

Witness Name: Brendan Brown

Statement No.: WITN4496022

Exhibit: 0

Dated: 10 March 2022

INFECTED BLOOD INQUIRY

SIXTH WRITTEN STATEMENT OF BRENDAN BROWN ON BEHALF OF NHSBSA

I, Brendan Brown, Director of Citizen Services of National Health Service Business Services Authority ("NHSBSA"), will say as follows: -

1. I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 19 October 2021 ("the Request"). As with my first five statements, this statement is based on information available to the NHSBSA from its records of the England Infected Blood Support Scheme ("EIBSS") and the knowledge of members of the EIBSS team. I have made clear where the information is from my own personal knowledge.

Section 1: Introduction

2. My full name is Brendan Craig McMahon-Brown (known as Brendan Brown) and I am the Director of Citizen Services at NHSBSA, based at Stella House, Goldcrest Way, Newburn Riverside, Newcastle Upon Tyne NE15 8NY. Details of my professional background and career are set out in my first statement.

Section 2: Response to questions in Rule 9 request

In response to Issue 1 of the Request

3. I have been asked if, in my view, EIBBS is provided with sufficient beneficiary information from the Directors of the Skipton Fund (via NHS Business Services Authority (NHSBSA)) in order to adequately assess whether further payments are due and is [sic] so the quantum of those payments.
4. I have previously provided a detailed explanation in my earlier statement setting out that, on establishment of EIBBS, NHSBSA were transferred some beneficiary information from the Alliance House Organisations (AHOs). The extent of this information was outside of the control of NHSBSA. For completeness, I have included the appropriate sections here.

25. Beneficiary data was not automatically shared between the AHOs and EIBBS. It was both DHSC's and NHSBSA's preference that data was to be shared automatically and beneficiaries given the option to opt out should they so wish. However, the AHOs in this case acted as the data owners/controllers so NHSBSA had no control over their actions. DHSC liaised with the AHOs on this point, however, they were unable to change the AHOs' approach. As NHSBSA did not have control of the original data/information, it was not within our gift to dispense with prior consent by beneficiaries to share data with NHSBSA as we did not have access to the data in any way. The AHOs implemented a policy of only sharing data by explicit consent following their own legal advice in this regard. Letters were sent to beneficiaries explaining the shutdown of their services and the transition to EIBBS. An example of one such letter is attached to this statement as my Exhibit BB1 (WITN4496002). This example letter was shared with the NHSBSA on 6 September 2017 by Chief Executive Jan Barlow, explaining that this had happened at that time.

26. Several staff from the AHOs transferred to NHSBSA under TUPE at the inception of EIBBS. An agreement was made to second two staff back to the AHOs for one or two days per week to try and trace or

make contact with those who had not provided their express consent to have data shared, to deal with any correspondence relating to the transfer and to pick up any residual data transfer forms being completed and sent back to AHOs after the migration of the service to NHSBSA. These secondments lasted from 1 November 2017 until 31 March 2018 to ensure coverage for an extended period after the scheme had transitioned from the AHOs to NHSBSA.

“28. Certain data was shared by the AHOs with NHSBSA. However, as explained above, the decision as to which records and the extent of the records that were shared was determined by the AHOs and those decisions were not within the gift of NHSBSA. The AHOs shared beneficiaries’ information that consisted primarily of reference number, name, date of birth, contact details and current payment information, which was passed electronically to NHSBSA. Any previous paper applications, letters or correspondence (either e-mail, telephone recording or letter) as well as any system notes, were not passed to NHSBSA. The fact that previous physical application forms or notes/correspondence were not shared was outside of the control of NHSBSA, as the AHOs were unable/unwilling to share this information with NHSBSA”.

5. The Government announced changes to the way EIBSS would operate on the 25 March 2021. I have previously provided further detail regarding the Government’s announcement as part of my original statement at paragraphs 259-260. For completeness, I have included the appropriate sections below:

“259. On 25 March 2021, the paymaster general provided an update on parity of financial support across the infected blood support schemes administered within each of the four nations. The announcement is available at <https://questionsstatements.parliament.uk/written-statements/detail/2021-03-25/hcws895>. It explains that changes are planned which are

aimed at bringing greater parity between the different schemes operated throughout the UK. NHSBSA is fully in support of these changes, as they will deliver very positive additional support for EIBSS scheme members. In particular, the planned change to support for bereaved partners (to increase annual payments for bereaved partners to an automatic 100% of their partner's annual payment in year 1 and 75% in year 2 and subsequent years, in line with the Scottish model) is very welcome indeed, and is one that the NHSBSA knows will be extremely well received by beneficiaries.

260. All changes will realise additional financial support and will help current and future beneficiaries. We are keen to work with DHSC to deliver these changes to EIBSS. Beneficiaries will be kept up to date with the development of these changes through broad updates on our website until we are able to update individual beneficiaries on what these changes mean for each of them."

