

Witness Name: Ms Shona Robison

Statement No: WITN6648002

Exhibits: WITN6648003-6

Dated: 07/03/2022

## **INFECTED BLOOD INQUIRY**

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### **WRITTEN STATEMENT OF MS SHONA ROBISON**

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I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 01 December 2021.

I, Shona Robison, will say as follows: -

#### **Section 1: Introduction**

**1. Please set out your name, address, date of birth and any professional qualifications relevant to the duties you discharged while Minister for Public Health and Cabinet Secretary for Health and Sport.**

1. My name is Shona Robison. My business address is St Andrew's House, Regent Road, Edinburgh, EH1 3DG and my date of birth is GRO-C 1966.

**2. Please describe your employment history, including the various roles and responsibilities that you have held throughout your career, as well as the dates.**

2. I have been an MSP since May 1999. I have also held the following Ministerial roles in the Scottish Government since May 2007:

- Minister for Public Health – 2007-2009
- Minister for Public Health and Sport – 2009-2011
- Minister for Commonwealth Games and Sport – 2011-2014
- Cabinet Secretary for Commonwealth Games, Sport, Equality and Pensioners' Rights – April to November 2014

- Cabinet Secretary for Health, Wellbeing and Sport – November 2014 to June 2018
  - Cabinet Secretary for Social Justice, Housing and Local Government – May 2021 to the present day
3. **Please identify the other Members of the Scottish Government holding ministerial roles relevant to the Inquiry's Terms of Reference between 2007 – July 2018.**
3. The following people held relevant Ministerial roles and were involved in policy relating to infected blood from May 2007 to July 2018:
- Nicola Sturgeon MSP – Deputy First Minister and Cabinet Secretary for Health and Wellbeing – 2007-2012
  - Alex Neil MSP – Cabinet Secretary for Health and Wellbeing – 2012-2014
  - Joe Fitzpatrick MSP – Minister for Public Health and Sport – June 2018 (to December 2020)
4. **Please identify, by name, senior civil servants involved during the time you were Minister for Public Health and Cabinet Secretary for Health and Sport in decisions about blood and blood products, the assessment of the risks of infection arising from blood and blood products, and the response to such risks, and in providing advice to ministers in relation to such issues.**
4. When I was Minister for Public Health, the main policy lead on infected blood matters was Sylvia Shearer, and later Wendy McKendrick, and the more senior lead was Andrew Macleod. When I was Cabinet Secretary for Health, Wellbeing and Sport, the main policy leads were Robert Girvan, Gareth Brown and (from 2016) Samantha Baker and the senior civil servants leading the policy were Donald Henderson and then (from 2016) Gareth Brown.
5. **Please set out your membership, past or present, of any other committees, associations, parties, societies or groups relevant to the Inquiry's Terms of Reference, including the dates of your membership and the nature of your involvement. In particular, please set out the part played by the Health and Community Care Committee in the Scottish Government.**
5. I am a member of the Scottish National Party (SNP) and I was a member of the Scottish Parliament's Health and Community Care Committee from 1999 to 2003 and its Health

Committee from 2003 to 2007. I should clarify that these committees were both Parliamentary Committees and not part of the Scottish Executive (now Government). Both Committees did take an interest in and consider matters relating to infected blood.

6. Apart from that, I have not been a member of any committees, associations, parties, societies or groups relevant to the Inquiry's terms of reference.
6. **Please confirm whether you have provided evidence to, or have been involved in, any other inquiries, investigations or criminal or civil litigation in relation to human immunodeficiency virus ("HIV") and/or hepatitis B virus ("HBV") and/or hepatitis C virus ("HCV") infections and/or variant Creutzfeldt-Jakob disease ("vCJD") in blood and/or blood products. Please provide details of your involvement and copies of any statements or reports which you provided.**
7. I have not provided evidence to or been directly involved in any other inquiries, investigations or litigation in relation to these matters. As Public Health Minister and then Cabinet Secretary for Health I was aware of and monitoring the progress and outcomes of the Penrose Inquiry, but I was not asked to provide any evidence to the Inquiry myself.

