

Witness Name: Dr Patricia Troop

Statement No: [WITN7169001]

Exhibits:

Dated: 12/09/2022

INFECTED BLOOD INQUIRY

FIRST WRITTEN STATEMENT OF DR PATRICIA TROOP

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Section 1: Introduction

- 1.1. My name is Dr Patricia (Pat) Troop, my date of birth and home address are known to the Inquiry. I make this statement as I was Deputy Chief Medical Officer (“DCMO”) for the Department of Health (“DH”). I worked for the DH from 1999 until 2003. My role at the time was to oversee my department, provide expert advice to ministers, ensure the delivery of policies laid down by ministers and ensure that the standards expected of the civil service were met.
- 1.2. I am very grateful for the opportunity to contribute to the Inquiry and I have tried my best to recollect any information relating to my time whilst working for DH in particular in relation to the destruction of documents of the Advisory Committee on Virological Safety of Blood (“ACVSB”). Whilst the issue of infected blood and blood products was of one concern during my time at DH, my recollection of this particular event, namely, the loss of records is hazy. I carried a very wide portfolio, and after this episode I was involved in major issues such as Measles, Mumps and Rubella (“MMR”), Variant Creutzfeldt-Jakob disease (“vCJD”), post 9/11 preparedness and the establishment of the Health Protection Agency (“HPA”). I can only apologise that my memory does not serve me well and that I have forgotten much of the detail of events early in my time at the Department.
- 1.3. The following table outlines my relevant employment history:

Table 1 – Employment History

Date	Employment
1971 – 1975	Clinical training posts
1975 – 1980	Training posts in community medicine (later called Public Health (“PH”))
1980- 1983	Specialist in Community Medicine, 6 sessions Stockport Health Authority, 4 sessions Department of Community Medicine, Medical School Manchester University
1983 – 1987	Specialist in Community Medicine Cambridge Health Authority

1987 – 1988	Acting Director of Public Health, Cambridge Health Authority
1988 – 1990	Director of Public Health, Cambridge Health Authority
1990- 1993	Acting, then substantive, Chief Executive, Cambridge Health Authority
1992 – 1993	Chief Executive Cambridgeshire FHSA and the Joint Commission established by the 2 bodies
1985 – 1999	Associate lecturer in Community Medicine, Faculty of Clinical Medicine, University of Cambridge
1993 – 1999	Regional Director of Public Health, first of East Anglian Regional Health Authority (“RHA”), then Anglia and Oxford RHA, the Eastern Region (this was a time of considerable upheaval and reorganisation)
1999 – 2003	Deputy Chief Medical Officer (“DCMO”), Department of Health
2003 – 2008	Chief Executive, Health Protection Agency

1.4. I had a very broad background within the NHS, Public Health and senior management. As DCMO I was responsible for leading on the full range of health protection including:-

1.4.1.1. infectious diseases;

1.4.1.2. environmental hazards;

1.4.1.3. emergency planning, including Chemical, Biological, Radiation and Nuclear (“CBRN”) deliberate releases;

1.4.1.4. occupational health; and

1.4.1.5. blood safety.

1.5. In addition to the above I was also dealing with the following areas within government:-

1.5.1.1. International public health;

1.5.1.2. Senior departmental sponsor for a number of National Departmental Public Bodies and Agencies;

- 1.5.1.3. Public health input into the safety of medical devices and pharmaceuticals;
- 1.5.1.4. Management of the staff in the Health Protection and International Division (approximately 150), the running costs and programme budgets, in excess of £450m;
- 1.5.1.5. Contribute to wider Department of Health and cross-governmental development;
- 1.5.1.6. I chaired a number of committees such as:-
 - 1.5.1.6.1. The Advisory Committee on the Safety of Blood and Tissues;
 - 1.5.1.6.2. The Aids committee; and
 - 1.5.1.6.3. The Ministerial Advisory Committees on Medicines and Devices.
- 1.6. During my tenure at the DH, I accounted to the Chief Medical Officer ("CMO") at the time, Professor Liam Donaldson, who held overall responsibility for the public health. All the senior officers of the different sections of my department accounted to me.
- 1.7. However, Policy on Blood, Pathology and Ambulance Services sat with the Health Services Directorate, where the head of blood policy was Mr Charles Lister.
- 1.8. I did not contribute to any previous inquiries, investigations or criminal or civil litigation in relation to HIV, HBV and HCV. I was responsible for some of the follow up from the BSE Inquiry. My initial involvement was immediately after publication of the Inquiry's report on 26 October 2000. I met with the families of those that had died with the Secretary of State. I had further meetings with the families and their representatives to hear what they wanted to happen regarding the Inquiry. I was then involved after the Inquiry had produced its report, when we looked at how to implement the recommendations about risk assessments and communications. I was involved in the recommendation concerning the use of single use instruments, which was quite a small part of the Inquiry's report.

