

Witness Name: James Dalton

Statement No.: WITN7327001

Exhibits: N/A

Dated: 25 October 2022

INFECTED BLOOD INQUIRY

WRITTEN STATEMENT OF MR JAMES HARGRAVES DALTON

I provide this statement in response to a request under Rule 9(1) and (2) of the Inquiry Rules 2006 dated 1 September 2022.

I, James Dalton, of the Association of British Insurers, One America Square, 17 Crosswall, London EC3N 2LB will say as follows: -

Section 1: Introduction

1. My name is James Dalton and my date of birth is GRO-C1977. I undertook a Bachelor of Laws degree at the University of Otago in New Zealand and was admitted as a Barrister and Solicitor of the High Court of New Zealand in 2006. I then worked for the (then) New Zealand Ministry of Economic Development before moving to the United Kingdom and began working at the Association of British Insurers (ABI) in 2007.
2. In my role as Director of General Insurance Policy at the ABI, which I took up in 2015, I am a member of the organisation's Executive team and have overall responsibility for regulatory and policy issues affecting general insurance markets. My role involves representing the views of the industry to Government, Parliamentarians, regulatory bodies and the media.

3. I am not, and to the best of my knowledge have never been, a member of any committees, associations, parties, societies or groups relevant to the Inquiry's Terms of Reference.
4. To the best of my knowledge, I have not provided evidence to, nor have I 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.

Section 2: Insurance

5. The information set out in this section of my witness statement is based on my own knowledge of travel and life insurance products, the typical commercial and policy considerations of insurers that offer those products, and the legal and regulatory environment in which insurers operate, supplemented by online research. As a membership organisation, we are often reliant on our member insurance companies and other stakeholders to provide technical information and views on questions of insurance policy. However, the General Restriction Order that is in place in respect of the Rule 9 request that I received from the Inquiry means that I have not had the opportunity to gather as much information as I would have liked in order to assist the Inquiry. As a result, the information that I am able to provide in this statement is more limited in scope than it would have been had I had the opportunity to consult with insurers and other experts in the relevant markets.
6. The Inquiry has also asked me to answer questions that relate to mortgages. The ABI only represents insurers and long-term savings providers, in the context of their provision of insurance products and services and does not represent mortgage providers. My knowledge does not extend to the availability or cost of mortgage products for persons infected by blood and blood products with HCV and/or HIV, or the feasibility of a scheme being set up to make

available subsidised mortgage products for those persons. Therefore, I have not answered questions on these issues posed by the Inquiry.

The nature of insurance

7. At its heart, insurance deals with the risks of unforeseeable events and helps customers to manage those risks. The basic principle of insurance is that the losses of the few are paid for by the price (premium) paid by the many. Insurers calculate the premium a customer is charged according to the risk posed by the individual – the likelihood of that individual making a claim against the policy and potential cost of that claim. Insurers will look at the particular characteristics – called rating factors – a particular customer presents and determine the premium charged accordingly.
8. In the UK many insurance policies, in particular general insurance products like motor or home insurance, are distributed or sold to consumers through digital comparison tools, commonly referred to as price comparison websites (PCWs). A PCW provides an easily accessible way for consumers to compare and access insurance policies from many providers in the market at the same time. They typically serve customers best when the customer presents as a "standard" risk. This means that those customers who present with more specialised rating factors, including for example, persons infected by blood and blood products with HCV and/or HIV, often employ the services of an insurance broker, familiar with the products and services available in the market to secure insurance for their client.

Availability of insurance products

9. The availability and affordability of insurance products for particular consumers is an issue that I often deal with in my role at the ABI. For example, the availability and affordability of home insurance for customers who own properties in areas of high flood risk, the availability and affordability of motor insurance for young drivers or the availability and affordability of insurance for leaseholders living in high-rise residential buildings that have issues associated with cladding or other fire safety defects.

10. In the 7.5 years I have been the ABI's Director of General Insurance Policy, however, the availability and affordability of travel insurance for those persons infected by blood and blood products with HCV and/or HIV has not been raised with me until the request from the Inquiry for me to provide this Statement. This may be because, as I have found by undertaking research, life insurance and travel insurance products are available to those with HCV and HIV.

Life insurance

11. I do not have responsibility for the policy issues associated with life insurance as part of my role at the ABI. I have, however, undertaken some research on the availability of life insurance for persons infected by blood and blood products with HCV and/or HIV.

