



GRO-D <GRO-D@cabinetoffice.gov.uk>

Re: Submission: Infected Blood Compensation Scheme- Policy decisions for further regulations

1 message

PS Thomas Symonds Mailbox <psthomassymonds@GRO-C> 20 November 2024 at 15:16

To: [REDACTED] <[REDACTED]@cabinetoffice.gov.uk>
Cc: [REDACTED] <[REDACTED]@cabinetoffice.gov.uk>, [REDACTED] <[REDACTED]@cabinetoffice.gov.uk>, James Quinault <james.quinault2@[REDACTED]>, Maria Nyberg <maria.nyberg@[REDACTED]>, [REDACTED] <[REDACTED]@cabinetoffice.gov.uk>, [REDACTED] <[REDACTED]@cabinetoffice.gov.uk>, [REDACTED] <[REDACTED]@cabinetoffice.gov.uk>, [REDACTED] <[REDACTED]@cabinetoffice.gov.uk>, ministerial-submissions@cabinetoffice.gov.uk, Cat Little Private Office Mailbox <pscatherinelittle@[REDACTED]>, Morrican Scanlon1 <morrican.scanlon1@[REDACTED]>, "Response Team, Infected Blood Inquiry" <[REDACTED]>, [REDACTED] <[REDACTED]>, Infected blood inquiry - Legal team <[REDACTED]>, PS McFadden Mailbox <psmcfadden@[REDACTED]>, PS Oppong Asare Mailbox <psoppongasare@[REDACTED]>, [REDACTED] <[REDACTED]@cabinetoffice.gov.uk>, [REDACTED] <[REDACTED]@cabinetoffice.gov.uk>, Emma Robinson1 <emma.robinson1@[REDACTED]>

Hi all,

Thank you for this collective package of advice, and the time taken to discuss through with MCO. Noting we have some further advice to come, particularly to discuss submission E and the care award element of submission C - which I've left highlighted in yellow.

James' Overview of Decisions Note

- **MCO agrees** to new laying date of 6 February 2025 for the second set of regulations

Submission A - Operation of the supplementary route

1. Do you agree that application to the supplementary route assessment should not prevent payment of the core award being made? **YES**
2. Do you agree applicants must indicate their intention to apply for the supplementary route upon acceptance of a core route offer? **YES**
3. Do you agree any request to apply to the supplementary route not indicated at the point of acceptance of a core offer would be considered use of the applicant's single opportunity to return to the scheme? **YES**
4. Do you agree to a disregard for applicants assessed by the IBCA before further regulations are put in place to enable relevant claimants to apply for supplementary route awards after accepting a core award without this being considered a return to scheme? **YES**
5. Do you agree that return to scheme under a higher infection severity band does not include an additional opportunity to apply for health impact and evidence led route awards? **YES**
6. Do you agree that an infected applicant's evidence led supplementary sub-route financial loss award should replace any financial loss award an applicant may have been eligible for under the health impact supplementary route regardless of value (higher or lower)? **YES**
7. Do you agree that where the evidence led supplementary sub-route financial loss award is lower than the core route, an infected applicant would maintain their core route financial loss award? **YES**
8. Do you agree that 25% 'gratuitous care' deductions to past care can be removed via the evidence-led route supplementary route from both core and health impact route supplementary route care awards? **YES**

Submission B - Health Impact supplementary route

1. Do you agree to the revised definitions for the health impact groups as designed by the Expert Group as set out in Annex B? **YES, subject to further discussion with Sir Jonathan Montgomery (Chair of Expert Group) to provide assurance all necessary conditions are captured as part of the 6 health impact groups.**
2. Do you agree health impact supplementary route care awards are calculated on a subtractive basis against the core route? **YES**
3. Do you agree that eligibility for Health Impact Group 6 (Other Hepatitis-associated disorders resulting in long-term severe disability) includes only clinical conditions as set out in Annex B? **YES, subject to further**

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discussion with Sir Jonathan Montgomery to provide assurance all necessary conditions are captured in this group.

Submission C - Evidence-led supplementary route

- Do you agree to the proposed method for calculating the financial loss evidence-led supplementary award (as set out in paragraph 47)? **YES**
- Do you agree annual gross salaries used to calculate financial loss evidence-led supplementary awards are capped to salary 90th percentile (2023 equivalent gross salary of £76,249)? **YES**
- Do you agree application to the evidence-led supplementary route would require applicants to be able to evidence a minimum percentile salary? **YES**
- Do you agree that under the evidence led supplementary sub route, applicants could apply for the removal of the 25% deduction for care awards for categories of care where applicants can provide evidence that care was paid for? **MCO would like to explore options that stay true to the position recommended by SRF, and to which we agreed in the summer, on paying costs of care. Please could further advice be prepared as soon as possible on this issue, including whether we can offer a 'top up' for those cases where applicants can evidence their care costs go beyond the 100% of their care award offered via the scheme.**

