

Witness Name: David Foley  
Statement No.: WITN7757001  
Exhibits: WITN7757002-  
WITN7757009  
Dated: 24 February 2025

## INFECTED BLOOD INQUIRY

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### WRITTEN STATEMENT OF DAVID FOLEY

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I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 7 January 2025.

I, David Foley, will say as follows:

#### **Introduction and overview**

1. As the interim Chief Executive of the Infected Blood Compensation Authority (IBCA), I am committed to IBCA's aims of recognising and compensating every eligible person impacted by infected blood with great care and respect and within as short a time frame as is consistent with the fair, compassionate and accurate processing of claims; and making it easy for people who are eligible to get the compensation and support they are entitled to.
2. In my statement I respond to the questions in the Rule 9 request in the same order that they were raised, as summarised in the overview below.
3. In **Section 1**, paragraphs 11-17, I confirm my commitment, along with the whole of IBCA, to the involvement of the community in IBCA's decision-making. I detail the extensive steps that have been taken to gather views from

- across the community and how these views inform and enrich IBCA's decision-making. I also describe interactions with the Cabinet Office concerning the regulations within IBCA's role and responsibilities.
4. In **Section 2**, paragraphs 18-25, I set out how IBCA's operational independence from government is established in our structures and in everyday practice. IBCA's operational independence is central to everything we do to ensure the integrity of the scheme.
  5. **Section 3** of my statement, at paragraphs 26-27, describes how we, as IBCA, ensure that we are transparent about both our processes and structures. Also in this section, I describe the process by which claims for compensation are managed within IBCA.
  6. In **Section 4**, paragraphs 28-36, I provide the requested details on IBCA's decisions on how best to deliver the scheme including the use of claims managers as the dedicated point of contact. Also I explain the many ways that IBCA communicates with those making claims.
  7. **Section 5**, paragraphs 37-42, provides information on the legal and financial support that is available to those making claims for compensation.
  8. **Section 6**, paragraphs 43-48, explains how IBCA has gone about accessing available data for those eligible for claims, the statutory framework for doing so and how this supports IBCA's aim of making it as easy as possible for people to make claims.
  9. In **Section 7**, paragraphs 49-52, I detail how IBCA is approaching ensuring that we deliver the compensation that people are owed in as short a time frame as possible, some of the challenges in doing so, and how we have designed our delivery to tackle this.
  10. Finally **Section 8**, paragraphs 53-58, explains the process for any review and appeal of IBCA's decisions.

## **Section 1: Involvement of people infected and affected by the use of infected blood in decision-making and engagement by IBCA**

11. I am committed to the involvement of people infected and affected by the use of infected blood in IBCA's decision-making. It is very important to recognise the diversity of views of that community. IBCA has a community-first ethos and all aspects of the design of IBCA's service are being informed by engagement with the community. IBCA's work has been significantly enriched by this extensive engagement with the community. As set out below, the engagement has been through organised events and interviews, forums, interactive media channels and direct personal conversations with the IBCA leadership. Community engagement is also built-in to decision-making through community representation in governance meetings and decision-making processes. This on-going commitment to engagement with the community is reflected in the rolling programme set out below.

12. Since IBCA was set-up in May 2024 we have prioritised engagement with the community. IBCA service design teams have spoken with around 150 people across user research interviews and engagement forum groups since July last year and insights from these sessions are shared with all of IBCA. In support of this, and as part of the engagements described below, both myself and Sir Robert Francis, the interim Chair, have personally spoken to a significant range of individuals and groups in order to ensure that we are continually receiving feedback. The information we receive is continually directly applied in building our understanding of how IBCA should develop and improve our service.

13. IBCA has also recruited three internal User Consultants (WITN7757002) from within the community, who will regularly attend IBCA's governance meetings and are being invited to have input on a wide range of decisions. This includes, but is not limited to, involvement in designing and improving training, supporting in the design and development of the compensation

service and using their experience to understand how we can improve our engagement and communications.

