

INFECTED BLOOD INQUIRY

WRITTEN STATEMENT OF PROFESSOR DOUGLAS THORBURN

I provide this statement in response to the request under Rule 9 of the Inquiry Rules 2006 dated 31 August 2022.

I, Professor Douglas Thorburn of The Royal Free London NHS Foundation Trust, Pond Street, London, NW3 2QG, will say as follows: -

Section 1: Introduction

1. I am a Professor of Hepatology and Consultant Hepatologist who qualified with MBChB from the University of Glasgow in 1990. After qualifying, I completed the usual course of pre-registration house officer posts completing my specialist training in gastroenterology/hepatology.
2. After completing my specialist training I worked as a Liver Transplant Fellow at The University of Western Ontario between July 2002 and August 2003. I obtained my Certificate of Completion of Specialty Training (CCST) in general medicine and gastroenterology in 2002, whereupon I was eligible to take up consultant posts in the United Kingdom. I took up my first consultant post as Consultant Hepatologist at Queen Elizabeth Hospital in Birmingham in September 2003, working there until December 2007.
3. I joined the Royal Free London NHS Foundation Trust in December 2007 as a Consultant Hepatologist. I was appointed to my first management role as Clinical Director for Gastroenterology, Endoscopy, Hepatology, HPB and Liver Transplant in

February 2009. I held this post until July 2010, whereupon I was appointed as Clinical Service Lead for Hepatology at the Royal Free London NHS Foundation Trust, and continued in this post until March 2013. In March 2013, I became Clinical Director of Hepatology, HPB and Liver Transplant at the Royal Free London NHS Foundation Trust, continuing in that role until December 2020. Thereafter, I was appointed Divisional Clinical Director for Liver and Digestive Health in December 2020. In March 2020, I also took on the role of Acting Divisional Medical Director for the Transplant and Specialist Services Division at the Royal Free London NHS Foundation Trust, and held that post until the establishment of the new divisional structure in 2021. I was appointed Interim Deputy Medical Director at Royal Free Hospital in June 2022 until present.

4. In addition, since 2018 I have been the Chair of the Liver Advisory Group for NHS Blood and Transplant. This role involves overseeing the practice of liver transplantation across the UK.
5. In addition to my medical degree, I became a Member of the Royal College of Physicians (MRCP) (UK) in 1993. I obtained a doctorate of medicine (MD) from the University of Glasgow in 2002. I became a Fellow of the Royal College of Physicians (FRCP) (Glasgow) in 2004. I also became a fellow of the Royal College of Physicians (FRCP) (London) in 2007.

Background to W0491's late spouse's treatment

6. Relevant to my response to the criticisms of W0491 at paragraphs 9-12, 15 and 34-35 of his supplemental witness statement dated 14 December 2020 is the system which was in place for treating patients such as his wife with antiviral medication for Hepatitis C. It should be noted that treatment with antiviral medication for Hepatitis C during the period which is the subject of this statement, was centrally funded, rather than being funded by an individual NHS Trust. As part of this process, in November 2014 NHS England set up Operational Delivery Networks (ODN's) throughout the country to assess who could be considered for treatment according to the criteria laid down by NICE in their Technology Appraisal Guidelines and according to the eligibility criteria laid down by NHS England. There was a network of ODN's which covered different regions of the country. The Royal Free London NHS Foundation Trust fell within the North Central London ODN. W0491's late spouse would have fallen within the ODN covering the South of England/Portsmouth area, because she lived in West Sussex.

