

## **RESTRICTED - POLICY**

**To: PS(PH)**

**From: Naomi Balabanoff, ID&BP**

**Clearance: Ailsa Wight, ID&BP**

**Date: 30 May 2014**

**Copy: All other Ministers**

**Specialadvisors@** **GRO-C**

**Emily Frith**

**Una O'Brien**

**Kristen McLeod**

**Alex Wallace**

**Felicity Harvey**

**All other DGs**

**CMO**

**Officials – see page 2**

### **UPDATE: CONTAMINATED BLOOD PAYMENT SCHEME REFORM**

#### **Purpose of submission**

1. To provide you, as requested, with an update on work on the possible restructuring and retargeting of the contaminated blood ex-gratia payment schemes into a single, simplified scheme for all infected by HIV and/or hepatitis C through treatment with NHS-supplied blood or blood products.
2. This submission is one of two submissions this week for Ministers on contaminated blood issues, the other being our plans for early release of documents to The National Archive. Separately, we are sending a submission to Perm Sec advising on a reply to the warning letter that Lord Penrose has sent to DH.

#### **Recommendation**

3. That you note the work underway.
4. Following your meeting with Alex Neill MSP in February, we now recommend that you write formally to your counterparts in Northern Ireland, Scotland and Wales to seek their views about scheme changes.

#### **Timing**

5. Routine

#### **Dismantling of the existing schemes**

6. We have commissioned advice from DH Legal Services (DHLS) and colleagues in the Commercial Investment Branch on the dismantling of the existing structures. Current understanding is that dissolving the two existing companies (MFET Ltd and the Skipton Fund Ltd) should be relatively straightforward; however closing down the three charities (Eileen Trust, Macfarlane Trust and Caxton Foundation) is potentially far more complex. Consequently, DHLS will be commissioning advice from Counsel on dismantling the current system. We hope to receive that advice by the end of June 2014.

#### **New structure**

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7. We have separately commissioned expert policy and legal advice on the relative advantages and disadvantages of possible structures for a new single non-charitable organisation to operate a retargeted system of financial support. The current options include an Arm's Length Body, a non-charitable Trust and a company limited by guarantee. Considerations include speed and cost of establishment of the new body, accountability to the Department and beneficiaries, and flexibility to respond to future requirements. We intend to have an options appraisal for mid-June.
8. We are also beginning to think about options for future support for uninfected family members as part of this work.

### **Restructure next steps**

9. In order to progress further we need to consult counterparts in the Devolved Administrations. This is necessary as they currently contribute towards the funding of the Skipton Fund and Caxton Foundation for hepatitis C, and could choose to continue funding ex-gratia payments for their affected communities through the existing structure. We therefore recommend that you share your current thinking with your counterparts in Northern Ireland, Scotland and Wales; draft letters are at **Annex A**.

### **Finance**

10. We do not currently have updated information on the cost of restructuring the ex-gratia payment schemes, nor the cost of any new scheme, further to the indicative estimates in earlier submissions.

### **Conclusion**

11. In conclusion, we are seeking expert legal advice on dismantling the current structure and also from corporate finance and policy on models for a new organisation to deliver a simplified system. We recommend that you now write to your counterparts in the Devolved Administrations (letters at **Annex A**) so that they are engaged early on this work.

**Naomi Balabanoff**  
**Blood policy, PHD**

### **Officials copy list**

Helen Shirley-Quirk, HPER  
Ailsa Wight, ID&BP  
Rowena Jecock, ID&BP  
Ben Cole, ID&BP  
Mark Noterman, ID&BP  
Andrew Parker, HPAT  
Peter Bennett, HPAT  
Andrew Foreman, DHLS  
Mark Wilson, DHLS

Isabel Letwin, DHLS  
Harry Haralambous, Finance  
Eleanor Gill, Finance  
Madeleine Plater, Finance  
Joel Glover, PICD  
Rosemary Marr, PHD  
Brendan Sheehy, DRO  
Basheer Khan, Comms

**Annex A – Letters to counterparts in the Devolved Administrations**

Alex Neill MSP  
Cabinet Secretary for Health and Wellbeing  
Scottish Government  
St. Andrew's House  
Regent Road  
Edinburgh. EH1 3DG

**FINANCIAL SUPPORT FOR PEOPLE AFFECTED BY CONTAMINATED BLOOD**

As you are aware, the four UK Health Departments fund two ex-gratia payment schemes which provide financial support to people infected with hepatitis C by contaminated NHS supplied blood and blood products, and their families, and the Department of Health funds three further ex-gratia schemes to support those similarly infected by HIV. You will also be aware that there is dissatisfaction among campaigners and MPs with these arrangements. As we discussed at our meeting in February 2014, I share some of their concerns, in particular regarding the complexity of the current system and the lack of clear and coherent rationale for support. I am minded to simplify the system and re-target support to those who need it most, for example based on the individual health impact of the viruses. This would mean dismantling the current mechanism, some of which may be complex.

We agreed at our meeting that we would both like to maintain a consistent approach across the UK, and I am keen to hear any further views you may have. If you are agreeable, our officials should work together in developing the way forward [DN: , with a view to providing all four UK Health Ministers with advice].

I am writing in similar terms to Mark Drakeford AM and Edwin Poots MLA.

**JANE ELLISON**

Mark Drakeford AM  
Minister for Health and Social Services.  
Welsh Government  
5th Floor  
Tŷ Hywel  
Cardiff Bay. CF99 1NA

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I would like to maintain a consistent approach across the UK, and am keen to hear any views you may have. If you are agreeable, our officials should work together in developing the way forward [DN: , with a view to providing all four UK Health Ministers with advice].

I am writing in similar terms to Alex Neill MSP and Edwin Poots MLA.

**JANE ELLISON**

Edwin Poots MLA  
Minister of the Department of Health, Social Services and Public Safety  
The Northern Ireland Executive  
Castle Buildings  
Stormont  
Belfast. BT4 3SJ

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