

Witness Name: Brendan Brown

Statement No.: WITN4496047

Exhibits: Nil

Dated: September 2023

INFECTED BLOOD INQUIRY

WRITTEN STATEMENT OF BRENDAN BROWN

I, Brendan Brown, Chief Operating Officer of National Health Service Business Services Authority ("NHSBSA"), will say as follows: -

1. I provide this statement in response to the Rule 9 request dated 31 July 2023, following a notification of criticism made by a witness under Rule 13 of the Inquiry Rules dated 26 June 2023. As with my other statements, this statement is based on information available to the NHSBSA from its records of the England Infected Blood Support Scheme ("EIBSS") and the knowledge of members of the EIBSS team. I have made clear where the information is from my own personal knowledge.

Section 1: Introduction

2. My full name is Brendan Craig McMahon-Brown (known as Brendan Brown), and I am the Chief Operating Officer at NHSBSA as from 1 February 2022. Prior to this date, I was the Director of Citizen Services at NHSBSA, and this fact is reflected in my previous statements. My role is based at Stella House, Goldcrest Way, Newburn Riverside, Newcastle Upon Tyne NE15 8NY. Details of my professional background and career are set out in my first statement.

Section 2: Response to Criticism by W7447

3. My attention has been drawn to criticism made by witness W7447 to the Inquiry in relation to their experience with EIBSS. In particular, my attention has been drawn to criticisms of EIBSS made in the witness' statement, I have copied out these comments below for context, along with my response.
4. Paragraphs 56 – 70, page 11-13 of witness statement WITN7447001, states the following:

56. After two weeks, I phoned EIBSS for an update. The lady on the phone said they had received the application form and pulled my father's file up on her computer. She then said she couldn't see anything from the Skipton Fund. I was surprised at this and explained that the lady I had spoken to two weeks previously had it because it contained the death certificate which was in the Skipton File (which I had used as evidence of my parents' living together). It also had the new address on the file, which I had provided to the Skipton Fund previously and which had been sent across to EIBSS.

57. It soon became clear that EIBSS had lost the Skipton File from their records. I did some online research and learnt that the Skipton Fund are now defunct and are managed and represented by Russell-Cooke Solicitors. I got in touch with Julie Collingham at Russell-Cooke Solicitors, a very nice lady who looked into this and found my father's box file in her office. She explained it was taking 6 weeks for these files to be turned around.

58. I contacted EIBSS again to explain this and they said they would push it up to a manager who would contact me. After another week, I had not received a call so I phoned them again. EIBSS said the matter had been raised to an 'escalation team' and they had still failed to locate the Skipton File.

59. I was starting to get quite angry with them when Julie Collingham of Russell-Cooke Solicitors informed me she had found the Skipton box file and sent this to EIBSS. EIBSS then said they would begin processing it.

60. *EIBSS then asked me to complete a consent form. Bizarrely, this required me to sign a form on behalf of my Mum saying that I could act on her behalf. They had already had proof of Power of Attorney and this just seemed nonsensical for me to be consenting to me acting for Mum.*

61. *All of this was eventually processed and I was then told that there was a problem linking my Dad's account with my Mum's account. EIBSS confirmed that Mum would receive £100,000 compensation. They then said Mum's monthly payments would be backdated for 1 month. This was explained as being because Dad was dead; if he was alive, he would have received it all backdated, as had previously been promised.*

62. *I looked this up on the EIBSS website and saw that applications for bereaved partners payments had a deadline of 4th April 2022. However, it is my firm belief that an application made previously to the Skipton Fund for such a payment should be dealt with as having met this deadline. I also first made enquiries about this in 2021.*

63. *My confusion lies in the fact that I have been given differing and conflicting answers and explanations by various people within EIBSS. It is my understanding that Mum should have been in receipt of monthly payments since 2019, so it seems correct that these payments should be paid and backdated from this date. If this was to be paid it would amount to around £70,000, a considerable help with Mum's care fees.*

64. *I sent a letter to EIBSS on 2nd November 2022, outlining all of the above and asking for clarification as to what the rules actually are. I had received no response after 2 weeks and when I phoned them on 17th November they said they hadn't received the letter. I emailed them the same letter that day (I exhibit my letter as WITN7447005).*

65. *My Mum currently receives approximately £2,400 a month. This will reduce to 75% after 12 months, which should be in September 2023.*

66. *Yesterday I received an email response from EIBSS to my letter and email (of 2nd and 17th November respectively). In this email (a 'cut and paste' copy of which I exhibit as WITN7447006) signed by Jasmine Jordan, reference is made to the fact that Mum, through me, was told that she could apply for the bereavement lump sum of £10,000. This was apparently more incorrect information, as within this letter I was informed that this payment is only available to those whose infected partner passed away on or after 1 November 2019.*

