

FOI - 202300360427

ANNEX B

**From:** [text redacted] [\[text redacted\]@gov.scot](mailto:[text redacted]@gov.scot)  
**Sent:** Thursday, April 6, 2023 5:29 PM  
**To:** Minister for Public Health & Women's Health [MinisterPHWH@gov.scot](mailto:MinisterPHWH@gov.scot)  
**Cc:** DG Health & Social Care [DGHSC@gov.scot](mailto:DGHSC@gov.scot); Director of Population Health [Directorofpopulationhealth@gov.scot](mailto:Directorofpopulationhealth@gov.scot); Elizabeth Sadler [Elizabeth.Sadler@gov.scot](mailto:Elizabeth.Sadler@gov.scot); John Paterson [John.Paterson@gov.scot](mailto:John.Paterson@gov.scot); [text redacted]; Communications NHS Recovery, Health and Social Care [CommunicationsNHSRecoveryHealthAndSocialCare@gov.scot](mailto:CommunicationsNHSRecoveryHealthAndSocialCare@gov.scot); [text redacted]; David Hutchison [David.Hutchison@gov.scot](mailto:David.Hutchison@gov.scot); Cabinet Secretary for NHS Recovery, Health and Social Care [CabSecNRHSC@gov.scot](mailto:CabSecNRHSC@gov.scot); zzzFirst Minister 2021 to 2023 [zzzfirstminister@gov.scot](mailto:zzzfirstminister@gov.scot); [text redacted]; DG Strategy and External Affairs [DGSEA@gov.scot](mailto:DGSEA@gov.scot); Permanent Secretary [PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot); Chief Medical Officer [CMO@gov.scot](mailto:CMO@gov.scot); Nicola Steedman [Nicola.Steedman@gov.scot](mailto:Nicola.Steedman@gov.scot); Richard McCallum [Richard.McCallum@gov.scot](mailto:Richard.McCallum@gov.scot); David Rogers [David.Rogers@gov.scot](mailto:David.Rogers@gov.scot); [text redacted]; SGLD Heads of Public Health Branch [SGLDHoPHealthBranch@gov.scot](mailto:SGLDHoPHealthBranch@gov.scot); [text redacted]  
**Subject:** RE: Infected Blood Inquiry report on compensation - Weds 5 April

Dear all

Apologies that some of the copy recipients hadn't received the briefing note from Tuesday that's referred to so I'm just resending [text redacted]'s note with Tuesday's background briefing attached as well for information, although in part it's now superseded by [text redacted]'s submission (that's my fault, not [text redacted]'s for not including it earlier!).

Best wishes,

[text redacted]

[text redacted]

Organ and Blood Donation, Infected Blood and Abortion Policy  
Scottish Government  
3E, St Andrew's House, Edinburgh  
Tel: [text redacted]

**From:** [text redacted]  
**Sent:** 06 April 2023 16:09  
**To:** Minister for Public Health & Women's Health <[MinisterPHWH@gov.scot](mailto:MinisterPHWH@gov.scot)>  
**Cc:** DG Health & Social Care <[DGHSC@gov.scot](mailto:DGHSC@gov.scot)>; Director of Population Health <[Directorofpopulationhealth@gov.scot](mailto:Directorofpopulationhealth@gov.scot)>; Sadler E (Elizabeth) <[Elizabeth.Sadler@gov.scot](mailto:Elizabeth.Sadler@gov.scot)>; Paterson J (John) <[John.Paterson@gov.scot](mailto:John.Paterson@gov.scot)>; [text redacted]; NHS Recovery, Health and Social Care <[CommunicationsNHSRecoveryHealthAndSocialCare@gov.scot](mailto:CommunicationsNHSRecoveryHealthAndSocialCare@gov.scot)>; [text redacted]; Hutchison D (David) (Special Adviser) <[David.Hutchison@gov.scot](mailto:David.Hutchison@gov.scot)>; [text redacted]; Cabinet Secretary for NHS Recovery, Health and Social Care <[CabSecNRHSC@gov.scot](mailto:CabSecNRHSC@gov.scot)>; First Minister <[firstminister@gov.scot](mailto:firstminister@gov.scot)>; DG Strategy and External Affairs <[DGSEA@gov.scot](mailto:DGSEA@gov.scot)>; Permanent Secretary

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**Subject:** RE: Infected Blood Inquiry report on compensation - Weds 5 April

Good afternoon,

Further to [text redacted]'s note earlier this week, please now find attached a summary of recommendations in the Second Interim Report of the Infected Blood Inquiry, for information only at this time.

