

Service Level Agreement

Between

Department of Health (for England)

And

The Scottish Ministers

The Welsh Ministers

**Department of Health, Social Services
and Public Safety (Northern Ireland)**

in respect of the Skipton Fund

This Agreement is made on 30 April 2012 (being the date of the last signature to this Agreement)

By and between the following Parties:

- (1) The Scottish Ministers, St Andrew's House, Edinburgh, ("the **Scottish Executive**");
- (2) The Welsh Ministers, Cathays Park, Cardiff, CF 10 3NQ ("The **Welsh Ministers**");
- (3) Department of Health, Social Services and Public Safety (Northern Ireland), Castle Buildings, Stormont, Belfast BT4 3SJ ("**DHSSPS(NI)**");

together "the Devolved Administrations"; and

- (4) Department of Health of Wellington House, 133-155 Waterloo Road London SE1 8UG for England ("**DH**"),

WHEREAS

- (A) On 29 August 2003, the Secretary of State for Health and Health Ministers of the Devolved Administrations announced that a UK wide scheme would be set up to make ex gratia payments to certain persons ("Qualifying Persons") who had been infected with the hepatitis C virus by blood products received through National Health Service treatment ("the Original Scheme") and this scheme continues.
- (B) In May 2007, in respect of the Original Scheme, DH entered into a service level agreement with the Devolved Administrations and, on behalf of both itself and the other Parties, an agency agreement ("the 2007 Agency Agreement") with Skipton Fund Limited, a company incorporated in England, with company registration number 5084964 whose registered office is at Bay Lodge, 36 Harefield Road, Uxbridge, Middlesex UB8 1PH ("Skipton"). Skipton administers the Original Scheme under the 2007 Agency Agreement.
- (C) In March 2011 the Parties agreed to an extension of the Original Scheme, to expand the number of Qualifying Persons, and to increase the size of payments and make annual ex gratia payments to some of them ("the Revised Scheme"). DH entered into a second agency agreement with Skipton, in respect of the Revised Scheme, on 24th March 2011 ("the Agency Agreement").
- (C) The Devolved Administrations have seen and approved the Agency Agreement and certain amendments proposed to be made to it and a copy of that agreement (incorporating the proposed amendments) is annexed to this Agreement as Schedule 2 and they have duly agreed to authorise DH to sign the Agency Agreement.
- (D) To promote the efficient operation of the Revised Scheme the Parties have agreed that DH shall continue to be responsible for the administration and funding of the Revised Scheme on behalf of the other Parties, and will be accountable on behalf of all the Parties for the effective management and oversight of the Agency Agreement.
- (E) In so far as this Agreement is made between DH and the Welsh Ministers, it is an arrangement under section 85(1) of the Government of Wales Act 2006, to the extent that DH provides services under this Agreement for the Welsh Ministers.

1. Interpretation

- 1.1 The following terms have the following interpretations within this Agreement:

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- 1.1.1 "the Agency Agreement" means the Agency Agreement dated 24 March 2011 in the amended form annexed at Schedule 2, which is to be signed by DH and Skipton after the signing of this Agreement by the Parties and the signing of which by DH is authorised in accordance with Clause 2 below;
- 1.1.2 "Commencement Date" means the date on which the Agency Agreement has been signed by both DH and Skipton establishing the terms on which the Revised Scheme is to be administered henceforth;
- 1.1.3 "Funding" means the funds provided from time to time by DH to Skipton in accordance with its obligations under the Agency Agreement;
- 1.1.4 "Parties" means DH, the Scottish Executive, the Welsh Ministers and DHSSPS(NI);
- 1.1.5 "Qualifying Person" means an individual who qualifies as such under the Agency Agreement;
- 1.1.6 "the Revised Scheme" means the Scheme as defined in and administered in accordance with the Agency Agreement;
- 1.1.7 "Term" means the duration of this Agreement as detailed in clause 4.