7. The ODN for the relevant region in which a patient lived would assess whether that patient could be considered for treatment, applying the relevant criteria. If an ODN considered that a patient was potentially suitable for treatment, these patients would then be considered for treatment at local multi-disciplinary team meetings (MDTs). The MDT would consider whether the patient was suitable for treatment, taking into account their current clinical picture and their past medical history and would then consider which particular treatment regime would be the most appropriate.
8. Prior to the ODN's coming into existence, each individual NHS Trust would fund antiviral Hepatitis C treatment on a local basis. The introduction of the ODN's came about as a result of the need to centralise treatment of patients with the new Hepatitis drugs such as Sofosbuvir which were being developed and approved for treatment.
9. With regard to funding of anti-viral Hepatitis C treatment, from March 2016 each NHS Trust had a target for how many patients could be treated. Where patients were eligible for treatment, there was an incentive for NHS Trust's to treat those patients, in order to maximise the funding available to that Trust. Therefore where patients were eligible and would benefit, clinicians were keen to recommend them for treatment in order to use the full allocation of funding available to the Trust to benefit their patients.
10. In addition, before there was formal NICE approval for a particular drug, certain patients would be eligible for treatment via NHS England's funded Early Access Programme. To be eligible for treatment on this early access programme patients had to be in urgent clinical need. For example they may have been suffering from decompensated cirrhosis or life threatening disease, such as cryoglobulinaemia. W0491's late spouse did not meet the eligibility criteria for the early access programme, because she had undergone a liver transplant in March 2014, and thereafter she did not fulfil the eligibility criteria, namely decompensated cirrhosis or any other life-threatening condition caused by hepatitis C.

My involvement with W0491's late spouse's treatment

11. Because W0491's late spouse was a patient who lived in West Sussex, she was being treated at St Richard's Hospital in Chichester. Patients in W0491's late spouse's area would be referred to the Royal Free London NHS Foundation Trust if they were on the transplant waiting list, in need of a transplant, or if they had already undergone a transplant and were receiving post-transplant care.

12. W0491's late spouse had undergone a liver transplant at the Royal Free Hospital on the 23 March 2014 for decompensated cirrhosis secondary to genotype 1 chronic Hepatitis C. As WITN0491 details in his supplemental statement dated 14 December 2020 at paragraph 8, W0491's late spouse unfortunately suffered significant complications following her liver transplant. These included a left foot drop which she suffered from post-operatively as a result of which W0491's late spouse was slow to regain mobility, and major bleeding secondary to a hepatic artery aneurysm in October 2014, and localised wound infections. This meant that she was an inpatient at the Royal Free Hospital for lengthy periods following the surgery, in March 2014 and in 2015. During that period I would see W0491's late spouse regularly on ward rounds when I was the attending liver medicine consultant for the liver transplant programme, during which time I got to know her well.
13. Following her discharge from the Royal Free Hospital, I understand that because W0491's late spouse had comorbidities and poor mobility it was agreed that she should be treated at the Queen Alexandra Hospital in Portsmouth, rather than the Royal Free Hospital, because this was closer. She could then be seen there by Royal Free London NHS Foundation Trust hepatology clinicians. This was reflected the ongoing unit policy to manage patients that were being considered for or had undergone a liver transplant within a clinical network with care delivered as close to home as was appropriate given the needs of the individual patient.
14. To support this practice, the Royal Free London NHS Foundation Trust had a service level agreement whereby hepatologists from the Royal Free Hospital would treat patients such as W0491's late spouse in joint clinics at Queen Alexandra Hospital, which would run 3 or 4 times a year. Dr Aileen Marshall was the Consultant Hepatologist at the Royal Free London NHS Foundation Trust who would travel down to Portsmouth to see patients in this joint clinic.
15. I did not personally treat patients in this clinic, although I was involved at the outset, because I went down to the Queen Alexandra Hospital on a couple of occasions when we were setting up the joint clinics. For this reason I may have taken part in a couple of joint clinics when the service was bedding in, but I don't have any recollection of treating W0491's late spouse at these clinics. My Solicitors Bevan Brittan LLP have obtained a copy of patient W0491's late spouse's Royal Free London NHS Foundation Trust and Portsmouth Hospitals NHS Trust records, but no records relating to my treatment of W0491's late spouse at Queen Alexandra Hospital have been identified.

