



Fleetbank House  
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EC4Y 8AE

Rt Hon. David Lidington CBE MP  
Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster  
70 Whitehall  
London SW1A 2AS

7 June 2018

Dear Minister,

### **Infected Blood Inquiry**

When I was appointed to chair the Infected Blood Inquiry, you asked me to recommend terms of reference for the Inquiry to you for your consideration. I now have pleasure in doing so.

I have attached the proposed terms of reference, a summary of the public consultation and a draft letter to people affected explaining my proposed approach. When I wrote to introduce myself to those affected, I said that I am determined to put people at the heart of the Inquiry and this informs my proposed approach.

### **Consultation on the proposed terms of reference**

We received several hundred responses to the consultation from people who have been infected and affected, the campaign groups and some professional bodies. During the consultation period, I met campaigners and representatives of people affected from England, Scotland, Wales and Northern Ireland.

There was strong convergence on the issues that people want the Inquiry to investigate. They want a thorough investigation of what happened, why it happened and the wide-ranging impacts on those who were infected and their partners, children, parents, families and others close to them. You should be aware that there are considerable concerns about access to (and variations in) financial support, and

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also concern that not everyone who was infected has been identified - both of which I propose to investigate.

There is also a clear desire for speed. As one respondent put it: 'I really hope this Inquiry does not drag on and on as I would like to live long enough to see the result.'

The proposed terms of reference are framed to provide reassurance about the thoroughness of the Inquiry. They reflect the themes that emerged from the consultation responses, though not in the same order, and cover: what happened and why; the impact; the response of Government and others; consent; communication and information-sharing; treatment, care and support; whether there was a cover-up or the authorities lacked candour; and responsibilities and recommendations. I propose to address the desire for speed through the design of the Inquiry.

### **Proposed approach to the Inquiry**

I am aiming for an inclusive and transparent Inquiry that completes its work as soon as reasonable thoroughness will permit. I have regard to the Public Sector Equality Duty and I have also reviewed the Charter for Families Bereaved through Public Tragedy proposed by the Right Reverend James Jones.

The Public Sector Equality Duty requires the Inquiry, in the exercise of its functions, to have due regard to the need to:

- remove or minimise disadvantages suffered by people due to their protected characteristics;
- take steps to meet the needs of people from protected groups where these are different from the needs of other people; and
- encourage people from protected groups to participate in public life or other activities where their participation is disproportionately low.

I propose to achieve these aims of inclusiveness and transparency in two ways. Firstly, my team will engage with those affected throughout the Inquiry, including through regular meetings across the UK. They are consulting people about how they would like to engage with the Inquiry so that we design approaches that work for the diverse range of people affected, including those with protected characteristics.

A particular response is needed to the concerns expressed in the consultation about a lack of openness and candour, concern that there may have been a cover-up, and

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some fears that the Inquiry might be a whitewash. Secondly, therefore, and in order both to ensure that all the expertise provided to the Inquiry is transparent and subject to scrutiny, and that diverse experts are encouraged to participate and take forward the recommendations, I propose to use groups of experts, rather than co-determining panel members or assessors.

The groups of experts would cover all the material fields, including ethical, clinical, psychosocial, statistical and public administration. Each group would comprise leading members of the professions who would report as experts to the Inquiry. Their reports would, as evidence, be fully open, accessible and transparent. Differences of view would be fully public and tested during the hearings, with the proponents of the different views giving evidence. People affected (and other core participants) would be able to propose experts and put forward questions to the expert groups so that they could satisfy themselves that all relevant expert input was being given to the Inquiry.

The groups of experts would make the expertise on which the Inquiry relies for its conclusions fully transparent and not risk allowing a minority opinion to dominate. It would avoid the secrecy inherent in having a small number of medical experts privately advising the Chair on a panel or as assessors. It would also allow leading members of professions to contribute since being part of the expert groups would not be a full-time commitment.

### **Panel members**

You will wish to consider, either now or later, whether to appoint panel members to sit alongside me. Some views were expressed both for and against the appointment of additional panel members during the consultation. For example, the Scottish Haemophilia Society and the Scottish Infected Blood Forum did not want to replicate the Penrose Inquiry with a Chair assisted by a single medical assessor and the Contaminated Blood Campaign noted these are complex and difficult issues and asked for a panel of many experts to assist the Chair. I believe that the groups of experts will achieve the objectives of those who have been in favour of panel members:

- legitimacy: the findings will be reached with unprecedented transparency for such a wide-ranging Inquiry with all expert judgements being subject to public scrutiny.

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- expertise: the Inquiry will benefit from a diverse range of expertise in all material fields rather than relying on two or three panellists or a small number of assessors.
- speed: the groups of experts will be able to progress work in parallel in a way that co-determining panel members could not. Panel members have to be present at all times when evidence is given orally and so the involvement of panel members with other commitments would prolong the Inquiry.

I believe the best way to address the concerns about persistent lack of openness and candour is to draw on a wide range of expertise in this way and to expose all expertise which is to be relied on by the Inquiry to public scrutiny. This would mean not relying on a small number of expert panel members and assessors who inevitably confer in private with the Chair. There is a parallel with inquests, in which all relevant expertise is subject to public examination.

In line with my own approach, in which I both seek to be as open as the law permits, and to engage those who will most centrally participate in the Inquiry, I expect to discuss whether in the light of this proposed approach there remains any significant wish for me to be joined by panellists who will share in my determination of the issues raised by the terms of reference. I therefore ask that you do not make any decision now on panel members, and do not do so until core participants have been appointed and have engaged with the proposed approach. I will write further to you about this issue after that. I will publish the protocol on core participants when the terms of reference are announced.

### **Setting-up**

I should be grateful if you could ensure that resourcing and supporting the Inquiry continues to be a priority for your Department so that we can meet the demanding timescales I feel essential to meet the expectations of the people affected.

I look forward to meeting the challenges the Inquiry will bring.

Yours sincerely,



Sir Brian Langstaff

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