

## **Written evidence from Jason Evans (STI0004)**

### **INTRODUCTION**

1. I make this statement on behalf of Factor 8 ("Factor 8 - Independent Haemophilia Group") of which I am the sole Director. Our organisation played a crucial role in obtaining, shaping and participating in the Infected Blood Inquiry.
2. My father, Jonathan Evans, was a victim of the infected blood scandal. He was infected with HIV and Hepatitis C through the use of infected Factor VIII blood products. As a result, my father died of AIDS when I was four years old in 1993.
3. I am the lead claimant in the Contaminated Blood Products Group Litigation (Date of Order: 27 October 2017) which is currently stayed at the High Court.
4. On 3rd September 2018, Factor 8 was appointed a Core Participant to the Infected Blood Inquiry. I am also a Core Participant to the Inquiry as an individual.

### **THE QUESTIONS POSED BY THE COMMITTEE**

**Does the 2005 Act provide the right framework for ensuring that inquiries are: a) Effective b) Efficient c) Appropriately overseen, and d) Followed-up?**

5. Though we await the final report of the Infected Blood Inquiry (IBI), due to be published on 20th May 2024, those impacted would generally agree that the Inquiry has been effective in grappling with complex issues covering more than six decades and set in an international context.

6. The Inquiry did make efforts from the outset to engage with those impacted by infected blood products. Due to the large number of those impacted, which runs to thousands, the Inquiry initially achieved this by making contact with key advocacy organisations, including Factor 8 and their legal representatives. For example, shortly after Sir Brian Langstaff was announced as chair of the Inquiry in 2018, myself and my legal representatives (Collins Solicitors) met with Sir Brian, his clerk and the Inquiry's deputy secretary in chambers at the high court. For context, at this stage, the Inquiry had no premises and I recall the deputy secretary was contemplating the Inquiry's logo design, so this was very early on. I am aware that Sir Brian held similar meetings with others.
7. Though it would not be for me to say how helpful such meetings were for Sir Brian, they did set a good tone and presented a chance for me to express my hopes and concerns for the Inquiry, as well as present what I saw as practical issues around evidence gathering. I also showed Sir Brian list of file reference numbers obtained from The National Archives which I believed would assist the Inquiry.
8. This would not be the only meeting with Sir Brian before the Inquiry began and further meetings were held around the Inquiry's Terms of Reference. Such engagement was a far cry from the engagement, or lack thereof, on the part of government and government officials. Regular engagement with and quick response to key stakeholders was critical in building trust and relationships at an early stage.
9. The predominant practical issue faced in the Inquiry process, without criticism to any individual, is as follows:

10. At an early stage, it was outlined as much in the Inquiry's Statement of Approach and informally conveyed to Core Participants (CP's) through their legal representatives that they should not make applications to ask questions of a witness because these would likely be refused. In simple terms, the Inquiry's approach was that any questions for a witness should be submitted through a CP's Counsel to the Inquiry's own Counsel who would select which of the questions submitted would be asked.
11. CP's did not know in advance of a hearing which questions would or would not be asked, though sometimes an informal heads-up would be given. If Counsel to the Inquiry decided not to ask a submitted question, the matter was generally left, as CP's had the impression that KC's were hesitant to challenge each other's decisions. On occasion, Counsel to the Inquiry could be nudged to ask a question during breaks which sometimes worked and sometimes did not.
12. Throughout some six years of hearings of the IBI, I believe only one application to ask a question of a witness was ever made by a CP's own Counsel. That application was refused. Though, in fairness, that application was something of a publicity stunt. in relation to the evidence of Ken Clarke, and I have no doubt the KC making the application knew it would be refused.
13. I believe this approach was taken by the IBI with time-saving and cost-saving in mind. I suppose the thought process behind time-saving is understandable, though, given KC's were still present at hearings, it is difficult to see that it would have saved money. There were also many days when a witness' evidence finished early and there would clearly have been time for further questions.

