

THE INFECTED BLOOD INQUIRY

SUBMISSIONS ON BEHALF OF LEIGH DAY CORE PARTICIPANTS

FOLLOWING HEARINGS ON 24-28 JULY 2023

1. These submissions are made on behalf of the infected and affected (“**IAP**”) Core Participants and clients (collectively referred to as “**CPs**”) of Leigh Day, following the hearings that took place between 24-28 July 2023 (“**the July hearings**”), and further to the Determination of the Chair dated 19 July 2023 that invited “*further written submissions dealing only with specific issues arising from the recent hearings*”.
2. First, Leigh Day fully endorses the submissions made by the CPs represented by Milners Solicitors in relation to (i) the evidence of Penny Mordaunt and their submission that she should be issued with a Rule 9 request to elicit clarification and (ii) the Chair’s powers to scrutinise the Government’s response to his reports under section 14 of the Inquiries Act 2005 (“**the 2005 Act**”). We invite the Chair to take the actions as set out by Milners in those submissions.
3. We make the following further submissions, which are intended to complement and not to contradict the submissions of Milners in any way:
 - a. The Ministers who gave evidence in the July hearings repeatedly referred in oral and written evidence to delivering the Government “*response*” on compensation as soon as possible after “*the close*” or “*the end*” of the Inquiry. In our submission, however, this was based on a misapprehension that the delivery of the Chair’s substantive report, due later this year, necessarily constitutes the end of the Inquiry. For the reasons set out by Milners, it does not; an Inquiry comes to an end under the 2005 Act when its terms of reference are fulfilled. In this vein, several of the Ministers clarified that it is not the end of the Inquiry *per se* that the Government considers is necessary to deliver its response on compensation, but the Chair’s findings of fact:

- i. *“... those compensation proposals will be put into very upsetting context when the full findings of the report are released”¹*
- ii. *“But as is entirely normal andprecedented, the Government would wait for the conclusion of Inquiry's findings so it has the full context and understanding of everything that is relevant to the situation before making final decisions”²*
- iii. *“I think it is right that the decision is made with the full context of understanding not just how much, but why these things happened, and I think that we will make a better decision as a result of that... I think you will say some very important things in that Inquiry and I know that you are not going to say any more on the levels of compensation you think are necessary but I think you are going to help us to understand a lot about the context, and I do believe that it is responsible and right to the taxpayers, who are funding this, for Government ministers to see the full context of the horrific scandal that this was, before we make the final decision as to how the compensation will work.”³*

Without prejudice to our primary position that the Government has all the information it requires now to make a decision on compensation, if the Chair accepts Milners and Leigh Day’s submissions on his section 14 powers, we invite him to make clear in his forthcoming report that it provides the whole factual “context” the Government has suggested it requires, and that there is no justification for any arbitrary delay pending the end of the Inquiry proper.

- b. In support of those submissions on his section 14 powers, we invite the Chair to consider the approach he has taken to bespoke psychological services on a prospective basis. The Inquiry has adopted an iterative process, in accordance with its powers under the 2005 Act, of requesting evidence from and, subsequently, scrutinising the responses of the bodies responsible for providing psychological services to IAP. This process of considering the nature and adequacy of support has continued over several years. It is, we submit, an excellent example of the Inquiry process working as Parliament intended. The Government’s prospective action on financial support and psychological support are equally relevant to paragraphs 5 and 8 of the Inquiry’s terms of

¹ Transcript 25 July 2023, Jeremy Quin, p46.

² Transcript, 26 July 2023, Rishi Sunak, p32.

³ Transcript 28 July 2023, Jeremy Hunt, p46.

reference. It would lead to an absurd result if the Inquiry was able to scrutinise one and not the other. This, we submit, gives force to Milners' interpretation of section 14.

- c. Further or alternatively, the Government's response thus far to the Chair's Second Interim Report underscores the importance of this Inquiry making a recommendation regarding monitoring of implementation of recommendations that have been accepted by Government. This was raised by the Chair during the evidence of Jeremy Quin.⁴ Leigh Day reiterates its submission that, in the first, place, the Chair should recommend that an independent body lead this oversight and monitoring.⁵ Such an independent body could, we submit, take the form of an Infected Blood Inquiry Recommendations Select Committee. At the very least, however, such mechanism should, as Mr Quin suggested, involve an obligation on the Government to *"respond and provide a report-back mechanism on a certain basis, and [if] the Government then accepted that recommendation, then that would put an onus on Government to issue statements on a regular basis as committed to through that recommendation."*⁶ We submit that, in any event, a recommendation along these lines should be the *"first recommendation"* of this Inquiry, as posited by the Chair.
- d. In her evidence, Shona Dunn referred to the fact that the Department of Health and Social Care ("**DHSC**") had commissioned research into bespoke psychological services for IAP, due to be published in August. It appears that this research has indeed recently been made publicly available.⁷ Its key finding is that *"existing psychological support services in England – whether accessed through the NHS or privately – do not currently meet the needs of infected and affected communities"* and it makes a number of recommendations on how to improve provision. We encourage the Chair to issue a further Rule 9 request to Shona Dunn and/or other relevant persons in DHSC asking what steps are being taken in response (and in light of evidence to the Inquiry on this issue as a whole). We invite the Chair to suggest that any action on the part of DHSC be taken swiftly, in light of the number of years it has taken to reach these, in our

⁴ Transcript 25 July 2023, Jeremy Quin, pp88-90.

⁵ SUBS0000059_0472.

⁶ Transcript 25 July 2023, Jeremy Quin, p89.

⁷ Available here: <https://piru.ac.uk/assets/files/0/PIRU%202023-29%20Psychological%20support%20for%20people%20affected%20by%20contaminated%20blood%20Final%20Report.pdf>.

submission, entirely predictable findings, which are in turn largely premised on evidence given to this very Inquiry.

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