2. Agency Agreement

The Devolved Administrations hereby authorise DH to sign the Agency Agreement for the delivery of the Revised Scheme to all Qualifying Persons throughout the United Kingdom on the terms set out in that agreement.

3. Undertaking to Comply with Terms of Agreement

The Parties acknowledge that this Service Level Agreement is not a contract in law and does not give rise to contractual rights or liabilities. However, all Parties nevertheless undertake to act in accordance with the terms of this Agreement.

4. Term

This Agreement and consequently each Party's respective obligations hereunder shall commence on the Commencement Date and shall continue in full force until such time as the termination or expiry of all of DH's obligations to Skipton under the Agency Agreement.

5. Funding

- 5.1 The Parties shall contribute to the Funding of those running and benefit costs of Skipton that are concerned with the Revised Scheme in accordance with the provisions of Schedule 1.
- 5.2 DH will provide to the Devolved Administrations within a reasonable time after the end of each financial year the Annual Report and Accounts of Skipton. DH will make arrangements for a financial reconciliation where there is a mis-match in funding (as more particularly detailed in paragraphs 6 and 7 of Schedule 1).

6. DH's Responsibilities

- 6.1 The Parties agree that DH shall be responsible for:

- 6.1.1 Monitoring compliance with the terms and conditions of the Agency Agreement;
- 6.1.2 The receipt of contributions to Funding from the Devolved Administrations and delivery thereof to Skipton;

- 6.1.3 Monitoring Skipton's performance in the delivery of the Revised Scheme and where necessary seeking remedial action from Skipton (including any remedial action required by the Devolved Administrations under clause 6.1.4);
- 6.1.4 Notifying Skipton of any issues or concerns expressed by the Devolved Administrations in respect of Skipton's delivery of the Revised Scheme;
- 6.1.5 Negotiating any amendments, agreed with the Devolved Administrations, to the Agency Agreement with Skipton.

7. Responsibilities of the Devolved Administrations

The Devolved Administrations acknowledge that they shall be responsible for the contribution to Funding in accordance with Clause 5.1.

8. Service Review

Unless agreed otherwise, the Parties shall establish regular review meetings (including emergency meetings should exceptional circumstances apply) to discuss the performance of the Revised Scheme. Such review meetings shall include annual review upon the anniversary of the Commencement Date and such other service reviews as the DH may deem necessary upon such notice to the Devolved Administrations as is reasonable in the circumstances.

9. Liabilities

The Devolved Administrations acknowledge that DH shall not be liable to them for any service failure caused by Skipton's failure to meet its obligations under the Agency Agreement and that responsibility for financial liabilities arising from Skipton's performance of the Revised Scheme shall be apportioned by the Parties having regard to the place of the performance giving rise to the liability.

10. Variation of Agreement

The Parties may vary the terms of this Agreement or add supplementary terms provided there is unanimous consent to such variations and they are recorded in writing.

11. Dispute Resolution

If any dispute arises between any of the Parties in connection with this Agreement, they shall attempt in good faith to negotiate a settlement to any such dispute. If the dispute cannot be resolved by the Parties, the dispute shall be referred to the Joint Ministerial Committee as set out in the Memorandum of Understanding and Supplementary Agreements.[Details available at: http://www.dca.gov.uk/constitution/devolution/pubs/odpm_dev_600629.pdf]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the date first set forth above and hereby represent and warrant that their respective signatory below has been and is on the date of this Agreement, duly authorised by all necessary corporate action to execute this Agreement.

**Department of Health (for England)
Signature**

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Name:

Title:

Date:

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Skipton Fund SLA, April 2012

**Scottish Executive
Signature**

	Name:
	Title:
	Date:

**Welsh Ministers
Signature**

	Name:
	Title:
	Date:

**Department of Health, Social Services and Public Safety (Northern Ireland)
Signature**

	Name:
	Title:
	Date:

Schedule One

The Parties agree that the Revised Scheme shall be funded on the following basis:

1. For the purposes of the interpretation of this Schedule 1, the following definitions shall apply:

Benefit Costs means all funding required by Skipton for distribution to Qualifying Persons;

Operating Costs means all reasonable and properly incurred expenses incurred by Skipton in the performance of services pursuant to the Agency Agreement.

