FURTHER PRESENTATION NOTE ON GOVERNMENT DECISION-MAKING IN NORTHERN IRELAND

1. This presentation note should be read in conjunction with the Inquiry's earlier written presentation **[INQY0000363]** and the oral presentation on 18 July 2022 **[INQY1000229]**. The purpose of this additional note is to describe for Core Participants such further evidence as the Inquiry has been able to identify and/or obtain regarding government decision-making in Northern Ireland.[1]

Sir Richard Needham

2. Sir Richard Needham (then Richard Needham MP) was the Parliamentary Private Secretary to the Secretary of State for Northern Ireland[2] from 1983-1984. His role in that capacity was to support the Secretary of State for Northern Ireland's relationship with back benchers in the House of Commons.

3. He was Parliamentary Under-Secretary of State for Northern Ireland from September 1985 to April 1992; the Secretary of State for Northern Ireland was Tom King from September 1985 to July 1989 and then Peter Brooke from July 1989 to April 1992. Sir Richard had responsibility for health matters (but also for a wide range of other matters) up until August 1989.

4. Sir Richard has provided a statement to the Inquiry **[WITN5595001]** which explains as follows:

> *"5. ... I have no recollection of, and do not believe that the question of infected blood ever arose during my time as Minister of Health for Northern Ireland.*

[1] This presentation note does not address the evidence which the Inquiry has received regarding more recent decision-making in Northern Ireland, some of which was explored during the Inquiry's examination of the current financial support scheme during its hearings in May 2021. A list of relevant statements regarding the scheme in Northern Ireland is, however, appended to this note.

[2] James Prior, who died in 2016.

There was some discussion on how to handle the treatment of AIDS sufferers and the need to make those vulnerable to risk aware of the dangers of contracting AIDS. The incidence of AIDS in Northern Ireland was relatively low compared to the rest of the United Kingdom.

6 From 1985-1989, when I was Minister of Health for Northern Ireland, I was also Minister responsible for Social Services, Planning, Housing, Transport, Tourism, Environment, water and electricity (which were nationalised), construction industry fraud and the licensing laws covering opening hours in pubs, hotels and restaurants. There were also security and political issues with which I was involved.

7 The amount of time I had available to deal with health issues was therefore extremely limited and I relied heavily on my officials for advice, particularly two Permanent Secretaries to the Department of Health and Social Services (NI) ("DHSS (NI)"), Maurice Hayes followed by Alan Elliott....

... 14 ... My responsibility involved presenting health matters to the public, given my ministerial oversight role to the DHSS (NI). I would have signed off any decisions which were brought before me."

Sir Richard did not recall policy matters relating to blood or blood products ever being raised with him at the time.

5. Northern Ireland was under direct rule during his time in office and the Department of Health and Social Security/Department of Health (in Westminster) *"still had responsibility for health matters since Northern Ireland essentially mirrored health policy from Great Britain"* **[WITN5595001 §16]**. Sir Richard was *"certain that most health policies of the Department would have been followed in Northern Ireland, making the relationship one of mirrored subservience. However, the presentation of the policy may have been tailored appropriately to meet the social or cultural norms of the local communities in Northern Ireland"* **[WITN5595001 §31]**. He did not recall having any personal interactions with the Department of Health relating to health policy (or with the Welsh and Scottish Offices): *"Much work was done at official-to-official level"* **[WITN5595001 §44].**

6. Dr Robert McQuiston, Assistant Secretary in the Health Services Division of the DHSS (NI), told the Inquiry in his oral evidence on 22 July 2022 that the minister's role would be to sign off on the policy being developed by the DHSS (NI) but that the minister *"would have a role, obviously in developing the policy as well. At various stages of the process, he would normally be involved"* **[INQY1000233 p14]**. Sir Richard's recollection is that: *"To clarify, my involvement was not in developing health policy but in presenting policy to the public and this likely involved discussions regarding how health policy would be implemented. My role as a minister was to reassure the public about health matters and I was advised accordingly by DHSS (NI) officials (my role was not to be involved in developing any medical policy)"* **[WITN5595001 §18]**.

7. Sir Richard's statement notes that *"Security issues dominated the role and function of the Northern Ireland Office given that my tenure was during the height of 'the Troubles'"* **[WITN5595001 §20]**.

8. In terms of funding, Sir Richard's evidence is that: the budget for the Northern Ireland Office and the amount of funding for health would have been put forward by officials; the health boards would make submissions to the DHSS (NI) who would allocate resources between the boards; and the final determination of the budget for Northern Ireland would be made by the Treasury following discussions with the Secretary of State for Northern Ireland **[WITN5595001 §25]**.

