

# FIRST WRITTEN STATEMENT OF JOHN FRANCIS RUTHERFORD

Witness Name: John Francis  
Rutherford

Statement No.: WITN7224001

Exhibits: WITN7224002 -  
WITN7224003

Dated: 06/09/2022

## INFECTED BLOOD INQUIRY

---

### FIRST WRITTEN STATEMENT OF JOHN FRANCIS RUTHERFORD

---

#### Section 1: **Contents**

|  |    |
|--|----|
| Section 1: Contents  | 1  |
| Section 1: Introduction and opening comments               | 2  |
| Introduction   | 2  |
| Opening comments   | 2  |
| Section 2: Professional history                            | 2  |
| Qualifications   | 2  |
| Employment history   | 2  |
| Litigation history   | 7  |
| Section 3: The destruction of papers relating to the ACVSB | 7  |
| Role as HEO of blood supply and nuclear medicine policy    | 7  |
| Policies and training                                      | 9  |
| Destruction dockets  | 11 |
| Initials – 'JR'  | 11 |
| Volume 4   | 13 |
| Internal audit   | 14 |

## Section 1: Introduction and opening comments

I, John Francis Rutherford, will say as follows: -

### Introduction

- 1.1. My name is John Francis Rutherford and my date of birth is GRO-C 1949. My home address is GRO-C
- 1.2. I am providing this written statement in response to the Inquiry's Rule 9 request dated 9 August 2022.

### Opening comments

- 1.3. I have done my very best with this statement and will assist the Inquiry as much as I can. I am keen to help but my ability is limited by the fact that most of the relevant events took place 30 years ago and my memory is not what it once was.
- 1.4. In order to write this statement, I have been provided with a number of documents by both the Inquiry and the Government Legal Department. I have tried to account for as many documents as I can in this statement. I have been made aware that there are a number of documents which refer to me specifically, but due to the recent surgery on my eyes and subsequent recovery, I have not had ample of time to read, absorb and address each document. My statement should therefore be read subject to this caveat and should any documents be made available to me, I reserve the right to amend this statement in light of any documents I may not have read or seen.

## Section 2: Professional history

### Qualifications

- 2.1. I do not hold any professional qualifications relevant to the Inquiry's Terms of Reference.

### Employment history

- 2.2. The following table outlines my employment history:

# FIRST WRITTEN STATEMENT OF JOHN FRANCIS RUTHERFORD

**Table 1 – Employment History**

| Date                             | Organisation  | Role  |
|----------------------------------|---|---|
| March 1969<br>– May 1970         | Clerical Officer National Insurance Central Office  | General administration duties related to individuals' national insurance records.   |
| June 1970<br>– August 1977       | Executive Officer ("EO") Balham local social security office at the Department of Health and Social Security ("DHSS") | <ul style="list-style-type: none"> <li>• Visiting benefit claimants' homes and assessing their entitlement to benefit;</li> <li>• Supervising reception of callers and interviewing staff;</li> <li>• Supervising staff assessing benefits;</li> <li>• Reviewing long term unemployed claimants;</li> <li>• Fraud investigation; and</li> <li>• Line management.</li> </ul> |
| September 1977 -<br>January 1980 | Higher Executive Officer ("HEO") DHSS Child Benefit and Guardians' Allowance policy DHSS                              | <ul style="list-style-type: none"> <li>• Drafting replies to Ministers' correspondence and Parliamentary Questions ("PQ");</li> <li>• Commenting on papers and reports;</li> <li>• Liaison with operational Child Benefit Centre; and</li> <li>• Line management.</li> </ul>  |
| February 1980 –                  | HEO DHSS Headquarters   | <ul style="list-style-type: none"> <li>• Assistant Secretary to the Social Security Advisory Committee DHSS;</li> </ul>   |