14. In contrast, I have observed that both the Horizon & Covid-19 Inquiry's routinely hear questions from CP's own Counsel.
15. The realistic inability of CP's to have their own Counsel pose questions to witnesses in the IBI had the effect of leaving, to some extent, CP's and their legal representatives feeling locked out of the process. Questions which could or ought to have been asked were not. Though, I must emphasise, this was only to some extent and that the IBI's Counsel was widely welcomed as being very effective. My evidence should not be taken in any way as a criticism of the IBI Chair or Counsel. I do however make the point that the Inquiries Act should formalise this process in a way which guarantees the right of CP's to ask, at least some, questions of any particular witness directly should they wish to. Of course, limits would need to be considered but this approach would empower CP's and provide a greater guarantee of the public interest being served.
16. I now turn to the matter of follow-up.
17. On 5th April 2023, the IBI published its second interim report, also known as the IBI's final recommendations on compensation. At the time of writing this statement, we are almost a year on from publication and the government has not responded to any of the recommendations contained within that report.
18. Lack of government response is despite the fact that in his report, Sir Brian said that a compensation scheme should have been established by the end of 2023 and that interim compensation payments be made to bereaved families even before that. Not only has none of this happened but the government has been unwilling to confirm if and when these things will happen.

19. It should also be noted that in March 2022, Sir Robert Francis KC delivered a compensation report to the Cabinet Office, which he was commissioned by the government to undertake. Sir Robert made detailed recommendations about how a compensation scheme should be set up and this work was endorsed by the Inquiry in its second interim report published in April 2023 as above.
20. At the time of Sir Robert's report being published in 2022, the government said it would respond to the recommendations in Sir Robert's report at the same time it was published.
21. The government published Sir Robert's report in June 2022 but has never responded to it despite the commitment made.
22. We are two years on from Sir Robert's report and one year on from Sir Brian's final compensation recommendations, with no government response.
23. Throughout this time, to my knowledge, there has been no committee, public authority or person in parliament whose job it was to specifically, keep tabs on what was happening with those recommendations and to ensure they were responded to. Even if, unbeknownst to me this has been the case, I think it would be fair to say there has been a clear failure. Waiting years for responses to a very urgent situation is not acceptable.
24. Victims and bereaved families themselves have had to keep the pressure on by regularly contacting their MP's, Ministers, Officials, the IBI and many others. It seems to have become accepted by many that this is part of the process, whereby those harmed are expected to have to campaign for years to have an Inquiry's recommendations responded to, having often already

campaigned for an Inquiry to take place to begin with. This cannot be right.

## **2. How could the following be improved? a) The Inquiries Act 2005.**

25. The act should guarantee that the legal representative of a CP, or group of CP's, is permitted to ask a limited number of questions of any witness giving oral evidence, provided that question, or a substantially similar question, has not already been asked or is proposed to be asked.
26. The act should compel the government to issue a substantive response to the recommendations of an Inquiry within a certain period of time and specify that a specific response should be given to each recommendation, clearly stating whether or not the government accepts each recommendation. If a recommendation is not accepted, the Minister must explain why. If a recommendation is accepted, the Minister must provide a planned timetable and action plan for its implementation. The act must then specify that the minister must report back to parliament, for example, once per month, with an implementation update and this must be binding across different governments and parliaments until implementation. If a new government decides they do not want to implement the recommendation agreed to by a previous government, the new Minister must make a statement to parliament saying so and explaining why. The Ministerial post with responsibility for the Inquiry in question should have ultimate responsibility for ensuring these steps are taken.
27. An alternative for the responsibility outlined in 25 above could be, or shared by, the Independent Public Advocate (IPA) proposed

in the governments Victims & Prisoners Bill which is currently before the House of Lords.

### **3. Other Matters**

28. There is one final matter I wish to highlight and that is how a Public Inquiry comes to be held in the first place. There is basically no formal process for this. Thousands of people were infected and died as a result of the infected blood scandal, with calls for a public inquiry going back to the 1980s, yet until 2017, a UK-Wide Public Inquiry never took place. This was only possible because there is no formalised instance in which an Inquiry must take place.

29. There should be a formalised set of criteria in which events of a certain nature trigger an Inquiry to be held. This would avoid resistance to an Inquiry being held for political or other reasons which are not in the public interest.

**18<sup>th</sup> March 2024**