14. IBCA is committed to engagement through a range of means, recognising the diversity of the community. Therefore, we will continue to engage regularly and as widely as possible in a variety of fora as we have from the beginning. These engagements represent opportunities both to receive feedback and to provide information. In practical terms this includes:

- regular meetings with community representative groups (such as Hepatitis C Trust, Tainted Blood and many others);
- a rolling programme of engagement with the wider community (for example more than 75 webinars and face-to-face events held across the UK including in Belfast, Glasgow, London and Newcastle and involving more than 500 people);
- a regular community email update (currently sent to around 6,500 people);
- social media channels for direct messaging; and
- an 'open door' approach where community members contact us directly with questions or concerns.

15. The information from these engagements directly informs the decisions that we take. Among the decisions that we have taken based on engagement with the community are included:

- establishing the dedicated claims manager role following feedback from the community that people need personal, consistent support from one person. The shape of the team, skills and training for those roles were all developed as a result of user research;
- designing the service so that direct contact with the claim managers starts at the first email invitation, rather than anodyne emails and phone numbers to avoid the service feeling generic;
- sourcing data and information prior to claims following clear feedback we had that the community felt IBCA should 'bear the burden' of finding the evidence; and

- providing written records after each conversation that someone making a claim has with their claims manager, reflecting feedback from the first group of people making a claim.

16. In relation to IBCA providing feedback to the Cabinet Office, the Cabinet Office regularly consults with IBCA on the practicalities of delivering regulations, including those which are currently in draft form. This supports IBCA with implementing the scheme and is consistent with IBCA's responsibility for delivering the scheme.

17. IBCA's interim Chair, Sir Robert Francis, is also consulted separately and directly by the Cabinet Office as an expert on the development of the scheme itself. Sir Robert has provided recommendations to government previously on the scheme (WITN7757003).

## **Section 2: Infected Blood Compensation Authority independence**

18. IBCA was established on 23 August 2024 as an Arm's-Length Body (ALB) of the Cabinet Office. It is administratively classified as a non-departmental public body. IBCA's responsibilities are set out in Part 3, and Schedule 1 of the Victims and Prisoners Act 2024 ("the Act") and the Infected Blood Compensation Scheme Regulations 2024 (and will be further set out in the future regulations) and include determining whether a person is eligible for compensation under the regulations, determining the amount of compensation and making the payments.

19. In broad terms this means that the Cabinet Office is responsible for setting the policy framework of this legislation which IBCA is then responsible for administering with full operational independence and accountability. As Sir Robert Francis set out in his letter (SRFS0000021) of 10 December 2024 to Sir Brian Langstaff, *"not only is the Authority, as created by the Act, an independent Arm's Length Body, it is accepted by the Minister for the Cabinet Office as having operational independence"*.

20. I have been focussed on establishing IBCA as an organisation with the ability to make fully independent decisions on claims and ensuring that the structures are in place to determine IBCA's strategic approach. IBCA's claims managers are trained and empowered to make decisions on individual claims and it is their decisions, within the framework of the regulations and supported by the senior leadership team, which ultimately determines the delivery of compensation.
21. Strategic decision making within IBCA comes from IBCA's Board ( WITN7757004) , and an Executive Committee consisting of myself and IBCA's senior staff ( WITN7757005) . I am IBCA's Accounting Officer and therefore have a delegated budget and decision-making authority within that delegation.
22. Since the IBCA and its work is wholly funded by the taxpayer, it must be subject to the normal, appropriate auditing and accountability to ensure that public funds are used properly.
23. As with any Arm's-Length body, the specifics of how IBCA's operational independence is balanced with the ability of the Cabinet Office to assure that IBCA is operating in line with the intent of government in establishing the compensation policy and with guidance such as Managing Public Money (MPM)( WITN7757006) , will be set out in a Framework document which is currently being prepared and which will be agreed between IBCA and the Minister for the Cabinet Office. This document will be published on IBCA's website and on gov.uk.
24. IBCA's staff will be, as set out by the Act, public servants. This requires IBCA to be established as an employer with the requisite HR policies and systems including the ability to provide staff with pensions. In order to ensure that there was no delay to making payments while the necessary arrangements are put in place, IBCA has therefore begun operations staffed by civil servants with the clear intent and understanding that staff will be employed directly by IBCA as soon as possible.