9. On the role of the Chief Medical Officer (CMO) for Northern Ireland – Dr Robert Weir (1978-1988)[3] and Dr James McKenna (1988-1995)[4] - Sir Richard's understanding was that the CMO *"was responsible for shaping health policy in Northern Ireland and I believe this would have mirrored such policies in England"* **[WITN5595001 §27]**. The CMO was also *"responsible for the issuing of guidance and advice to the medical profession generally, patients and the public"*, although Sir Richard could not recall any specific details due to the passage of time.

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[3] Dr Weir died in 1996.
[4] Dr McKenna's statement to the Inquiry is at **WITN6983001**.

10. A submission entitled "AIDS – the position in Northern Ireland", dated 18 November 1986, and apparently addressed to the Secretary of State, referred to *"recent discussions between the Health Ministers of Northern Ireland (Mr Needham) and the Republic of Ireland (Mr Desmond) when it was agreed that both countries had a part to play in the campaign of public education and ensuring that all possible measures are taken to limit spread of infection"* **[DHSC0046919_006]**. Sir Richard, in his statement, observes with regard to this document:

> *"... my role was to reassure the public about health matters and I therefore expect that these policies were escalated to me since they related to the public campaign about reducing the spread of AIDS. Again, it is likely that any involvement I had in policy discussions would have related to presenting the policies to the public, as opposed to being involved in the specific medical detail"* **[WITN5595001 §39]**.

The submission noted that the measures taken to prevent the spread of infection in Northern Ireland *"have mirrored initiatives which have been introduced at national level"* and included the establishment of a screening programme within the Northern Ireland Blood Transfusion Service and the creation of separate testing facilities at the Royal Victoria Hospital in Belfast for those who thought they might have been exposed to infection.

11. Sir Richard could not recall any interaction between the Northern Ireland Office and the Department of Health on matters relating to blood and blood products: *"The Department had more resource and expertise and I suspect that officials in Northern Ireland would have had little influence when such matters on blood or blood products did arise"* **[WITN5595001 §42]**. He did not recall matters regarding blood or blood products being brought to his attention **[WITN5595001 §31, §§55].**

12. Sir Richard could not recall having any involvement or oversight in the Ministerial Steering Group or Interdepartmental Group on AIDS **[CABO0000221; [WITN5595001 §§47-53]**.[5]

Lord Thomas King

13. Lord King was (as Tom King MP) the Secretary of State for Northern Ireland between September 1985 and July 1989[6]. He has provided a written statement to the Inquiry **[WITN5598001**], which states that:

    a. His main responsibilities as Secretary of State during that time were to *"combat the serious terrorist campaign that was threatening the orderly life of the people of Northern Ireland"* **[§13]**.

    b. Richard Needham had oversight of the DHSS (NI) and would therefore have had general responsibility for health in the Northern Ireland Office **[§14]**.

    c. He did not recall policy relating to blood and blood products ever being raised with him, or issues about screening, viral transmission, the circumstances in which people receiving NHS treatment in Northern Ireland were infected with HIV, HCV or HBV, or compensation **[§15, §§41-44]**.

    d. The role and function of the Northern Ireland Office under direct rule from Westminster was to provide good governance for Northern Ireland within the UK **[§20]**.

    e. Generally, decisions about matters relating to health in the Northern Ireland Office fell within the responsibility of the relevant ministers who were delegated

[5] Dr McQuiston appears to have attended both the Interdepartmental Group, which comprised officials, and at least the first two meetings of the Ministerial Group as the only representative of the Northern Ireland Office: **WITN5572001, §30.1; CABO0000221; SHTM0001036.**
[6] Lord King's predecessor as Secretary of State for Northern Ireland was Douglas Hurd, who held the position for a year from September 1984 to September 1985. He is not able to provide a statement to the Inquiry.

to deal with health and they worked closely with the Secretary of State in the UK government **[§25]**.[7]

f. The process of determining a budget for the Northern Ireland Office and for health matters involved *"close consultation with the responsible officials in the NIO working closely with their opposite numbers in the Treasury in London"*. Subsequently some determinations would be made between Lord King and the Chief Secretary to the Treasury; if further agreement was needed, it was ultimately made by the whole cabinet including the Prime Minister **[§28]**.

g. His understanding of the role of the Chief Medical Officer was that they had overall responsibility for health in Northern Ireland and were answerable to the minister in the Northern Ireland Office (NIO) responsible for health **[§29]**. The CMO *"had a clear responsibility of playing a leading role in shaping policy and in particular ensuring ministers, clinicians, patients, and the public were informed of any risk to public health. The CMO also had clear responsibilities to issue any necessary guidance or advice to ministers, clinicians, patients or the public"* **[§30]**.

h. He was not aware how much oversight the Department of Health had over health policy decisions in Northern Ireland **[§34]**, but believed that generally the NIO *"tried to broadly align its health policy decisions with the Department"* and that *"this would have therefore also applied to blood and blood products"* **[§36]**.

