

STATEMENT ON ENGAGEMENT WITH THOSE INTERESTED IN CONTRIBUTING VIEWS TO THE STUDY

What is this statement about?

The purpose of this statement is as a follow up to the Process Statement I released a couple of weeks ago, to expand upon and explain how I plan to make the most of the time available and to give all concerned an opportunity to help the Study by offering written submissions and in some cases through meetings.

How am I going to obtain the views of people who want to help this study?

As I have previously stated, I am keen to hear from those with lived experience of being infected or affected by the provision of infected blood or blood products. I want to know how they think their needs can best be met in a new compensation scheme.

I will take into account relevant material that has already been submitted to the Infected Blood Inquiry, and which the Inquiry has subsequently published in the public domain, but I expect that many will want to contribute directly to the Study as well (where they have not already done so). However, it is clear that there is a real and reasonable demand for speed. Many people feel they have already waited far too long for proper recognition of what they and others close to them have suffered and that any new scheme needs not only to be comprehensive but set up as soon as possible. In addition, my Terms of Reference require me to report to the Paymaster General by the end of February 2022. Therefore time is short and will realistically permit me to meet only some of those who might have suggestions and views to offer.

How can written submissions be made?

Any interested person or organisation is free to write to me. There is no particular format required for this, but if their views have already been shared with the Inquiry, and there is nothing further they wish to add, all they need to do is tell me the name under which any statement [or other communication] was made and its date (for those statements already published by the Inquiry) or send me a copy of the statement (for statements which are not yet in the public domain).

What did I want to hear about?

The questions on which I am particularly interested in receiving views, either via written submissions or the discussion forums, are set out below.

However, there is no need for any respondent to offer answers to all questions and they should feel free to address other issues they consider to be important.

There is no need to seek legal advice or representation to do this.

In addition to personal statements, I welcome submissions from representative organisations and groups of individuals who wish to offer a joint statement.

Is there a deadline for written submissions?

I have previously indicated that I need any written submissions to reach me towards the end of November 2021. I have been made aware that it would be helpful to set a precise date. Therefore I would like to make it clear that I cannot undertake to take into account any submissions received by the Study after Sunday 5th December 2021.

Who is going to be invited to a meeting?

I am planning to hold a series of meetings to which interested persons will be invited. In view of the numbers and the time available, I will be unable to meet all those who have been infected or are affected by infected blood products, but I hope it will be possible to meet a range of people at meetings attended by up to about 20 people each.

Attendance will be by invitation only. Therefore, any person or organisation wishing to receive an invitation should apply to the Study Secretary via the Study email address.

My intention is to arrange meetings so that each one is attended by persons who have or are likely to have broadly similar interests in compensation, for example:

- Those infected with HIV from blood or blood products, including those subsequently infected via an infected partner or parent;
- Those infected with Hepatitis from blood or blood products, including those subsequently infected via an infected partner or parent;
- Those infected with both HIV and Hepatitis (and other potential multiple infections) from blood or blood products, including those subsequently infected with both via an infected partner or parent;
- Persons who are relations of, or otherwise in a close relationship with, a person who was infected with HIV, Hepatitis or both from blood or blood products, and has since died, whether by reason of the infection or some other cause; and
- Persons who are relations of, or otherwise in a close relationship with, a living person who has been infected with HIV, Hepatitis or both from blood or blood products, who have been indirectly affected in any way by that occurrence, including those with assumed caring responsibilities, those who have suffered social stigma or other adverse consequences, and those who have suffered psychological injury.

I understand that some interested persons do not regard themselves or their needs as being appropriately represented by the categories I have described above or may find it difficult to make a contribution in the presence, even remote presence, of others. I will consider requests for individual meetings, but it must be understood that because of the very short time in which I have been asked to report to the Paymaster General it will only be possible to see a very limited number of people individually.

The meetings will be private, and those attending will be asked to undertake not to publish what others have said at the meetings more widely.

What will happen at these meetings?

Each meeting will be designed around an opportunity for participants to express the views and needs of people who, very broadly, are likely to have similar interests in relation to compensation.

When are these meetings going to happen?

The dates planned for such meetings are currently:

- Tuesday, 2nd November 2021 (2.30pm - 5.30pm) [issues affecting the bereaved]
- Monday, 8th November 2021 (10.00am - 1.00pm) [issues affecting the Hepatitis infected]
- Monday, 15th November 2021 (11.00am - 2.00pm) [issues affecting the HIV infected]
- Monday, 22nd November 2021 (11.00am - 2.00pm) [issues affecting affected relatives]
- Monday, 29th November 2021 (1.00pm - 4.00pm) [issues affecting the multiple infected]
- Tuesday, 14th December 2021 (10.00am - 1.00pm) [legal and legislative issues]

Will the meetings be in person or online?