## **Section 2: The Alliance House Organisations ('AHOs')<sup>1</sup>**

Questions 7 and 8 have been answered in my first statement. [WITN6648001]

9. **What contact did you have with those who had been infected or affected by infection with HIV or HCV via blood and blood products? Please detail the contact you had with individuals and with organisations such as Haemophilia Scotland.**
8. Further to the comments on this in my other statement, as a Scottish Government Minister I had contact with a number of individuals who were infected or affected by HIV or HCV via blood and blood products, either via correspondence or through meetings with them. I met a number of campaigners and representatives of

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<sup>1</sup> i.e. the Macfarlane Trust, the Eileen Trust, the Macfarlane and Eileen Trust Limited, the Caxton Foundation and the Skipton Fund.

organisations such as Haemophilia Scotland, the Scottish Infected Blood Forum and the Hepatitis C Trust on a number of occasions.

9. In particular, I met a number of organisations and campaigners before and following the publication of the Penrose Inquiry Report in March 2015 to talk about next steps with them and in June 2015 I met a number of representatives to discuss the plans for the Financial Review.
10. In February 2016, I attended a Scottish Infected Blood Forum reception at the Scottish Parliament and met a number of infected and affected individuals and campaigners there. In March 2016, I attended a memorial service in Edinburgh organised by Haemophilia Scotland, along with the First Minister and Deputy First Minister, and met a number of families and campaigners at that event. The event aimed to remember those who had died as a result of this tragedy and to reflect on how much the families had been affected.
11. I also met a number of those who were infected and affected and several organisations in July 2016 to update them on progress in relation to the implementation of the recommendations of the Financial Review Group.
12. I also had contact on a number of other occasions, via meetings, phone calls or correspondence, with representatives of key stakeholder organisations, such as Bill Wright, Dan Farthing and Philip Dolan, and with other campaigners, such as Bruce Norval.

**10. What, if anything, did your constituents or other members of the public tell you about the AHOs, either before or during your tenure as Minister for Public Health and Cabinet Secretary for Health and Sport? You may find [CAXT0000041\_121] and WITN2287070] to be of assistance.**

13. I had limited feedback from constituents and general members of the public, but the feedback that I received from the infected and affected did sometimes raise concerns about the Alliance House Organisations. For example, many felt that the funding support provided by them was not sufficient; in many cases they felt there was not enough financial support for widows, widowers and partners of those who had died and that the organisations were not all sufficiently responsive to the needs of

beneficiaries in Scotland. There were also some concerns raised in relation to the applications process and criteria not being sufficiently open and transparent.

Questions 11 and 12 have been answered in my first statement. [WITN6648001]

**13. In a statement from a campaigner [WITN2235003, para 13.29], he noted that both yourself and Malcolm Chisholm attended the play 'Factor 9'. Malcolm Chisholm commented that 'he hadn't known any of the information in the play when he was health minister...ministers were not always passed information by civil servants.' Was this your experience? In particular, did the civil servants dealing with blood and blood products have an understanding, in your view, of the experience of those infected and affected by contaminated blood?**

14. Given that Ministers and Cabinet Secretaries have large portfolios of responsibility, officials would not be expected to tell Ministers about or consult them on everything they do. Officials need to judge, with guidance as appropriate from Ministers and their private offices, what issues Ministers need to be informed of or take decisions on and which matters can be dealt with at official level. I cannot speak for Mr Chisholm's experience, but generally I think I had a good awareness from officials of the key issues.

15. The level of understanding among officials of the experiences of those infected and affected by contaminated blood no doubt varied between officials. I think it is also fair to note that, as time progressed and more evidence became available, for example about the impacts of Hepatitis C or as a result of the detailed consideration of issues via the Penrose Inquiry, that officials would have developed a better understanding of the experiences of the infected and affected. While I was Cabinet Secretary, officials would have had involvement in and awareness of feedback from consultation processes, such as that carried out via the Financial Review Group and I believe they also spoke to significant numbers of the infected and affected by phone to respond to queries while SIBSS was being set up. This would also have helped them develop a better understanding of people's experiences.

