

**THE PENROSE INQUIRY
STATEMENT OF DUNCAN MACNIVEN
C3: VIRAL INACTIVATION (1985-1987)**

- i. My name is Duncan Macniven. I am a retired civil servant. My date of birth is [REDACTED]. I have been asked to provide this statement as I was, from 1986 to 1989, Head of the Division which was responsible for SNBTS.
- ii. I joined the Scottish Office in September 1973 as a history graduate, in the Highland and Rural Development Division of the Scottish Economic Planning Department. I was what was known as an "Administrative Trainee".
- iii. I joined SHHD in early May 1986 on promotion to Assistant Secretary (now known as Deputy Director). This was my first post in Health. I was responsible for 5 topics. The first was NHS land/property. The second was supplies and emergency planning. The third was ambulances and blood transfusion (which were both run by the NHS Common Services Agency). The fourth was health service building policy (essentially how to build a good hospital). The fifth was services for disabled people. I had about 40 members of staff working under me.
- iv. I was Head of this Division until summer 1989, then I headed the team responsible for drafting the NHS and Community Care Bill, which became an Act in 1990. I worked in Historic Scotland from 1990-95, in Justice from 1995-99, in the Forestry Commission from 1999-2003 and became the Registrar General for Scotland in August 2003. I retired from that post in August 2011.
- v. Between 1986 and 1990, I had quite a lot of involvement with SNBTS matters – although it is a very long time ago and my recollection, without the benefit of the files, is probably inaccurate and incomplete. Blood transfusion was perceived to be quite a tricky area. The HIV threat was still very much live. I recall in particular being involved in work relating to artificial production of blood products and autologous blood transfusion – both with the aim of improving patient safety. I was involved in the formulation of submissions, to the extent that Ministers needed to be brought in. John MacKay, Simon Glenarthur and then Michael Forsyth were successively Health Ministers and were very supportive of the health service.

vi. On clinical matters, I drew advice from Dr John Cash, the Medical Director of the SNBTS, and, within SHHD, from Dr John Forrester, the Department's relevant Senior Medical Officer.

vii. I recall that Sandy Murray, my Head of Branch responsible for the SNBTS work, was very energetic and he would doubtless have a clearer memory than I have. I was not as involved with the detailed issues as Sandy was. Decisions ultimately rested with Ministers, but certain decisions were delegated to my boss (Hugh Morison and later Hamish Hamill), to me or to Sandy. I believe that decisions were taken at the appropriate level, including Ministers.

viii. Reading the C3 chronology provided by the Inquiry and internal records prompted me to recall three things. Firstly, the question of infectivity of blood products was a subject of great concern to SNBTS and SHHD and there was a lot of activity during the period to which the Schedule relates. Secondly, I was reminded of the increasing demand for Factor VIII, and the worry that supplies would not be adequate to treat patients; the fact that heat treatment could reduce yield impacted on the supply position. Thirdly, the records underline the fact that the question of co-operation between the SNBTS and the English CBLA was a live issue, and we (SHHD) were making efforts to try to facilitate closer co-operation, as were John Cash and, I think, Jim Donald who was general manager of the CSA.

- 1) There was informal contact and exchange of information between PFC and BPL/PFL, in particular, between Dr Peter Foster and Dr JK Smith. There appear to have been difficulties with more formal contact, in particular, at a senior, or managerial, level. Were officials in SHHD with responsibility for the blood transfusion service aware of these difficulties? Was that a concern and, if so, what, if anything, did SHHD do to address these difficulties?

ix. We were aware of the difficulties. We were concerned about the lack of collaboration, particularly from the point of view of good use of resources. On technical matters, while we were concerned that top-level relationships seemed to be strained, at working level collaboration was clearly taking place between Dr Foster, Dr Perry and Dr Jim Smith – as demonstrated for example by Dr Forrester's

comments about "Punch and Judy" (SGH.002.4672) and by Chapter 11 of the Preliminary Report (for instance, paragraph 11.304).

2) The Central Blood Laboratories Authority (CBLA) Central Committee on Research and Development in Blood Transfusion first met on 21 June 1983. It, presumably, provided a more formal forum for the exchange of information between the respective national blood transfusion services in respect of the research and development of coagulation concentrates. Dr Lane, the Director of BPL, was a member of the committee. While Dr Brian McClelland, Edinburgh BTS, was a member of the committee, there was no member from PFC.

(a) Was the committee truly a UK committee or was its role restricted to research and development in England and Wales?

x. I did not take up my post until May 1986, and so I cannot speak to the establishment of the CBLA Research and Development Committee. I understand that SHHD queried the status of the SHHD observer (Dr Bell was nominated) and were advised that both SHHD and DHSS had been invited to nominate observers only (NQA 7/1, Part 1, pages 217-220); as both departments were treated the same, this seems appropriate. I understand that Dr McClelland of the SNBTS was a member, and this seems to suggest that the Committee was a UK one.

(b) Why was there no PFC representative on the committee? Ought there to have been such representation?

xi. I do not know why there was no PFC representative. However, Dr McClelland worked for SNBTS, and PFC was also a part of SNBTS. I always had the sense that Drs Cash, McClelland and Perry worked in a "collegiate" way, and therefore I think that Dr McClelland's presence would have covered the PFC interest.

(c) There appear to have been concerns by some in Scotland as to whether that committee was an appropriate forum for the exchange of information between BPL/PFL and PFC, based, at least partly, on the perceived "commercial brief" of the CBLA. Did officials in SHHD with responsibility for the blood transfusion service share these concerns and, if so, what, if anything, was done to try and address these concerns?

xii. SHHD did share those concerns. However, our concerns were not directed at the PFC/BPL relationship alone; we were interested in links between Scotland and England on blood transfusion research generally. When I started work in SHHD, the intention was to set up a new committee, explicitly covering the UK and reporting to

the UK Health Departments (see minutes of NBTS Advisory Committee meeting on 12 March 1986 – NQC 19/1, Part 3, pages 70-72). Formal proposals were drawn up by DHSS (see letter of 11 December 1986 from Dr Gunson to Dr Cash, SNB.002.4347) but were unacceptable to the SNBTS (see Dr Cash’s reply of 9 April 1987, SNB.013.7021) for a variety of reasons. Despite concerns on the part of both DHSS and SHHD (see Dr Forrester’s note of NBTS Advisory Committee meeting on 17 June 1987 – NQC 19/1, Part 3, pages 2-3), it was not possible to make further progress at that time.

3) Were more formal links between PFC and BPL/PFL desirable? Were more formal links eventually established and, if so, when and how?

xiii. Formal links are no substitute for people actually co-operating, and I was aware of, and to some extent reassured by, the working-level links. But, though fruitful co-operation on matters like scientific research cannot be secured by government dictat, we believed that these links would have been stronger if formal machinery existed. That was why, in 1989, I advocated revival of national research discussions in a letter to my opposite number in the Department of Health (NQZ 20/2, Part 1, p12-16). Unfortunately, no reply to my letter is on file and I cannot recall whether progress was made.

Statement of Truth

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

Signed *Chambers*

Dated *9 September 2011*