Submission D - Affected Siblings

- Do you agree to change the eligibility criteria for affected siblings to
 - include those who lived in the same household, or would have been expected to live in the same household were it not the impact of the infection
 - allow siblings over the age of 18 when their under-18 sibling was infected; or who were both adults at the date of infection, be eligible for compensation
- **MCO notes that whilst this is a change in position, it has been raised by the Infected Blood Community and MPs. In communications we should set out that it is evidence that - again - the Government is listening.**
- **However, a) whilst we do not want to make this scheme onerous in evidential terms, we do want the minimum standards to mitigate fraud risk, and b) we need to make it clear that this is another specific case so as not to cause/invite pressure on other changes, which could have the counter productive effect of delaying compensation payments.**
- **Further advice should be given to MCO on the handling and timing of the reply to Sir Brian Langstaff's letter.**

Submission E - Affected core and Bereaved dependants - outstanding pending further conversation with MCO

Section 1 - Scheme Operation for Affected Claimants

1. Do you agree that a pension deduction should be applied to financial loss awards for affected dependents?
2. Do you agree that, subject to meeting the eligibility criteria, affected persons should receive a single financial loss payment that starts at the death of the first partner and ends at the death of whichever partner's healthy life expectancy comes second?
3. Do you agree that the scheme should not consider remarriage or any other relationship choices that a bereaved partner makes after the death of their infected partner in determining their financial loss award?
4. Do you agree that bereaved partners should be invited to choose the IBSS route or the core route for their claim and that the IBSS route should not provide for a top-up to support scheme payments for future financial loss?
5. Do you agree that the compensation debt to affected persons crystallises at the point of payment, and that there is no claim from an estate on unpaid compensation offers even after an offer is accepted?
6. Do you agree that non-IBSS route affected persons should be required to take their full compensation award as a lump sum?

Section 2 - Supplementary Claims from Bereaved Dependents

7. Do you agree that eligibility for the core route should be a precursor for eligibility to the supplementary payments for affected people?
8. Do you agree with the eligibility criteria as set out in paragraph 30 of the submission?
9. Do you agree that evidence of dependency should be provided at the point of death and for at least six months prior to the death of the infected person?

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10. Do you agree that additional financial loss awards for eligible dependent affected persons should be tariff-based?
11. Do you agree that (subject to eligibility) there should be no limits to the number of affected people who can claim a supplementary dependency route in relation to a single infected person?
12. Do you agree that the core route per annum award amount for bereaved children should be applied to all those eligible for an additional supplementary dependency payment?
13. Are you content that there should be an exception to this position for disabled children who have lost both parents to infected blood, where the core route uplifted amount should be carried forward?
14. Do you agree that affected persons should not be able to return for a supplementary route application after receipt and acceptance of their core offer?
15. Do you agree that bereaved affected people should receive a flat rate financial loss award regardless of whether an infected person has gone down the supplementary route?

Submission F - Unethical Research Award

1. Do you agree that the definition of 'research' for the purpose of this award should be any studies where the intention was to publish the results? **Yes**
2. Are you content that we align the award design to the IBI's findings, and that in practice this means the award will not be available to anyone who was not treated at a Haemophiliac centre? **Yes**
3. Do you agree that identifying set date ranges across specific haemophilia centres offers a viable route to operationalising the award? **Yes**
4. Are you content with the proposed dates and scope for the award for attendees of the Lord Mayor Treloar College? **Yes**
5. Do you agree that Option One is the most appropriate to engage the infected community on defining the identity and dates of the projects that will be in scope for this award? **Yes**

However, MCO would like to pursue Option A on scope of unethical research award, to align with SBL's list provided in the IBI. Therefore, please could the products to be sent out to the community be sent as soon as possible for MCO and SpAds to clear, before they are issued.

Submission G - Criminality Clause

1. Do you agree to the inclusion of a clause that provides for general exclusion for all convictions which cannot be considered as spent? **Yes but a minimum standard is unspent convictions.**
2. If you agree, do you agree that IBCA should ask for applicants to declare whether they have a conviction for a serious offence, and spot check for compliance; rather than checking all claims against the PNC/DBS service? **Yes**

Submission H - Review of Scheme

1. Do you agree that a scheme review should be included in the second set of Infected Blood regulations? **Yes**
2. Do you agree that the review should take place in the 2026/27 financial year? **Yes**
3. Do you agree a requirement for subsequent reviews should not be included in regulations? **Yes**
4. Do you agree not to include a commitment to publish the review in the regulations? **Yes - but we should commit to publish the review alongside the regulations, but not be included in the regulations themselves**

Thanks,

GRO-D

On Thu, 14 Nov 2024 at 12:59, GRO-D <GRO-D@cabinetoffice.gov.uk> wrote:

Hi GRO-D

Please find linked **Submission C - Evidence-led Supplementary Sub-Route**: [Link](#)

As discussed, the advice currently includes a highlighted placeholder for the sections on the cost modelling and 'floor cap' (para 23-24 and 36) which will be updated on Friday ahead of our meeting with MCO on Monday. Any questions please let me know.

