

# Guidance on Appeals

## Introduction

The Scottish Infected Blood Support Scheme (SIBSS) will consider a range of applications for support for those who are infected or affected by Hepatitis C or HIV, or both, as a result of infected NHS blood or blood products.

While we will hopefully be able to approve the majority of applications, if your application is refused, you can appeal against SIBSS' decision and it will be reconsidered.

## What steps should I take if I wish to appeal?

If your application relates to one of the following types of application and it is refused:

- an application to join the SIBSS scheme from someone who is infected or their estate in cases where the infected person has died;
- an application to progress to advanced hepatitis C payments (formerly known as Stage 2) in order to receive an increased lump sum and also increased regular payments;
- an application from the widow, widower, civil partner or long-term partner of an infected person who has died to receive an annual payment;
- an application for a one-off grant;
- an application for income top-up support or the living costs supplement;

then you will receive information about the reasons why your application was refused. If you do not agree with the conclusions reached by SIBSS staff, you can let them know that you wish to appeal against their decision. If you do wish to appeal, you should let them know **within three months** of the date of the letter notifying you that your application had been refused. SIBSS may consider appeals received more than three months after you were notified of their decision, but only where you provide a good reason why you could not let them know earlier.

If you wish to appeal you should provide a letter or email stating why you wish to appeal against SIBSS' decision. In this letter or email you should refer to the reasons your application was rejected and try to:

- give SIBSS more information about those specific points and why you disagree with them;
- if possible, include more evidence that covers these points.

You do not have to provide any additional information, but if there is any additional information or evidence which you feel is relevant to your case, then you should provide it.

## **What will the appeals panel consider?**

Your case will be passed to the appeals panel. While SIBSS will provide secretariat support and arrange for the appeals panel to meet, the panel are completely independent of SIBSS staff and they are impartial – so they do not have any financial or other interest which might bias their opinion in favour of either SIBSS or the applicant.

The role of the panel is to reach a judgement on whether or not your application meets the criteria set out for the relevant aspect of the Scottish Infected Blood Support Scheme which you are applying for. You may wish to refer to [Scottish Infected Blood Support scheme](#) eligibility criteria, as set out by the Scottish Government (see the 2017 Scheme document, as well as the 'consolidated scheme document' which provides details of changes made since 2017), along with other guidance documents on the website, which explain the eligibility criteria for particular grants. For example, the panel may reconsider whether or not, on the balance of probabilities, your Hepatitis C or HIV infection was caused by infected NHS blood or blood products.

The panel will primarily rely on the information provided in the application form, any supporting statements from clinicians and any additional information you supply at the appeal stage so you need to ensure you provide any information or evidence which may be relevant, rather than expecting SIBSS or the appeal panel to investigate for you. However, if relevant, the panel may also request further background information, such as from the clinician or another medical professional who has been involved in treating you (or the infected person if they have since died) either now or at the time when you/the infected person was thought to have been infected. In some circumstances, they may also seek an independent view from a medical professional to help advise the panel on the latest evidence relating to Hepatitis C or HIV infection impacts.

An appeal will only be considered where it is made on the basis that you feel either:

- a) that SIBSS has incorrectly reached a view that you are not eligible for a payment in accordance with the scheme eligibility criteria or
- b) that their decision regarding a Support and Assistance grant application is not justified when taking account of the guidance provided on this website.

An appeal would not be considered in cases where you acknowledge that you are not eligible under the current eligibility criteria, but you disagree with those criteria (in such cases, your application could only be reconsidered if the Scottish Government agreed to amend the eligibility criteria). Also, you can only appeal **once** in relation to any individual application to SIBSS, although you can appeal again for example if you have submitted two different applications for different types of payments, which were both refused.

Information about the current appeals panel members is provided in the **Annex**. Each of the members has relevant clinical or other experience to enable them to consider appeals of this type. For each case, three or more of the panel members will be asked to meet to review the evidence and reach a view on whether or not the original decision made by SIBSS was correct.

## **Can I attend the appeals panel?**

You do not have to attend, but if you would like to attend the panel's meeting to provide evidence in person then you can do. Please let SIBSS know if you would like to do this – and, if so, also let them know any particular dates you could not attend and any particular

requirements you may have, such as due to mobility issues, to ensure they can arrange a suitable venue for the meeting. At the current time, due to COVID-19, appeal panel meetings are being held via secure video call.

If you wish, you can also bring one person with you to the panel's meeting. This could be either a family member, a friend, a carer or someone who works for or with an organisation which supports people affected by infected blood and/or by Hepatitis C or HIV.

At the panel's meeting, you will get an opportunity to make a statement if you wish and the panel members may also ask you some questions. We understand that this can be a stressful and emotive experience for those affected – applicants will always be treated with sensitivity and courtesy by the panel, with the atmosphere as informal as possible. Although you can only bring one representative to attend the panel meeting in person, you can of course ask other people to assist you in preparing your statement. All the information you provide – both in your application and to the panel members – will be treated in confidence.

