

Witness Name: Elizabeth Redmond

Statement No.: WITN4066002

Exhibits: [WITN4066003 – WITN4066018]

Dated: 4th May 2021

INFECTED BLOOD INQUIRY

SECOND WRITTEN STATEMENT OF ELIZABETH REDMOND

I, Elizabeth Redmond, in response to the Rule 9 request from Andrew Black, Infected Blood Inquiry lawyer dated 18 August 2020, addressed to the Department of Health, Northern Ireland, will say as follows:

1. Please set out your name, address, date of birth and role within the Department.

1.1 My name is Elizabeth Redmond. I am the Director of Population Health in the Department of Health (Northern Ireland) ("the Department") and am based in Castle Buildings, Stormont Estate, Belfast. I commenced work in this post in January 2017. As Director of Population Health I am responsible for development and oversight of policy specific to protecting and improving population health. Since January 2020, I have undertaken, and continue to undertake, key roles in the Department's response to the coronavirus pandemic,

first as Emergency Operations Centre lead and subsequently, and currently, having lead responsibility for the coronavirus restrictions regulations and international travel regulations. Population Health Directorate remains at the forefront of the COVID-19 response in Northern Ireland. I report through the Deputy Chief Medical Officer (Public Health), Dr Naresh Chada, to the Chief Medical Officer, Dr Michael McBride.

1.2 Population Health Directorate (PHD) comprises four branches: Health Protection, which includes responsibility for blood safety and the response to the UK Infected Blood Inquiry; Emergency Planning; Health Improvement Policy; and Health Development Policy.

2. Please provide a narrative account of the relationship between the Department and the Scheme.

2.1 The Department created and set policy in relation to the Scheme. I issued a direction (**IBPS0000025**) as a senior officer of the Department to the Regional Business Services Organisation (RBSO) to operate the Scheme on behalf of the Department on 26 October 2017. I signed a Service Level Agreement (SLA, **IBPS0000008**) with RBSO incorporating the Scheme which came into effect on 1 November 2017. As a result of this Rule 9 request, a typographical error in schedule 2 Part VI paragraph 22 came to my attention. In relation to the bereavement payment, the word "*annual*" should have been "*one off*" and was, in fact, always treated as "*one off*". I signed an amended version of the SLA on 13 October 2020 (**WITN4066003**). The budget for the scheme is the responsibility of the Department, which allocates funding to the RBSO.

2(a) Specify the team in the Department that was and remains responsible for setting the policies and budget of the Scheme, including any particular point of contact and his/her credentials (if this has changed since the Scheme has been set up, please specify each relevant key contact).

2(a).1 Former Health Minister Michelle O'Neill announced the NI Infected Blood Payment Scheme in December 2016 and was therefore ultimately responsible for setting the policy and budget for the Scheme at that time.

2(a).2 The team responsible for setting policy and budget relating to the Scheme was, and remains, Health Protection Branch within Population Health Directorate. On the date that this policy became live on 1 November 2017, when the aforementioned SLA came into effect, there was no Northern Ireland Executive in place in Northern Ireland nor was Direct Rule imposed from Westminster. Therefore during that period the Permanent Secretary Richard Pengelly was ultimately in control of policy.

2(a).3 Since January 2020, Health Minister Robin Swann has had responsibility for policy and setting the budget. The key points of contact are:

- Richard Pengelly, Permanent Secretary, DoH (NI);
- Dr Michael McBride, Chief Medical Officer (CMO), Head of CMO Group, DoH (NI);
- Dr Naresh Chada, Deputy Chief Medical Officer (DCMO), DoH (NI);
- Liz Redmond, Director of Population Health, DoH (NI) since January 2017;
- Previous Directors of Population Health as follows:
 - Gerard Collins, Acting Director of Population Health, DoH (NI), July 2016 - January 2017;
 - Dr Anne Kilgallen (DCMO), Director of Population Health, DoH (NI), May – June 2016;
 - Gerry Mulligan, Director of Population Health, DoH (NI) March 2015 – May 2016;
 - Dr Anne Kilgallen (DCMO), Director of Population Health, DoH (NI), September 2014 – March 2015;
 - Dr Elizabeth Reaney (acting DCMO), Director of Population Health, DoH (NI), May 2014 – August 2014;
 - Dr Elizabeth Mitchell (DCMO), Director of Population Health, DoH (NI), May 2010 – May 2014;

- Andrew Elliott, Director of Population Health, DoH (NI), 2007 – April 2010;
- Seamus Camplisson, Joint Head of Health Protection Branch, DoH (NI);
- Lesley Heaney, Deputy Principal, Health Protection Branch, DoH (NI) (28 May 2019 – present);
- Karen Simpson, Deputy Principal, Health Protection Branch, DoH (NI) (until 28 May 2019).

2(b) Outline the process by which the original policies and budget of the Scheme were agreed, including the materials and/or expertise that the Department considered (for example, (i) medical opinion, (ii) views of Scheme beneficiaries and (iii) expert opinion in respect of amounts to pay beneficiaries).

2(b).1 Prior to November 2017, there were five financial support schemes in operation providing financial support across the UK for people who had been infected with HIV/Hepatitis C by NHS-supplied blood products, and for their families. Three of these were HIV financial support schemes and two were hepatitis C stage 2 financial support schemes. All five schemes operated from Alliance House in London and administered payments to all UK beneficiaries, whilst policy was set by the then Department of Health, now DHSC, in London.

2(b).2 In January 2016, the Department of Health (England) issued a consultation on scheme reform and an announcement on the financial package was made by the then Prime Minister David Cameron in July 2016. Although the proposals in the consultation were for England only, all affected patients and other beneficiaries in England, Wales, Scotland and Northern Ireland were invited to respond.