## FIRST WRITTEN STATEMENT OF JOHN FRANCIS RUTHERFORD

| Date                          | Organisation   | Role   |
|-------------------------------|--|--|
| December 1982                 |  | <ul style="list-style-type: none"> <li>• Secretariat duties;</li> <li>• Supporting the Secretary and Chairman as required;</li> <li>• Preparing papers and agendas;</li> <li>• Minute drafting;</li> <li>• Committee members' fees and expenses;</li> <li>• File management; and</li> <li>• Line management.</li> </ul>  |
| January 1983 – December 1990  | HEO Battersea local social security office DHSS                            | <ul style="list-style-type: none"> <li>• Managing staff;</li> <li>• Visiting benefit claimants' homes and assessing their entitlement to benefit;</li> <li>• Supervising reception of callers and interviewing staff;</li> <li>• Supervising staff assessing benefits;</li> <li>• Reviewing long term unemployed claimants;</li> <li>• Fraud investigation; and</li> <li>• Line management.</li> </ul> |
| January 1991 – September 1993 | Department of Health ("DH") - HEO Blood Supply and Nuclear Medicine Policy | <ul style="list-style-type: none"> <li>• Secretariat of the Advisory Committee on the Virological Safety of Blood ("ACVSB");</li> </ul>  |

## FIRST WRITTEN STATEMENT OF JOHN FRANCIS RUTHERFORD

| Date                      | Organisation   | Role  |
|---------------------------|--|---|
|                           |  | <ul style="list-style-type: none"> <li>• Secretariat of Nuclear Medicine Safety Group;</li> <li>• Dealing with papers, reports, minutes and agendas;</li> <li>• Drafting replies for Ministers' correspondence and PQ;</li> <li>• Line management; and</li> <li>• General administrative duties.</li> </ul>   |
| October 1993 – April 2000 | DH - HEO Social Work Training and establishment of the General Social Care Council | <ul style="list-style-type: none"> <li>• Secretariat for several DH and UK-wide groups;</li> <li>• Liaison with officials in other UK countries;</li> <li>• Liaison with the Central Council for Education and Training in Social Work (a DH sponsored non departmental public body ("NDPB"));</li> <li>• Drafting replies for Ministers' correspondence and PQ;</li> <li>• Drafting papers and reports;</li> <li>• General administrative duties; and</li> <li>• Line management.</li> </ul> |
| May 2000 – April 2003     | DH - IP3 (an internal DH grade) Women's Health policy                              | <ul style="list-style-type: none"> <li>• Development of policy;</li> <li>• Liaison with other government departments ("OGD");</li> </ul>  |

## FIRST WRITTEN STATEMENT OF JOHN FRANCIS RUTHERFORD

| Date                  | Organisation                          | Role   |
|-----------------------|---------------------------------------|--|
|                       |                                       | <ul style="list-style-type: none"> <li>• Liaison with a range of non-governmental public bodies (NDPBs) and voluntary organisations (“VO”);</li> <li>• Drafting replies to Ministerial correspondence, PQ and papers;</li> <li>• Briefing Ministers and supporting them in meetings with VOs;</li> <li>• Line management; and</li> <li>• General administrative duties.</li> </ul>                               |
| May 2003 – May 2005   | DH - Grade 7 Health Prevention Branch | <ul style="list-style-type: none"> <li>• Managing and overseeing administrative arrangements across the branch, which included policy on diet, nutrition and exercise;</li> <li>• Lead on men’s health policy;</li> <li>• Liaison with OGDs and relevant VOs;</li> <li>• Drafting replies to Ministers’ correspondence and PQ;</li> <li>• Drafting papers and advice; and</li> <li>• Line management.</li> </ul> |
| May 2005 – April 2009 | DH - Grade 7 Special Projects         | Investigation, drafting and reporting on a range of issues   |

## FIRST WRITTEN STATEMENT OF JOHN FRANCIS RUTHERFORD

| Date             | Organisation | Role   |
|------------------|--------------|--|
|                  |              | (unrelated to the Inquiry's Terms of Reference) as they arose. |
| May 2009 onwards | Retired      |  |

### **Litigation history**

- 2.3. I have not provided evidence or been involved in any other inquiry, investigation or litigation relevant to the Inquiry's Terms of Reference.

## **Section 3: The destruction of papers relating to the ACVSB**

### **Role as HEO of blood supply and nuclear medicine policy**

- 3.1. As part of my role as the HEO of the blood supply and nuclear medicine policy, I was part of the secretariat of the ACVSB. My duties included co-ordinating and circulating the agenda and papers for committee meetings, attending those meetings, drafting minutes and passing completed papers for filing. I also undertook and/ or arranged other administrative tasks, as required.
- 3.2. I would liaise with the Departmental Records Office ("DRO") (the department with overall control and storage of the DH files) about filing files, recalling files, reviewing files at the review date or making adjustments to review dates as required. There are several examples of letters I wrote to DRO in this capacity enclosed with a handwritten note detailing the file number, volume and what matter the file related to: [DHSC0003605\_003;DHSC0003734\_002; DHSC0003735\_005; DHSC0003576\_002; DHSC0003576\_001; DHSC0002397\_002; DHSC0002397\_001; DHSC0002398\_002; DHSC0002398\_001; DHSC0002401\_002; DHSC0002401\_001]. The title of each file was usually self-explanatory to aid storage and recovery of documents. I would have been asked to write to the DRO although I cannot now recall who would have asked me to do that. As far as I am aware, I was