12. There are several specialist insurance brokers that have information on their websites about life insurance for those with HCV. On the iam INSURED website it states that, "*Life cover is available for people with hepatitis C and premiums can often be very affordable.*"¹ Information elsewhere on the iam INSURED website indicates that those who have had hepatitis C in the past and are now fully recovered may be able to obtain life cover more easily than those who have not yet recovered.² However, according to information on Cura Insurance's website (another insurance broker), cover may still be available for those with HCV whose condition is "*well controlled and treated*".³

13. The ABI has issued guidance for consumers on HIV and Life Insurance⁴, as well as Guiding Principles for insurance providers who sell life insurance products that sets out good practice.⁵ It was last updated in 2016. The guidance

¹ <https://iaminsured.co.uk/conditions/hepatitis-c-life-insurance/>

² <https://iaminsured.co.uk/conditions/hepatitis-c-life-insurance/>, see 'Can you get life insurance with hepatitis C?'

³ <https://www.curainsurance.co.uk/health-conditions/hepatitis-c/>, see 'Common Questions' – 'I have chronic Hepatitis C. Will I be able to get life insurance?'

⁴ <https://www.abi.org.uk/globalassets/sitecore/files/documents/publications/public/2016/hiv-and-insurance/hiv-and-insurance-guide.pdf>

⁵ <https://www.abi.org.uk/globalassets/sitecore/files/documents/publications/public/2016/hiv-and-insurance/abi-guiding-principles-for-hiv-and-life-insurance-july-2016.pdf>

states that those living with HIV have been able to obtain life insurance since 2009. NAM, a UK-based charity that shares information about HIV and AIDS, also states on its website that, “*Access to life insurance has improved in recent years: many insurers recognise that many HIV-positive people have a near normal life expectancy.*”

Travel Insurance

14. Travel insurance is available for those with hepatitis C. It's So Easy Travel Insurance, an insurance broker, has a section on its website about hepatitis travel and holiday insurance that states that it offers “*a variety of specialist travel insurance policies, from cover for pre-existing medical conditions to policies for those already travelling abroad.*”⁶

15. According to NAM, a UK-based charity that shares information about HIV and AIDS, appropriate travel insurance that provides covers for HIV-related claims is available for those living with HIV. At least one provider of travel insurance products, It's So Easy Travel Insurance, automatically covers HIV without any additional charge and without the need for it to be mentioned in the insurance policy documentation.⁷ Another provider of travel insurance, Emerald Life, states on its website that it does not require declaration of HIV status as a pre-existing medical condition where the condition is undetectable and the person living with HIV is on stable medication.⁸ Emerald Life has partnered with the charity Terrence Higgins Trust to provide a discount for its insurance products.⁹

Premiums

16. Insurers will typically ask about any pre-existing medical conditions when considering what terms of insurance cover they can offer and at what price. This is because pre-existing medical conditions, particularly those that require

⁶ <https://www.itssoeasytravelinsurance.com/medical-conditions/hepatitis-travel-holiday-insurance/>, see ‘Applying for travel insurance with hepatitis’

⁷ <https://www.itssoeasytravelinsurance.com/choose-your-travel-insurance/hiv-travel-holiday-insurance/>

⁸ <https://www.emerald.life.co.uk/travel-insurance/hiv/>

⁹ <https://www.tht.org.uk/take-action/fundraising/other-ways-support-us/shop-and-give/emerald-life-insurance>

ongoing medical treatment and medication, may mean that a claim against the policy is more likely and the costs for the insurer are higher. This in turn may mean that those with pre-existing medical conditions, including hepatitis C and HIV, pay more for life insurance and travel insurance than those who do not have those conditions.

17. The extent to which pre-existing medical conditions, including hepatitis C and HIV, affect premiums will vary between providers. I do not have quantitative information on any difference in premiums paid for life insurance or travel insurance by those with hepatitis C or HIV compared with those who do not have those conditions. However, information on the It's So Easy Travel Insurance website suggests that they do not charge more for their travel insurance cover where an individual has HIV.¹⁰ The website of insurance broker The Insurance Surgery states that, although those living with HIV could pay more for life insurance, "...rates have improved significantly in the last few years."¹¹

18. I was asked a supplementary question by the Inquiry about whether or not those infected have to pay increased premiums presently and if so, how much more expensive those premiums are now in contrast. I have provided some information above (for example, at paragraphs 15 and 17) about premiums for life and travel insurance cover for those with hepatitis or HIV, which was obtained from publicly available sources such as the websites of firms that sell relevant insurance products. However, I do not have more detailed, quantitative information in my possession and I do not believe I am the appropriate person to ask for this as that information will be held by insurance firms (brokers or insurers), some of whom are named above. None of the firms named above are ABI members.