Section 2: The Destruction of Papers Relating to the Advisory Committee on the Virological Safety of Blood

- 2.1. I am asked to set out my recollection on whether I was aware of any policies and training in place regarding dealing with storage or destruction of department papers. I have tried to explain in chronological order my understanding of what had taken place during my time in office.
- 2.2. I started working for the Department in 1999 and I recall attending an induction course for senior civil servants and I was provided with induction material on joining the Department of Health. I do not recall the exact details, similarly I have read the document on record keeping [WITN6955037] I believe this was a type of document that would have been provided at our induction. However, I do not recall receiving specific training on this matter.

First awareness of issue

- 2.3. I was first made aware of the DH documents that were relevant to contaminated blood being destroyed by a memo sent to me on 3rd March 2000 [DHSC0046972_126] and [DHSC0046972_127]. Mr Charles Lister stated in a memo to myself and cc'd my senior officers in the various departments that I worked with:

Hepatitis C Litigation: Discovery of documents premature destruction of registered files

"1. This note is to make you aware of an issue which Marilyn Morgan will be raising in a minute to Chris Kelly on Monday..."

He then went on to say:

"...3. A discovery exercise was undertaken by the Department between 1995 and 1997. These documents have now been indexed and given to DMS. However some important documents are missing, mostly

papers and minutes of the Advisory Committee on Virological Safety of Blood (ACVSB) – MSBT's earlier incarnation. We established a week ago that a number of the Department's registered files containing ACVSB papers were sent for destruction, apparently in 1993 (although the file store tell us that the actual destruction dates were between 1994 and 1998). This should not have happened, and we have not yet got to the bottom of why this decision was taken..." [DHSC0046972_126]

2.4. This is the point that I became aware that the papers and minutes of the Advisory Committee on Virological Safety of Blood ("ACVSB") were missing. I was not advised about any specific papers relating to the committee and therefore I cannot provide that information.

2.5. On 7 March 2000, I wrote to Mr Lister to acknowledge safe receipt of the memo and I said:

"Thank you for alerting me to this. As you say, they were Dr Metters private papers, so there should not really be an issue." [WITN5426214]

2.6. I do not recall this memo but now that I have read the memo, I believe it refers to the fact that committee chairs and members often keep their own copies of papers for reference, but in my view, the system should not have to rely on people keeping personal papers.

2.7. On 8th March 2000, I was copied into a submission from Mrs Morgan to the Permanent Secretary. The submission explained who the investigator should interview for the audit. Her conclusion was as follows:

"...8. This does appear to be a one off case. Sol Litigation has handled three other major writ actions of this kind and will undoubtedly handle others. They have no experience of this kind of thing happening before, But equally we cannot be complacent, more importantly in this case we have a duty to the court which I believe we can satisfy only by undertaking a formal audit of what happened. I am also concerned that nothing like this happens in any other litigation we have or may have, in particular of course in the context of BSE. My own recollection is that the

only time such a thing has happened before - an issue involving the Lister Institute {no relation} in which vital papers were inadvertently sent to a land reclamation site - an internal investigation was held. My advice, therefore, is that such an investigation is conducted as a matter of urgency..."[WITN6955032].