Best wishes,

GRO-D

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**Cabinet Office**

[GRO-D] (she/her)
Senior Policy Advisor
Infected Blood Inquiry Response Team
E: [GRO-D]@cabinetoffice.gov.uk
M: [GRO-C]
Follow us on Twitter @cabinetofficeuk

On Thu, 14 Nov 2024 at 12:16, [GRO-D] <[GRO-D]@cabinetoffice.gov.uk> wrote:
Hi [GRO-D]

Please find attached submission H - Review of the Scheme which requests a decision on whether and how review of the scheme should be included in regulations and the timing of that review.

Thanks

[GRO-D]

On Thu, 14 Nov 2024 at 12:02, [GRO-D] <[GRO-D]@cabinetoffice.gov.uk> wrote:
Hi [GRO-D]

Please find [here](#) and attached submission G providing advice on exclusion of affected people who have caused harm to an infected person.

regards,

[GRO-D]

On Wed, 13 Nov 2024 at 14:24, [GRO-D] <[GRO-D]@cabinetoffice.gov.uk> wrote:
Hi [GRO-D]

Please see attached pdf for Submission F and a live link here - [Additional autonomy award for victims of unethical research](#). As per your discussion with [GRO-D] we have asked for a readout on Monday 18th November as I understand you plan to put outstanding submissions to MCO over the weekend.

Kind regards,

[GRO-D]

[GRO-D]
Policy Advisor
Infected Blood Inquiry Team
Cabinet Office
[GRO-D]@cabinetoffice.gov.uk

On Wed, 13 Nov 2024 at 10:41, [GRO-D] <[GRO-D]@cabinetoffice.gov.uk> wrote:
Hi [GRO-D]

As a further follow up, please find attached:

Submission E- scheme operations for affected people and additional awards for eligible bereaved dependents: [Link here](#)

As per our discussion yesterday I have asked for a readout on Monday 18th November as understand you plan to put outstanding submissions to MCO over the weekend.

We will follow up with the unethical research award sub shortly. The outstanding policy submissions are then: review of scheme, criminality clause, and the final supplementary route submission (evidence-led).

With best wishes,

[GRO-D]

On Mon, 11 Nov 2024 at 14:53, [GRO-D] <[GRO-D]@cabinetoffice.gov.uk> wrote:
Hi [GRO-D]

As a follow up to [GRO-D]'s email on Friday, and as promised, please find attached:

Submission D- Affected sibling eligibility criteria: [Link here](#)

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I have asked for a readout by Wednesday 13th November given Sir Brian Langstaff's live interest in the subject area but I understand from your conversation with Maria earlier that you are considering handling including with no10, given we have committed to a PO-PO letter on the second regulations in late November/early December. Do let us know if it's helpful to have a follow up discussion once you have reviewed the submission.

We will continue to share the remaining submissions on the master list as soon as they are ready.

With many thanks,

GRO-D

On Fri, 8 Nov 2024 at 18:11, GRO-D <GRO-D@cabinetoffice.gov.uk> wrote:

Hi GRO-D

As discussed, please find attached the first two submissions (A&B) for MCO on the outstanding policy decisions for the Infected Blood Compensation Scheme. This is accompanied by a covering note from James setting out an overview of the decisions which will be sent in advice to MCO over the next week.

For information, I have listed below all the policy submissions we are planning to send over the course of the next week.

DG cover note: [Link](#)

Submission A- Operation of the infected person supplementary route: [Link](#)

Submission B- Health Impact supplementary sub-route: [Link](#)

Submission C- Evidence led supplementary sub-route: To follow next week

Submission D- Affected sibling eligibility criteria: To follow next week

Submission E- Affected award administration and supplementary route: To follow next week

Submission F- Additional autonomy award to victims of unethical research: To follow next week

Submission G- Inclusion of a criminality clause: To follow next week

Submission H- Review of the scheme: To follow next week

Do let me know if you have any questions or would like to arrange a call to discuss with yourself or SpAds.

Best wishes,

GRO-D



Cabinet Office

GRO-D (she/her)

Senior Policy Advisor

Infected Blood Inquiry Response Team

E: GRO-D@cabinetoffice.gov.uk

M: GRO-C

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