## FIRST WRITTEN STATEMENT OF JOHN FRANCIS RUTHERFORD

acting within the DH policy in carrying out a reasonable request to secure the future of several files, hence why I wrote to DRO. I understood that retention periods were decided by officers of EO (later IP2) grade, a grade below me or above. I would often decide the retention periods of files myself.

- 3.3. As I recall, the retention or destruction of files would be decided as follows. Policy or scientific developments, committee papers, finance matters and anything of a potential long term or historic value would have a review date of 15 to 25 years for a second review by the policy. This review date would be calculated from the date of the last paper in an individual file volume. A policy branch is a group of civil servants responsible for the development and review of government policy on a specific subject e.g. blood supply. Each policy branch is answerable through senior officers to the government ministers of the day who set the policy direction and objectives.
- 3.4. Files for destruction by DRO at the first review would be those of no administrative value or appearing to have only short or medium term need. Depending on the subject, destruction could be immediate or between two and 15 years from the date of the last document in the file.
- 3.5. I managed two staff: one EO (internal grade IP2) who worked on both blood supply and nuclear medicine and one clerical officer (internal grade IP1) who worked exclusively on nuclear medicine, recording data and filing. I would often work closely with a haematologist on blood supply and a scientist on nuclear medicine when I needed professional advice for drafting replies to correspondence, or when they needed administrative support.
- 3.6. If and when I was required, I would supply text on blood matters for inclusion in more wide-ranging documents and correspondence that were being overseen by other parts of the DH. I also liaised with the National Blood Transfusion Service ("NBTS") headquarters, dealing with correspondence on matters of mutual interest and attending meetings such as over the appointments of the NBTS new chair and chief executive.
- 3.7. I contributed to the drafting and comments on papers for policy development and drafted replies to ministerial correspondence and PQ, seeking



## FIRST WRITTEN STATEMENT OF JOHN FRANCIS RUTHERFORD

professional/technical advice where necessary. I also dealt with correspondence passed down for an official's reply.

- 3.8. When I left this role in September 1993, Mr David Burrage took over my responsibilities [WITN7224002]. The remainder of the GEB files which were not destroyed would have been held in either the blood policy branch if they were recent or frequently referred to, or, would have been passed onto the DRO to store. I have been referred to a 'Route 400 Mail' from Ms Margaret Jackson-Roberts to Ruth McEwen dated 1 October 1996 discussing the missing files [WITN5426333]. Unfortunately, as this correspondence was sent long after my role in ACVSB, I have no further comments.

### **Policies and training**

- 3.9. I have been shown a copy of a lever arch file entitled 'A guide for Record Managers and Reviewing Officers' dated July 1994 [WITN0001002]. Although I had not seen this guide before, I can see that it covers the actions I took with the management of files. I had brought my knowledge and experience of file management from when I worked at the Department of Social Security ("DSS"), where a similar system was used. From the late 1960s until the late 1980s, the DSS and the DH used to be a joint department – the Department of Health and Social Security, and so they would have had similar filing systems.
- 3.10. To my knowledge, I had not been made aware of any DH policies on the storage and/ or destruction of files.
- 3.11. I have seen the following documents which appear to be photocopies of the following files folders, '*Issue of blood and plasma to overseas countries – policy*' covering the dates between 1964 to 1978 [DHSC0003735\_001], '*SELECTION, MEDICAL EXAMINATION AND CARE OF BLOOD DONORS: OWNERSHIP OF BLOOD AND BLOOD PRODUCTS*' covering the dates between 1963 to 1983 [DHSC0003734\_001] and '*HUMAN SPEC[I]F[I]C IMMUNOGUL[I]NS AND NORMAL IMMUNOGLOBUL[I]NS PRODUCT[I]ON BY THE BLOOD PRODUCTS LABORATORY*' which also shows a post-it note attached to the file saying, '*Letter on the short supply of plasma and the need to purchase commercially*' [DHSC0003605\_001]. While I assume based on that note that that particular file contained documents related to '*plasma and the need to*

## FIRST WRITTEN STATEMENT OF JOHN FRANCIS RUTHERFORD

*purchase commercially*', I am unaware which documents the other files contained. The post-it note is not in my handwriting, nor do I recognise whose writing it is.