25. In the usual way, where public money is required for key matters, IBCA refers decisions to the Cabinet Office and other departments including HMT, where specific approvals are required, for example in proceeding with specific investments or contracts where spending is novel, contentious or repercussive in line with Managing Public Money (s 2.3, WITN7757006). Also, certain decisions may be referred to the Minister for the Cabinet Office where appropriate, for example where they are outside of IBCA's agreed budgets.

### **Section 3: Openness and transparency by IBCA**

26. I am mindful of the concerns as to the lack of transparency with the community historically as set out in the report of the Inquiry. For that reason I am acutely aware of the need for transparency in a way that supports understanding of IBCA's work. I have set out above some of the ways IBCA engages with the community to explain our decision-making and processes and the ways in which we seek views from the community in order to inform them.

27. The details of how core route claims are assessed is set out on our website ( WITN7757007) and is also set out for every person at the point when their claim is opened and can be provided to anyone who contacts IBCA. Those making claims can also access financial advice, funded by IBCA, to support them in deciding how to receive their compensation and supporting them in how to manage the funds, as set out below and legal advice at key points in the process as set out in paragraph 40. In overview the process is:

- a. When a claim is begun a claims manager is assigned and reviews all the information available to IBCA relating to the claim.
- b. The claims manager will then hold an initial call with the person making the claim, and any representatives they want to join the call, and explains the information that's held. If there is anything the person making the claim, or their representatives, thinks is wrong or missing they can query this at this stage and discuss how additional information

might be found by IBCA or supplied by the person making the claim or their representatives.

- c. A summary of the call is shared with the person making the claim including anything that was agreed, any queries or challenges to the information and any known gaps in the information as well as outlining how further information might be requested. At every stage the person making the claim, or their representatives, has the opportunity to speak to their claims manager whether to ask questions, to provide more information, or to direct IBCA to information sources.
- d. The process of gathering new or additional information continues, including any third parties such as medical professionals, as required until all the information has been found and agreed. Importantly for the way we operate and in line with feedback from the community IBCA tries, wherever possible, to reduce the burden on those claiming by finding the information ourselves.
- e. Once the claims manager agrees with the person making the claim that there is enough information to calculate the compensation then the claims manager prepares a 'Declaration Form' which is the formal record of the information that will be used to make the calculation. The Declaration Form must be signed by the person making their claim (or their representative) before the claim can progress and the person making the claim or those supporting them, including any legal representatives, are able to raise any concerns about errors or gaps in the information. This could include any issues with the accuracy of infection types, severities and dates of infections or anything else pertinent to the claim. There is no time limit placed on the return of the Declaration Form to IBCA.
- f. If any alternative or additional information is provided before the Declaration Form is signed then it is assessed by the claims manager and, if relevant, then a new Declaration Form can be produced. The claims manager will seek to provide as much support as possible to gather the information and will offer multiple opportunities to identify the right information and challenge anything that doesn't seem right. The claim does not proceed until the person making the claim, or their

representatives, is satisfied that the information is accurate and complete.

- g. Once the person making the claim, or their representative, has signed the Declaration Form then the offer is calculated and a compensation offer is made. This is provided in writing to the person making the claim and the claims manager will also arrange a call to explain the offer in full. If the person making the claim or their representatives wishes to dispute any of the facts at this stage then an internal review can be initiated (as set out in chapters 40-41 of the Infected Blood Regulations 2024 ) ( WITN7757008) either by the person making the claim or their representatives, or by IBCA itself (see below paragraphs 53-58).

#### **Section 4: Procedural Issues**

28. IBCA engaged with the community from the beginning on the requirements that should be prioritised for the design of IBCA's service. This included structured user research, engagement with Sir Robert Francis on the scheme and community engagements as detailed in Section 1. The strong consensus in the feedback was that it was important for people to receive personal, consistent support from a single human point of contact in IBCA. A purely digital approach was considered but based on that feedback and its likely inability to be able to manage complex individual issues this was decided against. A purely digital system might also be more open to fraud. For these reasons we took the decision to use claims managers to support those making claims through this process. This means that every person making a claim for compensation has access to someone who fully understands their case and can provide dedicated support. The engagement with the claims manager is also important as it enables those making claims to discuss the information or to help the claims manager to locate supporting information. To date those who have engaged with the claims managers have provided positive feedback about their experience.