2(b).3 In July 2016, officials in Health Protection Branch (HPB) provided the then Northern Ireland Health Minister Michelle O'Neill with a submission setting out the scheme reforms taking place in England, Scotland and Wales and an overview of the situation in the Republic of Ireland where, following an Inquiry, the

'The Hepatitis C and HIV Compensation Tribunal' had been established. The Minister was provided with four costed options for consideration:

- i. Maintain the status quo;
- ii. Replicate Scottish reforms;
- iii. Replicate new provision being introduced in England;
- iv. Design a new system for NI.

There was no additional funding available within the Department at that time.

2(b).4 At that stage the process for making payments to Hepatitis C beneficiaries in Northern Ireland from the two existing Hepatitis C charities, Skipton Fund and Caxton Foundation, was managed on behalf of the Department by the DHSC (London), who recouped the funding from the Department. As the HIV financial support schemes (MacFarlane Trust, Eileen Trust and MFET Ltd) were established before devolution in Northern Ireland, Scotland and Wales, the Department was not responsible for providing funding to beneficiaries of those Schemes.

2(b).5 In September 2016, having received no response to the July submission, officials in HPB submitted a further paper to Minister O'Neill for urgent consideration, providing an update on the current position on blood payment scheme reform. The Minister was advised that new scheme administrators were being set up in England and Scotland from April 2017 and in the interim period, payments were increased to English and Scottish beneficiaries and these were made through existing Alliance House Organisations for 2016/17. The Minister was advised that the new increased payments to English and Scottish beneficiaries would be backdated to April 2016 and that discussions were underway with HMRC to ensure that scheme payments remained tax free. A similar increase in payments to NI scheme beneficiaries was not yet agreed.

2(b).6 In October 2016, having received no response to the September submission, HPB officials provided further advice to the Minister for urgent consideration. This paper provided an update on the Welsh position and advised that recipients in England, Scotland and Wales would be advised of their new entitlement in November, backdated to 1 April 2016, and that the Department was likely to come under increased pressure from beneficiaries keen to know whether

they too would be entitled to increased rates of financial support. A ministerial decision in Northern Ireland was required by 12 October 2016 to ensure NI could continue to use the same scheme administrator as DHSC (England).

2(b).7 On 12 December 2016, having considered the options as set out in the submission of July 2016, Minister O'Neill indicated that she wished to move forward with option 3: *replicate the new provisions being introduced by England* (WITN4066004). This included agreement to increase the payments to NI beneficiaries in line with increases that had already been made in payments to English beneficiaries, including backdated arrears to April 2016. A press statement was issued announcing this on 22 December 2016 (WITN4066005). Minister O'Neill also provided a written statement to the NI Assembly on the same date (WITN4066006). Ms O'Neill ceased being NI Health Minister on 16 January 2017 when the Northern Ireland Executive collapsed.

2(b).8 In March 2017 the Department of Health (England) announced that the NHS Business Services Authority would be administering payments and claims for beneficiaries in England infected or otherwise affected by contaminated NHS blood or blood products. In a letter to the Head of the NI Civil Service, dated 6 March 2017, Lord Shaughnessy, Parliamentary Under Secretary of State for Health, stated that the remit of the NHS-Business Services Authority did not extend to cover Northern Ireland and would not be able to offer scheme administrative services to NI beneficiaries. The Department, in the absence of Ministers, therefore needed to identify a scheme administrator for Northern Ireland so that current payments and future claims could continue.

2(b).9 RBSO, because of its statutory function to provide administrative support services to the Department, was identified by Health Protection Branch as the administrator and a Strategic Outline Business Case (WITN4066007) was submitted to the Director of Finance in the Department in March 2017. The additional funding for scheme reform was classified as an inescapable pressure (flagging a pressure as inescapable highlights the fact that payments have to be made or there is the potential for legal consequences).

2(b).10 This issue was time-critical as the existing support schemes were due to cease operating in September 2017 and Northern Ireland needed to have its own scheme administrator fully operational by this date. Therefore, my key objective was to ensure there was no break in payments during the transition period in which administration of financial support moved from the Alliance House Organisations to the new administrator. All NI beneficiaries were successfully transferred across to the NI scheme on 1 November 2017 seamlessly with no interruption in payments.

2(b).11 Beneficiaries had had the opportunity to contribute to the UK-wide consultation in 2016 so their views were not specifically sought as part of the process of setting up the Northern Ireland scheme. The UK-wide consultation ran from 21 January to 15 April 2016 and contained 11 questions setting out DHSC proposals for a new scheme of support for infected and affected individuals. 1,557 consultation responses were received, of which 80% came from respondents in England, 10% in Scotland, 5% in Wales and 2% in Northern Ireland.

2(b).12 As the scheme was about financial provision, medical advice was not sought. However, officials in HPB did take steps to keep the Belfast HSC Trust informed, writing to Dr Neil McDougall (Consultant Hepatologist and Hepatitis C treatment programme lead at the RVH Liver Unit) (**WITN4066008**) and meeting both Dr Gary Benson (Consultant Haematologist and Director Northern Ireland Haemophilia Comprehensive Care Centre) and Patricia McGrath (Social Worker in BHSCT for people with bleeding disorders in Northern Ireland), to brief them on details of the new scheme, including eligibility and how it would be administered.

2(b).13 Legislative change was necessary to ensure payments under the new scheme were tax free (**WITN4066009**). Similar changes were required in subordinate legislation in NI in relation to social security benefits and these were taken forward by the Department for Communities (**WITN4066010**).