67. *With regard to Mum's monthly payments, I am told in this letter that EIBSS are unable to backdate bereaved partner payments applications and another apology is given for misinformation that I was given, saying that these payments could only be backdated to the date that the application was received. My argument that we originally applied in 2012 to the Skipton Fund does not seem to have been answered. Neither was it recognised that I had originally approached EIBSS about bereaved partner payments in 2021 and I was not advised to make any kind of further application at that time, when indeed EIBSS knew that my mother was a bereaved partner.*

68. *It was suggested to me in this letter that any further questions should be made to the Department of Health and Social Care (DHSC), from whom EIBSS receive their instructions. Contact details for the DHSC are provided.*

69. *I do not understand why monthly payments cannot be backdated to 2019, given the fact that financial support payments were originally applied for and first awarded in 2012.*

70. *I have had to chase EIBSS up relentlessly. It is clear that their administration is not running smoothly. The people you speak to at EIBSS are lovely and try to be helpful, but I can't help but conclude that their internal systems aren't being managed properly, for whatever reason.*

5. A senior Manager for EIBSS has investigated all available application paperwork, correspondence and EIBSS system records, to inform my response.

6. I'd like to start by referring to extracts from my first statement to the Inquiry, which I've included here for completeness.

25. Beneficiary data was not automatically shared between the AHOs and EIBSS. It was both DHSC's and NHSBSA's preference that data was to be shared automatically and beneficiaries given the option to opt out should they so wish. However, the AHOs in this case acted as the data owners/controllers so NHSBSA had no control over their actions. DHSC liaised with the AHOs on this point, however, they were unable to change the AHOs' approach. As NHSBSA did not have control of the original data/information, it was not within our gift to dispense with prior consent by beneficiaries to share data with NHSBSA as we did not have access to the data in any way. The AHOs implemented a policy of only sharing data by explicit consent following their own legal advice in this regard. Letters were sent to beneficiaries explaining the shutdown of their services and the transition to EIBSS.

28. Certain data was shared by the AHOs with NHSBSA. However, as explained above, the decision as to which records and the extent of the records that were shared was determined by the AHOs and those decisions were not within the gift of NHSBSA. The AHOs shared beneficiaries' information that consisted primarily of reference number, name, date of birth, contact details and current payment information, which was passed electronically to NHSBSA. Any previous paper applications, letters or correspondence (either e-mail, telephone recording or letter) as well as any system notes, were not passed to NHSBSA. The fact that previous physical application forms or notes/correspondence were not shared was outside of the control of NHSBSA, as the AHOs were unable/unwilling to share this information with NHSBSA

7. We have been able to confirm from transfer records dated 9 January 2018, that W7447 father's details and a small amount of information regarding W7447's mother were shared with us by the Skipton fund. This information was used to setup our EIBSS record (within our I.T. system), at which point a Beneficiary number was assigned.

8. We have contacted Russell-Cooke Solicitors to confirm the date of the records request and subsequent date the records were transferred to EIBSS. Russell-Cooke has confirmed the records were requested on 21 September 2022 and transferred to EIBSS on 28 September 2022.
9. Based upon the information above, I can confirm that when W7447 contacted us prior to the record transfer date 28 September 2022, EIBSS staff would have been relying on the limited amount of information contained within the EIBSS I.T. system, to inform their responses.
10. I'm therefore pleased to confirm that we have not lost any limited records supplied to us by Skipton in January 2018.
11. The concerns raised by W7447 relating to lost records, would appear to be a misunderstanding, as the more detailed records for W7447's father, containing physical application forms, notes/correspondence, official documents etc. were never in our possession until the 28 September 2022, following the request submitted to Russell-Cooke by W7447.
12. Upon receipt of the detailed records, EIBSS staff were able to check the information received and make any additional requests for information, such as, the request to complete a 'Change of Details' form, which is required to ensure we have the most accurate and up-to-date information available on file.
13. On 25 March 2021, the government announced changes to the EIBSS. The changes announced removed some of the differences between the Infected Blood Support Schemes across the UK.
14. EIBSS worked with the DHSC to understand how the changes would affect beneficiaries and their payments, without disrupting their current financial support. It took some time to refine some of the detail on key elements to align across the 4 nations' schemes.

15. Our priority was to ensure all beneficiaries received the payments they were due, as quickly as possible. Backdated payments were due to many existing scheme beneficiaries, who were part of the EIBSS scheme on the date of the announcement.
16. We worked to determine the correct payment amounts for all beneficiaries on the scheme, which included rigorous checks to ensure we adhered to the appropriate financial regulations.
17. We communicated with each beneficiary directly, as soon as we could, to confirm the date and amount of payment they would receive.
18. For a small number of beneficiaries, we undertook a one-off data matching/sharing exercise with Russell-Cooke Solicitors to identify and receive the missing payment information, to ensure we made accurate payments to these beneficiaries.
19. I would at this point like to reiterate the apology on behalf of the NHSBSA, as was provided by my colleague Chris Calise on 27 July 2021 (exhibit WITN7447004), for incorrectly writing to W7447's deceased father.
20. I would briefly like to explain that although the letter was sent in error, the checks we undertook with Russell-Cooke Solicitors, partly attributed to this issue, as we checked anyone's record, alive or deceased, where we did not have a full record of the date and/or payment amount(s) for any previous lump sum payments. In W7447's father's case, the check confirmed that the full lump sum amounts had previously been paid.
21. I note that, by the very existence of our apology letter to W7447's mother, the EIBSS were aware of her name and address, I mention this now, as I will refer to this point again later.
22. I'd like to re-iterate once again this letter was not intended to be sent to deceased beneficiaries, therefore the contents of the letter, regarding the potential for further lump sum amounts, was not applicable in W7447's father's case.