Reconciliation means a reconciliation carried out in accordance with paragraph 5;.

Reconciliation Statement means a financial statement issued in accordance with paragraph 5;

Scheme Costs means the Benefit Costs and the Operating Costs

and any reference to a "*paragraph*" means a paragraph of this Schedule.

2. The Parties shall contribute sufficient funds to the Revised Scheme to fully fund all Scheme Costs associated with the Revised Scheme in the proportions detailed below:

(a) The Benefit Costs shall be met by the Parties in accordance with the proportion of Funding distributed to Qualifying Persons within each Party's country.

(c) The Operating Costs of the Revised Scheme shall be met by the Parties in the following proportions:

- (i) DH (England) [84%]
- (ii) Scottish Executive [8%]
- (iii) Welsh Ministers [5%]
- (iv) DHSSPS (NI) [3%]

3. DH shall separately invoice each Devolved Administration for its contribution to the Scheme Costs, no more than four times annually ("*Quarterly Invoice*"). DH shall send to each of the Devolved Administrations every year, the finalised audited accounts of Skipton within 30 days of their receipt from Skipton.
4. Within 30 days of receipt of the Quarterly Invoices, the Devolved Administrations shall transfer the required funds to DH by BACS (Bank Automated Clearing System).
5. Upon each annual anniversary of the Commencement Date and finally upon the termination of this Agreement, DH shall prepare and deliver to each Party, a financial statement which reconciles the funds contributed by each Party towards the Revised Scheme's total (i.e. benefit and operating) costs against the actual payments made to Qualifying persons within that Party's country within the previous 12 months or in the event of the termination of this Agreement the period since the issue of the last such statement.

6. If as a consequence of the financial reconciliation detailed in paragraph 5 above, any Party has under contributed in respect of the total costs of the Revised Scheme within its regional area, the short fall shall be added to that Party's next Quarterly Invoice or in the event of the termination of the Agreement shall be transferred to DH by BACS within 30 days of receipt of the Reconciliation Statement.
7. If as a consequence of the financial reconciliation detailed in paragraph 5 above, any Party has over contributed in respect of the total costs of the Revised Scheme within its area, the surplus shall be deducted from that Party's next Quarterly Invoice or in the event of the termination of the Agreement shall be transferred by DH by BACS within 30 days of the issue of the Reconciliation Statement.
8. In relation to the eligible claim of a Qualifying Person, subject to paragraph 9 below, a Party shall only be liable to contribute funding in respect of that claim if:
 - (a) at the time the claim is made or, in the case of a claim made in respect of a dead individual, when the individual died, their sole or main residence is or was in that Party's particular country or,
 - (b) the person's sole or main residence is or was outside the United Kingdom but, immediately before acquiring such sole or main residence, the person's sole or main residence is or was in that Party's particular country.
9. DH shall be liable to contribute funding for eligible claims by Qualifying Persons who were members of the armed forces when they became infected with hepatitis C following treatment with NHS blood or blood products whilst serving overseas.
10. In respect of eligible claims by Qualifying Persons which do not attract funding under paragraph 8 or 9 above, the Parties shall negotiate in good faith as to the contribution to be made by each Party in respect of such claims, according due and appropriate weight to the question of which country the Qualifying Person was in when he became infected.
11. This funding agreement is understood to determine funding contributions payable in respect of:
 - 11.1 all claims received on or after the Commencement Date for lump sum payments payable under the Agency Agreement; and
 - 11.2 all annual payments being paid out under the Agency Agreement on the Commencement Date (funding allocations for which will consequently require reassessment going forward) or, which become payable to a Qualifying Person at any time on or after the Commencement Date.

Schedule 2

The Agency Agreement