**14. What briefing were you given about the AHOs and the devolved schemes (in particular SIBSS) upon first taking office as Minister for Public Health and Cabinet Secretary for Health and Sport?**

16. The devolved schemes did not exist when I became a Minister and then a Cabinet Secretary so I was not given briefing on them at that time.
17. I would have been given some briefing about infected blood and our commitment to hold an Inquiry soon after becoming Minister for Public Health, but I do not remember the details of this or whether this covered the AHOs. I did have previous knowledge though of the AHOs from my time on the Scottish Parliament's Health Committee.
18. I was not given specific briefing about the AHOs when I first became Cabinet Secretary for Health, Wellbeing and Sport, but I was given information about the Penrose Inquiry. I was subsequently given background briefing about the five AHOs though when considering options for reviewing the financial support arrangements prior to and after the publication of the Penrose Inquiry Report in March 2015.

**15. Please explain the involvement you had with the AHOs and the devolved schemes (in particular SIBSS) first as Minister for Public Health and then later as Cabinet Secretary for Health and Sport and, in particular, which issues were brought to you in this role and which issues were dealt with without your involvement. What was your understanding of how these decisions were made?**

19. As Minister for Public Health, the Scottish Infected Blood Support Scheme (SIBSS) did not exist so I did not have any involvement in it at that time. However, I was involved in the setting up of SIBSS when I was Cabinet Secretary for Health and Sport. I agreed to the recommendations of the Financial Review Group, which included the recommendation to establish a separate Scottish scheme. I agreed to recommendations that SIBSS should be managed by NHS National Services Scotland (NSS) and also agreed the key elements of the initial payment levels, as recommended in the Financial Review Group's report, as well as the structure of the Support and Assistance grants.

20. I approved the initial Scheme document<sup>2</sup> for the Scheme to set out the eligibility requirements and some changes in August 2017 to allow unmarried cohabiting partners of those who had died to also receive the annual payments for widows, widowers and civil partners. However, more detailed decisions about the management of and application process for SIBSS were taken by officials, in discussion with NSS staff.
21. I didn't have direct involvement with the AHOs, but I did receive advice on them from officials and was involved in discussing with my counterparts in the other three UK governments ways the payments might be improved.

Questions 16-19 have been answered in my first statement. [WITN6648001]

**20. In a statement from a campaigner, he states that 'we also got Shona Robison to agree that there would be regular payments for those who had chronic hepatitis C who were severely infected and also secured agreement about widows receiving payments where their partners who had passed away had had chronic hepatitis C' [WITN2235003, para 20.10].**

- a. Did you think the financial assistance for those infected with Hepatitis C was fair? If yes, why? If not, why not?**
- b. Did you think the financial assistance for widows, as a result of their late partners' Hepatitis C infection was fair? If yes, why? If not, why not?**

22. This question seems to relate to SIBSS rather than the AHOs as that is what para 20.10 of WITN2235003 refers to; therefore I will respond in relation to the proposals for SIBSS. As I have made clear in my previous answers, I did not believe the level of financial support provided by the previous AHO schemes was sufficient.

- a. Yes. I felt that the proposals set out in the Financial Review Group's report for financial assistance for those infected with Hepatitis C were fair based on the information at the time and I agreed to support their implementation. (I also felt the proposed payments for those with HIV, as well as those who are coinfectd, were fair.) The Report sets out the rationale for the need for payments to support people's day to day living costs. I recognised that there was, as recommended by the Financial Review Group, a need for further work to be

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<sup>2</sup> See <https://www2.gov.scot/Resource/0051/00514362.pdf> (webarchive.org.uk)

done to consider the support which should be provided for those with chronic Hepatitis C (often referred to as Skipton Stage 1) and so, once SIBSS was established, I agreed with officials that a clinical review should be taken forward to provide recommendations on this.

- b. Yes. Again the Financial Review Group put forward reasonable arguments why it was appropriate for the widows, widowers or civil partners of those who had died to continue to receive ongoing regular payments (again while the question just asks about widows of those with Hepatitis C, I felt it was also fair that these payments cover those whose partner had had HIV or been coinfecting as well). As noted at question 15, while the Financial Review Group itself implied that these payments should only be provided to the spouse of the infected person, I subsequently agreed that long-term cohabiting partners of those who had died should be eligible to receive the regular payments, in addition to spouses and civil partners.

