To: PS(PH) via Sophie Roscoe	**From:**	**Rachel Devlin, ID&EH**
Secretary of State via Alexandra Burns **Permanent Secretary via Rebecca Thomas**		
	Clearance:	**Helen Shirley-Quirk, Director ID&EH**
	Date:	**08 January 2015**
	Copy:	**ANNEX A: Copy List** **ANNEX B: Assumptions and estimated costings of contaminated blood scheme reform options** **ANNEX C: PSED Analysis Summary**

INFECTED BLOOD: CONSULTATION ON REFORM OF FINANCIAL AND OTHER SUPPORT

Purpose of submission

1. You have agreed to make available up to £25m additional funding/year over the SR to support reform of the support schemes for individuals infected with contaminated blood, and have committed to consult on reform proposals by the end of January.
2. This submission seek agreement to the proposed package of measures, which have finance approval from the Director of Finance, and seeks agreement to writing to HA for clearance for publication of the attached consultation document.

Recommendation

3. That you agree to the package of proposals and authorise the HA write-round.
4. Should you decide to proceed a letter and the consultation document for HAC clearance are at Annexes A and B,

Timing

5. A response on 11 Jan will enable HAC clearance in time for No 10's agreed announcement date of 21 Jan.

Discussion

6. The current schemes are widely criticised for their complexity, perceived unfairness and for the discretionary nature of some of the support. Following discussion with Ministers, Number 10 and legal advisors, a number of parameters for the reformed scheme were established:

- "No losers" ie no infected individual should receive a lower annual payment in the new scheme than they do now
- Unlike the current scheme, all infected individuals should receive an annual payment
- Those who are already bereaved and receiving regular discretionary support should be given the choice of a one-off final lump sum payment or continuing with discretionary payments
- Some funding should be used to provide new HepC treatment to those currently in the Stage 1 group who would otherwise have to wait longer to receive it on the NHS
- The new scheme must meet the requirements of the Equalities Act so that everyone is treated on an equitable basis given the health impact they have suffered.

7. The consultation document (attached at **ANNEX B**) seeks views on a package of proposals for the reform of the scheme in line with these requirements. The key elements are:

   - to replace the current five schemes with one operated by a single body
   - to keep eligibility for the reformed scheme broadly the same as it is for the current schemes
   - to make an annual payment available to all those infected
   - to introduce individual assessments for those with hepatitis C stage 1 and for all new entrants to the scheme to determine amount of a new annual payment, (the highest level being the same as those that will be received by those with hepatitis C stage 2)
   - to retain annual payments (for HIV and/or hepatitis C stage 2) for those who currently receive them
   - to provide newly bereaved partners/spouses with a final payment equivalent to one further annual payment at the level their partner was receiving at the time of their death
   - to seek views on the future arrangements for those already bereaved, and whether that should be through a one-off lump sum or through continuation of a means tested discretionary element, or a choice of either
   - to consider, depending on views, offering some early access to new hepatitis C treatment for those for whom the treatments are clinically appropriate on the basis of a treatment assessment and who are unlikely to receive it soon on the NHS. This will need to be subject to affordability, depending on the level of annual payments.

8. PS(PH) has indicated her preference to commit to back-dating all new regular payments to 1 April 2016, given that the new scheme and individual

assessments will take some time to roll out. We have costed the scheme on this basis but nonetheless recommend that this is not specified in the consultation document but rather announced after the consultation when final components of the scheme have been finalised.

Finance

9. An additional £125m has been made available for the reformed scheme over the period of the Spending Review. Whilst it is impossible to determine exact figures, we believe that the overall cost of the set of proposals should be affordable within the proposed annual budget.

10. However, there are two key financial risks. The number likely to be eligible for the highest regular payment band is unknown. The calculations are therefore subject to considerable sensitivity. If the proportion receiving the highest payment increased above 65% it would not be possible to offer anyone fast-track treatment with the new HepC drugs. If it reached 100% we estimate that the new scheme could exceed the agreed budget envelope by up to £7m per annum. The consultation process should give us further information to allow the specifics to be confirmed to reduce these budget risks.

