

Witness Name: Neil Bateman

Statement No: WITN3487015

Exhibits:

WITN3487016-WITN3487025

Dated: 23rd May 2023

INFECTED BLOOD INQUIRY

THIRD WRITTEN STATEMENT OF NEIL BATEMAN

I provide this statement in response to a request under Rule 9 of the Inquiry Rules dated 21 March 2023.

I, NEIL BATEMAN, will say as follows: -

Section 1: Comments on the Written Statement of James Wolfe

1. I have been asked by the Inquiry to review and comment on the Written Statement of James Wolfe dated 3 September 2021 which was submitted on behalf of the Department for Work and Pensions ("DWP") [WITN6661001]¹ and the associated Exhibits [WITN6661002-WITN6661010]. I would like to make the following comments which I hope will assist the Inquiry.
2. I retired from professional practice on 31 May 2021 and Mr Wolfe's statement is dated 3 September 2021. There may have been relevant developments since my retirement which I am unaware of.

¹

<https://www.infectedbloodinquiry.org.uk/evidence/witn6661001-written-statement-james-wolfe-3-september-2021>

3. **Mr Wolfe's Statement, paragraphs 9-12, 13-18 and 87:** Mr Wolfe gives a limited picture of contact between the Alliance House Organisations ("AHO"), the England Infected Blood Support Scheme ("EIBSS") and the DWP.
4. As I explained in my own evidence, Mr Bobby Towers was nominated by DWP to be my point of contact to deal with issues relating to the England Infected Blood Support Scheme ("EIBSS") and social security benefits, principally problems caused for beneficiaries by DWP's data matching activity (See **WITN3487001**, paragraph 48).
5. I also explained in my own evidence that John Armstrong was my point of contact for issues relating to the AHO and DWP data matching [**WITN3487001**]²; [**WITN3487002**]³ (see paragraphs 46 and 48 of **WITN3487001** and paragraphs 52-53 of **WITN3487002**).
6. I asked to have these DWP contacts, and the leaflet exhibited by Mr Wolfe at [**WITN6661005**] was as result of a request which Macfarlane Trust staff and I made at the meeting with DWP in 2010.
7. In my evidence I have also explained meetings held by AHO and DWP over the years to try to obtain improvements in social security issues for beneficiaries as well as my own efforts such as my Memorandum of Evidence to the House of Commons Work and Pensions Committee in November 2017 [**WITN3487004**] (See paragraph 20 of **WITN3487001** and paragraphs 52, 61-64 of **WITN3487002**). I understand that there had also been such meetings from time to time before I became involved with the Macfarlane Trust in 2007.
8. **Mr Wolfe's Statement paragraphs 23-29.** I have difficulty understanding the relevance of citing the law on criminal offences relating to social security and the civil provisions on recovery of overpaid benefits: because payments by the

²<https://www.infectedbloodinquiry.org.uk/sites/default/files/documents/WITN3487001%20Written%20Statement%20of%20Neil%20Bateman.pdf>

³

<https://www.infectedbloodinquiry.org.uk/sites/default/files/documents/WITN3487002%20Second%20Written%20Statement%20of%20Neil%20Bateman.pdf>

AHO and EIBSS do not affect benefit entitlement, there should be absolutely no question of anyone being overpaid or of committing an offence.