- 3.12. I would make decisions on the title of an individual file and if there was any doubt, I would seek advice from the relevant policy colleague. I was not aware of any DH instructions to read through files before deciding on a review or of its destruction.
- 3.13. I cannot recall having any training or receiving any government-wide instructions relating to the storage and destruction of departmental papers. I am unaware whether there was any such training or written guidance available at the time.
- 3.14. Given the length of time, I cannot recall exactly how or when I became aware that the DH's files, namely '*volumes 4 – 17 of GEB 1*' related to contaminated blood had been destroyed [DHSC0046961\_071] (6). I remember being aware of the missing file(s) at the time, but I cannot recall any details 30 years on. The next I heard of it again, was at this Inquiry. I have been referred to the witness statement of Anita Mary James [WITN5426001], Charles Lister [WITN4505389], Dr Andrzej Rejman [WITN4486001] and the transcript of Dr Andrzej Rejman's oral evidence [INQY1000203; INQY1000204] to assist with this topic. Except for Dr Andrzej Rejman's mention of me confirming that I was HEO [INQY1000204] (37), not one of those documents name me specifically and so, I have no further comments on them.
- 3.15. The letters '*GEB*' is a reference code and can be found marked on several documents. Although, I do not know what '*GEB*' stands for, I do know the DH files required a three-letter prefix, ideally three letters that reflected the subject. The group of letters had to be agreed with the central file registry to avoid duplication across the DH, so a file series could end up with three random letters. With that said, I have seen a copy of the minutes from Dr Andrzej Rejman to Ruth McEwen dated 31 July 1996 and I can see that it says, '*GEB is a heading for a series of files ( ? general blood ? ) [sic]. HP is Health Promotion division*' [DHSC0004756\_027] (2).

## FIRST WRITTEN STATEMENT OF JOHN FRANCIS RUTHERFORD

### **Destruction dockets**

- 3.16. I have seen a list of 'GEB' files which appear to have been destroyed, as well as the destruction dockets detailing when those documents were destroyed and by whom it was authorised [DHSC0014975\_033]. Interestingly, I have noted the initials 'LB' on the docket which states that 'GEB 1' was destroyed on 29 September 1994 [DHSC0014975\_033] (5).
- 3.17. From the same document, I can see that several file volumes were marked as destroyed. 'GEB1 volume 4' was marked as 'Destroyed on 9-2-93' in the 'Closed file sent to DRO Repository' box. There is also a date in the 'Branch review decision' which states '29.9.94'. This seems to carry on with another date, '19-7-95' but it does not appear to be in the same handwriting as that in the 'Closed file sent to DRO Repository' box, which is more confusing than helpful [DHSC0014975\_033] (11). 'GEB1 volume 16' and 'GEB1 volume 17' are each marked as 'Destroyed' in the 'Branch review decision' box but no dates are evident [DHSC0014975\_033] (14). Again, I note the differences in handwriting on each of the destruction dockets and at times, the different pens used [DHSC0014975\_033] (11; 14).
- 3.18. I understand the destruction dockets were also addressed in Charles Lister's oral evidence: [INQY1000212] (35) and I have no further comments on this.

### **Initials – 'JR'**

- 3.19. I have seen an un-redacted copy of the destruction dockets the Inquiry referred me to: [DHSC0014975\_033]. Having seen this copy, I confirm that it is not my handwriting on the destruction dockets.
- 3.20. While a number of those dockets were initialled with my initials 'JR', there was no full signature on each of the dockets which I seem to recall was required at the time [DHSC0014975\_033] (11-14). I emphasise the need for a full signature on the destruction dockets as I recall DRO would not accept a file for review/destruction without one.
- 3.21. On occasions, other staff would prepare files for me to agree on their review/destruction but I would have signed each file on the relevant docket before sending them to DRO.