2(b).14 An Equality Screening, Disability Duties and Human Rights Assessment was carried out (WITN4066011) to determine whether an equality impact assessment (EQIA, as prescribed by the Equality Commission for NI) should be carried out for the purposes of the equality duty in s75 of the NI Act 1998. This process determined that an EQIA was not necessary.

2(b).15 Welcome letters from RBSO to beneficiaries were issued on 11 October 2017 informing them of NI Infected Blood Payment Scheme, advising that from 1 November 2017 the administration and payment of the Infected Blood Support Scheme would be transferring from current funder(s) in London to the RBSO. There was continuity of payments for all recipients and the new scheme continued to make the same annual payment rates as were already in place.

2(c) Set out any information sought from or given by the Alliance House Organisations (“AHOs”) as to setting policies when the Scheme was being set up. Please specify how much information the Department had about the policies and decision making of the AHOs when setting policies and criteria for the Scheme.

2(c).1 Until Northern Ireland had its own Infected Blood Payment Scheme, the DHSC (formerly Department of Health, London), was responsible for setting policy in relation to financial support. Officials from the Department and RBSO carried out an operational visit to Alliance House in September 2017 to gather information on the processing of applications and other administrative practices.

2(d) set out the role of any other organisation (including the UK Department of Health) in having any input into setting policies and the budget for the Scheme when the Scheme was being set up.

2(d).1 The Health Minister at the time, Michelle O’Neill, decided to adopt the English scheme as a model for Northern Ireland. The Department of Health in London (now DHSC) and the devolved administrations in Edinburgh and Cardiff did not have any input into setting policy for the NI Scheme. In terms of budget, in 2016/17, the Department’s contribution to Skipton fund for payments to patients

infected with the Hepatitis C virus by blood products received through NHS treatment was £409k. The Minister's decision in December 2016 to replicate payments in the English Scheme, increasing payments to this category of beneficiaries which were backdated to April 2016 and continued at the point of transition into the new scheme, created an inescapable pressure of £257k and the final opening budget for 2017/18 was £666k.

2(d).2 On 13 July 2016, the then Health Minister in England, Jane Ellison, wrote to Minister O'Neill to advise that the Department of Health in England would continue to make payments for those infected with HIV in Northern Ireland, as well as Wales and Scotland, at the same level as payments made to those with HIV in England, *"for the duration of the current spending review period"* (WITN4066012)

3. Please set out the process by which the Scheme receives funding from the Department on an ongoing basis, including the HIV allocation from the UK Department of Health. Has this changed since the Scheme was first established? If so, how? What, if any, problems have arisen from this process and what were (or continue to be) the consequences?

3.1 As with all government spending, the budget for the Scheme is subject to standard financial planning, monitoring and review procedures.

3.2 The regular, annual payments to beneficiaries are funded through the annual budget cycle. The financial planning process sets the opening budget each year for the Scheme. The UK Government Spending Review sets the funding envelope within which the local budget process must operate, however the period covered by the local budget process is a matter for the NI Executive to decide. In recent years the budget for Northern Ireland has been set for single years. A Budget must be agreed by the Executive and presented to the Assembly before the start of the new financial year on 1 April. This is a legal requirement under the NI Act 1998. To meet this legal requirement the Department of Finance commissions budget exercises and seeks input from Departments as to their funding requirements for future years. The Department's Finance team requests

that budget holders provide detailed information on their future funding requirements in order to inform an assessment of the Department's budgetary requirements for the year(s) ahead and this forms the basis of bids to the Department of Finance to secure the additional funding. When the Department's final budget settlement is confirmed all the additional funding proposals are reviewed and prioritised for funding and then approved by the Health Minister. Following approval by the Minister, the Department's Finance team confirm the available funding to the Department's budget holders.

3.3 Once the branch budget is approved, responsibility for in-year management passes to Financial Management Unit (FMU) within the Department of Health who manage payments, arrange allocations to health and social care bodies including RBSO and identify pressures or easements against the current allocation. In-year pressures identified by Health Protection Branch, whether due to increased costs or Ministerial decisions on the scope or level of payments, are notified to FMU at the earliest opportunity and followed up with a submission to the Permanent Secretary or Senior Finance Director. This allows senior management to make decisions on whether the pressure can be met internally or will require an in-year monitoring bid to be made.

3.4 Hepatitis C lump sum payments and discretionary grants are considered separately from the normal programme budget planning and approval process, which is used to finance regular, annual payments. These are paid out against a provision (reserve fund) that had previously been created. This provision was set up in 2004, following a decision in 2003 by the Secretary of State for Health and Health Ministers of the Devolved Administrations to introduce a UK-wide scheme to provide financial support to certain persons who had been infected with Hepatitis C virus from blood products received through NHS treatment (later known as the Skipton Fund). Provision was made for Hepatitis C first and second stage lump sum payments and also from March 2011 for the additional financial measures introduced across the UK following a Department of Health (London)-led expert team review for patients infected with contaminated blood. Following the announcement in 2017 that the Alliance House Organisations were to close, the Department directed the RBSO to administer payments for

Northern Ireland and the Infected Blood Payment Scheme NI was established and has been in operation since November 2017. One-off lump sum payments continue to be paid for those diagnosed with HIV or Hepatitis C when they first join the scheme and there is a one-off bereavement lump sum provided to eligible widows/widowers. In addition, the provision is used to make discretionary payments, being one-off grants to provide additional, time-limited financial support to beneficiaries and their families in financial hardship in order to address immediate needs. This Provision was £0.5m at 31 March 2020.

