

The Infected Blood Inquiry weekly summary

The
Haemophilia
Society

A summary of inquiry hearings: week of 6 June 2022

Justin Fenwick QC was a junior member of the legal team instructed by the Department of Health (DoH) to defend the HIV litigation claim 1988-1991. He told the inquiry that although those bringing the case faced some 'tricky' legal issues they also 'had the sympathy of the court'. He did not remember how the clause in the final settlement which exempted hepatitis infection from any future legal claim

was inserted. Documents suggested it first appeared after feedback from those bringing the case. He said there should be a reconsideration of no-fault compensation in major tragedies. Richard Gutowski worked in DoH's Medicines Division 1984-1991, including running its litigation unit. He was head of blood policy from 2003-4. In the latter role he felt

financial support for those infected with hepatitis C was 'not justified'. But pushed on by moves in Scotland to introduce its own scheme, the new Health Secretary John Reid made a surprise 'unilateral' decision to proceed with the Skipton Fund. No new money was provided to pay for it - funds came from the existing health budget with bereaved dependents excluded.

Inquiry focus: missing documents 1988 - 1992

Charles Lister, who was head of blood policy at the Department of Health from 1998 to 2003, was tasked with tracking down missing minutes and background papers from the Advisory Committee for the Virological Safety of Blood (ACVSB) from May 1989 to February 1992. He approached various organisations and individuals as part of his search and was told by retired committee chair Dr Metters that he'd kept ACVSB minutes in his personal file in anticipation of future hepatitis C litigation. However in a 'bombshell' discovery, it transpired that his secretary had destroyed the files, signed off by three separate senior colleagues, using the justification that she'd been upset by a previous process of disclosure over BSE. On legal advice, a small internal investigation took place to avoid a 'witch-hunt'. It did not look at why the documents were destroyed but focussed on 'lessons learnt'. Mr Lister speculated that part of the problem was poor supervision from senior colleagues.

Quotes of the week

'There was a sense of frustration at the lack of documents. I suspect that means there was probably a frustration at the lack of people to tell me what actually happened.'

Justin Fenwick on HIV litigation case preparation

'A lawyer can legitimately tell you that this case is so strong compassionately that if we win it, you will still lose in the sense that you'll have to compensate them.'

Justin Fenwick on the remit of legal advice

'I think the submission I wrote to Yvette Cooper [in 2000] with a possible scheme and an argument for justifying that scheme against the argument that it would open the floodgates, for example, was quite...firm. It was giving ministers a real opportunity to do something.'

Charles Lister on proposals for financial support for hepatitis C infected.

'You were responsible for litigation and one would have hoped, perhaps, observing the order of a court.'

Sir Brian Langstaff to Richard Gutowski on evidence that he gave instructions to ignore a court order to reveal the identity of doctors who gave evidence in the HIV litigation case.