**21. Please set out your role as (i) Minister for Public Health and (ii) Cabinet Secretary for Health and Sport in making decisions about allocating funds to the AHOs.**

23. I did not have any direct involvement as Minister for Public Health in making decisions about allocating funds to the AHOs. As Cabinet Secretary, I did agree to allocate additional funds to the UK Department for Health and Social Care for payment to the Skipton Fund and MFET in order to pay the additional costs of initial implementation of the Financial Review Group's recommendations in advance of SIBSS being established. This covered:

- The additional £30,000 lump sum payment for all those at Skipton Stage 1;
- The additional £50,000 lump sum payment for all those who were coinfecting with HIV and Hepatitis C at Skipton Stage 1;
- Additional annual payments, backdated to April 2016, to increase the regular payments for those at Skipton Stage 2 or with HIV to £27,000 per year and those who were coinfecting to £37,000 per year.

**22. What role did you understand the Scottish Government played in setting funding levels for the AHOs?**

24. I understand that the AHOs were managed by the Department for Health and Social Care (DHSC) and so DHSC took the lead in setting their budgets. The Scottish



Government had no role at all in setting funding levels for the Macfarlane Trust, the Eileen Trust and MFET as these were entirely funded by DHSC.

25. The Scottish Government did provide funding to DHSC to meet its share of the Caxton Foundation's costs, but was not directly involved in decisions on setting funding levels for the Foundation. As noted in question 24 below, I did propose to Jane Ellison MP in September 2015 that all four governments should agree to increase the funds for the Caxton Foundation to allow for an increase in winter fuel payment levels, but I did not secure agreement to this.

26. The Skipton Fund's costs were based on numbers of successful applicants and numbers on the scheme (increased Stage 2 lump sum payment levels and arrangements for Stage 2 regular payments had been agreed in 2011 by the four nations' governments). Therefore I understand that the Skipton Fund costs varied and that the Scottish Government paid DHSC the funding required to meet the Fund's actual costs each year in relation to 'Scottish' beneficiaries, along with funding for a proportion of the Fund's administration costs.

**23. The Inquiry has heard evidence from the Trustees of the Macfarlane Trust, the Caxton Foundation and the Eileen Trust, that all three organisations were underfunded by successive Governments. Were you aware that this was the view of the trustees? If so, when did this come to your attention? What if anything did you do about it?**

27. I was not aware of the trustees' views on this and they never contacted me about this. I did become aware, for example, as a result of the Financial Review Group process that some of the infected and affected felt that there should be more financial support available from the AHOs.

**24. In your letter to Jane Ellison MP on 4 September 2015, you made a suggestion that some of the £25 million announced by David Cameron should be distributed by way of an increased winter fuel payment to Caxton beneficiaries [MACK0000979].**

**a. How was the £25 million announced by David Cameron distributed?**

**b. Who was responsible for making the decisions as to how the funds were distributed?**

**c. Why did you suggest distributing to the Caxton beneficiaries only? What, if at all, were your proposals for those infected with HIV?**

**d. Was it originally suggested that this funding would only be for England? It is noted in a memo from Karin Simpson to Simon Hamilton of the Northern Ireland Health**

**Protection Branch that they received no prior notice of this funding before the announcement [DHNI0001460]. Did Scotland also receive no prior notice of this funding? Were you surprised by the announcement of this additional funding?**

28.

- a. I do not know how this funding was distributed. As it was UK Government funds for England only, you may wish to ask the DHSC about this.
- b. Again you may wish to ask the UK Government about this, but I assume that UK Health Ministers made these decisions.
- c. Campaigners had proposed an increased interim payment as part of the discussions of the Financial Review Group. I would have welcomed additional funding for those with HIV as well, but, as noted in response to question 22, the Scottish Government did not fund the Macfarlane or Eileen Trusts so was in less of a position to propose an increase in funding. In addition, given that the levels of regular payments provided by the Macfarlane Trust and Eileen Trust were proportionately somewhat higher than those provided by the Caxton Foundation, and that all those who were infected with HIV were receiving non-discretionary regular payments from MFET, it was felt that some additional support for those with Hepatitis C who were facing financial difficulties was the greater immediate priority. In addition, as was noted in my letter of 4 September 2015, the winter fuel payment to Caxton beneficiaries had had to be reduced in 2014-15 as the Foundation had an increased number of registrants; as far as I was aware the winter fuel payments for the Macfarlane and Eileen Trusts had not been similarly reduced.
- d. Yes. The £25 million of funding was only intended to be for England. The Scottish Government also received no prior notice of this additional funding and, as a result, I was surprised by the announcement.