29. Some of those making claims have taken up the offer of legal advice, paid for by IBCA and are also working with lawyers who can provide advice when a determination is made and then again when an offer is made. While it is important for those who wish to be supported by lawyers to be able to access that support, it is also important that those who don't want that support can have a supported journey through the process.
30. As with any approach there are challenges. I am mindful of the need to ensure that claims managers are well trained to deliver a high quality of care, noting the complexity of the regulations, and that the teams within IBCA, including data, digital and legal, are operating efficiently. Ensuring that IBCA balances speed of making payments with ensuring a high quality and accurate service is part of the reason that IBCA is taking a 'test and learn' approach so that feedback from the community and claims managers is continually incorporated into the service.
31. This 'test and learn' approach also means that IBCA will begin to open up additional ways for people to make claims including, as we scale the service and start processing claims from all users, moving to applicants having the option to start the claim themselves where that is appropriate.
32. The feedback that we have had from those making claims about the whole process has been largely positive, praising the supportive approach of their claims managers which enabled them to help explain and confirm relevant details.
33. As at this date IBCA has recruited 31 appointed claims managers. These staff are on loan to ensure that there was no unnecessary delay in the IBCA getting on with the job as discussed above. IBCA plans to onboard 40 claims managers per month from March 2025 until approximately 500 claims managers are recruited in total. Specific numbers may be adjusted as we improve our understanding of the time taken to process a claim.

34. Every claims manager receives a minimum of 2 weeks classroom training with up to 4 weeks of consolidation following the classroom. This training includes both technical information on the scheme and trauma-informed learning. There is specific provision in the training that supports claim managers to identify and respond to any safeguarding concerns.
35. With regards to the process for making claims IBCA provides guidance in writing to those making claims and has also published information on its website. The letter to those invited to make claims sets out what will happen next and this is followed up by a call with the claim manager who can discuss this with the person making the claim and answer any questions they have, as set out in detail above. The claims manager process and the training that claims managers receive is designed to try to ensure that those claiming receive personalised support and have a clear understanding of every stage of the process.
36. All of IBCA's letters to those claiming have been developed based on the findings of user research about the information which is the most useful to include and drafts were shared and tested again in user research before being used. We are following best practice content design guidelines to ensure understandability and accessibility. We also take into account any feedback given by those going through the claims process and update letters if anything is unclear. When letters are sent IBCA also offers a call with a claims manager who can walk the person making the claim, or their representative, through the letter and provide any clarification that is needed.

## **Section 5: Funding of legal representation and support services**

37. It is ultimately for government to determine the level of funding to be provided for support services. In so far as the feedback referred to by the Inquiry has been directed at IBCA it has been taken into account. IBCA, provides in funded access to independent legal and financial advice to support those making claims. This is in addition to the support provided directly by claims

managers, who are themselves supported by teams across IBCA. The degree to which people want to use these support services will vary and may change over time.

38. IBCA's provision of this support must of course consider value for money, as with any service on which public funds are spent and, where not previously agreed in IBCA's budgets, must be agreed with the Minister for the Cabinet Office, the Cabinet Office Principal Accounting Officer and, where required by MPM, HMT. IBCA is responsible for designing and delivering the support packages including, where necessary, working with Cabinet Office financial and commercial colleagues to put any necessary contractual provisions in place.

39. In terms of financial advice, this is available to those making claims, up to an agreed value, and covers:

- a. how to safely and practically manage the compensation payment, for example advice on how to identify and use an appropriate and secure bank account;
- b. advice on the advantages and disadvantages on taking the compensation offer as either a lump-sum or periodic payment;
- c. advice on how to safeguard against fraud; and
- d. wider financial security advice such as the importance of making a will.