14. As Secretary of State, Lord King regularly attended the Cabinet Home and Social Affairs Committee Sub-Committee on AIDS following its establishment in November 1986. On occasions, the Northern Ireland Office would be represented by a junior minister in his place.

15. Lord King's successor as Secretary of State for Northern Ireland, Peter Brooke, has provided a short statement to the Inquiry **[WITN5597001]**. Lord Brooke has little

[7] Richard Needham's evidence suggests that in practice this would have been undertaken by officials rather than ministers.

memory of his time in Northern Ireland save that security and political matters dominated **[§1.2, §1.3]**. He has no recollection of any involvement regarding blood or blood products or infection and expresses his regret at not being able to provide any further information **[§1.6]**.

Jack Scott

16. The late Jack Scott was an Assistant Secretary in the DHSS NI, described by Dr McQuiston as the Assistant Secretary in charge of Acute Hospitals Division[8]; Dr McQuiston's recollection was that policy on blood and blood products rested with that division **[WITN5572001 §7.1]**.

17. There is some limited information relating to Mr Scott's involvement in decision-making in matters relating to blood and blood products:

    a. In October 1988 Dr Harris (Deputy CMO for England) copied to Jack Scott – as well as to Peter Gregory in the Welsh Office – a draft submission to Ministers regarding the establishment of the Advisory Committee on the Virological Safety of Blood **[SCGV0000210_147]**.

    b. In December 1988 Mr Scott wrote to Duncan Macniven (Scottish Home and Health Department) regarding the arrangements under which the PFC processed plasma from Northern Ireland; he approved of revised arrangements, including those mentioned in a letter from Dr Mayne to Dr Perry[9] whereby the PFC product should be given preferentially to patients who had always had access to it with the remaining patients receiving commercial products. Mr Scott was not *"altogether happy"* with the way in which the matter had been handled and would have preferred the DHSS NI to have been brought into the picture at a much earlier stage by Dr Mayne **[SCGV0000105_019]**.[10]

[8] Dr McQuiston was not sure of the precise title **[WITN5572001 §35.1]**.
[9] **SBTS0000384_066**
[10] Mr Macniven's response to Mr Scott is at **SCGV0000105_018.**

c. In January 1991 John Canavan (DH) wrote to Mr Scott with information regarding the HIV litigation **[DHSC0003657_108]**. The latest draft of the proposed terms of settlement was enclosed. Mr Canavan explained that *"we think the document is now very close to reflecting our policy aims. You might, therefore, wish to use it as a basis to begin discussions with the representatives of your HIV infected haemophiliacs"*. Mr Canavan indicated that they were trying to gauge reaction to the proposed settlement among non-litigant haemophiliacs and referred to individuals formally agreeing not to pursue litigation in future in return for the money. He added *"perhaps you would let me know if you would have any objections to the haemophiliacs in your territory being sounded out in this way"*. It is not known what if any steps were taken by Mr Scott in response to this letter.

d. Mr Scott appears to have had some involvement in health education regarding AIDS in Northern Ireland: see, for example, the minutes of the third meeting of the HIV Sub-Committee of the Regional Communicable Disease Liaison Group on 5 November 1991 **[NIBS0000183]**.

John Breen

18. Mr Breen worked for the Health Promotion Branch of DHSS NI, working on health promotion policies, between 1985 and 2007. He was not involved in policy on blood and blood products **[WITN7515001 §2.1].** However, it appears that he had some involvement in formulating a response in 1995 to calls for compensation for those infected with hepatitis C from infected blood products. His statement explains that *"Even though not within the policy responsibility of my branch and because no other branch would accept responsibility to deal with letters from MPs on the compensation subject, it was decided, for reasons that escape me, that Health Promotion Branch should deal with such correspondence"* **[WITN7515001 §26.1]**.