23. I'd now like to provide some information regarding the processes and decision-making powers of the EIBSS. DHSC, as owners of the policy in this area, prescribed the policy to NHSBSA in the scheme specification (hereafter referred to as the Specification), the EIBSS administer the scheme in accordance with the detail set out within the Specification.

24. The Specification is where the detail regarding the 'bereaved partner payments' is defined. The relevant sections of the Specification are 'Bereaved Partner Annual Payments' and Annex H, I've included the extracts of these sections below for ease of reference (the Specification has previously been provided to the Inquiry).

Bereaved partner payments: 2.20. Subject to the transitional provisions in Annex H, where a Bereaved Partner application is made within six (6) months of the death of a Primary Beneficiary Year 1 shall start at the date of death. Where an application is made more than six (6) months after the death of a Primary Beneficiary Year 1 shall start at the date of application.

Annex H: Parity Transitional Arrangements: 3d. a non-discretionary annual payment made to Bereaved Partners of 100% of the relevant deceased Primary Beneficiary annual payment in first year of bereavement (year 1), and 75% in subsequent years. Such payments will be backdated to April 2019 or the relevant date of bereavement, minus any income top-up ("ITU") payments already received since April 2019 or the date of bereavement, provided the Bereaved Partner was registered with the Scheme, or the application is made, before 1st April 2022. This will replace the discretionary ITU payment for Bereaved Partners.

25. We have been able to confirm that the application from W7447 has been appropriately assessed in accordance with the Specification, and the payment amount calculated correctly. Any mention of backdating by staff has been in relation to the Specification rule 2.20 shown above, that we backdate payments to the date of application, so an applicant is not financially disadvantaged by the time it takes to process an application.

26. Although, the correct process has been followed in the processing of this application, I do believe that W7447 makes a good point, that EIBSS could have done more to improve their mother's awareness of the details of the bereaved partner payments.
27. The records show that by the EIBSS writing to W7447's Mother in July 2021, as mentioned above, the EIBSS were aware of W7447's mother's bereaved partner status, five months prior to the first bereaved partner payments being made (December 2021). There was a possible opportunity for the EIBSS to have either advised W7447 of the forthcoming bereaved partner payments, including the application time limits, or better still added W7447 to a list, to proactively send them a bereaved partner payment application form, once this payment type was introduced in December 2021.
28. I am aware that the EIBSS did undertake a data checking exercise, to identify anyone that may have been eligible to apply for a bereaved partner payment, as from December 2021, for all those identified an email/letter was sent out, asking them to apply.
29. It is unclear at this time, as to why W7447's mother was not identified in this data checking exercise, but I have tasked the EIBSS Senior Service Delivery Manager, to undertake an investigation, to understand if this case is an isolated one.
30. Once we have completed this investigation, we will inform DHSC of our findings, and discuss whether they believe there is sufficient evidence to apply discretion to the Specification, in relation to the bereaved partner payments, for anyone identified, which could result in back dating to 2019.
31. I'd like to state once again, the decision-making powers of the EIBSS, whereby we administer the scheme in accordance with the detail set out within the Specification. DHSC, as owners of the policy in this area, prescribe the policy to NHSBSA in the Specification.
32. I can see that W7447 has raised a few points that infer a lack of response to queries raised, I'd like to assure you that we endeavour to provide timely response to

correspondence, and all correspondence is responded to within set timings, which are measured by key performance measures and reported to DHSC on a monthly basis.

33. I note the incorrect information mentioned in paragraph 66 which refers to exhibit WITN7447006, this is unfortunate, and I can see that we have apologised within our response to W7447. Please be assured that when mistakes are identified and complaints are raised, the EIBSS, in keeping with all other NHSBSA Services, learns from the feedback. The quality of the information provided by the EIBSS staff is quality assessed, and any inaccuracies identified result in retraining for the member of staff involved.

34. I appreciate the Inquiry bringing these matters to my attention, I can assure you that we will investigate the possibility of backdating bereaved partner payments for W7447's mother, and will put the matter to DHSC, as soon as reasonably possible.

Statement of Truth

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

Signed GRO-C

Dated 14 September 2023