- 2.8. Now having read this note, I cannot understand why Dr Metters was not involved in the interview process and I do not recall the reasons for this. He may have been asked to take part, however, I recall he was retired by then. I am certain that this would not have been due to the speed or urgency of carrying out the audit. There were a limited number of witnesses listed, so the time should have been sufficient.
- 2.9. The audit itself had taken around two months to complete and from my perspective, when there are internal audits being carried out, one should not get involved as it would appear to be seen as interfering. I would never interfere with the audit once it was underway nor influence the audit process. These were my general principles for any audits that were carried out. The time given for the audit should not have influenced the quality of the audit and it was important to be seen to act quickly.
- 2.10. I am referring to audits in my roles within the NHS, where the internal audit team would have a programme of work to ensure the organisation ran effectively. I was a member of the Audit Committee which agreed the programme of work. For example, we dealt with an audit on how clinical notes were handled as we received regular reports on how many notes had been lost. My role on the committee was as the Chief Executive Officer who is an ex-officio member by right. I was not involved in the setup of this audit as this would have been seen to have influenced it. Once it was completed, the report would be received by the audit committee for review.

Internal Audit

- 2.11. The records indicated that I needed to be involved in the Internal Audit concerning the destruction of ACVSB documents at an early stage and it was agreed that I would approve the Terms of Reference ("ToR").
- 2.12. On 13 March 2000, I was cc'd into an email from Bill Burleigh to Sammy Foster confirming that *"Laurence George, an experienced and qualified auditor assigned to this task...Laurence will report directly to me..."* [WITN6955029]. I did not know Mr Laurence George nor had I heard of his name before this point.
- 2.13. On 20 March 2000, Mr Bill Burleigh sent an email to me and cc'd Laurence George and Roman Pronyszyn headed draft terms of reference:

"I am due to see you on Wednesday with Laurence George, one of my audit team, to initiate the work we are to do around the apparent loss of documents relating to Hepatitis C litigation.

I attach a draft terms of reference that I'd like to discuss with you and build upon. I would value your input into how you want this investigation conducted, who we need to see, the pitfalls and sensitivities and the outcomes you seek. Whilst there is clearly some investigative work needed, I do not want to tread over ground already covered by management. I would value a clear picture of what has happened so far and with what results.

I would also welcome your steer as to whether you feel a narrow investigation of this occurrence alone is needed or a wider review that looks across to see if the circumstances leading to the reported loss could be occurring elsewhere." [WITN6955027].

- 2.14. On 22 March 2000, I sent minutes to Dr McGovern, Dr Metters, Mrs De Sampayo and Mr Lister and copied Mr Bill Burleigh the following:

"Hepatitis C Litigation: Audit investigation

1. As you may be aware, there has been an apparent loss of documents needed for the hepatitis C litigation.

2. *Bill Burleigh and his colleagues are carrying out an audit to ensure that we learn the lessons from this to avoid a further recurrence.*
3. *They will be trying to establish what happened and identify the extent to which procedures have not been followed. I have also asked them to review the action that has been taken to retrieve the files.*
4. *They aim to complete their work by the end of April and report to me in May.*
5. *The audit will not seek to apportion blame, rather than help prevent such things happening again.*
6. *I appreciate you are all busy, but please could you make time to see them as soon as possible, and also let them know if there is anyone else they should see.” [DHSC0046972_093].*

- 2.15. I have re-read the minutes above. I remember that at the time, I was concerned about junior staff being blamed. This audit was not a witch-hunt. It was more important to see what went wrong and to try to encourage staff to be open and honest. At paragraph 5 above, the key point is understanding what went wrong. Although this may involve identifying who made what decisions, the primary purpose is to understand and learn from this. Nevertheless, in an audit, if someone is shown to have behaved in an unprofessional way, that would have to be dealt with using normal procedures. However, this should not be the starting point.
- 2.16. My understanding of the audit was to understand what happened and whether procedures were followed. We had to look at who was involved. The primary aim was to understand why it happened so that this event would never happen again rather than pointing fingers at people.
- 2.17. On 24 March 2000, Laurence George and I had agreed the Terms of Reference of the Internal Audit Review and he sent them to Anita James via fax providing her with a copy [WITN6955025].

- 2.18. After I approved the Terms of Reference, I cannot recall whether I had any further involvement or whether I was sent a copy of the audit report to review when it had been finalised in April 2000 [NHBT0000193_137]. I have reviewed the documents and understand that the final report was sent to the Permanent Secretary and the Director of Corporate Development and not to myself.
- 2.19. Upon reflection and looking back at the way the audit was carried out, my expectation was that the main people involved would have been interviewed. I have now read the final copy of the report and this does not reveal who had been interviewed at the time. Had I known who was interviewed then, I would have raised who I thought should have been interviewed at the time. I cannot recall if I raised this issue at that time and I am unaware of any further involvement following the audit than what I have explained above.