Many thanks

[text redacted]

[text redacted] | Blood Policy Officer | Donation and Abortion Policy | Health Protection Division | Population Health Directorate | Scottish Government | 3E St. Andrew's House, Edinburgh EH1 3DG | [text redacted]

**From:** [text redacted] >

**Sent:** 04 April 2023 12:14

**To:** Minister for Social Care, Mental Wellbeing & Sport <[MinisterSCMWS@gov.scot](mailto:MinisterSCMWS@gov.scot)>; Minister for Public Health & Women's Health <[MinisterPHWH@gov.scot](mailto:MinisterPHWH@gov.scot)>; Cabinet Secretary for NHS Recovery, Health and Social Care <[CabSecNRHSC@gov.scot](mailto:CabSecNRHSC@gov.scot)>

**Cc:** DG Health & Social Care <[DGHSC@gov.scot](mailto:DGHSC@gov.scot)>; Director of Population Health <[Directorofpopulationhealth@gov.scot](mailto:Directorofpopulationhealth@gov.scot)>; Sadler E (Elizabeth) <[Elizabeth.Sadler@gov.scot](mailto:Elizabeth.Sadler@gov.scot)>; Paterson J (John) <[John.Paterson@gov.scot](mailto:John.Paterson@gov.scot)>; [text redacted] Communications Health & Social Care <[CommunicationsHealthandSocialCare@gov.scot](mailto:CommunicationsHealthandSocialCare@gov.scot)>; [text redacted] Hutchison D (David) (Special Adviser) <[David.Hutchison@gov.scot](mailto:David.Hutchison@gov.scot)>

**Subject:** Infected Blood Inquiry report on compensation - Weds 5 April

Hello [text redacted]

The Infected Blood Inquiry will be publishing its interim report on recommendations for compensation for infected blood victims **tomorrow** at 11.30am. We will provide further briefing after the report is published, but in the meantime please see attached a short briefing note on the Inquiry and likely key issues we expect from tomorrow's report.

The UK Government is leading on developing a compensation scheme so we expect most media queries to be directed to them initially. [text redacted]

Please let me know if there are any queries in the meantime.

Best wishes,

[text redacted]

[text redacted]

Organ and Blood Donation, Infected Blood and Abortion Policy

[Attachment 1]

From: [text redacted]  
Health Protection Division  
6 April 2023

Minister for Public Health and Women's Health

## **INFECTED BLOOD INQUIRY – SECOND INTERIM REPORT ON COMPENSATION**

### **Purpose**

1. To provide you with a summary of the recommendations in the second interim report of the Infected Blood Inquiry, which centre on a compensation framework for victims of infected NHS blood and blood products.

### **Priority**

2. Routine, for information only.

### **Background**

3. Further to [text redacted]'s briefing note of 4 April 2023, the Inquiry's second interim report has now been published.

4. The report makes 17 recommendations in relation to a compensation scheme, and one in relation to a psychological support service in England.

5. Chair of the Inquiry, Sir Brian Langstaff, notes in the report that these recommendations are being made now, ahead of the final report of the Inquiry, to avoid contributing to further harm by delaying payments or support to infected and affected individuals who have already suffered for long enough. He is clear he is looking to the UK Government to respond quickly and set up the scheme this year.

### **Summary of Recommendations**

6. Further details are below, but the key main points are:

- The compensation scheme should be delivered by an arm's length body, independent of government.
- There should be one UK-wide compensation scheme, centralised to ensure efficient and consistent awards, but with panel representatives from the four UK nations.
- However, the Scottish Infected Blood Support Scheme (SIBSS) and the other existing support schemes should continue to operate as now (with their future payments but not past payments taken into account in compensation awards). Sir Brian recommends support scheme payments should be guaranteed for life, [text redacted].

- **Further £100,000 interim compensation payments** should be made now (before the compensation scheme is set up) to relatives of those who have died who didn't have a widow/er/partner to receive the payment.
7. **Recommendations 1-4** define those who should be eligible for compensation under the scheme. In addition to those who are already a beneficiary of a UK infected blood support scheme, the recommendations include:
- those infected with chronic Hepatitis B (HBV) – [text redacted]
  - people infected after September 1991 – this was the date blood services in the UK started testing all donated blood for Hepatitis C (HCV) – [text redacted];
  - people who are thought to have cleared HCV naturally within six months of being infected – the Inquiry argues it is extremely hard to prove how long someone was historically infected before clearing the virus;
  - children, parents, siblings and care providers of living or deceased eligible infected persons; and friends or family of an eligible living or deceased infected person, where the relationship was so close that it could be reasonably expected their mental or physical health would be seriously affected by the consequences of the disease.
8. **Recommendations 5-11 and 13** cover the categorisation and payment of claims. It's recommended infections eligible for compensation should be classified through defined categories and bands of impact for each type of eligible infection, and the stages and degrees of severity for each disease should be defined by an independent clinical expert advisory panel. It's recommended Government should set out a framework of tariff-based compensation for eligible infected and affected persons, at rates advised by independent clinical and legal advisory panels which take into consideration, but are not limited by, practice in courts and tribunals across the UK and sums payable in other UK compensation schemes.
9. The report suggests awards from the compensation scheme should not remove any right for someone to pursue legal actions in relation to their infection, but any award should be taken into account when determining liability for costs in any court proceedings. The report also suggests awards should not take into account any payments already made under current or previous support schemes [text redacted]. However, awards for future financial loss should take into account ongoing payments from the schemes, such as SIBSS.
10. **Recommendation 12** is that the payment of £100,000 interim compensation is now extended to those bereaved relatives who did not qualify for the initial payments made in October 2022:
- Bereaved children of an infected person (split equally among siblings, including adopted children, but not step-children);
  - Bereaved parents where the infected person has no children (split equally if the parents are separated);
  - Bereaved siblings where there is no bereaved children or parents (split equally).
11. The Inquiry suggests SIBSS and the other support schemes should make these payments now. [text redacted]
12. **Recommendation 14 and 16** covers the creation of an arms-length body (ALB) to administer the compensation scheme in its entirety, with transparent procedures and accountability to the UK Parliament. The ALB should be chaired by a judge of High Court or Court of Session and have an independent appeals body and an advisory board including representation from eligible persons.