16. As indicated at paragraph 6 and 7 above, because W0491's late spouse lived in West Sussex, decisions regarding her eligibility for treatment with anti-viral medication such as Sofosbuvir from November 2014 would have been made by the ODN for South of England, where she lived. Thereafter, if eligible for funding for treatment, a patient in W0491's late spouse's area would be considered for treatment by a local MDT at Portsmouth Hospitals NHS Trust. For that reason I would not have been involved in any treatment decisions regarding whether it was appropriate for W0491's late spouse to receive treatment with anti-viral medication for Hepatitis C.
17. For that reason I do not agree with WITN0491's recollection at paragraph 9 of his supplemental statement dated 14 December 2020 that I would see his wife at clinics at Queen Alexandra Hospital every 3 months, or his statement at paragraph 10 that I worked in the joint clinic at the Queen Alexandra Hospital in Portsmouth. I note that at paragraph 10 of his supplemental statement WITN0491 references discussions with Dr Marshall regarding a new drug which had been developed, which could treat patients with Hepatitis C genotype 1. As WITN0491 says at paragraph 26 of his statement, this was likely to be a reference to Sofosbuvir, (trade name Sovaldi).
18. Although I would not have been involved in the treatment decisions regarding whether W0491's late spouse would be eligible for treatment with Sofosbuvir, it is quite likely I had discussions with her, when I saw her at ward rounds when she was an in-patient at the Royal Free Hospital in 2014/2015 regarding Sofosbuvir. At the time this drug was being developed, but had not yet been approved for treatment of patients in the UK. However the results of clinical trials had become available and there was a lot of excitement amongst clinicians involved treating patients with Hepatitis C, because the results of treatment with Sofosbuvir were encouraging.

Response to criticisms by Witness W0491

19. With regard to my comments regarding Witness W0491's comments at paragraphs 9 to 12 and 15 of his statement, as stated above, I did not see W0491's late spouse at the joint clinics at Queen Alexandra Hospital and therefore cannot comment on whether W0491's late spouse was eligible for treatment with Sofosbuvir during that period.
20. At paragraph 34 I note that it is stated as follows:

"I cannot stop wondering whether the consultants I have

mentioned above wilfully withheld details of a beneficial treatment or were simply negligent in failing to prescribe it. In my more cynical moments I tend towards the former.”

21. I note from paragraph 15 of W00491003's statement that he considers there was a period of around 8 months between August 2015 and the beginning of 2016 when he considers his wife could have benefited from treatment with Sofosbuvir. As stated above I was not treating W0491's late spouse at the joint clinics at Queen Alexandra Hospital during that period. Her treatment during that period should therefore be commented upon by other clinicians.

22. At paragraph 35 it is stated as follows:

“In general, I believe that Sandra encountered resistance to being prescribed a potentially life saving drug due to financial considerations and austerity measures. Although it is possible that medical considerations informed the decision, I feel the medical establishment and Sandra's treating clinicians missed an opportunity to save her during her window of wellbeing in late 2015/early 2016. I believe that at this time she would have been well enough to endure the course of treatment”.

23. Again I cannot comment on these allegations, because I was not treating W0491's late spouse during the period in question. However as I have explained above, funding for new antiviral drugs to treat Hepatitis C were not funded by individual Trusts, but funded centrally by NHS England. Where patients were eligible, clinicians were keen to treat patients who could benefit from anti-viral treatment for Hepatitis C, to ensure they utilised the full allocation of funding available to each ODN. I therefore doubt that financial considerations or austerity measures were the reason why W0491's late spouse was not treated with Sofosbuvir.

24. I also note that WITN0491 says there was a missed opportunity to prescribe antiviral medication which might have saved W0491's late spouse's life. It should be noted that W0491's late spouse did not sadly die of complications connected with Hepatitis C infection, but from a range of other medical problems. These included complications arising from the transplant surgery she underwent in March in 2014, including an hepatic artery bleed and damage to the biliary tree. For these reasons, even if she had

undergone treatment with Harvoni, sadly I do not consider this would have prevented her death.

25. Finally, as I have referenced above, I came to know W0491's late spouse well, having seen her frequently on the ward and was very saddened by her death. I extend my condolences to W0491's husband.

Statement of Truth

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

GRO-C

Signed _____

28 February 2023

Dated _____