

Witness Name: Brendan Brown

Statement No.: WITN4496050

Exhibits: Nil

Dated: 1 December 2023

## **INFECTED BLOOD INQUIRY**

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### **WRITTEN STATEMENT OF BRENDAN BROWN**

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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 25 October 2023, following a notification of criticism made by a witness under Rule 13 of the Inquiry Rules dated 15 August 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 witness W0912**

3. My attention has been drawn to criticism made by witness W0912 to the Inquiry in relation to one applicant's experience with EIBSS. In particular, my attention has been drawn to criticisms of EIBSS made in the witness' statement, found at paragraphs 158- 159 of such. I have copied out these comments below, along with some of the preceding paragraphs for context, along with my response.
4. Paragraphs 154 – 159, page 25 - 26 of witness statement WITN0912003, states the following:

*154. XXXX mother received a transfusion, contracted HCV and subsequently died. However, prior to her death, she was accepted onto the Skipton Fund. The family, although they have lived at the same address for the last 40 years, were never made aware of EIBSS.*

*155. When XXXX did become aware of EIBSS as a result of press around the Inquiry and compensation, she contacted Russell Cooke solicitors to see if they held her mother's Skipton Fund records, on behalf of her father to enable him to access the monthly payments and the interim compensation.*

*156. His paperwork was accepted by EIBSS, and she arranged for the original Skipton file to be retrieved from the archive held by Russell Cooke solicitors, to try and get the claim processed. However, due to them being overwhelmed with enquiries from others trying to access files following the announcement of compensation in August 2022, there was a delay of 5 weeks.*

*157. GRO-B before the paperwork was processed by EIBSS, her father passed away.*

*158. EIBSS then refused to make any payments that would have been due to her father and then consequently passed to his estate.*

*159. XXXX is outraged by the way she and the family have been treated by EIBSS; the lack of empathy, and what she believes is incompetency to register her father on the scheme on the day that she called, which would have circumvented this entire problem. She had already communicated with EIBSS at length, before contacting*

*us, but they have refused to make any payments as he died days before the application was processed - offering no discretion , compassion or flexibility in this very unusual situation, especially given there was a clear case of entitlement through the previous successful Skipton Fund application.*

5. Unfortunately, we are unable to respond to the criticisms in detail, as we are unable to access the details of the applicant's application and supporting information, as consent to do so has not been provided via the Infected Blood Inquiry in this instance. My response is therefore restricted to relevant EIBSS processes and background information.
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. Since the commencement of EIBSS 1 November 2017, all applicants of the historic infected blood support schemes (AHOs) have been required to request their detailed files from Russell-Cooke Solicitors to support their applications for support from the EIBSS.
8. To become an EIBSS beneficiary, every person must complete an application form for the relevant payment type. I refer to person “XXXX” as Person A in this witness statement for clarity. In this instance it would appear to be a ‘Bereaved Partner Payment’ (BPP) application form, as Person A’s mother is deceased, and Person A was supporting her father’s application.
9. Every application to the EIBSS, must first meet the eligibility criteria to prove on the balance of probabilities, in this case the EIBSS required evidence to show that a person was infected hepatitis C as a result of treatment with NHS blood, blood products or tissue prior to September 1991. Once the EIBSS receives this evidence, in this case, in the form of the historical records supplied by Russell-Cooke Solicitors, the EIBSS are able to accept an application for a BPP.
10. To elaborate, the application process for EIBSS is characterised by a meticulous and structured approach. Those wishing to apply usually commence by reaching out to the scheme for more detailed information. This initial contact may take various forms, including exploring the EIBSS online resources hosted by NHSBSA, utilising email communication, or accessing the dedicated helpline. Prospective applicants are strongly advised to meticulously examine the eligibility criteria for EIBSS and understand the requisite supporting evidence essential for any application. EIBSS offers an official application form, which applicants must complete and submit along with the necessary supporting documents. The EIBSS team meticulously reviews all submitted applications to ensure they are fully completed and to verify that applicants have furnished the requisite supporting evidence, enabling medical assessors to thoroughly evaluate and determine their eligibility. In instances where

additional information is necessary, applicants will be promptly notified and requested to provide the required details.

11. As described earlier, eligibility against scheme criteria must first be established. This is currently achieved by the applicant contacting and requesting the historic AHO records from Russell-Cooke Solicitors, who are the data controllers for all AHO historic infected blood support schemes applications and supporting documents.
12. The records are not held by Russell-Cooke Solicitors onsite, and following a request for records from an applicant, the historic paper records will be requested from offsite file storage, this process can take up to 6 weeks.
13. I can therefore confirm that there are effectively two steps for an application, where historic AHO records are required to support the application. (1) Eligibility against scheme criteria must first be established, through receipt of AHO records, which show the person was a member of an AHO, and (2) A completed application form is received, and processed (in this case a BPP application form).
14. I fully appreciate that these processes can appear to be obstructive, but they are in place to ensure we can evidence payments to the right people, which is a key requirement of our administration of the scheme. Please note that all applications to the EIBSS will be processed with 30 working days, our performance against this target is reported within our annual report, which can be found on our website: <https://www.nhsbsa.nhs.uk/eibss-resources>.
15. The EIBSS staff will do everything they can to assist an applicant and/or family member (subject to data protection controls) with their application to join the scheme, but this is limited to working within the scheme criteria, which are set out in the Scheme Specification.
16. Obviously, I cannot definitively comment on the specific level of support provided to the applicant's daughter, as mentioned earlier consent to access this detail, was not provided.

17. I can, however, confirm that based on my experience the NHSBSA (EIBSS) provide empathetic support to everyone that contacts and/or requires support from the scheme and all staff will strive to meet our high customer service standards.

### **Section 3: Other Issues**

18. I note the points made within the other five case studies within the witness statement of W0912, which illustrate the experiences of people in attempting to apply to the EIBSS.

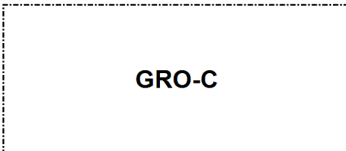
19. Please note that it is challenging to fully investigate and reply in any detail to any of the other five case studies without the names and/or reference numbers for the related applications.

20. The majority of these cases appear to be challenges in obtaining the relevant evidence to support an application, which is something we're aware people find difficult, but the supporting evidence to an application is key to its success. The requirement for supporting evidence has not changed since the commencement of the scheme. I am aware that the supporting evidence requirements has been raised with the Inquiry and is a matter that the Department of Health and Social Care (DHSC) will need to consider, as part of any future scheme changes.

21. I do however note the comments within case study 2, as there does appear to be an opportunity to make changes to the EIBSS website, which should help make the estates information more complete. I will task the update of this information to the EIBSS team to make the necessary improvements.

### **Statement of Truth**

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

Signed 

Dated 4 December 2023