

**SENATE COMMUNITY AFFAIRS REFERENCES COMMITTEE
QUESTIONS ON NOTICE FROM THE PUBLIC HEARINGS OF SENATE
INQUIRY INTO HEPATITIS C AND BLOOD SUPPLY ON 1 APRIL 2004**

CA25

What is the rate of mother-to-infant transmission of hepatitis C during pregnancy or delivery?

An Australian study of perinatal hepatitis C transmission in Australia, published in 1997, found 9.5% of mothers who had hepatitis C virus in their blood at the time of delivery transmitted the virus to their child.¹

CA27

Are you aware of whether there was any reporting mechanism back to any federal minister or state ministerial council during that period [the 1980s]?

The formal reporting lines of the National Blood Transfusion Committee were to the National Council of the Australian Red Cross Society and the Australian Red Cross Society's Executive. It did not report to any government minister or ministerial council.

CA 28

Is that [contributing to hepatitis C settlements] because of some agreement you had with the National Blood Transfusion Committee or a subsequent agreement?

It was not because of any agreement with the National Blood Transfusion Committee. It was a later arrangement that the Commonwealth made with the States and Territories.

CA28 (and CA 37)

Has the contribution been made to the Red Cross or the various state governments? How much has gone to the Red Cross and how much has gone to the states?

The Department of Health and Ageing has paid most of the Australian Government's hepatitis C settlement payment contributions directly to the State and Territory health departments. The exceptions to this are: New South Wales, where we have paid an insurance company, and Victoria, where we have paid a law firm.

CA29

How much money has the Commonwealth contributed to the compensation schemes?

The Department of Health and Ageing's records indicate that between 1997 and 30 April 2004 the Australian Government has paid \$6,999,882 for hepatitis C compensation settlements, including associated legal and administration costs.

CA31

Are there any figures available for hep C rates in Queensland [transmitted through blood transfusions] after that decision [re surrogate testing] was taken, compared with Australian rates?

¹ Spencer J.D, Latt N, Beeby P.J, Collins E, Saunders J.B, McCaughan G.W, Cossart Y.E. (1997) Transmission of hepatitis C virus to infants of human immuno-deficiency virus-negative intravenous drug-using mothers: rate of infection and assessment of risk factors for transmission. *Journal of Viral Hepatitis*, 4: 395-409, pg395.

The Department of Health and Ageing does not hold any such data.

CA34

What were the practices of the states in the critical time period? Where were the responsibilities sheeted home? What were the communications between the state governments and the blood service?

The Department of Health and Ageing does not have the information to answer this question.

CA35

Confirm whether it was the Red Cross that established the blood transfusion committee.

The Australian Red Cross Blood Service (ARCBS) has advised that the National Council of the Australian Red Cross Society (the Council) established the National Blood Transfusion Committee (the Committee) in 1941.

CA36

Were the Commonwealth representatives on the blood transfusion committee members or observers?

Commonwealth officers on the National Blood Transfusion Committee were full members of the committee.

The ARCBS has advised that the 1974 National Blood Transfusion Committee Constitution (as amended) provided that:

“The members of the Committee shall be:-

1. Its Chairman, to be appointed annually by the Executive [of the Australian Red Cross Society].
2. Its Deputy Chairman, to be appointed annually by the Executive.
3. The Honorary Treasurer of the Society or his representative.
4. The Chairmen of the Blood Transfusion Committees of the Divisions State and Territorial of the Society or their representatives.
5. The Directors of the Divisional Blood Transfusion Services.
6. The Managing Director or Acting Managing Director and one other representative of the Commonwealth Serum Laboratories.
7. The Secretary General of the Australian Red Cross Society or his deputy.
8. A representative of the Australian Department of Community Services and Health.
9. The Surgeon General [of the Australian Defence Force] or his nominee.
10. The Medical Director of the Society who is the executive officer of the National Blood Transfusion Committee.
11. Members co-opted by the Committee not exceeding six (of whom not more than three shall be qualified Medical Practitioners) for a period not exceeding one year, unless co-opted for a further period at the expiration of one year.”

Each member of the Committee (or a representative) was entitled to one vote on resolutions. The Chairman of the meeting could also exercise a casting vote if there was a tie. A quorum of the Committee was nine members, to include representatives of at least four Divisions of the Society. In general, around 22-24 members would have attended the meetings. The information provided by the Australian Red Cross Blood Services makes it clear that the

National Blood Transfusion Committee was a standing committee of and reported to the Australian Red Cross Society.

Members therefore included a representative from the Department of Health; a representative from the Australian Defence Force and two members from the Commonwealth Serum Laboratories.

CA 36

What [was] the role of the Committee?... What was the purpose of the committee?... What were its objectives? Who did it report to? Did it report to the Red Cross or the States?

The ARCBS has advised that the status and duties of the Committee, from its 1974 constitution (as amended in 1975 and 1979) and which was current as at February 1991, were as follows:

“Status

The National Blood Transfusion Committee shall be a Standing Committee of the Australian Red Cross Society.”