Identity of individuals involved in destruction and audit

- 2.20. I do not have any knowledge on the identity of any individuals responsible for the destruction of documents [DHSC0200022_002]. The destruction of the documents happened quite a long time before I was DCMO. As I had a large number of colleagues in my department, I do not know whether the same people who worked for me at the time also worked in the department at the time of the documents being destroyed. I have tried to think of a person who worked with me who may have had the initials stated on the docket [DHSC0014975_033] but I cannot think of anyone who had those initials.
- 2.21. I have been asked what steps were taken to contact Dr Rejman and discover why the Advisory Committee papers were recalled when DH became aware it had to collect relevant information in 1994 [DHSC0046961_071]. I confirm that I was not in my post during this time therefore I cannot provide an explanation.
- 2.22. Mr Lister first informed me that papers had been destroyed on 3rd March 2000, when he searched for the records. As Laurence George was involved in the internal review process at the time, I did not take any steps to contact Dr Rejman about the ACVSB papers.
- 2.23. After reviewing the documents, I can see that I was asked to set out the Terms of Reference for the Internal Audit, however, I do not recall why I was asked to

approve them. It may have been because blood safety was part of my remit, and the committee papers should have been within one of my sections. From the documentation, it appears that I met with William Burleigh to discuss the issue and the Terms of Reference, but from the documentation, it is clear that he had already been in discussion with others including the office of the Permanent Secretary.

- 2.24. On 22 March 2000, I sent minutes to Dr Metters and Mrs De Sampayo, specifically asking them to make time to answer questions from the internal audit [DHSC0046972_093]. I do not recall who was interviewed nor do I recall being asked to follow up on my memorandum to staff. However, upon reviewing the document [WITN6955052] I have seen that Mrs De Sampayo was interviewed but Dr Metters was not.
- 2.25. It was stated in the Terms of Reference that the draft report would have been sent to me, however, I do not recall receiving the draft audit report. It would appear that there were several drafts although there are no documents to prove that I did receive any drafts. From the documentation it would appear that the final report [NHBT0000193_137] was sent to the Director of Corporate management and the Permanent Secretary.
- 2.26. The key purpose of the audit should be to locate the core files. It was fortuitous if there were copy files. The system should not be based on copy files. I chaired a number of committees. I might have kept some copies for quick reference if the core documents were in a separate building. However, I would not have kept them for very long because I would have assumed that I could obtain them from a central file.
- 2.27. I recall Mr Lister asking if people had kept their own files but a lot of people had left at that point. I believe that personal copies of records and documents should not be relied upon. It should be the core registry copy that should be relied upon. When I chaired committees, I did keep papers for reference, particularly as members of my staff would need to look at papers. The only reason I kept papers myself was if I needed to refer to them, not as formal records.

2.28. On 23 March 2000, I spoke with Laurence George and we discussed the Terms of Reference. I have read the interview record that he had written about me and I agree with his comments:

“...She felt that we needed to establish the extent to which procedures had not been followed before we considered widening the review to sample other sections etc. If this case was a one-off, then a wider review would not be necessary. The TOR could include that we ensure all that should have been done, was done (in terms of good file-keeping).

Pat pointed out that some of the medical professionals employed by the Department were not traditional civil servants, and this may have an impact on file keeping standards. However she did maintain that Dr Metters was a conscientious record keeper, and had proven this with the knowledge and evidence he was able to bring to PAC meetings. He has therefore recognised the importance of good document keeping and maintained good records. Mike McGovern is the current secretary for the committee that replaced the Advisory Group on the Viriological Safety of Blood, which Dr Metters chaired. Pat did not know the extent of the search that has already taken place for missing committee papers, but agreed that such a search would involve contacting committee members to establish what records they had. For example, the Medical Director of the NBA always sat on this committee. Pat agreed to send a note round to the relevant staff we would need to interview, Dr Rejman, Mike McGovern, Charles Lister, and Yvonne de Samparo (Dr Metters' ex-secretary, who is co-incidentally Pat's current secretary). Pat also agreed that we needed to establish that there had been a full search conducted, for example, it would no good finding relevant documents once this had come out in the press...”