3.5 Funding for the HIV element of the Scheme is received in-year from DHSC (England) via a monitoring round, and is notified to Health Protection Branch following the completion of that exercise. I understand DHSC (England) calculate this devolved payment for HIV infected and co-infected beneficiaries using the Barnett formula and the number of HIV beneficiaries in NI. Health Protection Branch then arrange to have that funding allocated to RBSO. The RBSO Scheme Manager provides the Department with Scheme quarterly statistics, as well as regular updates regarding changes of circumstances of beneficiaries in order to make necessary budget adjustments.

3.6 The process has not changed since the Scheme was established, however a commitment by DHSC (England) to the continuation of this arrangement would provide long-term assurance and assist the Department in terms of budget planning. In 2019/20, it was unclear until relatively late in the financial year that Northern Ireland would receive this contribution and in fact, the amount transferred in December 2019 using the Barnett formula was over £50,000 less than the previous year because demand for grants was lower in England due to the significant uplift that had been implemented in April 2019, yet Northern Ireland's rates and number of beneficiaries had remained unchanged.

4. Please describe any particular formula or methodology for calculation currently applied by the Department in setting funding levels for the Scheme.

4.1 As set out in the response to Q3, the RBSO Scheme Manager provides the Department with up to date statistics on the number and category of beneficiaries and this is used by the officials in Health Protection Branch (HPB) to determine the level of funding required to allocate to RBSO in order to meet the requirements of the Scheme. Any changes to the level of funding are subject to Ministerial decision.

5. Does the Department take account of any representations made by the Scheme and by beneficiaries in relation to ongoing and future funding levels? If so please provide details of the representations made and the Department's consideration of those representations.

5.1 There is routine, ongoing communication between the Department and the RBSO Scheme Manager as to financial requirements including any additional pressures.

5.2 Following the then Prime Minister David Cameron's announcement of scheme reform in England in July 2016, Minister O'Neill received representations from elected representatives on behalf of infected and/or affected constituents on the formation of the scheme and this continued until the Minister announced the new Scheme in December 2016. The NI Executive collapsed in January 2017 and therefore without a Minister in place for the following three years, the Department was limited in the extent to which the Scheme could be reformed.

5.3 **WITN4066013** sets out a summary of representations from NI beneficiaries since April 2019. Prior to the restoration of the NI Executive in January 2020, these representations were taken into account in the work Departmental officials were carrying out to provide the Permanent Secretary and, after January 2020 the Health Minister, with options for interim reform to the Scheme.

5.4 Since the NI Executive was restored in January 2020, the Health Minister Robin Swann has met with groups representing those infected and/or affected by contaminated blood, including many beneficiaries of the scheme, both in February and again in March 2020. Minister Swann listened to their concerns

and these were taken into account in making his decision to award interim payments in January and March, including payments to non-infected bereaved beneficiaries, and when introducing a permanent uplift in rates paid to infected beneficiaries in August 2020.

5.5 In October 2020 Minister Swann commissioned a survey of all Scheme beneficiaries in Northern Ireland, with a report on the findings published in March 2021 (WITN5570020) The Minister considered the survey feedback before deciding to introduce annual financial support for non-infected bereaved spouses and partners in March 2021. The feedback from the survey will be taken into consideration in any further potential reform of the Scheme.

6. Other than in relation to those suffering from HIV, is there any particular minimum funding commitment by the UK Government/Department of Health towards the Department's funding for the Scheme? If so, how does this operate? If not, are there any mechanisms to ensure continuity of payments and existing payment levels to non-HIV beneficiaries at the Scheme?

6.1 No. Minister Swann decided to increase payments under the Scheme to all infected beneficiaries and this was financed from within the NI block. Continuity of payments to beneficiaries has never been an issue.

7. What is the funding commitment from the UK Government for the Scheme for those suffering from HIV? Please provide details of how this operates.

7.1 On 13 July 2016, the then Health Minister in London Jane Ellison, wrote to the then Health Minister in the Department Michelle O'Neill (WITN4066012) to advise that Department of Health (London) would continue to make payments for those infected with HIV in Northern Ireland, as well as Wales and Scotland, at the same level as payments made to those with HIV in England, *"for the duration of the current spending review period"*.

7.2 During the 2019/20 financial year, HPB officials sought clarification from DHSC as to whether this contribution, which had been £200,000 for Northern

Ireland in the previous financial year, would be paid for 2019/20 and continue from 2020/21. DHSC confirmed in November 2019 that as the Spending Review arrangements had “rolled over” from 2018/19, there would be no change to the existing mechanism for HIV payments to the Devolved Administrations in the 2019/20 financial year.

7.3 The HIV infected and co-infected beneficiaries payment to Northern Ireland is calculated using the Barnett formula and for 2019/20 was £146,974.16, which was £53,093.26 less than the previous year’s payment and was treated by the Department’s finance team as an inescapable pressure for 2020/21 financial planning. The reason for the reduction in the HIV allocation from England is because England’s (non-discretionary) rates had been uplifted in April 2019, meaning that there was less demand from those beneficiaries for discretionary support. As Northern Ireland received the 3.39% (Barnett) share of England’s spend on discretionary support and the number of NI beneficiaries is not taken into account for the discretionary element, our overall allocation was reduced, even though our number of HIV beneficiaries remained unchanged.

7.4 On 30 March 2020, a letter (WITN4066014) from DHSC (England) confirmed that the HIV allocation would be transferred for the NI Infected Blood Payment Scheme for the forthcoming financial year (2020/21). However, there was at that time no guarantee this funding would be available in future years.

7.5 The methodology used by DHSC is set out in the response to question 3. It was not yet known what the funding commitment would be from DHSC for 2020/21 as this transfer normally takes place in December annually, with the amount to be transferred confirmed in November.

