

**THE  
PENROSE  
INQUIRY**

44 Drumsheugh Gardens • Edinburgh EH3 7SW  
Tel: 0131 528 5221  
[www.penroseinquiry.org.uk](http://www.penroseinquiry.org.uk)

To: The Scottish Ministers  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

17 September 2009

To be sent by email to:



1. Notice is given in terms of section 21(2)(b) of the Inquiries Act 2005 ("the Act") that you are required to provide at the above address not later than by 12 noon on [Friday 13 November 2009] all documents (as defined in section 43 of the Act) in your custody or under your control that relate to the following matters in question before the Inquiry and, except as regards matters 1.6 and 1.10 below, in so far as relating to the period from 1 January 1974 to 31 December 2006:

**1.1 Term of Reference 1:**

The systems in place in Scotland for the collection, treatment, licensing, testing, preparation for supply and supply for use by the NHS of blood and blood products with particular reference to the risks of transmission of the hepatitis C virus and HIV to patients treated by the NHS in Scotland, including the role of government in regulation and setting guidelines and standards.

**1.2 Term of Reference 2:**

The systems in place for informing patients treated by the NHS in Scotland of the risks associated with the use in their treatment of blood or blood products, with particular reference to the risks of infection with the hepatitis C virus and HIV.

**1.3 Term of Reference 3:**

The systems in place in Scotland for obtaining consent from, and testing for infection with hepatitis C and HIV, patients treated with blood or blood products, and informing any patients found to be so infected.

**1.4 Term of Reference 4:**

The systems for recording and monitoring the numbers of NHS patients in Scotland treated with blood and blood products, with particular reference to the numbers exposed to risk of infection with the hepatitis C virus and HIV and the numbers contracting either or both such infections as a consequence of such treatment.

**1.5 Term of Reference 5:**

(a) The circumstances generally in which patients treated by the NHS in Scotland became infected with hepatitis C, HIV, or both through the use of blood or blood products in the course of their treatment; and

(b) the extent to which scientific and clinical understanding and evidence internationally of the risk of such infection was taken into account in the treatment of patients by the NHS in Scotland with blood and blood products.

**1.6 Term of Reference 6:**

The deaths of Reverend David Black who died on 31 October 2003 and Mrs Eileen O'Hara who died on 7 May 2003 with particular reference to the circumstances in which they became infected with the hepatitis C virus, HIV or both.

**1.7 Term of Reference 7:**

The steps taken or considered by those involved in, and those responsible for, the NHS in Scotland, including NHS Boards and the Scottish National Blood Transfusion Service ("SNBTS"), their officers and employees and associated agencies, once hepatitis C and HIV were identified, to trace individuals who might have become infected, or had become infected, with one or both of said viruses as a result of receiving blood or blood products.

**1.8 Term of Reference 8:**

The steps taken by those involved in, and those responsible for, the NHS in Scotland including NHS Boards and SNBTS, their officers and employees and associated agencies, to prevent the provision of blood and blood products infected with hepatitis C or HIV.

**1.9 Term of Reference 9:**

The steps taken or considered by those involved in, and those responsible for, the NHS in Scotland including NHS Boards and the SNBTS, their officers, employees and associated agencies to:

(a) inform individuals who might have received, or had received, blood or blood products infected with hepatitis C or HIV of the risks associated with their treatment for themselves and their families; and

(b) offer treatment to any individual at risk from such blood or blood products.

**1.10 Term of Reference 10:**

Any particular adverse consequences for patients treated by the NHS in Scotland and their families of infection through blood and blood products with hepatitis C and HIV, including the treatment offered.

2. This Notice does not apply to any individual health records (as defined in section 1(1) of the Access to Health Records Act 1990) in your custody or under your control.

3. This Notice does not apply to any documents held by or on behalf of the Lord Advocate as head of the systems of criminal prosecution and investigation of deaths in Scotland;

4. In terms of section 36 of the Act, where a person fails to comply with, or acts in breach of, this Notice, or threatens to do so, the Chairman may certify the matter to the Court of Session which, after hearing any evidence or representations, may make such order by way of enforcement or otherwise as it could make if the matter had arisen in proceedings before it. In terms of section 35(1) of the Act a person is guilty of an offence if he fails without reasonable excuse to do anything that he is required to do by a Notice under section 21 of the Act. A person who is guilty of such an offence is liable on summary conviction to a fine not exceeding £1000 or to imprisonment for a term not exceeding six months, or to both.

5. If you wish to make a claim in terms of section 21(4) of the Act:
- (a) that you are unable to comply with this Notice, or
  - (b) that it is not reasonable in all the circumstances to require you to comply with it,
- and that it should be revoked or varied, you should apply in writing to me no later than the date and time by which production is required.

When so applying you should:

- (a) identify, in so far as possible, any particular document in relation to which the claim is being made;
  - (b) state whether you seek revocation or variation of the Notice and in the latter case specify the variation sought;
  - (c) give reasons for your claim, and
  - (d) where it is claimed that it is not reasonable in all the circumstances to require compliance with the notice, address in the reasons for the claim the public interest test in terms of section 21(5) of the Act.
6. Your attention is drawn to the terms of the Inquiry Procedure Direction No 1 – Production of documents to the Inquiry, of which a copy is enclosed with this notice.

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The Right Hon Lord Penrose  
Chairman of the Inquiry