19. On 6 April 1995 Mr Eddie McGrady MP (the then MP for South Down) wrote to Malcolm Moss (the Parliamentary Under-Secretary of State in the DHSS NI) in relation to the Haemophilia Society's recently launched compensation campaign **[DHSC0006522_059]**. Following a response from Mr Moss which was regarded

by Mr McGrady as disappointing, Mr Breen prepared a submission dated 31 May 1995 which noted that many similar representations could be expected over the coming months **[DHNI0000054_040]**. Mr Breen suggested that preliminary estimates would put the number infected with hepatitis C through blood transfusions or blood products in Northern Ireland at about 100, of whom approximately 50 were haemophiliacs. Reference was made to the Department of Health (London)'s *"standard response indicating that the Government does not propose to pay compensation since there was no question of negligence on the part of the NHS and that it believes that the most effective use of resources is to seek to improve the understanding, management and treatment of the disease"*. This standard response had formed the basis of Mr Moss's reply to Mr McGrady.

20. Mr Breen continued:

> *"6 Although this continues to be the line taken by all UK countries, Ministers in the Department of Health (London) have asked for a plan for some sort of compensation scheme to be prepared but without any presumption that such a scheme would be desirable or inevitable.*
>
> *7 It is likely that Health Ministers are acutely aware that when previous campaigns were run firstly in support of haemophiliacs who were infected with the HIV virus and then on behalf of those infected by HIV through blood transfusion, the Government eventually did agree to make such payments.*
>
> *8 Officials are presently considering the feasibility of such a compensation scheme but it is a complex matter with political, legal, medical, ethical and financial considerations which will take some time to resolve. It is likely to be the subject of Ministerial correspondence in the near future. In the meantime it would be premature to make any concession to Mr McGrady and it is recommended that Minister should hold to the standard response."*

21. In his statement, Mr Breen explains that he passed on the line approved by Ministers in London and that *"The policy in Northern Ireland, as I understood it, was to follow the policy adopted in London"* **[WITN7515001 §26.2]**. He felt it was too premature to make any concessions in respect of compensation *"because the matter had not*

been firmly decided by the Department of Health in London" **[WITN7515001 §26.3].**

22. On 30 June 1995 Mr Breen wrote, on behalf of the Secretary of State for Northern Ireland, to a woman who had been infected with hepatitis C, as had her son, from blood products **[DHNI0000054_008]**. The letter stated that *"All patients received the best treatment available in the light of medical knowledge at the time"*. Mr Breen **DHSC0006946_046**explained in his statement that he used a stencil letter provided by the NHS Executive in April 1995 **[]** to write the letter, which reflected the fact that *"DHSSNI's policy was to follow the Government position in London"* **[WITN7515001 §28.1-28.2].**

23. A handwritten file note **[SCGV0000165_055]** refers to the author having received phone calls from Mr Breen, and from Peter Davenport in the Welsh Office, regarding the issue of compensation for those infected with HCV. Those calls may have been in response to a letter from Mr Schofield (NHS Executive) in May 1995, which explained that the Secretary of State had *"asked that officials establish the views of the Territorial Health Departments"* **[DHSC0006946_010]**. The handwritten note states that *"Both Wales and N.I. were concerned about the financial implications of what seems to be a marked softening in the DoH attitude towards compensation. Apparently the sum of £60,000 is being considered per case and the Treasury have already made it clear that the funds must be found from within existing resources."* Mr Breen does not recollect this call and cannot say if it is a fair characterisation of the DHSS's view at the time **[WITN7515001 §31.1].**

Dr Elizabeth Mitchell

24. Dr Mitchell was seconded to the post of Senior Medical Officer (SMO) at the DHSS NI in 1991, with responsibility for communicable disease control and food safety issues. From 2000-2007 she was a Principal Medical Officer in the DHSS NI[11], with responsibility for the provision of medical advice on all public health issues, and from 2007 to 2014 she was Deputy Chief Medical Officer (as well as deputising

[11] Renamed the Department of Health, Social Services and Public Safety.

for and, on two occasions, being temporarily promoted to, the post of Chief Medical Officer). She has provided a statement to the Inquiry **[WITN7542001]**. Dr Mitchell represented the DHSS NI as an observer on various committees and advisory groups, including the Advisory Committee on the Microbiological Safety of Blood and Tissues for Transplantation, the Advisory Group on Hepatitis and the Expert Advisory Group on AIDS **[WITN7542001 §§11-15]**.

25. Dr Mitchell's statement explains that as SMO she was not responsible for policy in relation to blood and blood products but provided medical advice to inform policy **[WITN7542001 §19]**. There were separate administrative and professional advisory hierarchies during her time as SMO; she reported to the CMO, Dr James McKenna, through the DCMO, Dr Clifford Hall **[WITN7542001 §21].** Dr Mitchell had no direct dealings with ministers as SMO, but attended weekly medical staff meetings held by the CMO, who had an open-door policy **[WITN7542001 §26]**.

