

Danielle Holliday

WITN7756
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From: GRO-B | GRO-B @ GRO-B
Sent: 22 April 2025 11:11
To: Danielle Holliday; Katherine Cusack
Subject: Re: Response to the replies to my questions to the Minister.

----- Original Message -----

From: GRO-B | GRO-B
To: ibiresponse@cabinetoffice.gov.uk
Sent: Wednesday, January 29th 2025, 11:18 PM
Subject: Response to the replies to my questions to the Minister.

Dear Hannah,

thank you for your email. To make it easier for everyone and to reduce typing, I have replied to your email by responding to some of the points therein, within the body of your email. My responses are in red to make it easier to follow. Replies below:

Dear GRO-B

Thank you for your email. I have shared it with the Minister for the Cabinet Office.

Please see responses below to the questions you asked. You also asked on another email chain about the regulations, I have included our response on that here for ease.

Regulations

In your meeting with James, he confirmed that the Government intends to lay the regulations in the coming weeks. We shared with you a factsheet on the regulations on Monday and you have a meeting with the Minister tomorrow in order to discuss the contents of the regulations. Once the draft regulations are laid, they will be published and they are then subject to Parliamentary scrutiny, and will be debated by both Houses of Parliament. They must be approved by both Houses of Parliament to become law. Subject to Parliamentary approval, we expect the regulations to come into force on 31 March. James also committed to holding further meetings with the community once the draft regulations are laid.

This isn't the question I asked. I asked if we will get to see the Second Regulations before they published in order to have a chance to comment. If we will, how long will we get? As I

said at the meeting, the debate in the Houses of Parliament does not afford the opportunity for the regulations to be amended and so does not help us.

Interest on Compensation

The Infected Blood Compensation Authority (IBCA) has begun making payments to infected people and will scale up payments over the coming months. We understand your concern is that those who receive their compensation payments later in this process should receive a sum that takes into account the interest they would have made on that sum, were they awarded it earlier by IBCA.

IBCA will offer a simple and straightforward scheme that means they can pay compensation as quickly as possible. This is meaningless in the context of the question as the fact remains that some people will still not receive their payments for years. If someone chooses to receive their compensation as periodical payments rather than as a lump sum, or they choose to continue to receive support scheme payments, we have already set out that the Scheme will index all future payments to the Consumer Price Index (CPI). This part has nothing to do with the issue being raised.

*For these reasons, our view is that calculating individual compensation payments in a way that accounts for possible interest earned prior to the point of award would be disproportionately complex. This part is the actual answer. A flat response that it would be difficult, does not justify a solution which is manifestly unfair to some claimants. Furthermore, it is not that complex and I have copied and pasted below from **GRO-B** a chartered account) just how straightforward it would be. When I first raised this, it was suggested to me by the Cabinet Office that the matter was the IBCA's decision. Today I received an email from them saying the Victims and Prisoners Act does not make provision for this. Therefore I am asking once again for this to be put into the Regulations*

In terms of interest, the calculation is simple and used by HMRC regularly.

They could use the Bank of England base rate or HMRC's repayment rate which is base rate less 1%.

Assuming the first payments were made in December 2024 they would just need to count how many months between them and payment. Calculation as follows using the HMRC rate:

Award x 3.75% / 12*Months

For example for an award of £1.2million paid in December 2026

$\pounds 1,200,000 \times 3.75\% / 12 \times 24 = \pounds 90,000$

Supplementary route for all heads of loss

The Scheme has been designed using a tariff-based framework. This approach was recommended by Sir Robert Francis' Compensation Framework Study and the Inquiry's Second Interim Report.

The tariff approach also means that the Scheme will award compensation that reflects personal circumstances while making payments more quickly than would otherwise be possible if all applications for compensation had to be individually assessed. The tariffs are intended to work in such a way that they would be appropriate for the majority of people applying to the Scheme.

The alternative to this would be a scheme based on individual assessments. This would be better able to take into account the individual circumstances of each applicant, but would be a more time-consuming and expensive process. This was not what the inquiry recommended.

This is a straw man argument since nowhere was it suggested that all applications should be individually assessed. The request is that there be a supplementary route (something the government has already decided to do) but that the supplementary route should be also available for autonomy and injury. It does not mean that every claimant will go down the supplementary route for every head of loss. Nothing that has been requested suggests that. Failure to provide this means that those uncompensated losses will be taken down the Court route, which is also not what the Inquiry intended.

Future Financial Losses Deductions

One of the principles underpinning the scheme is that one affected person's claim should not depend on another affected person's claim, or indeed be impacted by whether or not there are other affected people with a claim.

