

To: PS(PH)

From:

Cleared: Dr Ailsa Wight

Date [] October 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.

Issue

1. On 17 June 2010 you wrote to Parliamentary Business and Legislation (PBL) Committee seeking agreement on the handling of Lord Morris's Contaminated Blood (Support for Infected and Bereaved Persons) Bill. The letter was not circulated to the Committee at that time, and the Secretariat has now requested that you write again, taking account of the content of the WMS that you intend to lay on 14 October.

Recommendation

2. That you write to 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

3. **Urgent.** The second reading of the debate is on 22 October 2010.

Background

4. 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 re-introduced it in this session, and first reading was on 26 May 2010.
5. The provisions in this Bill are based on 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 version of the Bill that was introduced to the Commons in the last session, on 21 January 2010.
6. The previous Government published its response to Lord Archer's report on 20 May 2009. That response was considered to be inadequate by those affected, which led to Lord Morris introducing this Bill. A copy of the previous Government's published response to Lord Archer's report is attached at **Annex B**.
7. Since the Bill was re-introduced on 26 May, SoS has written to Home Affairs (HA) committee seeking policy approval to reject Lord Archer's recommendation 6(h) on parity of payments with Ireland, and to conduct a review of the following aspects of the support available to those affected by contaminated blood:
 - Payments for hepatitis C, including to widows and dependents;
 - Payment mechanisms for ex-gratia payments, including paying them through DWP;
 - Access to insurance;
 - Exempting this patient group from prescription charges.
8. These issues are all included in Lord Morris's Bill, therefore the Bill prejudices the outcome of the review. Legislation is unlikely to be required to implement any of the potential outcomes of the review.

Current position and contentious issues

9. 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. Most of the remaining significant aspects of the Bill are included in the review. We therefore consider there is no need to legislate in this area. Notes on each Clause are provided in **Annex D**, for information.
10. The most contentious Clause in the Bill is Clause 4, which provides for compensation to those affected. SoS has sought HA Committee clearance to reject Lord Archer's recommendation 6(h) on parity of payments with Ireland. However, the Bill also seeks to address a number of anomalies between the existing HIV and hepatitis C payment schemes, which were identified by Lord Archer. The review will look at those anomalies.

Background and Parliamentary activity.

11. 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 have been highly critical and have lobbied heavily. There will be a Commons backbench debate on 14 October. The campaigners have been actively lobbying their MPs and the indications are that a significant number will attend the debate.
12. 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

13. You are asked to agree and sign the letter to PBL Committee at **Annex C**.

Infectious Diseases and Blood Policy Branch

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