13. **Recommendation 15** is that the scheme should also provide advocacy and advice services to applicants, including independent legal advice where necessary, financial, insurance and benefits advice, and referral to specialist services where appropriate.

14. **Recommendation 17** covers the creation of a bespoke psychological service in England (akin to that already provided in Scotland).

15. **Recommendation 18** is that the compensation scheme should be set up now and begin work this year.

### Next steps and further consideration

16. The UK Government is considering their response to the recommendations, [text redacted]. They have indicated that they do not plan to respond formally until the Inquiry has produced its final report in the autumn (estimated to be September). [text redacted]

[text redacted]

### Conclusion

12. You are invited to note this submission.

[text redacted]

Public Health Capabilities Division

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Cabinet Secretary for NHS Recovery, Health and Social Care First Minister			X		X

Permanent Secretary  
 DG Health and Social Care  
 DG Strategy and External Affairs  
 Director of Population Health  
 Chief Medical Officer  
 Nicola Steedman, Deputy Chief Medical Officer  
 Richard McCallum  
 David Rogers  
 [text redacted]  
 Elizabeth Sadler  
 [text redacted]  
 John Paterson, SGLD  
 SGLD Heads of Public Health Branch  
 [text redacted]  
 Davie Hutchison  
 Communications Health and Social Care  
 [text redacted]



[Attachment 2]

## INFECTED BLOOD INQUIRY – INTERIM REPORT ON COMPENSATION

### Purpose

This note provides background information on the UK Infected Blood Inquiry. The UK Infected Blood Inquiry will publish an interim report on compensation at 11.30am on Wednesday 5 April. We will receive an embargoed copy of the report at 10am on Wednesday and will submit further advice after that.

### Background

The UK Infected Blood Inquiry was established in 2018. Its key aims are to investigate how thousands of people across the UK came to be infected with **HIV and/or Hepatitis B or C** from infected blood transfusions or blood products (plasma-derived medicines, which at the time were primarily given to haemophiliacs), particularly during the 1970s and 1980s. It is also considering the support those infected and affected by this tragedy received over the years from the NHS and governments and what further actions are needed both to support those individuals and to minimise risks of similar tragedies in future.

The Scottish Government (SG) had already held a public inquiry on this issue; the Penrose Inquiry reported in 2015. [text redacted] [text redacted]

The SG has supported the work of the Inquiry, providing many thousands of documents from hundreds of files (both historic and some more recent). We have also supported many Ministerial and official witnesses with their written statements and in some cases oral evidence.

The Inquiry's chair, Sir Brian Langstaff, has said that the Inquiry's final report will be published in Autumn 2023.

### Compensation

However, to ensure quicker progress on establishing a compensation scheme, he will publish an **interim report on compensation on Wednesday 5 April**. This follows an earlier interim report in July 2022, which recommended interim compensation of at least £100,000 to those infected with either Hepatitis C and/or HIV or their widow, widower or partner if they had died. These £100,000 payments were made last October by the Scottish Infected Blood Support Scheme (SIBSS).

SIBSS is managed by NHS National Services Scotland and provides regular payments to people infected with HIV and/or Hepatitis C or, where they have died, to their spouse or partner. [text redacted].

[text redacted] In 2022, Sir Robert Francis KC produced a report for the Cabinet Office setting out proposals for a compensation framework for infected blood victims. The Inquiry is expected to largely follow Sir Robert's proposals.

The Inquiry will likely recommend a UK-wide compensation scheme. This may include local delivery in each of the four nations, but it's expected that the Inquiry will want to ensure consistency of awards across the UK (the Chair has previously pushed for parity of payments between the four nations' infected blood support schemes).



The UK Government (UKG) is currently considering how to take forward a compensation scheme. Both the SG and the UKG **have accepted that there is a moral case for compensation** for this group given they have suffered for so long. [text redacted]

The Inquiry is likely to recommend that compensation should be funded by the UKG on the basis that people were infected prior to devolution. The SG has also argued that the UKG should meet the costs to ensure parity of award levels across the UK. This approach is supported by stakeholders including Haemophilia Scotland and the Scottish Infected Blood Forum. [text redacted]

[text redacted]