not have policy responsibility for everything discussed

by the Haemophilia Alliance. We made it clear that the Alliance had to deal directly with the people who had policy responsibility for any given issue, and we were not going to intervene on matters that the team would be unable to deliver on.

25. The purpose of the presence of affected individuals at the Haemophilia Alliance meetings was so that they could raise issues affecting their community that fell within the remit of the meetings. I certainly understand and recognise why it was vital that Mrs Kelly asked difficult and at times awkward questions at the Haemophilia Alliance meetings and did not perceive her to be a troublemaker.

Exit from 14 November 2011 Haemophilia Alliance meeting

26. At paragraph 55 of the statement WITN3988001, Mrs Kelly alleges that I was chairing the Haemophilia Alliance meeting on 14 November 2011 in the absence of Rowena Jecock and that Mrs Kelly tried to raise additional concerns with me in relation to the dissolution of Haemophilia Alliance meetings but I packed my bag *"[…] and walked out of the meeting before it was concluded".* I do not recall this incident. I was at the meeting Mrs Kelly describes to take the meeting note, but the meeting itself was chaired by Dr Wilde.

Notes of the meetings

27. As I have explained above, my responsibility at the Haemophilia Alliance meetings was to take the notes. Although, this was not raised by the Inquiry's Rule 9 request, perhaps because Mrs Kelly referred to me incorrectly as a chair of the meeting, rather than the secretary, I note at paragraph 49 of the statement WITN3988001, Mrs Kelly has criticised the minutes that were taken of the meetings, describing them as *"often very sketchy and inaccurate".*

28. The Haemophilia Alliance meetings lasted for the best part of a day. The notes recording what was discussed at the meetings was therefore not intended to be a verbatim record of everything that was said but rather a summary of the key issues discussed and, most importantly, the action points that materialised from the meetings. There were inevitably inaccuracies in the initial drafts of the notes of

the meetings so there was a standard procedure for agreeing the notes of the meetings. First, I would clear the draft note with Rowena Jecock, incorporating any comments that she had. I would then clear the draft note with the Chair of the Haemophilia Alliance and the note would then finally be agreed at the subsequent meeting of the Haemophilia Alliance. This process was in place in order to capture errors or relevant omissions, which would be picked up and corrected. The Summary Minute of the Haemophilia Alliance meeting on 14 November 2011 [WITN3988039] is the minutes of this meeting as agreed by the Chair, which would then have been circulated for agreement at the subsequent meeting of the Haemophilia Alliance. Any proposed amendments should have been noted in the minutes of that subsequent meeting. The Summary Minute therefore needs to be read in conjunction with whatever may have been noted about them in the minutes of the subsequent meeting. I do not recall revised versions of any minutes of Haemophilia Alliance meetings ever being circulated because any revisions would be captured in the minutes of the subsequent meeting. This can be seen in the Summary Minute of the Haemophilia Alliance meeting on 14 November 2011 [WITN3988039], which notes at paragraph 2 that the Summary Minutes of the meeting on 13 May 2011 were agreed at the meeting on 14 November 2011. It was therefore open to Mrs Kelly to raise any errors in the minutes of Haemophilia Alliance meetings at the subsequent meeting of the Alliance.

29. My legal advisers have carried out document searches of the contemporaneous DH documents for any further minutes of Haemophilia Alliance meetings. No such minutes have been returned by these document searches however, as far as I can recall, the procedure in respect of the minutes of Haemophilia Alliance meetings is as outlined at paragraph 28 above.

Statement of Truth

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

Signed: GRO-C

Date: 22/12/21

Table of Exhibits

Date	Description	Exhibit number
August 2012	UKHCDO Annual Report for 2012 – Haemophilia Alliance	WITN6912002