9. While I cannot locate the particular case law because I am no longer in practice, my recollection is that it was also been held by the Social Security and Child Support Commissioners⁴ that there is no duty to report a change of circumstances which does not affect benefit entitlement and indeed that is in the wording of the legislation cited at paragraph 24 of Mr Wolfe's statement. Moreover, Regulation 32 (1B) of the Social Security (Claims and Payments) Regulations 1987 (as amended) [WITN3487016], which sets out the duty to notify the DWP about changes of circumstances such as being paid money by the AHO and/or various Support Schemes, clearly states that the duty on a benefit claimant to notify the DWP of such a change only applies when the claimant 'might reasonably be expected to know [the change in circumstance] might affect the continuance of entitlement to benefit'. In my view, because it is generally known that these payments do not affect entitlement, there is therefore no duty on an individual to notify DWP about changes relating to them.
10. In relation to paragraphs 27-28 of Mr Wolfe's statement, in *R v Passmore* (2007 EWCA Crim 2053) [WITN3487017] and *Coventry City Council v Vassell* [2011] EWCH 1542 (Admin) [WITN3487018] it was held by the Court of Appeal and High Court (on appeal from Magistrates Court) respectively that no offence concerning non-notification of a change of circumstances under S 111(1A) or S 112 Social Security Administration Act 1992 [WITN3487019] can be committed unless the change of circumstances which has not been reported actually affects benefit entitlement.
11. **Mr Wolfe's Statement paragraphs 52-53:** Mr Wolfe appears to understate the extent and reasons for delay in DWP publishing a leaflet about the duty to inform DWP about Infected Blood Support payments. The exhibit to my Second Witness statement [WITN3487010] (the email chain with Bobby Towers dated

⁴ The predecessor body to the Upper Tribunals Administrative Appeals Chamber.

March 2019, including my email dated 28 January 2019) shows that I had lobbied Mr Bobby Towers from 2018 for the leaflet to be published. I also repeatedly raised it with him by telephone subsequently until near my retirement in 2021 and I explain that at pages 190-191 of the transcript of my oral evidence to the Inquiry on 12 March 2021. From enquiries and online searches I have made, it appears that the leaflet may still not have been published by DWP, even though there is some information on the EIBSS website [WITN3487020]. If the leaflet hasn't been published, even with the disruption caused by the Covid pandemic, a delay for a small piece of work like this seems to be unacceptable, especially when there were previous iterations published by DWP for the AHO payments and which are exhibited by Mr Wolfe. A leaflet is required in order to target those who need the information in it.

12. Mr Wolfe's Statement paragraph 54: I think it is helpful to point out that entitlement to Disability Living Allowance was also based on the needs arising from a long term condition, rather than the condition itself. While I cannot locate the supporting HM Treasury documents, my recollection is that the political imperative for introducing Personal Independence Payment to replace Disability Living Allowance was the desire to reduce the number of people entitled by 20% [WITN3487021]. The then Chancellor of the Exchequer stated 'That brings me to another universal benefit: disability living allowance. It is right that people who are disabled are helped to lead a life of dignity. We will continue to support them, and we will not reduce the rate at which this benefit is paid. However, three times as many people claim it today than when it was introduced 18 years ago, and the costs have quadrupled in real terms to more than £11 billion a year, making it one of the largest items of Government spending. We will introduce a medical assessment for DLA from 2013, which will be applied to new and existing claimants. For people with disabilities, that will be a simpler process than the complex forms they have to fill out at present. That way, we can continue to afford paying this important benefit to those with the greatest needs, while significantly improving incentives to work for others' (See WITN3487021 at page 5 and following). Moreover, the full Budget Text of June 2010 [WITN3487022] clearly implied at paragraph 1.103 that there would be a reduction in the numbers who would qualify: "The

Government will reform the Disability Living Allowance (DLA) to ensure support is targeted on those with the highest medical need. The Government will introduce the use of objective medical assessments for all DLA claimants from 2013-14 to ensure payments are only made for as long as a claimant needs them”.

13.Mr Wolfe’s Statement paragraphs 58-62: Numerous concerns have been expressed over the years by advice and disability organisations about repeat and/or short reassessment periods for both Employment and Support Allowance and Personal Independence Payment. Repeated Work Capability and/or Personal Independence Payment assessments have been a source of great distress and anxiety for infected people.

14.Mr Wolfe’s Statement paragraphs 65-66 and paragraphs 128-132: These are positive developments, but there does not appear to be any guidance or training for DWP staff and private benefit assessment companies about Hepatitis C despite its inclusion in the heading of paragraph 128 as “HIV/Hepatitis C”.