¹⁰ <https://www.itssoeasytravelinsurance.com/choose-your-travel-insurance/hiv-travel-holiday-insurance/>

¹¹ <https://www.the-insurance-surgery.co.uk/medical-conditions-life-insurance/hiv-life-insurance/>

Feasibility of a scheme to make financial products available to those infected by blood and blood products with HCV and/or HIV

19. The question of *whether* it is desirable as a matter of public policy to establish a scheme to make financial products available to those infected by blood and blood products with HCV and/or HIV will be open to debate and, for the reasons set out above, on the information available to me, it does not appear that those infected by blood and blood products with HCV and/or HIV have significant difficulties in accessing life and travel insurance policies.

20. While I have not had the opportunity to consult with those insurers who offer life insurance and travel insurance products (for the reasons set out in paragraph 5 above), I believe a scheme *could* be set up in the UK which offered financial products to those infected with HIV and HCV by blood and blood products at the same price as is offered to people not so infected.

21. Having considered some of the information about the scheme in Ireland subsidised by the Irish Government, I would make the following observations:

- a. The scheme in Ireland was set up in 2006/2007. Given the considerable medical advances in the treatment and control of HIV and HCV in the 15/16 years since the establishment of the Irish scheme, I would be interested to understand whether the market intervention that the scheme represents continues to be needed to achieve the public policy objective of providing insurance to those infected with HIV and HCV by blood and blood products at the same price as is offered to people not so infected and whether it represents good value for money. I am not aware of any review of the scheme that has considered these issues.
- b. The availability of life insurance and travel insurance cover for those with HIV and HCV has improved considerably in the United Kingdom, certainly since the establishment of the Irish scheme in 2006/2007. For example, life insurance for those living with HIV became available in 2009 and there are now insurers offering travel insurance cover that do

not require an individual to disclose their HIV status. These factors are likely to mean that the need for a scheme in the United Kingdom, similar to the one established in Ireland, is lower.

- c. As I understand it, the Irish scheme requires those infected with HCV by blood and blood products to have an Eligibility Certificate to benefit from the insurance scheme and that an Administrator of the Scheme assesses an individual's eligibility. The regulatory and administrative architecture required to administer such schemes can, in my experience, be costly to both establish and to continue to operate on an annual basis.
- d. Alternative public policy interventions may be more desirable. For example, as it would appear that the *availability* of life insurance and travel insurance for those with HIV and HCV has improved considerably since 2006/2007, consideration should be given to improving signposting to insurance firms that can offer products or services. Alternatively, it may be more efficient and effective to consider improving the *affordability* of insurance by offering annual grants to those individuals who pay more for their life or travel insurance as a result of being infected by blood and blood products. In some cases, it may be that individuals infected by blood and blood products with HCV and/or HIV are not paying more (or considerably more) for their insurance and that a grant system may be easier, quicker and cheaper to establish.

22. The following should be considered or put in place were it to be decided that such a scheme should be established. This is not an exhaustive list and, if the Inquiry was minded to recommend the establishment of a scheme, then a full consultation and cost benefit analysis should be carried out. Factors to consider, in my view, include:

- a. The quantum of financial support required in order to enable premiums to be set at the same level as those who are not infected with HCV and/or HIV. The support required will depend on the additional premiums paid

by those with HCV and/or HIV as a result of infected blood and blood products, which is not information I currently have available to me.

- b. If the scheme is being administered by a regulated financial services firm, then they are likely to be subject to conduct and possibly prudential requirements which are overseen by the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) respectively.
- c. Consideration should also be given to any scheme's effect on competition in the life insurance and travel insurance markets, particularly as there are a number of existing providers who offer cover for those with HCV and HIV. The establishment of a scheme may have effects on competition in those markets.
- d. The bodies and organisations that would need to be part of the planning process of any scheme should include insurers and insurance brokers (possibly represented by their trade bodies, the ABI and British Insurance Brokers Association respectively), the FCA, the PRA, relevant government departments, and potential end users of the scheme (and any representative bodies for those individuals).

23. If I can be of any further assistance, the Inquiry should not hesitate to contact me.

Statement of Truth

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

GRO-C

Signed

Dated: 25 October 2022