As such, we have opted to pay fixed awards for dependency payments, no matter how many dependents an infected person has. This is different to how the courts would manage a dependency payment, where they would take a single figure and divide that figure between all dependents. We deliberately avoided this method to avoid a situation where an affected person's award is reduced because there are a number of other dependants.

For example, if we take a situation where an infected person died with a partner and two children. Under the IBCS, the bereaved partner would receive £16,682 for each year of dependency, while the children would receive £5,561 each.

Under the system used by the courts, these numbers would be reduced. A court would take a sum of £22,243 (75% of what the infected person would have received were they alive) and divide that between the three dependants, meaning each person would have a reduced award.

Only the paragraph below contains an answer

You are correct that this means that where there is only one dependant, they may

receive less than the courts would grant. However, we feel this is preferable to the alternative where the IBCA is required to reduce the awards based on how many dependants there are. Another straw man argument. There is no logical reason why IBCA would have to reduce the awards to other claimants. It is very simple to look at the information provided and see a claimant has no children and simply not make the deduction. The Cabinet Office have been at pains to say they have not imposed budget restrictions on IBCA so the suggested alternative is not a necessary alternative. Further more the deduction appears to continue when the children reach 18 and this should not happen

Another example for you below

In terms of deductions for children they could calculate the 75% of the 75% as they planned and then pay an additional amount once the youngest child's claim has been made. They would simply need to deduct the child's financial loss award from the full 25% up to healthy life expectancy.

$5,561 * (65 \text{ less age at death}) \text{ plus } £2,780.50 * 20 \text{ (84.55 less 65 years)}$

For someone who died at 40 this would be as follows:

$£5,561 * 20 = £111,220$

$£2,780.50 * 20 = £55,610$

Total £166,830

Less youngest child's award for a child who was 13 would be $£5,561 * 5 = £27,805$

Additional payment £116,830 less £27,805 = £89,025

The information will be known as it will be needed to calculate the child's award.

Where there is no child or the youngest child was 18 or over at time of parents death they can simply use the 75% of the living financial loss award.

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Where there is no child or the youngest child was 18 or over at time of parents death they can simply use the 75% of the living financial loss award.

The community has been dismayed to see that IBCA are commissioning a public relations firm to deal with bad publicity at a cost of £250,000. This money would be better spent on accountants!

Care awards

Courts have a very broad discretion in how they consider the distribution of marital assets. This means they may have regard to how the care award is structured - though it is difficult to predict how this would play out in specific circumstances.

Given this, we will make clear in supporting documents why the care award is structured in the way it is, and clarify that it doesn't reflect assumptions about when care was actually required. This was already done in, for example, the explanatory memorandum accompanying the first regulations. This was not clear, please can we see what, if any, changes have been made to the supporting documents before they are published

However, it should be noted that the system for building a care profile contained in the core route is only used for estate claims where the individual died before the maximum care period. Awards for deceased individuals who died after the maximum care period, and for all living infected people, are structured as lump sums.

Payments to Affected partners who have been abusive

The Minister for the Cabinet Office shares the concerns that you and others have raised on abusive family members. That is not the loving and caring relationship upon which the claim of the affected to compensation is based. The Government has considered options for how it could provide IBCA with the ability to take this into account in assessing affected claims. Unfortunately it has not found a way of doing this in law. Giving an infected person the right to decide which affected persons should have a right to an associated claim would go against a basic principle of the Scheme that all claims can be made in their own right.

The Government looked at trying to exclude abusive family members that had been convicted of a relevant offence, but there was no practical way of confining this to persons who had caused harm directly to an infected person. Such a provision would anyway not cover abusive family members against whom no charge was ever brought.

For this reason I am afraid there will be no provision to exclude abusive family members in the upcoming regulations. The Minister has however written to the interim Chair of the IBCA to emphasise the importance of protecting vulnerable applicants to the compensation service, particularly those who have suffered domestic abuse and other serious harm. This includes making sure that claims managers are properly trained to spot the signs of domestic abuse and embedding the necessary procedures to raise safeguarding concerns within the organisation. Can you look at other up coming Bills before parliament to see if there is anywhere an amendment can be inserted that will amend the Victims and Prisoners Act to address this one very specific point? If there is no appropriate law to address this, make one.

New widows excluded from IBSS payments.

It is a very grave concern that anyone widowed after the 31st March will not be included in the IBSS payments. I urge you to reconsider this.

Kind regards,

GRO-B