### **Section 3: The Penrose Inquiry**

Questions 25-35 have been answered in my first statement. [WITN6648001]

**36. Please describe the changes to the political landscape that led to the announcement of the Penrose Inquiry.**

29. The new SNP-led Scottish Government administration elected in May 2007 had a manifesto commitment to establish a public inquiry to find out why people were infected via NHS treatment. As a result, myself and other Ministers felt that a public inquiry should be taken forward once the Archer Inquiry had concluded.

**37. What view did you take about the terms of reference of the Penrose Inquiry? Were there any issues that you consider should have come within the terms of reference, but were omitted. If so, what were they?**

30. I felt that the terms of reference agreed with Lord Penrose seemed to be comprehensive in considering the issues that led to individuals becoming infected with Hepatitis C and/or HIV via NHS treatment. While I appreciate that this current Inquiry has a broader terms of reference, I did not at the time consider that there were any issues that should have been included in the terms of reference, but were omitted.

Questions 38 and 39 have been answered in my first statement. [WITN6648001]

**Section 5: Action taken after the Penrose Inquiry Report**

**40. In a statement to Parliament on 26th March 2015, you referred to the Penrose Report as a “watershed moment” and that “We can now say with some certainty that we understand how the tragedy unfolded” [WITN2287079]. In your view, did the Penrose Inquiry address the issues faced by infected and affected parties?**

31. The Penrose Inquiry report provided a detailed and independent narrative of how the tragic events unfolded and provided much more information for everyone involved about what happened when and what was known about Hepatitis C and HIV at different points in time. This was important as Lord Penrose investigated what happened objectively and set it out in detail.
32. However, I am very aware that those infected and affected were disappointed with the outcomes as they had expected to see much greater criticism or blame attributed to organisations and individuals and some had hoped that more infected or affected individuals would have had the opportunity to give evidence. It was of course though

a matter for Lord Penrose to determine how best to conduct the Inquiry within the scope of the terms of reference and what conclusions to draw from the evidence he received.

33. While it was not part of the Penrose Inquiry's terms of reference to consider financial support for the infected and affected, the Inquiry's report did make clear that many patients and their families were of the view that the payments that they received were insufficient. That is why I committed to establishing the Financial Review process to look at how financial support could be improved.

**41. You received a letter from Mr Bill Wright, following publication of the Penrose Report [WITN4081016]. What was your response to this letter? Please provide a copy of your reply.**

34. I did not respond directly. However, having checked with officials, I understand that an official response was sent by Professor Craig White, Divisional Clinical Lead, in October 2015 (WITN6648003). It is standard practice for government officials to often respond on behalf of a Minister to this type of letter as Health Ministers receive several thousands of letters each year so are unable to respond to all correspondence personally.

**42. Please refer to the GMC Briefing on the Penrose report, which details the Scottish Government's response to the Penrose Report [PRSE0005299]. Following the final report of the Penrose Inquiry being published, you confirmed a number of measures that the Scottish Government would carry out in response. You may also find [WITN5672003] to be of assistance.**

- a. What were these measures that the Scottish Government were going to carry out?**
- b. Were all of these measures implemented? Did you encounter any difficulties implementing these measures?**

- 35.
- a. Lord Penrose recommended that the Scottish Government should take all reasonable steps to offer a Hepatitis C test to anybody who might have been infected before 1991 by a blood transfusion and who had not already been

diagnosed. We accepted that recommendation in full and a short-life working group was established to consider how best to implement it.

I also said we would carry out:

- a Financial Review to seek to improve the financial support schemes on offer to the people affected, and their families, to be concluded before World Haemophilia Day in April 2016. A reference group of patients and families was set up to contribute to that review.
- In addition, we also provided funding for a pilot scheme for additional psychological support for those with inherited bleeding disorders and their families.

- b. Yes. These measures were implemented. I understand that the Inquiry has received separate evidence from Samantha Baker detailing the actions taken in response to the work of the short-life working group on implementation of the Penrose Inquiry recommendation.

As is covered in other questions in this statement, the Financial Review, chaired by Ian Welsh, was completed and I formally confirmed the Scottish Government accepted the group's key recommendations in March 2016.

