

THE INFECTED BLOOD INQUIRY

SUBMISSIONS ON BEHALF OF THE CORE PARTICIPANTS REPRESENTED BY

WATKINS & GUNN, SOLICITORS, 24 AUGUST 2023

1. These submissions are made following the oral evidence given from 24 July to 28 July 2023 and the written evidence served on behalf of the Inquiry.
2. The written submissions made on behalf of the Core Participants represented by Milners, are entirely agreed.
3. In particular, we strongly support the submission made at 2. (ii) regarding the Chair's powers to continue scrutinising the Government's response to the Inquiry's findings and recommendations, beyond the delivery of his forthcoming report.
4. However, we would seek to make the following additional recommendations in furtherance of 2. (ii).
 - a. That the Inquiry's scrutinization of the present and future actions of the Government should be split into three parts, namely; the setting up of the scheme, the quantification of compensation to be awarded coupled with a detailed analysis of the position of the affected, and the extent to which the Government actually implements the scheme.
 - i. Setting up the scheme: it has been accepted by the Inquiry that steps should be taken to set up the scheme immediately, indeed, such a recommendation was made some time ago by the Chair in his second interim report.
 - ii. It is likely that it will take some considerable time to set up the scheme. All appear to agree that it should be an arm's length scheme, which necessitates a clear, precise and unambiguous agreement as to what that means. Thus, there should be no doubt as to how the scheme should be run and who should operate the scheme.
 - iii. There are likely to be complex and time consuming actions to be taken. There may be detailed procurement and HR matters that will need to be considered.

- iv. For example, there should be plans in existence now that set out the type of employees required, what skills they need to have, the size and type of premises needed from which they will operate (which need not be in London) and the level of judiciary required. The names, addresses and the basis of the claimed right for compensation should be have been collated by now – these are well defined cohorts which early preparation would have identified.
- v. In other words, the administration, operational criteria, the overall architecture of the scheme, should now be in existence, ready to be put into use immediately. It's not uncommon for Governments and other institutions to set up a shadow board to ensures that the processes involved can start immediately.
- vi. These are all matters that take time, particularly when the setting up of such a scheme is in the hands of the Government.
- vii. It appears that no steps have been taken to consider any of these matters. There was no evidence given at the recent hearing to suggest that these matters were being considered. The Chair must give to himself room for manoeuvre to leave open further consideration of these matters.
- viii. As time goes by it would be reassuring to the Core Participants to know that the Chair can review these issues and, if necessary, issue further recommendations.
- ix. Compensation. The Government's excuses for not having identified the cohorts who should receive compensation and the amounts to be paid are risible. However, having reached this stage there should now be put in place a review of the actions, or inactions, of the Government by the end of this year.
- x. Once again, there is no authority that can hold the Government to account on these issues, save for the Chair of this Inquiry. He should leave open to himself the right to undertake a further review(s).
- xi. If the Chair keeps open the option of preparing additional report(s) then the Government's actions in respect of compensation can be reviewed at suitable times. The issue of compensation is a significant matter that the Inquiry is required to investigate, it is important that this does not become an empty exercise.

- xii. The Inquiry can also review the gross injustice of having some cohorts of the affected not receiving any interim sum, and can ensure that this gap can be remedied. By way of example, parents who have lost children and children who have lost parents, two distinct cohorts, could be given immediate interim compensation. The potential for discrimination between different groups as to whom should be compensated and how much should be paid may be materially reduced by keeping open the possibility of further review(s) and subsequent report(s). However, speed is of the utmost importance, there will still be people dying without knowing what, if anything, will be paid by way of compensation for the terrible harm they and their families have suffered, and will continue to suffer.
 - xiii. Implementation of the scheme. The assessment and award of compensation to those infected and those identified as affected is one of the prime roles in this Inquiry: it is also one of the most vulnerable to neglect by the Government. Once the 'final' report has been produced there is no way to review the actions of the Government, particularly when a change of government may take place. By dropping the word 'final' the Chair may be entitled to reopen this issue so as to ensure that the recommendations already made (and the promises made by members of the present Government to fully implement them) are indeed actioned.
- b.
- i. A particular problem faced by those we represent is that of the role of devolved governments. Previous experience of this state of affairs suggests that if the devolved governments are allowed to have any role to play in the development of policy and decision-making in relation to compensation, then wide disparities will develop between Wales and Northern Ireland and the rest of the UK. It was for this reason that we made submissions that the scheme should be at arm's length from all governments, but, in particular, the devolved governments which should have no role in the development of policy or decision-making. We accept there may be benefits to using existing infrastructure for the purpose of local administration only.
 - ii. At the recent hearing very little was said about devolution, save that there had been meetings at an official level between the UK Government and the devolved governments. There is no evidence that any concrete proposals have been proposed or discussed. It is our submission that evidence should be gathered from the devolved governments as to what was discussed at those meetings – the devolved governments may not wish to rely on any privilege in

respect of that information. They may be able to shed light of the thinking of the UK Government, in particular, whether the UK Government continue to see the issue of compensation as a devolved issue.

- iii. If the Chair retained the ability to review the actions of the various UK governments then some mechanism will be available to ensure that the recommendations made in the Chair's second report are put into effect.
- c. The CPs we represent have waited patiently for almost exactly 5 years for the Inquiry to reach the time for the publication of its report (hopefully, not the 'final report') and many decades from when the injuries were caused. Following the recent hearing they now feel considerable anger, frustration, distress and anxiety, caused by the unwillingness or inability of government witnesses to (i) commit to any future timetable, and (ii) to provide detailed answers to straightforward questions.

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