26. Dr Mitchell's recollection was that responsibilities for health policy were devolved to Northern Ireland, but that there was a general aim to maintain parity for policies like immunisation or other communicable disease matters, including with respect to hepatitis C and blood and blood products **[WITN7542001 §§29-32].**

27. Mechanisms for issuing guidance, advice or instruction to clinicians and health bodies are discussed by Dr Mitchell at **WITN7542001 §36.** The main mechanism was the issue of a CMO letter and it was Dr Mitchell's experience that if a CMO letter was issued in the other home countries there would have been a CMO letter issued also in Northern Ireland. Other than a CMO letter regarding the Hepatitis C and Blood Transfusion Look Back in 1995, Dr Mitchell could not now recall if any other CMO letters were issued on the risks of infection from blood or blood products during her time as SMO. A second means of providing information was the CMO's annual report, which was a public document, would highlight public health risks and was distributed to senior clinicians and health bodies. A third mechanism was a CMO Update, used to alert doctors to public health matters. The Northern Ireland versions used the English CMO updates as templates and edited the content to suit the local context.

28. Dr Mitchell describes some very limited involvement following the Skipton Fund review established by Anne Milton in October 2010 **[WITN7542001 §§48-53]**. The announcement made by the Secretary of State for Health (Andrew Lansley) on 10 January 2011 setting out the response to the review was made without prior consultation with Northern Ireland: *"The Health Departments in Northern Ireland, Wales and Scotland had sight of the Government response only on the day of the Secretary of State's involvement. There was no consultation with DA Health Ministers before the announcement, and despite written requests from the devolved administrations, officials were not kept adequately informed or given sight of the report before the announcement"* **[DHNI0000483, WITN7542001 §49]**. Writing to a consultant hepatologist at Royal Victoria Hospital in March 2011, Dr Mitchell explained that the DHSS NI was currently considering the recommendations on the financial measures which England was implementing for patients affected by contaminated blood: *"In principle Northern Ireland would seek to maintain parity with England, however until we have fully considered the financial implications of this along with other pressures on the DHSSPS budget, we are not in a position to make any firm commitments on this issue at present"* **[WITN4066016]**. On 24 March 2011 the Health Minister, Michael McGimpsey, announced that the recommendations of the review had been accepted, although *"proposals for additional access to counselling services will be considered within the current service provision for those with haemophilia"* **[DHNI0000431]**. Dr Mitchell's statement suggests that this reflected the fact that, based on the Barnett formula, the money earmarked for counselling was extremely small and would not have been sufficient to cover any bespoke arrangements **[DHNI0000926, WITN7542001 §52]**.

Concluding observation

29. The evidence summarised above provides little by way of further information or elucidation in relation to specific government decision-making in Northern Ireland on issues relevant to infected blood during the 1980s and 1990s. The evidence does, however, indicate that there was little if any direct ministerial involvement in Northern Ireland in such matters; that the ministerial focus for much of the time was on security issues; and that there was no administrative or medical civil servant

charged specifically with responsibility for blood and blood product policy. These further statements, taken together with the contemporaneous documents to which reference is made above, largely confirm the evidence that the Inquiry has previously heard from Dr McQuiston to the effect that *"the main policy initiatives would come from the Department of Health in London out to Northern Ireland"* **[INQY1000233 p4]**. The striking term used by Sir Richard Needham – *"mirrored subservience"* – may be thought to cast further light on the relationship between the DHSS NI and the Department of Health in London during the relevant period.

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Appendix: List of statements relating to decision-making regarding the current financial support schemes in Northern Ireland

1st statement of Karen Bailey **WITN4936001**

2nd statement of Karen Bailey **WITN4936027**

3rd statement of Karen Bailey **WITN4936028**

4th statement of Karen Bailey **WITN4936033**

5th statement of Karen Bailey **WITN4936039**

1st statement of Elizabeth Redmond **WITN4066001**

2nd statement of Elizabeth Redmond **WITN4066002**

3rd statement of Elizabeth Redmond **WITN4066019**

1st statement of Robin Swann **WITN5570001**

2nd statement of Robin Swann **WITN5570019**

3rd statement of Robin Swann **WITN5570022**

4th statement of Robin Swann **WITN5570027**

5th statement of Robin Swann **WITN5570028**

6th statement of Robin Swann **WITN5570030**

Statement of Michelle O'Neill **WITN7069001**

1st statement of Liam McIvor **WITN4507001**

2nd statement of Liam McIvor **WITN4507016**