

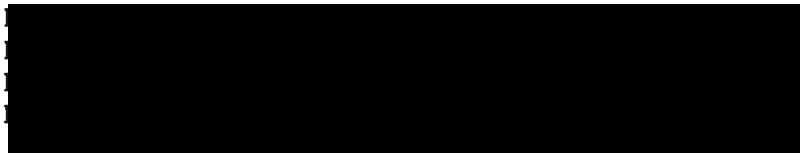
DRAFT

Minutes of the Special Meeting of Haemophilia Reference  
Centre Directors held at the Royal Free Hospital on Friday  
13th May, 1988

Present:



Apologies:



The Chairman thanked everyone for coming to the Special Meeting and especially welcomed [REDACTED] of the Medical Defence Union. The Chairman suggested that all discussion should be kept general. He briefly outlined the background to the meeting which was that just over 1,000 haemophiliacs were anti-HIV positive and some of them were now considering taking action against doctors and/or Health Authorities. The haemophiliacs had been told that July was the deadline for starting action and lawyers were now asking for details regarding the patients, the therapy they had received, etc. He suggested that the Directors should briefly outline the current situation regarding possible legal action from their patients and that [REDACTED] should deal with specific points, in general terms, as they arose.

██████████ referred to the Counsel's brief which the Haemophilia Society had received and distributed. The Chairman said he would send a copy of the brief to ██████████

On outlining their situation it was clear that all the Directors had a few patients who were considering taking legal action. One Director, in Scotland, had been served with 2 writs in which he was named along with his Health Authority. The patients were asking for £<sup>1</sup>/<sub>4</sub>m. each. ██████████

██████████ said that Directors were likely to get requests for patients notes or notice of action. There are two ways in which solicitors may ask for patients notes -

1) The Director, Health Board or Health Authority might be partners to the action therefore the patient's lawyer wants to see the notes and has a right to do so.

2) A Section 34 disclosure where the doctor is not a party to the action but someone else is, in which circumstances the doctor is not obliged to disclose.

██████████ suggested that the notes were photocopied before being released, or preferably photocopies of the notes be provided rather than the originals. It was quite in order to let the notes be seen by another doctor whose professional opinion was being sought. ██████████ thought it likely that all the Reference Centre Directors would be asked to give expert opinions against one another. Patients could be given facts about their treatment if they personally requested them but she suggested that all the

patients should be advised to get a solicitor and take legal advice.

Regarding the suggested deadline of July for patients to start action, this was based on the date of knowledge and was very difficult. In theory the relevant date was 3 years after the date when the patient knew that he had a right to claim, which was not the same thing as the date of the event. The Limitation Act was probably not relevant in these cases as Judges tended to view sympathetically claims to bring action of this sort. It didn't matter in practical terms whether or not the Doctor was personally named in the writ as he would be treated exactly the same way by the MDU. It was up to the patient's solicitor to decide who to cite in the action. There was an official circular HM(54)32 setting out the DHSS's policy regarding sueing. It was up to the doctor concerned to decide whether or not he wished to continue to treat the patient once he knew that the patient was making a claim. The Directors all agreed that it would be very difficult for them not to continue to treat their haemophilic patients.

[REDACTED] was asked what the situation was regarding the private notes about patients which some Directors kept separate from official hospital notes and contained very confidential information disclosed by the patients when they were being counselled. [REDACTED] said that all notes about the patients were the property of the Health Authority and would have to be disclosed if requested. The notes of

[REDACTED]

patients who had died were treated in exactly the same way as those of live patients. The limit of action was likely to be 3 years after the date of death. One Director said that the notes about one of his patients who was considering action were taken by the Health Authority's legal adviser before he knew anything about the case.

It was thought that some of the actions would be based on the dates when the heat-treated materials became available. The date of seroconversion, material given up to that date and the material available at that time were very relevant factors. One Director had received a request for information from a patient who was "hell bent to sue the Government", rather than the Health Authority or Doctor.

In reply to the question as to how long the actions were likely to take as several Reference Centre Directors were likely to retire in the not too distant future, [REDACTED] said that a Doctor's retirement made no difference. Actions might take 15 years to get to court; open and shut cases took 5-6 years. The patient's solicitor only had to say 3 weeks before the case goes to Court how much money they were asking for. Court cases were now being booked for 1991!

[REDACTED] suspected that claims would be held to lie with anyone who had acted differently than the norm at the time the event took place. The date on which the patient ~~alleged~~ <sup>alleges</sup> the error occurred was very very important. Things only got difficult if Doctors go out on a limb and act

differently than was the usual practice at the time. Any documents setting out recommendations regarding patient management would be quoted. [REDACTED] thought it would be useful to find out what the evidence for the accepted medical practice was year by year. The MDU would need to line up a defence of people who think the same way when the cases come up. The limit of the medical knowledge at the time the alleged event occurred was very relevant.

One Director had been asked by his Health Board to give a detailed Medical report on 2 patients and he was not sure what was requested. [REDACTED] suggested that he asked the MDU to look at the reports before they were submitted.

There was some discussion about the availability of various types of product at different Centres. [REDACTED] thought it was very important for the Directors to make sure their Health Authorities knew what they required and when the facilities were not what the Directors wanted. [REDACTED] also strongly stressed that the Directors should keep detailed notes about all events as they occurred as these could prove valuable at a later date. [REDACTED] thought that the patients would probably get Legal Aid fairly easily.

The Chairman thanked [REDACTED] for her very helpful advice and suggested that a further meeting might be held when the situation had advanced. [REDACTED] agreed to attend another meeting at a date to be arranged.

It was suggested and agreed that the matter of possible legal actions should be raised at the AGM in September. It was also suggested that someone should itemise the facts regarding patient treatment policy and HIV infection from 1982 onwards.

A.O.B.

1) The Chairman suggested that the Reference Centre Directors should discuss the draft document "Recommendations on Choice of Therapeutic Materials". Several written comments had been received but the main problem was regarding the products available in Scotland. After discussion some amendments were noted for inclusion in the draft document, which would be revised and re-distributed to the Reference Centre Directors for approval.

2) Non-Hodgkins Lymphoma in Anti-HIV+ haemophilia patients:

██████████ wondered if it would be useful to collect Nationally, slides and tissue samples from these patients. He would be willing to organise this and would prepare a document for discussion at the next Reference Centre Directors' meeting. After discussion it was agreed that ██████████ ██████████ would liaise with ██████████ and draw up a document for discussion at the next meeting.

The meeting closed at 1.10 p.m.