40. Independent legal support has been made available to the first group of people making claims on certain parts of their claim:

- a. helping the person claiming to confirm that the information IBCA has used to assess their eligibility is correct;
- b. advising the person claiming on whether they believe IBCA's offer of compensation has been calculated correctly and whether they should ask IBCA for an internal review of the decision;
- c. if an internal review is requested, supporting the person claiming through that process; and
- d. acting as their representative and sharing information on their behalf as it relates to their claim when IBCA asks for it.

41. Where a person claiming has an existing legal representative IBCA endeavours to put in place the necessary contractual arrangements so that the person claiming can keep their preferred representative. Where someone does not already have a legal advisor but wants representation, IBCA can give them access to legal advice from independent legal firms that have experience with working with the community and on issues relating to the infected blood scandal.

42. As with IBCA's overall approach to delivery we will continually review and seek to improve how we support people making claims throughout the process. Both the legal and financial support offers are therefore being reviewed, including by seeking feedback from those making claims, in order to ensure that IBCA's support provision to all of those who will make claims is both holistic and effective.

## **Section 6: Consent**

43. In assessing how to deliver the scheme we are always focussed on how to provide the best service to those making claims with a particular focus on making payments accurately, in a timely manner and with the lowest burden possible on the claimant.

44. IBCA has powers under the Act (s. 53) to enable it to obtain the information required to discharge its duties. This statutory approach serves the objectives of providing the best service to those making claims with a particular focus on making payments accurately, in a timely manner and with the lowest burden possible on the claimant.

45. In this light, we considered a number of different routes to share victims information from existing schemes and the Skipton Fund (which held the data from the organisations that provided government financial support to those

who had been infected prior to 2017) with IBCA. We understood that the initial small delivery, as part of the 'test and learn' approach would need to be managed through issuing 'invitations' to claim to the first 250 cases that IBCA will manage. In order to ensure that as much as possible is being learnt from these cases, to allow IBCA to expand as quickly and as safely as possible the invitations needed to cover a spread of infection types, including co-infections and regions. This meant gathering the information from the existing schemes and then identifying the different types of case that IBCA could learn best from and then randomly selecting from those people with those characteristics, to whom to send an invitation.

46. IBCA was not required to ask for consent to access this data as it has powers under the Act to obtain the information. However we did consider the merits of seeking consent notwithstanding this power. In this case we considered that seeking consent (where it was not required) could have created disadvantages as it would have removed those who did not give consent, or perhaps wanted more time to consider, from the category of those who might receive invitations. Given that IBCA will be required to access this information in order to enable people to make claims we were also concerned that seeking consent could have felt coercive or placed unnecessary stress on the individual.

47. IBCA is keen to ensure claimants are aware and consulted in how their data is used, and therefore one of the first conversations a claim manager has with a claimant is seeking agreement on what data to use to support that claim. This covers all information whether that is information transferred from IBSS or information that should be sought from elsewhere. We believe that this balances the need to ensure a fair opportunity to access the service, timeliness of a claim, and consent of the claimant in how, or what data is used.

48. We recognise that a wide range of information has been shared with current and elapsed schemes and the information IBCA has obtained is likely to include incorrect information as well as gaps. We intend to approach checking

the accuracy of this information in two ways. Firstly and primarily, as set out above, the information is checked with the person making the claim and any representatives. As set out above the process is designed to be fully open to the person making the claim to understand the information that the claims manager has and so they identify any inaccuracies or gaps so that these can be resolved including through seeking alternative or additional evidence. In addition to this, as our delivery develops, we will introduce a series of automated checks to identify a number of common quality issues with the data in order to reduce the burden on those making claims and to assist claims managers in identifying any likely issues with the information.

## **Section 7: Delay**

49. My absolute priority, shared fully by IBCA's Chair and Board, is to ensure that compensation is paid to those who are eligible as soon as possible. The approach that we have taken since I began this work in May 2024, of starting with small numbers as soon as possible in order to learn quickly, improve delivery, and then expand to scale is designed to meet this goal. This allows us to ensure that systems are fit for purpose and continually improve which minimises the risk of errors that would slow down the overall delivery of compensation whilst ensuring that the funds go to those who are entitled.

