

To: PS(PH)

From: Debby Webb  
Cleared: Dr Ailsa Wight  
Date 4 June 2010  
Copy: See list at end

**Contaminated Blood (Support for Infected and Bereaved Persons)  
Bill [HL]**

*A Bill to establish a committee to advise on haemophilia; to make provision in relation to blood donations; to establish a scheme for NHS Compensation Cards for people who have been treated with and infected by contaminated blood or blood products; to make provision for the financial compensation of people treated with and infected by contaminated blood and blood products and their widows, dependents and carers; to establish a review of the support available for people who have been treated with and infected by contaminated blood or blood products; and for connected purposes.*

**Introduction and overview**

1. This Bill was first introduced by Lord Morris of Manchester on 19 November 2009. It passed through the Lords, but was objected to in the Commons and fell when Parliament was dissolved. Lord Morris has now re-introduced it – first reading was on 26 May 2010.
2. The provisions in this Bill are based on a number of the recommendations made in the report of Lord Archer's independent inquiry into contaminated blood and blood products, which was published on 23 February 2009. A copy of the Bill is attached at **Annex A**. It is unchanged from the amended Lords version from the last session - as introduced to the Commons on 21 January 2010.
3. The previous Government published their response to Lord Archer's report on 20 May 2009. This addressed the subject matter of some of the Clauses in the Bill, but did not meet all of Lord Archer's recommendations. A copy of the previous Government's published response to Lord Archer's report is attached at **Annex B**.

**Recommendation**

4. That you write to Parliamentary Business and Legislation (PBL) Committee recommending that the Government express

reservations about the Bill in the House of Lords, and will oppose the Bill should it reach the House of Commons. A draft letter is attached at **Annex C**.

### **Timing**

5. **Urgent.** PBL Committee has asked to receive your letter as soon as possible – by next Wednesday 9 June latest. We do not yet have a date for second reading in the House of Lords, but Earl Howe will need to attend and make a speech.

### **Previous Government response and contentious issues**

6. The previous Government published its response to Lord Archer's report, and the steer from you is that we cannot make any commitment at this stage to reopen the generality of that response. The only exception to this is the recent Judicial Review Judgement quashing the Government's decision in respect of recommendation 6(h) (parity with the more generous compensation scheme in the Republic of Ireland). Having decided not to appeal that Judgement, you will receive separate briefing in due course in respect of a new decision on that particular recommendation.
7. The majority of the proposals contained in the Bill are already in place in different forms, and most of them are on a UK rather than England and Wales only basis. We therefore consider there is no need to legislate in this area. Notes on each Clause are provided in **Annex D**, for information.
8. The most contentious Clause in the Bill is Clause 4, which provides for compensation to those affected. However, the UK Government has paid out over £150 million in lump sums and discretionary payments to those affected through ex-gratia payment schemes since their establishment to the end of March 2009 (the last full year for which figures are available). While the Bill does not specifically mention the compensation scheme in the Republic of Ireland, the provisions contained in Clause 4 are replicated from the Irish scheme and to adopt those in England and Wales (the territorial extent of the Bill) would have substantial additional resource implications (many £millions if not £billions). See relevant section in **Annex D**.

### **Background and Parliamentary history.**

9. Reaction to the previous Government's response to the Archer report has been limited, but negative. Media attention lasted only for a day or so, but haemophilia patients in particular and some parliamentarians and have been highly critical and have lobbied heavily.
10. There has been significant parliamentary activity since Lord Archer published his report:
  - The House of Lords debated Lord Archer's report on 28 April 2009;
  - Lord Morris twice tabled an amendment to the Health Bill in 2009, which was similar to Clause 1 of this Bill, to establish a statutory haemophilia committee. These were withdrawn at both the Committee (11 March 2009) and Report (28 April 2009) stages;
  - There was a Westminster Hall Debate on Lord Archer's report (secured by Jenny Willot MP) on 1 July 2009;
  - Lord Morris previously introduced this Bill to the Lords on 19 November 2009, with third reading and introduction to the Commons on 21 January 2010. The Bill was objected to on the three occasions it was presented for Commons second reading and fell when Parliament was dissolved.

#### **Next Steps**

11. You are asked to agree and sign the letter to PBL Committee at **Annex C**.
12. We will provide more detailed briefing and speaking notes for second reading once we know the date.

**Mrs Debby Webb**

**Infectious Diseases and Blood Policy Branch**

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