The psychological support pilot was also implemented and I understand from officials that it continues to operate successfully across Scotland.

**43. What led to you setting up the Scottish Financial Support Review Group? What was its purpose? You may find [WITN4508014] to be of assistance.**

36. It was recognised that the financial support available at the time was not sufficient for many of the infected and affected. As noted at question 40, this was clear from the findings of the Penrose Inquiry, but also from the feedback I received when meeting campaigners. I established a financial review group so that patient groups and others could input into how financial support could work better to assist Scottish beneficiaries.

**44. How much involvement did the AHOs have with the Financial Review? Who else made contributions and was consulted to the course of the review? You may wish to refer to [CAXT0000111\_002] and [CAXT0000094\_161].**

37. The Scottish Government sought and received information from the Alliance House Organisations on their policies and I understand that Jan Barlow attended and gave a presentation to one of the Review Group's meetings on behalf of the AHOs. In particular, officials sought a range of information from the AHOs on numbers of beneficiaries who would fall into the various eligibility criteria for SIBSS.
38. The views of beneficiaries were also sought and Haemophilia Scotland was given funding to undertake a survey as part of the Financial Review so they gathered significant survey responses and also organised consultation events, including a final national meeting in Perth in October 2015. A number of people with relevant legal expertise were also involved in the Financial Review, including Patrick McGuire from Thompsons and representatives from the Central Legal Office.
39. I understand Scottish Government officials also spoke to officials from the Irish Government about their tribunal scheme and information was considered from a number of other support schemes to consider the different approaches used (for example, the Thalidomide Trust and schemes relating to Vaccine Damages, vCJD and armed forces compensation).

**45. Did the Scottish Government accept and implement the recommendations made by the Financial Support Review Group. If not, why not?**

40. Yes. I accepted and the Scottish Government implemented all of the key financial recommendations made by the Financial Review group. SIBSS and its policies were developed in discussions with its stakeholders.
41. I understand that some of the recommendations in the section relating to recommendations for 'Further work', for example on insurance policies, are still being worked on.
42. I also agreed to look further at the Financial Review Group's recommendations for further work on one-off payments by way of final settlement. However, due to this Inquiry's proposals seeking parity of support across the UK, along with a number of increases in payments offered in the past few years and appreciating that we do not yet know what the Inquiry will ultimately recommend in relation to financial support, I understand that current Ministers decided it was best to wait for the Inquiry findings on this before progressing the proposals on final settlement further.

**46. After the recommendations of the Independent Financial Review were announced and accepted by the Scottish Government, you stated that there was to be “on-going work with the patient groups on this matter” [MACF0000027\_028]:**

- a. What patient groups were you referring to?**
- b. What on-going work was undertaken?**
- c. Please explain any involvement you had with this process.**

43.

- a. I was referring to all those infected and affected by infected blood, particularly via discussions with the Scottish Infected Blood Forum (SIBF) and Haemophilia Scotland.
- b. The ongoing work related primarily to work on the establishment of SIBSS and the Clinical Review.
- c. In relation to the establishment of SIBSS, as set out at question 15, I took a number of decisions in relation to the key aspects of the establishment of SIBSS. In relation to the clinical review, I agreed that the Clinical Review Group should be set up and I agreed the Terms of Reference and who should chair the group, but I had no direct involvement in the review itself.

**47. What led the Scottish Government to commission the Clinical Review of the Impacts of Hepatitis C in 2018? [GGCL0000168]**

- a. Were the recommendations made in that review, accepted by the Scottish Government during your tenure? If not, why not?**
- b. Which of the recommendations were implemented during your tenure.**
- c. What were the reasons for not implementing all the recommendations?**

44.

- a. The Clinical Review of the Impacts of Hepatitis C stemmed from the recommendations for further work in the Financial Review Group report. The Clinical Review group reported just before I stood down as Cabinet Secretary. I was aware of the recommendations, but was not able to consider them fully before I stood down.

- b. None of the recommendations were implemented during my tenure as Cabinet Secretary as I stood down just after the group had reported, but I understand that all of the group's recommendations were accepted and implemented in full by subsequent Ministers, primarily Joe Fitzpatrick MSP as the then Minister for Public Health and Sport.
- c. This question is not applicable as all of the recommendations were implemented.