The meetings are likely to be held remotely via video conferencing in view of the pandemic and to avoid the inconvenience and expense of travel and booking suitable physical locations at short notice.

What will be discussed at these meetings?

As set out above, the issues which I hope to have discussed at these meetings are those arising from the list of questions below, to which written responses have also been requested.

QUESTIONS FOR WRITTEN SUBMISSIONS AND MEETINGS

- **Scope of compensation scheme - persons entitled to claim:** In addition to people who have suffered injury, loss, damage or detriment from being given infected blood or blood products, what other classes of people should be entitled to claim compensation? For example, should relatives, carers or others in a close relationship to the directly infected person who have been adversely affected by the injury be entitled to claim?
- **Categories of injury and loss for which compensation can be awarded:** What categories of injury [including death], loss, damage and other detriment arising out of a person being infected with HIV, HPC, or both, caused by the use of infected blood or blood products should be the subject of compensation under the new scheme?

To what extent should the scope of compensation be limited by the principles applicable to legal claims for personal injury caused by negligence?

- **Relevance of fault:** Should entitlement to compensation or any element of compensation depend on whether there is proof or acceptance of fault on the part of a public body or an employee or agent of a public body?
- **Measure of assessment:** What principles should guide the assessment of the amount of compensation to which claimants are entitled? For example, should any particular class of compensation be the subject of a predetermined tariff [fixed sums] for a class of injury or detriment, such as bereavement, and are there classes of compensation which should be assessed by an examination of the precise circumstances of the individual claimant?

To what extent should the measure of assessment be guided by the law of damages?

- **Types of award: compensation for past, present or future injury, loss or detriment:** Should compensation be paid only for present [i.e. as from the date of the claim] and past injury loss, damage or detriment suffered, or should it be paid for future injury loss and damage as well?
- **Types of award: one off or periodic assessments:** Should the new compensation scheme make a once and for all assessment of eligibility and entitlement to compensation or should they be periodical or repeated after a change of circumstance?
- **Types of award: lump sum or periodical payments:** Should compensation be paid as a lump sum or by way of periodical payments or both?
- **Time of infection:** Should eligibility to claim compensation be limited to cases in which the infected blood or blood product was administered within a defined period - and, if so, what should that period be and why?
- **Time limit for claims:** should there be any time limit imposed after which any entitlement to make a claim ceases, and if so how should this be defined?

- **Continuation of existing schemes:** Should the compensation scheme be in place of the existing schemes or available as a supplement to them?
- **Credit for past payments:** If the new compensation scheme replaces the existing schemes what, if any, account in assessing entitlement to compensation of monies received under any previous support scheme?
- **Availability of state funded medical treatment and social support:** Should assessment of entitlement to compensation take account of the availability of NHS treatment and state funded social support, where available?
- **Exemplary and aggravated damages:** Should the compensation scheme allow for the payment of exemplary or aggravated compensation, and, if so, what should be the conditions of entitlement and how should such compensation be calculated?
- **Proof of entitlement:** Should claimants be required to prove that any injury [including death], loss, damage or detriment for which compensation is claimed, was caused by the administration of infected blood or blood products; and, if so what type of evidence should be accepted as satisfactory proof and what standard of proof should be required? Are there any matters which the State should be required to prove if resisting a claim for compensation?
- **Tax and state benefits:** What should the status of compensation awards be for the purpose of assessing liability to tax [such as income tax] and entitlement to state benefits [such as universal credit]?
- **Scheme administration:** Should the determination of eligibility and assessment of the sum of compensation for each applicant be undertaken as an administrative function for which the Government is directly responsible. Or should such determinations, or any class of determination, be made as part of a judicial or quasi-judicial process, for example by a court or a tribunal?
- **Advocacy and support:** Should the compensation scheme make provision for advocacy and advisory support for claimants, and, if so, what form should this take?
- **Right to claim damages:** Should an award of compensation under the scheme have any effect on any claim for damages in court proceedings based on the same or substantially the same facts, and, if so, what?
- **Devolved nations:** Regardless of how the responsibility for administering a compensation scheme in each of the devolved nations is distributed, should the scheme applicable in each nation be governed by identical principles, or are there particular differences of approach which should be reflected with regard to each nation?