15.Mr Wolfe’s Statement paragraphs 67-68: The Green Paper referred to was superseded by a White Paper issued as part of the Budget announcement on 15 March 2023 [WITN3487023]. This includes major changes to the assessment used for Employment and Support Allowance. However, there is concern among advice and disability bodies about the negative impact of the Paper’s proposals on people with health conditions or disabilities [WITN3487024].

16.Mr Wolfe’s Statement paragraphs 73 and 90: Shortly before I retired in May 2021 I was informed by Mr Bobby Towers that the DWP’s Customer Records do not include details of capital which is ignored for social security benefit purposes. This was or is a major deficiency and contributed to beneficiaries being subjected to DWP fraud or compliance action. I also stated at paragraph 53 in my Second Witness statement [WITN3487002] that DWP records are or were cleansed after three years – DWP staff had told me this repeatedly. It is

positive that Universal Credit records are to be/have been upgraded so that capital which is ignored is recorded. However, only a very small number of Infected and Affected people receive Universal Credit because those who do receive social security benefits are receiving “legacy benefits” like Employment and Support Allowance. Advice workers have also found repeated issues with Universal Credit records being cleansed.

17. Mr Wolfe’s Statement paragraph 118 and Exhibit WITN6661006: The Exhibit **WITN6661006** is a copy of a weekly update sent electronically to all DWP managers to brief their staff. Therefore it is just one of perhaps fifty a year. Moreover, recipients are informed at **WITN6661006_0002** “Please delete content that is not relevant or of interest to your area”. In my evidence I pointed out that DWP staff receive a large amount of such information each year and as they are only human, much of it can be forgotten or overlooked (See paragraph 35 of WITN3487001 and paragraph 50 of WITN3487002). It is therefore likely that unless a DWP member of staff was dealing with an Infected Blood case or had done so recently, they are likely to forget the content (assuming their manager did not think it was relevant and had not deleted it).

18. Mr Wolfe’s Statement paragraph 127 and Exhibits WITN6661007, WITN6661008, WITN6661009 and WITN6661010: I had not seen this internal DWP guidance for their staff before. What is significant are the references to people not only having to declare payments from Infected Blood Support Schemes, but that these also need to be “verified”, including verification by fraud investigators (See WITN6661007_003, WITN6661008_0005 and WITN6661009_0003). Verification has a particular meaning in social security law and is a process where the burden to produce evidence to prove entitlement to benefit can be shifted onto the benefit claimant. This therefore shows why people have been asked to provide evidence of the source of their Infected Blood payments. Particularly in the context of a DWP fraud or compliance interview, this can be experienced as intrusive and even distressing for beneficiaries. The requirement to not have to verify payments from the previous AHOs (but for the Infected Blood Support Schemes) also seems inconsistent and is likely to present practical difficulties when people have

aggregated payments from the AHO with those from an Infected Blood Support Scheme. Again, in my view this shows why reform of the Infected Blood Support Schemes as I outlined in my evidence⁵ is the way forward to obviate the need for these vexatious fraud and compliance interventions by DWP staff (See pages 194-197 of the transcript and paragraphs 83-87 of WITN3487002).

19. Exhibit **WITN6661010** may not be relevant.

20. As I stated in both my oral evidence and my Second Witness statement [WITN3487002]⁶, reform of the Infected Blood Support payments to increase them and lift people above means tested benefit level would almost entirely eliminate the problem of people being subjected to nugatory DWP fraud and compliance interviews caused by DWP's data matching activity. Between January and March 2023, I wrote a draft policy paper for the Haemophilia Society on this subject [WITN3487025], which they may use in their communications with the Inquiry and government.

Statement of Truth

I believe that the facts stated in this written statement are true.

Signed

GRO-C

Dated 23rd May 2023

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<https://www.infectedbloodinquiry.org.uk/sites/default/files/documents/Transcript%20-%20London%20-%20Friday%2012%20March%202021%20%28Sue%20Phipps%20and%20Neil%20Bateman%29.pdf>

⁶ Ibid.