7.6 A funding commitment of £124,400 for 2020/21 was confirmed by DHSC on 11 December 2020 and has now been allocated to the Department. This amount does not include funding for in year applications from new Scheme beneficiaries which have subsequently been successful or new lump sums which have been paid in 2020/21. These additional 2020/21 costs have been funded from the Department’s existing budget and have been brought to the attention of DHSC as a pressure requiring funding in the 2021/22 budget. DHSC have

confirmed that this funding will be considered when determining the allocation for 2021/22.

8. The Inquiry understands from the Service Level Agreement between the Department and the Scheme that the Department set the eligibility requirements for applicants to be accepted on to the scheme. As to this:

8(a) what, if any, advice did the Department obtain when setting the criteria as set out in Schedule 1 to that Agreement?

8(a).1 The Service Level Agreement (SLA) incorporates the Scheme and is between the Department and RBSO. It was drawn up after Minister O'Neill decided to adopt the eligibility criteria in the English scheme. Legal advice was sought from Departmental Solicitor's Office (DSO) during this process. The SLA has been updated several times since the agreement was drawn up to reflect policy changes following decisions taken by the Minister in relation to the Scheme. Work is currently underway to make further changes required as a result of the Scheme reforms announced on 25 March 2021 by the Paymaster General and UK Health Ministers.

8(b) please explain why the cut-off date for treatment for a person suffering from Hepatitis C is 1 September 1991. In particular did the Department make any enquiries (and if so what) as to whether all blood/plasma/blood products collected prior to this date and so not subject to HCV screening, were taken out of circulation and destroyed?

8(b).1 As Minister O'Neill made the decision to replicate the English policy, the cut-off date of 1 September 1991 is the same as that used by the England Infected Blood Support Scheme. I understand that Ministers in England fixed that date because screening was sufficient there as it was here in Northern Ireland, from that date, to remove any risk of infection. At present, no record has been located to confirm blood or blood products had been destroyed but enquiries are ongoing.

9. Please outline the role (if any) played by the Department in making decisions as to:

9(a) a beneficiary meeting the criteria for a chronic hepatitis C payment;

9(b) a beneficiary meeting the criteria for an advanced hepatitis C payment.

9(c) a beneficiary meeting the criteria for an HIV payment.

9(d) a beneficiary meeting the criteria for income top up payments.

9(d).1 As set out in response to Q2, the Department is responsible for setting policy in relation to the scheme and has no direct role in making decisions relating to eligibility of potential beneficiaries. The RBSO is the decision maker in relation to assessing applicants in terms of their eligibility for the scheme (currently with the exception of discretionary grants, as set out in the response to 11(b)).

10. In particular, does the Department review decisions made by Scheme employees about beneficiary eligibility? If yes, why and how do such reviews take place? Please provide details, including the names and credentials, of the relevant members of the Department who are involved in any such process.

10.1 No, the Department has no involvement as set out in response to Q9.

11. The Service Level Agreement further states that the Department is responsible for granting applications for discretionary payments/grants but does not detail the criteria used. Please address the following:

11(a) Schedule 2 Part VII refers to both 'discretionary payments' and 'grants'. What is the difference between these two forms of assistance?

11(a).1 There is no difference. In the past, discretionary support included means-tested income top-ups, winter fuel allowance and grants. When

the NI Scheme was established, the winter fuel payment became part of the annual financial support provided.

11(a).2 The purpose of discretionary grants available on the NI Infected Blood Payment Scheme is to provide additional, time-limited financial support to beneficiaries and their families in order to address immediate needs and is mainly targeted for those in financial hardship, such as financial support for respite breaks. Funding for discretionary support comes from the Department's Provisions (referred to in response to Q3 above) and is therefore separate from the Programme Budget.

11(b) what are the criteria for assessing discretionary payments and grants? Please provide a copy of the criteria/guidelines in use.

11(b).1 During the period when there was no NI Executive, there was no ministerial authority because Direct Rule was not imposed by Westminster, therefore no policy for discretionary support was developed and implemented for Northern Ireland. The powers available to the Permanent Secretary of the Department of Health to develop and introduce new policy were extremely limited. Legal advice from DSO during that interim period was to adopt a prudent approach and to provide payment in response to all reasonable requests for discretionary support until such time as the policy has been consulted upon and a final policy published. In the interests of showing compassion and ensuring NI beneficiaries did not lose out financially in terms of discretionary support, the Department took a pragmatic approach in the absence of either a local Minister or Direct Rule (a situation which was unique in the history of Northern Ireland) and referred to the England Infected Blood Support Scheme (EIBSS) Discretionary one-off Payments Guidance Document (**WITN4066015**) as a guide for maximum amounts payable for a range of different types of discretionary support. The last ministerial decision in relation to the Scheme (from Michelle O'Neill) was to replicate the English model, therefore the approach adopted was for the Department to use the EIBSS guidance as a model to underpin decisions in the interests of consistency and fairness to beneficiaries and the proper management of public money.