“Duties:

1. To be responsible to the Executive for such Blood Transfusion Service activities, to be known as National Projects, as the Executive may declare from time to time.
2. The Chairman to submit an annual report to Executive the text of which has previously been circulated for comment by the members of the National Blood Transfusion Committee.
3. In particular and without derogating from the generality of the preceding clauses to be responsible for:-
 - i. Relationships with relevant Departments of the Australian Government.
 - ii. Matters of mutual concern to the Society and Commonwealth Serum Laboratories.
 - iii. International blood transfusion matters.
 - iv. The following other activities of National concern:
 - a) Conferences and meetings.
 - b) Statistical and financial returns.
 - c) Quality control and standards.
 - d) Education and Training including production of manuals.
 - e) Bulk purchasing as appropriate.
 - f) National emergency planning.
 - g) Rare donor panel.
 - h) Co-ordination of investigational programmes
 - i) Preparation of estimates of expenditure for inclusion in the National Budget.
4. To keep under review the operations of the Blood Transfusion Services throughout the Society and to advise the Council on all matters of policy.
5. To report to the National Executive on all matters referred to the Committee by National Council.
6. To examine the costs of the Services and make recommendations relative thereto to the Executive of the Society.
7. To establish an Executive Sub-Committee and determine the duties and responsibilities and appoint the members thereof.

8. The Committee shall have power to appoint other sub-committees and their Chairmen and to determine their duties and may appoint to such sub-committees persons other than members of the Committee provided that at least one person on every such sub-committee shall be a member of the Committee, over and above the ex-officio members. The Medical Director shall be an ex officio member of such sub-committees.”

CA 37

Can we distinguish between it [the Commonwealth's compensation contributions] going to administrative and legal costs and the recipient of compensation?

Records held by the Department of Health and Ageing do not enable a breakdown between legal and administration costs and payments to compensation recipients.

CA37

How much have the various states and territories provided to the compensation pool?

The Department of Health and Ageing does not hold this information. Nor is it possible to estimate this from the amount paid by the Commonwealth due to different levels of insurance held by different state governments. Also, the Commonwealth Government's criteria for contributing to the compensation settlements meant that the contribution was not always 40%. For example, in cases where a NSW Country Blood Bank was the service provider, the Commonwealth only contributes 20% to the settlement.

CA 37

How were the arrangements entered into and what was the basis for the Commonwealth making this financial commitment?

During 1997 and 1998, the Department wrote to all jurisdictions outlining the conditions under which the Australian Government would contribute to hepatitis C compensation settlements. Any Australian Government funding of large scale legal costs or settlements was outside normal operational funding arrangements for the blood service and therefore not automatic. However, the Department agreed to pay 40% of any hepatitis C settlements and legal costs arising from settlements (20% for NSW country blood banks), provided the following conditions were met:

- each claim is settled only after a full assessment of its particular forensic risk;
- the State/Territory agrees to pay 60% of the net cost;
- the Commonwealth is consulted and agrees in advance to any settlement;
- the Commonwealth contribution to legal costs and any damages payable as a result of a court decision, out-of-court agreement or settlement scheme is net of any contribution due or liable under a commercial or government insurance arrangement; and
- where a case proceeds to court, the Commonwealth's contribution is contingent on the Commonwealth's having been consulted and agreeing in-principle to participate, at the time proceedings are initiated by a plaintiff.

Each jurisdiction provided details of their settlement arrangements to the Department. There was no settlement scheme set up in Queensland.

The Australian Government is not a party to the hepatitis C settlements or settlement schemes. The nature of the compensation arrangements is a State or Territory matter.

The basis on which the Australian Government agreed to contribute a 40% share was:

- the Australian Government funded 40% of the general operating costs of the Australian Red Cross Society's blood transfusion services under cost-sharing arrangements between the Australian Government and the States and Territories during the period covered by the compensation schemes; and
- the fact that the Australian Government contributed 40% of AIDS settlement costs under similar conditions. (The arrangement for the AIDS litigation costs was specific to AIDS cases only.)

In New South Wales prior to 1993-94, country blood banks were operated by the NSW Area Health Service rather than the Australian Red Cross although they did follow Red Cross practices and procedures. Prior to 1993-94 these NSW country blood banks did not receive funding from the Australian Government. Therefore, for claims relating to NSW country blood banks, the Australian Government agreed to contribute 20% of settlement payments and legal costs.

CA39

Before Canberra got self-government, was the blood supply regulated by the Canberra Red Cross or the Commonwealth Department of Health?

The ACT Blood Transfusion Service was established by the ACT Division of the Australian Red Cross Society in 1960². Its management by Red Cross committees was on a similar basis to blood services in the other jurisdictions. The main difference to other jurisdictions was that, prior to ACT self-government, its government funding was provided by Commonwealth agencies. These agencies were subsequently absorbed by ACT government entities during the transition to ACT self-government.

CA39 (continued)

Was the Commonwealth Department of Health on the advisory body as a result of that?

There was a local Red Cross ACT Blood Transfusion Services Committee which at least by the late 1970s had its own representative at the National Blood Transfusion Committee meetings.³ The Capital Territory Health Commission was represented on the ACT Blood Transfusion Services Committee.⁴

The Commonwealth Department of Health's membership of the National Blood Transfusion Committee was not as a representative of the ACT.

² Clark, S. Red Cross and Blood Transfusion: ACT Blood Transfusion Service 1951 to 1983. Published for the Australian Red Cross Society ACT Division by the Australian Government Publishing Service, Canberra 1989.

³ As above, Note 2, at pg 44.

⁴ As above, Note 2, at pg 49.