50. I know that there is no such thing as avoiding 'delay' in these circumstances. As people have waited for so long for their suffering to be recognised and for compensation to finally be paid, any time before payments are made is a delay. We know that every week members of the infected blood community are dying.

51. As we invite the first 250 to claim, as set out above, we are seeking to improve our service and build our delivery of the processes in order to begin expanding. We are also, as described above, recruiting more claims managers every month in order that as systems are ready we have a sufficient number of claims managers to support those making claims.

52. Our delivery is agile, therefore we will be developing systems and making it possible for people to make claims as soon as systems are safe and ready for them to do so. We will be sharing any information on progress with the community regularly. We are also working within timescales as agreed with the Cabinet Office which are to pay the first infected person by the end of 2024, to pay the first affected person by the end of 2025, to pay the bulk of infected persons by the end of 2027 and to pay the bulk of affected persons by the end of 2029.

### **Section 8: Appeals**

53. Internal reviews, as briefly summarised above, are the first formal opportunity for a person making a claim to dispute an offer made by IBCA. A review can be initiated either by IBCA or by the person making a claim or their representatives. As above the person making the claim can request legal advice, funded by IBCA, on whether to request an internal review and to support them through the process.

54. If the person making the claim or their representatives wants a review of their decision, they complete a form setting out the reason for the review. The regulations allow for three reasons a review can be sought: eligibility; the amount of compensation offered; or the recipient of the compensation. They or their representatives can complete the form either online or by phone and their claims manager can assist them in completing it if required.

55. Once the request for review is received IBCA will assign a new claims manager and also stand up a panel to consider the request made up of the claim manager, a financial assessor, in-house legal support, clinical support (if required by the nature of the request), and quality assurance. The new claims manager will reach out to the person making the claim to discuss the claim, why the review has been brought, and any evidence which the person making the claim wants to raise.

56. After consideration by the panel the person making the claim will be informed in writing of the outcome of the review and will also be offered a call with the claim manager to discuss the outcome. If the review has resulted in a revision of the offer then a new offer letter will be issued.

57. If, following the outcome of the internal review, the person making the claim still feels that they have not received the correct compensation offer then they can appeal to the First-tier tribunal for an independent review.

58. Whilst the review and appeal system has been put in place, the IBCA is keen to ensure that its use would be the exception and that we deliver a high-quality service working with those making claims to ensure that they receive the compensation to which they are entitled as soon as possible.

## **Conclusion**

59. IBCA's role is to support people to receive the money that they are entitled to and to ensure that the process is as easy as possible. Sir Robert and I made this commitment at the formation of IBCA and I strive every day to make that so (WITN7757009). This informs all aspects of our design, our engagement with the community and our test and learn approach to delivery. I will continue to ensure that everyone in IBCA is focussed on this until everyone entitled to compensation has received it.

## **Statement of Truth**

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

Signed \_\_\_\_\_

Dated \_\_\_\_\_

**Table of exhibits:**

<b>Item</b>	<b>Date</b>	<b>Notes/ Description</b>	<b>Exhibit number</b>
1.	08/01/2025	Infected Blood Compensation Authority ('IBCA') Community Update	WITN7757002
2.	18/10/2024	Press Notice - Recommendations of Sir Robert Francis KC to the Government	WITN7757003
3.	10/12/2024	Letter from Sir Robert Francis KC to Sir Brian Langstaff	SRFS0000021
4.	10/10/2024	New appointments to board of IBCA	WITN7757004
5.	Undated (Current)	IBCA Organogram	WITN7757005
6.	May 2023	Managing Public Money	WITN7757006
7.	Undated (Current)	How the scheme will work – What you can expect IBCA	WITN7757007
8.	Current	The Infected Blood Compensation Scheme Regulations 2024 Part 7 Reviews and Appeals (40 & 41)	WITN7757008
9.	29/05/2024	Sir Robert Francis's Statement of Intent	WITN7757009

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#### **Statement of Truth**

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

Signed

GRO-C

Dated

25/04/15