11. The second risk is that the scheme will be almost certain to lead to an enhanced recurrent cost once the non-recurrent funding has finished, which the department will have to absorb.

12. Noting these risks, Andrew Baigent, Director of Finance has given the proposals Finance approval.

Statutory duties

13. In considering this matter, Ministers must comply with the Public Sector Equality Duty (PSED) and their general duties under the National Health Act 2006. The key protected characteristic which required consideration is disability given that a large proportion of the infected community are disabled. A summary of the main issues is provided at **ANNEX C**.

Conclusion and next steps

14. Whilst we know that some campaigners will be disappointed with the level of funding, we believe that these proposals offer the best package possible within the available funding and the desired parameters.

15. We recommend that you sign the attached letter, and send along with the consultation document and impact assessment, for HAC clearance.

RACHEL DEVLIN

Policy Manager, Infectious Diseases and Blood Policy

Public and International Health Directorate

ANNEX A: Copy List

	Title of recipient	Named individual or mailbox	
Private Office Submissions Copy List, comprising:	Principal Private Secretary to the Secretary of State	Alex Thomas	
	Principal Private Secretary to the Permanent Secretary	Ed Moses	
	Senior Private Secretaries to all Ministers	Clare McAvinchey	MS(CS)
		Alex Wallace	PS(CQ)
		Ilaria Regondi	PS(P)
		Kirsty Bell	PS(PH)
		Rebecca Molyneux	PS(LS)
	Special Advisors	Ed Jones	SofS (via specialadvisors @ GRO-C
		Paul Harrison	
	Chief Medical Officer	Sally Davies	
	Directors General	Will Cavendish Tamara Finkelstein Felicity Harvey Charlie Massey Jon Rouse David Williams	
	PS(P)	lords@ GRO-C	
Officials	Private Secretary to PS(PH)	Sophie Roscoe	
	Private Secretary to SoS	Alexandra Burns	
	Private Secretary to Permanent Secretary	Rebecca Thomas	
	Private Secretary to DG PIHD	Heulwen Philpot	
	Director, HP&ER	Helen Shirley-Quirk	
	Deputy Director, HP&ER	Ailsa Wight	
	Director, Group Financial Management	Andrew Baigent	
	DH Finance	John Reidy	
	Infectious diseases and blood policy team	Rowena Jecock	
		Kypros Menicou	
		Naomi Balabanoff	
		Donna Mcinnes	
	DH Legal	Jo Musgrove	
		Andrew Foreman	
	DH analysts	Siobhain McKeigue	
		Chris Collinson	
	DH Regulatory Impact	Frank Brown	

ANNEX C: PSED Analysis Summary

The key protected characteristic which requires consideration is disability given a large proportion of the infected community are disabled. Specifically we have considered any difference in annual payments and/or lump sums between those who have a disability. Any difference could be potentially discriminatory and would need to be justified.

- To mitigate this in relation to annual payments, we intend for the highest pay band for annual payments in the new scheme to align with the annual payments received on the current scheme, and all those who have a disability would be placed in this pay band.
- We consider that any difference in lump sum would be justified given that the difference in treatment would be unrelated to the fact of disability, but would be a result of the date when they joined the scheme.
- To minimise any difference of treatment between those with a disability over the transition period, we will endeavour to transition as quickly as possible

The proposals may help to foster good relations between those who are disabled with hepatitis C stage 1 and other infected beneficiaries who are disabled since those in the latter group currently do not receive any support. Conversely, this may not foster good relations given the majority of funds will be used on payments for those with hepatitis C stage 1.

We are providing an opportunity for comments on potential equality issues, including on advancing equality of opportunity and promoting good relations, in the consultation.