## FIRST WRITTEN STATEMENT OF JOHN FRANCIS RUTHERFORD

- 3.22. I cannot recall sending the files in [DHSC0014975\_033] for destruction nor can I recall being instructed to send those files for destruction. The decision to review/destroy files would have been made by the policy branch and the subsequent filing or physical destruction would have taken place at DRO at the indicated time. I and the other HEO and two EOs would have made such decisions.
- 3.23. When I reviewed the destruction dockets for the purposes of this statement, I did not recognise the handwriting (nor signed initials) as being mine. I have also compared the handwriting and initials in the destruction dockets [DHSC0014975\_033] (11-14) to my handwriting and initials found in a note to Elaine Webb [WITN7224003], and unfortunately I cannot see the similarities between the two. I would not have authorised anyone else to sign any destruction dockets on my behalf.
- 3.24. Looking at the covering files GEB1 volumes 4 to 17, they all have '*Branch review decision*' dates ranging between 1994 to 1997, indicating that they should have been looked at again on those dates and a decision would then have been made for either further review or destruction, as appropriate [DHSC0014975\_033] (11-14). Despite all this and my initials on the '*Branch review decision*', it is possible that I referred these documents for destruction, although, I cannot be certain for the reasons in paragraph 3.23 above [DHSC0014975\_033] (11-14). If so, it would have been an error on my part as the documents should have been retained as per my letters to DRO [DHSC0003605\_003; DHSC0003734\_002; DHSC0003735\_005; DHSC0003576\_002; DHSC0003576\_001; DHSC0002397\_002; DHSC0002397\_001; DHSC0002398\_002; DHSC0002398\_001; DHSC0002401\_002; DHSC0002401\_001]. No matter how hard I try and 30 years on, I simply cannot recall the details of, what at the time, would have been everyday administrative actions.
- 3.25. On the files marked for destruction, I was unaware of whether we had to check with the DH on whether they held or had ownership rights on one or more copies of the files.

## FIRST WRITTEN STATEMENT OF JOHN FRANCIS RUTHERFORD

- 3.26. I do not recall any discussions between myself and colleagues about potential or anticipated hepatitis C litigation and the retention of documents although, I do recall that, at this time, a colleague, Mr David Burrage, was already working on papers that might be required for any such request for papers. I did not give any particular consideration to the obligations the DH might have to disclose these files to any potential or anticipated hepatitis C litigation as that side of work was being dealt with by Mr David Burrage. Although, I reasonably assumed the DH could be asked to disclose papers in the event of litigation.
- 3.27. Around the time the documents were destroyed, I remember there was a problem with storing what over many years had become an unwieldy number of old volumes of files held on policy branches, and a DH-wide exercise was undertaken to move as many files as possible to DRO's store. There were various members of staff who were involved in this exercise such as my EO, Elaine Webb. There was also Mr David Burrage's EO, Monica Gibson, responsible for document discovery relating to HIV Haemophilia litigation.

### Volume 4

- 3.28. The GEB1 volume 4 would have contained ACVSB papers from 16 May 1989 to 19 January 1990. Although I have no detailed knowledge on the contents of those papers, the following destruction docket shows that the file was sent to DRO on 9.2.93, marked for a Branch review on 19.7.95, but was actually destroyed 29.9.94, which does not make any sense [DHSC0014975\_033] (11). Having seen the letters I sent to DRO regarding the retention dates [DHSC0003605\_003; DHSC0003734\_002; DHSC0003735\_005; DHSC0003576\_002; DHSC0003576\_001; DHSC0002397\_002; DHSC0002397\_001; DHSC0002398\_002; DHSC0002398\_001; DHSC0002401\_002; DHSC0002401\_001], I cannot recall checking or requesting an amendment on the destruction dates on the other volumes which appear in the document [DHSC0014975\_033] of the listed files labelled 'GEB'. Nor can I remember being asked to do so.
- 3.29. I have been shown a memo from Dr Rejman to Anita James dated 7 June 1995 which states '*[u]nfortunately vol 4 for part 1989 has apparently been destroyed. Mr Burrage has asked for the individuals responsible to write to him formally*

**FIRST WRITTEN STATEMENT OF JOHN FRANCIS RUTHERFORD**

*confirming this'* [DHSC0200022\_002]. I do not recall being asked to respond to Mr David Burrage nor do I recall providing a response.

**Internal audit**

3.30. There was an internal audit investigation the destruction of ACVSB files and a report was published in April 2000 [DHSC0046961\_071]. I can confirm I was neither contacted nor interviewed as part of the audit, and my name does not appear in the report either.

Statement of Truth

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

Signed.....

GRO-C

.....

06/09/2022

Dated.....