11(b).2 When the NI Executive and NI Assembly were restored in January 2020, 'New Decade New Approach' stated that *"The Executive will bring about parity in financial support to victims of contaminated blood in Northern Ireland with those in England"*. The newly appointed Health Minister, Robin Swann MLA, announced in January 2020 a three phase review of the NI Infected Blood Payment Scheme. Phase 1 addressed the immediate 2019/20 disparity in regular, annual payments with England, by making two sets of interim payments to infected beneficiaries which brought their payments for the 2019/20 financial year into line with their counterparts in England. The March announcement also included one-off payments of £5,000 to the 17 non-infected widows/widowers in NI. Phase 2 of the review is addressing all aspects of the NI Infected Blood Payment Scheme, including those areas (enhanced support for Hepatitis C stage 1, income top-ups and discretionary support) where work was previously put on hold in 2018 in the absence of a Health Minister in Northern Ireland. As part of phase 2, on 30 August 2020 Minister Swann announced a permanent uplift to payments to infected beneficiaries in line with the rates currently paid in England. The increased annual payments range from £18,772 to just under £45,000, depending on diagnosis, and were backdated to April 2020 and will rise annually in line with CPI rates. Phase 2 is also looking at the policy for discretionary financial support provided on the Scheme. A survey of all 100 scheme beneficiaries has been conducted to seek feedback and views on a number of areas of the Scheme, including discretionary support, to help inform any further Scheme reform. A third phase of reform of the scheme will be required to address recommendations from the UK-wide Infected Blood Inquiry. Although work has been continuing throughout the pandemic, I understand the final completion date of the Inquiry may be delayed due to COVID-19.

11(c) are these guidelines publicised or shared with applicants prior to or at the time of making an application? If so, how? If not, why not?

11(c).1 The Department does not yet have its own guidelines. The English guidelines (**WITN4066015**) are being used until such time as a policy decision is made by a Minister. There are therefore no guidelines specific to

Northern Ireland for the Department to publicise at this time. The Department has no contact with applicants prior to or at the time of making an application. All applications are made to the scheme administrator RBSO. The '*England Infected Blood Support Scheme (EIBSS) Discretionary one-off payments - Guidance Document*' is available online on the EIBSS website:

<https://www.nhsbsa.nhs.uk/sites/default/files/2019-07/Discretionary%20payments%2007.19.pdf>

11(d) How were they developed? In particular, what role, if any, is there for input from (i) the BSO on behalf of the Scheme and (ii) the beneficiary community?

11(d).1 This is a question for DHSC (England), who have developed the guidelines followed in NI. RBSO, as scheme administrator, has no role in decision making about individual applications but can raise any issue at any time with the Department. As set out in response to 11(b), a survey of all Scheme beneficiaries has been carried out and results are being analysed.

11(e) is there any mechanism for keeping the criteria under review? You are also referred to the Scheme's first rule 9 response, question 3(b); second rule 9 response dated 22 January 2019, question 9(A).

11(e).1 As set out in response to 11(b), the Department does not have its own set of guidelines and is using the EIBSS guidance until a Northern Ireland policy has been developed. The current review of the Scheme, announced by Minister Swann in January 2020, includes consideration of a policy for discretionary financial support.

12. Please describe the mechanism by which the Department is notified of an application for a discretionary payment or grant, by the Scheme, and the steps that the Department goes through from notification to decision.

12.1 The Scheme Manager in RBSO forwards applications to officials in Health Protection Branch in the Department to make a decision. The Health Protection Branch Deputy Principal (DP) considers what the discretionary support is for, reviews any supporting documents (e.g. doctor's supporting letter, quotation) and consults the EIBSS guidance to determine the normal maximum amount to be granted, which ensures consistency when making decisions. The DP makes a recommendation to the Grade 7 Head of Branch to make a final decision (though very occasionally in the absence of the Grade 7, the DP would have approved claims that were similar in nature and value to previously approved grants). The HPB DP advises the RBSO Scheme Manager of the decision, who in turn advises the applicant of the outcome of the application.

13. Please identify the name(s) of the person/people who determine these applications and their relevant experience.

13.1 Seamus Camplisson (Grade 7, joint Head of Health Protection Branch). In the Department, Grade 7s are authorised to approve payments of up to £500k. Civil Service Grade 7s are experienced in budget management and finance and ensure there is a rationale to underpin all decisions in relation to discretionary grant applications. In order to work at Grade 7 level, civil servants are required to meet a number of core competencies including ensuring activities meet Departmental and Programme for Government goals and deliver the greatest value. Officials at this grade must ensure that any decisions deliver value for money and this involves the efficient, effective and economic use of taxpayers' money in the delivery of public services. Decisions are always based on evidenced information and agreed processes and policies, challenging these appropriately where they appear to prevent good value for money. These grades must demonstrate the ability to make effective decisions in line with Managing Public Money NI, using sound judgement, evidence and knowledge to evaluate options before arriving at well-reasoned, justifiable decisions. Officials in HPB maintain a positive, professional and trusting working relationships with the RBSO Scheme Manager, working collaboratively and sharing information where

necessary. I am content that staff working on this are competent to make these decisions.

14. How is consistent decision-making in response to applications for discretionary payments ensured under the Scheme?

14.1 As set out in response to 11(b), the Department ensures consistency in decision making by referring to the EIBSS guidance.

15. Does the success or otherwise of an application depend on the number of applications made per year or is each application considered on its merits, irrespective of the overall demand on the relevant fund? If the latter, please explain any safeguards in place to ensure individual consideration.

15.1 Each application is considered on its merits, with due regard to the EIBSS guidance. In 2016/17, the opening balance for the Department's Provision was £1m and that has steadily decreased each year due to payments being made from the provision and by the end of 2019/20 had reduced to £0.5m. Demand for grants has never exceeded the funding available.

16. What is the percentage of applications that were successful each year?

16.1 The percentage of successful applications for each financial year are as follows

- 2017/2018 67%
- 2018/2019 60%
- 2019/2020 73%
- 2010/2021 100%.

17. Does the Department consider the amount of money previously given to an applicant from (i) the Scheme and/or (ii) the previous AHOs and/or (iii) income from benefits when determining each application? If so, why?

17.1 (i) Yes, in line with EIBSS guidance, discretionary one-off payments for infected beneficiaries and to bereaved spouses or partners are available once per year unless stated otherwise, for example accommodation adaptations, Motability deposits.