#### **Section 6: Scottish Infected Blood Support Scheme (SIBSS)**

##### **48. What, if any, consultation did the Scottish Government undertake with respect to the setting up of SIBSS.**

- 45. There was not a formal public consultation, although consultation with the infected and affected had taken place via the Financial Review Group process (see the Financial Review Group's report for further details on this). While views from the beneficiary survey were mixed, the Review Group recommended a separate Scottish scheme. The Scottish Government discussed the setting up of SIBSS with a number of parties, including the charities representing the infected and affected (such as Haemophilia Scotland and the Scottish Infected Blood Forum (SIBF)), the Alliance House Organisations and officials in the other UK nations' governments.
- 46. I understand that Haemophilia Scotland and SIBF were involved in discussing the key policies for SIBSS and commenting on the draft guidance documents which were put on the SIBSS website.

##### **49. What, if anything, have your constituents or other members of the public told you about SIBSS?**

- 47. I have had limited feedback from constituents or members of the public in general, but as Cabinet Secretary I did sometimes receive feedback from the infected or affected via correspondence from MSPs or meetings with the charities or infected blood campaigners. While there were initially some concerns about whether SIBSS would be ready in time and whether the staff understood infected blood issues fully, most feedback was positive once SIBSS was up and running.



**50. Do you consider SIBSS to be adequately funded?**

48. I can only answer this question in relation to the time period for which I was responsible for SIBSS. At that time, I ensured that the budget available for SIBSS was sufficient to meet the commitments to increased payments as a result of the Financial Review Group recommendations. I understand that additional funds were made available to NSS for SIBSS during the financial year if it was clear that they needed additional funding due to costs being higher than originally estimated, for example due to higher numbers joining the scheme during the year.
49. Therefore, in my view, SIBSS was adequately funded. I am aware that funds for SIBSS have since been increased further, firstly to implement the Clinical Review Group recommendations, secondly to allow for inflationary increases in regular payments each year and thirdly to fund the changes to allow greater parity between the four UK schemes. However, as these changes were made after I stepped down as Cabinet Secretary for Health and Sport, I cannot comment in detail on this.

**51. Please set out the process by which SIBSS receives funding from the Scottish Government on an ongoing basis, including the HIV allocation from the UK Department of Health.**

**a. Has this changed since SIBSS was first established? If so, how?**

**b. What, if any, problems have arisen from this process and what were (or continue to be) the consequences?**

50.

- a. SIBSS receives funding from the Scottish Government each year to meet its estimated costs. I understand that an initial allocation is made early in each financial year, which includes funding for HIV costs (although the Scottish Government does not actually receive the HIV allocation from the UK Government until December each year). As noted above, additional funds are normally provided to SIBSS later in the financial year once the estimated total annual spend is clearer. I can only answer this question in relation to the time period while I was Cabinet Secretary for Health and Sport, but I believe the process is unchanged.
- b. I am not aware of any particular problems, although I am aware that ongoing uncertainty around the continuation of and levels of HIV funding from DHSC

did cause some uncertainty about budget requirements for future years. While the SIBSS budget varies as costs depend on a number of factors, such as numbers of beneficiaries and which categories they are in, and this makes it difficult for Scottish Government officials and SIBSS staff to accurately estimate budget requirements in advance, as noted at question 50, SIBSS has always had sufficient funding to meet its costs.

## **Section 7: vCJD**

### **52. What information were you given about vCJD and recombinant Factor VIII when first taking office?**

51. I didn't receive any specific briefings relating to vCJD and recombinant Factor VIII when first taking office but I did receive some briefings regarding vCJD later (please see question 53).

### **53. Please describe your knowledge of the risks of the transmission of vCJD during your time as Cabinet Secretary for Health and Sport, with particular reference to the risk of its transmission via blood and blood products.**

52. As Cabinet Secretary, I had a general awareness of the risks. I was aware in general terms, but it was not raised in great detail at the time as I do not recall any particular incidents or concerns regarding vCJD being raised while I was Cabinet Secretary.

53. I have provided, as exhibits, copies of advice I was given regarding vCJD whilst I was Minister for Public Health (WITN6648004 - WITN6648006).