[WITN6955051]

2.29. I have been asked to provide information regarding the audit itself and as I have explained above, I was not involved in the audit process and so I cannot provide any comments relating to why no one had visited Heywood Stores [WITN6955032] nor the identity of interviewee record number 5.

2.30. I have been seen [DHSC0046972_126; DHSC0046972_131; WITN6955032; WITN4505389] and [WITN5426001], in particular I have read the Instructions to Counsels note to advice:

... "5. When DMS first intimated that they were going to seek disclosure, your instructing solicitor approached Dr Metter's former secretary,

Yvonne de Sampayo who now works for Dr Pat Troop the current Deputy Chief Medical Officer/public health. Quite to the incredulity of Mrs James, Ms De Sampayo told her that she had destroyed the documents because the BSE disclosure proceed had caused her great difficulty. Dr Metters' records are therefore not available." [DHSC0046972_131]

2.31. I have read through these documents and can confirm that this is the first time that I had heard about how Mrs De Samapayo had destroyed her documents because of the BSE disclosure procedure which had caused her great difficulty. Even if this is what Mrs De Sampayo did say, destroying documents as part of the BSE procedure is not the same as destroying the documents in order to thwart the litigation process.

2.32. In the other papers that I have seen in this Inquiry in particular I have noted the following in Mr Lister's statement and Ms James' statement :

"...2.36. The available documents include an early draft minute of the minute from Mrs Morgan to the Permanent Secretary to which I was referring in my minute to Dr Troop [DHSC0046972_125]. This records the background and advice that we received from Counsel:

"The disclosure process

3. At a time in the mid nineteen nineties when the Department thought it was going to be a major party in litigation, counsel, Justin Fenwick QC

advised us to be prepared. Dr Rejman who was experienced in other discovery exercises extracted relevant documents from the files. The files were kept in the Department of Health until February 2000 when they were [disclosed] to Deas Mallen Souter (OMS) who act for the claimants. At this point and picked up, I am afraid to say, by OMS it became apparent that the documents were incomplete.

4. Anita James, who took over conduct of the case in June 1999, was aware of another source of documents. To that end, she had telephoned Dr Metters' former Secretary (he having retired) to ask for Dr Metters' papers which she had seen when she was previously in Sol Litigation. Ms de Sampayo had had a clearout when Dr Metters retired. Dr Metters had been chairman of the committee which had looked into the adequacy of the tests and given final advice on their introduction in 1991.

5. When OMS came back to the Department about the gaps in disclosure, Charles Lister, sought to retrieve the registered files for the period covered by the disclosure (1988-1991). He has been informed by those at remote storage that the files have been destroyed. They were apparently marked for destruction at an early stage.” [WITN4505389] and [WITN5426001]

- 2.33. This document above says she destroyed them because she was having a clear out. I cannot understand how these two explanations match up.
- 2.34. Mrs de Sampayo was my private secretary for five years and in my experience was very thorough when implementing civil service procedures. I worked with her very closely and I do not think she would have done anything improper. Therefore, I find it very hard to believe the account that she had destroyed documents because a previous investigation had caused her difficulty (referenced in paragraph 2.31 above). I do not know what she would have

meant by these comments. I do not recall her talking to me about her difficulties with the BSE Inquiry. After Dr Metters left, I did see her clearing out papers which she thought were from Dr Metters' time. However, I did not find it unusual, since she would have wanted to start afresh and make space for a new in DCMO coming into the office.

- 2.35. As I started my post in 1999, I cannot recall anything about the disclosure which took place before this time. The BSE Inquiry was announced on 22 December 1997 prior to my time in office. The disclosure process was likely to have taken place shortly after, which is before I was DCMO.
- 2.36. My general practice in any internal audit was to encourage openness. For example, after 9/11, the National Audit Office had asked for the audit of all of our records regarding the purchase of smallpox vaccinations. I asked the relevant team to pull out all the records and be completely open.
- 2.37. I have been asked about the destroyed minutes from May 1989 to February 1992 and whether I am aware of any copies that had been destroyed. I was not in office during this time and the destruction had taken place prior to my time therefore I have no recollection of this.
- 2.38. I understand the distress of those who were infected, affected and their families and greatly sympathise with them. I wish to help the Inquiry as much as I am able to. I can only apologise that my recollection of this particular issue is so limited.

Statement of Truth

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

Signed..... GRO-C

Dated..... 12 / 09 / 2022