17.1 (ii) No

17.1 (iii) No

18. The Inquiry understands from schedule 3 to the Service Level Agreement between the Department and the Scheme that the Department specified a 12 month time limit from diagnosis, for making an application to the Scheme. Please explain the basis for this time limit. Has the Department been involved in any applications to extend this time limit? If so, please provide details of its involvement.

18.1 The 12 month limit in the SLA was based on EIBSS policy at the time when the NI Scheme was set up. Applicants are expected to make their application within 12 months from the date of diagnosis of hepatitis C unless the applicant has reasonable cause for delaying the application. The Department has not been involved in any applications to extend this time limit because RBSO administers the Scheme.

19. To what degree are the Department's policies and/or levels of payment influenced by those found in the other Devolved Schemes, and is there any mechanism of oversight or comparison to monitor the consistency of policy and awards made across the Devolved Schemes?

19.1 In 2016, the then Health Minister Michelle O'Neill was provided with a paper by Health Protection Branch officials setting out the key features of the Schemes in England, Scotland and Wales and the Minister's decision was to replicate the English model. Northern Ireland annual rates to infected beneficiaries were in line with EIBSS (in line with Minister O'Neill's policy decision) until April 2019, when EIBSS rates were uplifted. At that stage, there

was neither a Northern Ireland Executive nor Direct Rule from Westminster. Therefore the Department did not have a Minister to make decisions in relation to Scheme policy. However, four nations work continued to consider how to achieve greater parity between the four separate UK schemes, including comparing the differences in the four UK schemes. Four nations meetings involving officials from the four UK Departments of Health and Cabinet Office, as the sponsor of the Infected Blood Inquiry, take place monthly and in July 2019, the Department's Permanent Secretary took part in a four nations meeting with Ministers from the other nations and the Cabinet Office. Departmental officials also took part in a meeting with the Cabinet Office and DHSC (England) on 21 January 2019 to discuss the difference in financial provision across the four nations.

19.2 When the NI Executive was restored in January 2020, the '*New Decade New Approach*' document, agreed by all political parties, stated that "*The Executive will bring about parity in financial support to victims of contaminated blood in Northern Ireland with those in England*". In line with this commitment, the Health Minister Robin Swann decided to introduce a permanent uplift to annual payments to infected beneficiaries in Northern Ireland in line with the rates currently paid in England. The increased annual payments range from £18,772 to just under £45,000 depending on diagnosis and were backdated to April 2020 and will rise annually in line with CPI rates, as is the policy in England. Whilst health and by extension the Infected Blood Payment Scheme is a devolved matter, ministers in 2016 and in 2020 have chosen to replicate to a large extent English policy for Northern Ireland.

19.3 I am aware that the Cabinet Office, as sponsor for the Infected Blood Inquiry, has taken an interest in consistency of policy across the UK.

19.4 On 1 March 2021 Minister Swann introduced annual financial support for non-infected bereaved spouses and partners on the Scheme, following consideration of the findings of the survey conducted during autumn 2020 and comparison with the other UK Schemes (**WITN5570017**). The payments are 75% of the rate the beneficiary's infected spouse or partner was in receipt of at the time of death, or would have been in receipt of had they been on the

Scheme, The payments, representing a Departmental funding commitment of around £400,000 annually, range from £14,079 to £33,561 per year and will be backdated to April 2020, rising annually with inflation.

19.5 On 25 March 2021, the Paymaster General, Penny Mordaunt MP announced plans to bring the four UK schemes into broader parity (**WITN4066018**) and as a result of a four nations agreement Minister Swann decided to introduce improvements to annual payments for bereaved spouses and partners and lump sum payments, as well as a commitment to introduce enhanced financial support for Hepatitis C (Stage 1) at the same payment levels as in England, as soon as a system for assessment can be put into operation. The Minister announced these reforms in a written ministerial statement to the Northern Ireland Assembly on 25 March 2021 (**WITN4066019**).

19.6 The Paymaster General also announced on 25 March 2021 that an independent reviewer was to be appointed to carry out a study looking at options for a framework for compensation, and to report back to the Paymaster General with recommendations before the Infected Blood Inquiry reports.

20. Has the Department taken any steps to identify potential (i.e. additional) beneficiaries? If so, please provide details. If not, why not? You are referred in particular to the Scheme's first rule 9 response, question 4(d), and second rule 9 response, question 7.

20.1 Yes, the Department took steps to identify potential beneficiaries.

The Department's deputy Chief Medical Officer wrote to Dr Neil McDougall at the Royal Victoria Hospital in March 2011 (**WITN4066016**) to seek assistance in identifying current and former patients without bleeding disorders who might have been infected with Hepatitis C from contaminated blood. Health Protection Branch officials also met in 2011 with Dr Gary Benson to discuss the number of patients with haemophilia who were infected with Hepatitis C from contaminated blood.

20.2 The Department cannot make direct contact with patients who may be potential beneficiaries due to patient confidentiality and has no access to the names and details of beneficiaries.

20.3 As I have set out in my response to question 2(b), at the time when administration of the scheme passed from AHO to RBSO, the Department contacted both Dr Gary Benson and Dr Neil McDougall (Consultant Hepatologist and Hepatitis C treatment programme lead at the RVH Liver Unit) (**WITN4066008**) in the Belfast Health and Social Care Trust to brief them on the details of the new scheme and to ask them to make their patients aware of the Scheme. Departmental officials also met with Dr Gary Benson (Consultant Haematologist and Director Northern Ireland Haemophilia Comprehensive Care Centre) and Patricia McGrath (social worker for people with bleeding disorders in Northern Ireland).