### **54. Please give a narrative description of your role and responsibilities whilst Cabinet Secretary for Health and Sport in decisions and actions taken with respect to vCJD and recombinant Factor VIII**

54. I had overall responsibility for policy in this area between late 2014 and mid-2018, but there were no significant policy changes during the time while I was Cabinet Secretary so I am not aware of any new or different actions being taken on either vCJD or use of recombinant products for patients with bleeding disorders. The great majority of patients with bleeding disorders were already using recombinant products (either Factor VIII or other clotting factor products) well before I became Cabinet Secretary.

55. I understand that officials received and monitored reports received from the CJD Surveillance Unit at the University of Edinburgh, which highlighted any new CJD cases so they would have informed me if there were any cases identified linked to blood products or blood transfusions.

#### **Section 8: Others**

**55. Please describe your working relationship with your counterparts in the other UK jurisdictions during your time as Public Health Minister and Cabinet Minister for Health and Sport.**

56. I corresponded from time to time with other Ministers in the UK regarding infected blood and had occasional phone calls with my counterparts in the other nations, particularly around the outcomes of the Penrose Inquiry. Relationships were generally good. As I have said in answers to questions 22 and 24, I was in contact with Jane Ellison MP in 2015 to propose increasing funds for the Caxton Foundation to allow for an increase in winter fuel payments. Also, in 2015, there were some discussions regarding holding a UK-wide consultation, but this did not ultimately happen as the UK Government's proposals were quite different from the Scottish Government's. In addition, as a result of the Financial Review process it became clear that many Scottish beneficiaries wanted a separate Scottish scheme.

**56. The Inquiry has heard evidence that key policy changes announced by the Westminster Government concerning the financial schemes were not shared with the devolved nations until very shortly before being announced. Was this your experience? If so, please give examples. What impact did this have?**

57. Yes this was my experience. There were occasions when we were not informed until shortly before the announcements.
58. For example, there were issues with communication by DHSC officials and Ministers prior to formal announcement of the Contaminated Blood Review to UK Parliament by Andrew Lansley MP in January 2011, recommending additional support through annual and discretionary payments. This resulted in insufficient time for us to prepare for and handle the announcement in Scotland and, therefore, insufficient time to consider the funding and legislative implications.

59. In January 2016, the UK Government launched a consultation on reform of the schemes. Jane Ellison MP, the then DHSC lead Minister, called me just before she launched the consultation to brief me on its contents, but my understanding is that Scottish Government officials were not shown the consultation paper until the day it was published. Similarly, in July 2016, DHSC Ministers announced details of the new English scheme proposals following their consultation. Jane Ellison apologised to me for the announcement being made without advance notice being given to the Scottish Government.

**57. What if any consideration was given, during your tenure, to ensuring that any changes made to the financial schemes, should try to ensure parity between the nations? If this was not a consideration, please explain why not.**

60. My focus was naturally on what was appropriate for Scottish beneficiaries. It was up to the other nations to consider what was appropriate for their schemes.

61. Whilst I was Cabinet Secretary, the support offered by SIBSS was more generous than that available through any of the other schemes. Therefore I did aim to lead the way in improving financial support for the infected and affected and develop a model of support we hoped the other governments would be able to follow. The Scottish Government shared the findings from the Financial Review Group with the other nations' governments so they could consider if they also wished to adopt the Group's proposals, but they did not decide to do so.

**58. Please provide any other information and/or views you may have that are relevant to our Terms of Reference.**

62. I have nothing else to add but, I am happy to answer any further questions the Inquiry may have.

### **Statement of Truth**

I believe that the facts stated in this witness statement are true.

Signed

**GRO-C**

Dated 07/03/2022

### **Table of exhibits:**

<b>Date</b>	<b>Notes/ Description</b>	<b>Exhibit number</b>
October 2015	reply from Professor Craig White, Divisional Clinical Lead to Bill Wright re duty of candour (our ref 2015/0031969)	WITN6648003
11/11/2009	advice provided on recommendations by SaBTO on the use of prion filters to reduce transmission of vCJD through blood	WITN6648004
4/12/2009	advice from SaBTO on vCJD risk reduction and importation of fresh frozen plasma	WITN6648005
22/12/2009	advice on blood safety developments to prevent transmission vCJD through blood transfusion	WITN6648006