6. As a result of the announced changes, the specification for EIBSS (agreed between the Department of Health and Social Care and NHSBSA) was updated. In order to administer the new rules, EIBSS needed further information about historic payments made to beneficiaries.
7. I explained in my first witness statement that the Skipton Fund was a company that administered infected blood support payments prior to the commencement of EIBSS. Around the time that EIBSS was set up there was a change in the directors of the company, the then existing directors resigned and two new directors based at law firm Russell-Cooke LLP, were appointed. I will call the new directors the replacement directors. To assist the inquiry, I have checked the publicly available information on Companies House to find out when the current directors were appointed. According to Companies House information both of the current directors were appointed on 5 September 2018. This is the link to the Companies House info: [SKIPTON](#)

[FUND LIMITED people - Find and update company information - GOV.UK \(company-information.service.gov.uk\).](https://www.gov.uk/company-information/service.gov.uk)

8. The privacy notice on the Skipton Fund's website www.skiptonfund.org/privacy.php explains:

"The Skipton Fund Limited is listed on the Information Commissioner's register of data controllers under Registration Number Z9195222. For data protection law purposes, we are the controller of all personal data held in our archives.

...

The Skipton Fund Limited is no longer active. We store historic information including personal data relating to people who applied to The Skipton Fund Limited for funding, as well as records of correspondence with beneficiaries and their families and carers.

We also store historic information relating to the following organisations, which have now closed:

- The Caxton Foundation*
- The Eileen Trust*
- The Macfarlane Trust*
- MFET Limited*

We use this historic information to respond to requests from people whose personal data is held in our archive, or from their relatives or authorised representatives. These requests can include subject access requests (see Your rights below) as well as requests to share personal data with a third party such as the England Infected Blood Support Scheme (EIBSS)."

9. EIBSS therefore engages with the replacement directors of the Skipton Fund Ltd through Russell-Cooke LLP regarding requests for beneficiary information, as the Skipton Fund Ltd is now the organisation responsible holding, and making decisions about, each of the AHO's data.

10. Through agreeing a one-off Data Sharing Agreement (DSA) with the Skipton Fund Ltd Director Andrew Studd, EIBSS obtained the additional lump sum payment information needed to implement the updated rules.

In response to Issue 2 of the Request.

11. I have been asked if the information provided on a particular beneficiary is, on occasion, insufficient, how does EIBSS and/or the NHSBSA address this with the Directors of the Skipton Fund, and how helpful any response from the Directors is.

12. There are a couple of options available to EIBSS if it would like to obtain additional beneficiary information, which depends on the volume and/or type of information required. As described in paragraph 8, EIBSS agreed a one-off DSA with the Skipton Fund Limited, to enable the sharing of payment related information to enable us to make the announced parity payments. This route allowed us to obtain specific data, for a defined purpose, for 197 beneficiaries, without the need for EIBSS to contact the beneficiaries and ask them to request this information from the Skipton Fund (administered by Russell-Cooke LLP) directly.

13. I have previously explained the process for obtaining historic detailed case information from an AHO held by Russell-Cooke Solicitors in my first statement at paragraphs 33-34. For completeness, I have included the appropriate sections here.

“33. The current process allows a previously registered beneficiary to immediately contact Russell Cooke directly via post, email or telephone and for Russell Cooke to guide them through identification requirements, in order for the information they hold to be released to them and the NHSBSA. Additionally, as Russell Cooke hold the records of all previous beneficiaries, they can use this information to

confirm an individual's identity, something that the NHSBSA does not have access to, due to the explicit consent process used prior to the commencement of EIBSS.

34. A potential EIBSS beneficiary has varied options to contact EIBSS: post, e-mail, and telephone. Russell Cooke also has the same contact options, which provide an individual with reasonable options to aid with any potential technology issues in making contact with either organisation.”

14. On each occasion where EIBSS has been required to work with the replacement directors at Russell-Cooke LLP they have been helpful and informative. They have worked collaboratively with EIBSS to aid in the identification and supply of information through an appropriate data sharing route, for the benefit of EIBSS beneficiaries.

In response to Issue 3 of the Request.

15. I have been asked what checks and/or procedures are in place to ensure that EIBSS is using the correct contact details when staff contact registrants. I have further been asked if checks of death registers are performed to ensure registrants are not deceased before correspondence is initiated, and if not, why not.

16. EIBSS includes a contact details section as part of all application forms, this is in part to ensure we capture a change in these details since a previous application was made. EIBSS also makes available a beneficiary change of circumstances form, so beneficiaries are able to notify EIBSS where a change has occurred. Obviously, these processes are there to help keep our information as up to date as possible but recognise we are not always notified where details change and/or where a beneficiary has passed away.

17.EIBSS has recently introduced a process of checking beneficiary records against the Personal Demographic Service (PDS), prior to sending correspondence to Beneficiaries. The PDS is the national electronic database of NHS patient details. Through the PDS EIBSS receive information on the civil registration of deaths. This process has taken a while to introduce as we had to create a new way to store our data prior to using the PDS and the appropriate data protection controls also had to be agreed. EIBSS hopes that through these recently introduced checks we will greatly reduce the possibility of inadvertently corresponding with a deceased beneficiary.

Statement of Truth

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

Signed

GRO-C

Dated 10 March 2022