20.4 The Department is considering communication and promotion of the scheme as part of its ongoing review.

21. There is very little public information about the policies, procedures and payments made by the Scheme. In this regard:

21(a) what (if any) role does the Department have in deciding whether such information is disclosed, to whom and by what means?

21(a).1 The Department oversees the publication of any information regarding the Scheme. When the Northern Ireland scheme was announced, a press release issued in December 2016 and received widespread local news coverage. On 30 November 2017, HPB officials arranged for information to be published on the NI Direct website and this has been updated at HPB's request on five occasions since (21/09/2018; 19/10/2018; 21/11/2019; 02/12/2019; 28/01/2020. Link to NI Direct page: <https://www.nidirect.gov.uk/articles/infected-blood-payment-scheme>

21(a).2 In December 2019, HPB officials asked the RBSO to update its Infected Blood Payment Scheme webpage to improve the information available

online with regard to the Infected Blood Payment Scheme, in particular to include (in line with the other UK schemes) a section on how the payments on the scheme affect tax and benefits. This can be viewed online at

<http://www.hscbusiness.hscni.net/services/2876.htm>

21(a).3 In December 2019, HPB officials also requested the creation of a new page on the DoH NI website: <https://www.health-ni.gov.uk/articles/infected-blood-payment-scheme-ni> in order to reach a wider audience.

21(a).4 The Department provides information to RBSO and NI Direct on outcomes of policy decisions such as the August 2020 uplifted payment rates and advises RBSO and NI Direct to update this information on their respective websites.

21(b) to what extent (if any) does the Department control what information is made available about the Scheme on the Northern Ireland Direct website and/or the BSO website? Please provide details. You are referred in particular to the Scheme's answer to question 13 in its second rule 9 response.

See response to Q 21 (a)

22. Please describe the process, frequency and outcome of any reviews and consultations on the Scheme's payment levels and policies carried out by the Department.

22(a) Have the Income top up support awards been reviewed? You are referred to what is said in the BSO 'Infected Blood Payment Scheme for Northern Ireland Procedures' at page 6 under 'Income Top Up Support' which suggests that the Department is reviewing these payments. If not, why not? If so, please give details

(22b) To the extent that such reviews or consultations have not taken place, please explain why. You are referred in particular to the Scheme's answer to question 3 in its second rule 9 response.

22(b).1 In the absence of a NI Executive, no review of the Scheme was carried out in Northern Ireland. Due to the substantial financial commitment that would be required to introduce any changes, along with the limited powers of the Permanent Secretary to introduce policy change, I decided that to carry out a consultation would raise expectations when there was little scope for any significant improvement in financial provision. However, as set out in response to question 11(b), the Health Minister announced in January 2020, shortly after taking up post, that he would be taking a three phase approach to reviewing the scheme. Income top up support has been reviewed as part of the overall ongoing review of the scheme. I ring-fenced resources in my Directorate to ensure the review of the scheme continued throughout the COVID-19 pandemic.

22(b).2 Following the uplift to payment rates for infected beneficiaries announced on 30 August 2020 and the introduction of annual support for non-infected bereaved spouses and partners announced on 1 March 2021, the Minister decided to cease means tested income top-up payments as the new measures introduced provided more generous non means-tested annual support.

23. Please provide any other information you may have that is relevant to our Terms of Reference.

Statement of Truth

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

Signed

GRO-C

Dated 4 May 2021

List of Exhibits

| Exhibit no. | Title | Date |
|-------------|--|----------|
| WITN4066003 | Service Level Agreement (SLA) – amended | 13/10/20 |
| WITN4066004 | Minister O'Neill's decision to replicate England | 12/12/16 |
| WITN4066005 | Press release – Michelle O'Neill announces improved financial support for people affected by contaminated blood | 22/12/16 |
| WITN4066006 | Written Statement to the Assembly by Health Minister Michelle O'Neill MLA – Reform Of Financial Assistance for People Infected or Otherwise Affected by Contaminated NHS Blood or Blood Products | 22/12/16 |
| WITN4066007 | Strategic Outline Business Case (including covering memo from Liz Redmond to Neelia Lloyd). | 21/3/17 |
| WITN4066008 | Email from Karen Simpson to Dr Neil McDougall | 3/11/17 |
| WITN4066009 | UK Treasury - 2017 No. 904 - Income Tax - The Infected Blood Schemes (Application of Sections 731, 733 and 734 of the Income Tax (Trading and Other Income) Act 2005) Order 2017 | 23/10/17 |
| WITN4066010 | The Social Security (Infected Blood and Thalidomide) Regulations (Northern Ireland) 2017 No. 219 | 30/10/17 |
| WITN4066011 | Draft Social Equality Screening, Disability Duties and Human Rights Assessment | 31/10/17 |
| WITN4066012 | Letter from Jane Ellison, DHSC to Michelle O'Neill re: HIV payments | 13/7/16 |
| WITN4066013 | Representations from beneficiaries (directly from infected and/or affected or from political representatives on their behalf) | 14/10/20 |
| WITN4066014 | Letter from William Vineall, DHSC, to DoH (NI), confirming HIV payments to DAs would be made in 2020/21 | 30/3/20 |
| WITN4066015 | EIBSS guidance booklet | 2019/20 |
| WITN4066016 | Letter from Dr Elizabeth Mitchell, DHSSPSNI to Dr Neil McDougall, BHSCT | 1/3/11 |
| WITN4066017 | Infected Blood Update – Written Statement by Paymaster General Penny Mordaunt, 25 March 2021 | 25/3/21 |
| WITN4066018 | Written Ministerial Statement announcing changes to NI Scheme – Minister Swann | 25/3/21 |