## **Support**

You have the right to be represented by or accompanied by a family member or friend at the Appeal Panel. The supporter is allowed to address the panel, but not answer questions on your behalf (unless you do not have sufficient capacity to answer questions due to a disability or if you have significant communication difficulties).

If there are witnesses, such as a doctor or other NHS staff member who was present at the time of your treatment with infected blood, they should normally be asked to provide evidence in writing in advance in support of your application. However, where you feel that they may be able to answer some of the panel's questions to support your evidence you may ask for them to answer attend the panel hearing.

An appeal panel hearing will be structured in the following way:

- You/your supporter will present their case, including any evidence, explanation and/or circumstances to be taken into account
- You will call any witness(es) in support of your case, if appropriate
- All parties will question the witness(es)
- The Panel will have the opportunity to question you about your case

## **What happens next?**

Following the panel's meeting, the panel will consider the evidence provided to them and make their decision. Once they have agreed their decision, they will inform SIBSS of this. The panel will write to you as soon as is possible to let you know of the panel's decision and provide you with information on the reasons the panel gave for its decision.

If your appeal was successful, then SIBSS will process your application as soon as possible and arrange for any payments that are due to you. Where your application was for a regular payment (either annual payments or regular income top-up support) then your payments will be

backdated to the date when you first submitted your original application to SIBSS.

## **Contact details**

If you have any queries about this you can call SIBSS on 0131 275 6754 or email [nss.sibss@nhs.scot](mailto:nss.sibss@nhs.scot). There is also further information about the scheme on the website at <https://www.nss.nhs.scot/browse/patient-support-schemes>.

### **ANNEX – Appeals Panel Members**

#### **Professor Alison Britton (Chair)**

Professor of Healthcare and Medical Law at Glasgow Caledonian University. She is currently Head of Department and is chair of the Senate Disciplinary Committee for the University.

She specialises in public healthcare, clinical negligence, mental health law and professional ethics. In recent years, her interests have focused upon the practical application and the role of law in matters of public health and policy development.

Professor Britton was appointed legal adviser to the Health Committee of the Scottish Parliament for the Adult Support and Protection (Sc) Act 2007 and Health and Sport Committee on the End of Life Assistance (Scotland) Bill in 2010.

She is the Convener of the Health and Medical Law Reform Sub Committee for the Law Society of Scotland.

In May 2017, She was commissioned by the Scottish Cabinet Secretary for Health and Sport to conduct an investigative review into the process of establishing, managing and supporting Independent Inquiries and Reviews in Scotland (with specific reference to The Scottish Independent Review of transvaginal mesh implants). This Review was published in October 2018.

**Professor Peter Mills**

Professor Peter Mills has just retired as Consultant Physician and Hepatologist at the Queen Elizabeth University Hospital, Western Infirmary and Gartnavel General Hospital in Glasgow. He has held this post since 1988 and currently works part-time for NHS Fife.

He is also an Honorary Professor in Medicine at the University of Glasgow. He has been an advisor to the Greater Glasgow and Clyde Health Board, Chair of the Advisory Group in Gastroenterology, President of the Scottish Society of Gastroenterology, Director of Medical Examinations for the Royal College of Physicians and Surgeons of Glasgow and Chair of the Specialty Certificate Examination Board in Gastroenterology.

He also serves on the Appeals Panel for the General Medical Council, Skipton Fund and the Social Security and Child Support Tribunal.

**Dr Henry Watson**

Henry Watson Consultant Haematologist  
Aberdeen Royal Infirmary  
Haemophilia Centre Director, NHS Grampian



Over 25 years of experience dealing with the consequences of transfusion transmitted infection. Previous member of the UKHCDO working group on transfusion transmitted infection, author of guidelines on the management of HCV infection for the UKHCDO and for SIGN. Several publications on transfusion transmitted infection and an MD on hepatitis virus infection in persons with bleeding disorders

**Dr Ewen Stewart**

Ewen Stewart is a general practitioner working in Lothian and has had an interest in blood borne viruses since 1989. He has worked for NHS Lothian as Clinical Lead for the Viral Hepatitis Managed Care Network since 2009. He was Chair of the Royal College of General Practitioners' Sex, Drugs and BBV Group and a member of EAGA, the Expert Advisory Group on AIDS for the UK chief medical officers.

Professor Clifford Leen Professor Clifford Leen is a consultant physician in Infectious Diseases at the Western General Hospital, Edinburgh. He leads a research unit involved in international and national studies on the treatment of HIV, hepatitis C and antimicrobials. He is an investigator with the EuroSIDA Study Group.

He was past Vice Chair of the British HIV Association, and past member of the Expert Advisory Group on AIDS. He gave evidence at the Penrose Enquiry.

**Dr Susan Siegel**

(Lay Representative) NHS Public Partner actively participating in strategic inspections, review of Public Health Programmes, Quality of Care consolidation activities , Palliative Care Guidelines , Adverse Event

Reviews, Board Member of Monitoring and Measurement of Safety Programme.

Member of Healthcare Improvement Scotland Quality Committee, member of Marie Curie National Expert Voices, manager of Employed Carers' Forum Project.

Retired Senior Leader in international Manufacturing and Banking organisations responsible for ensuring worldwide adherence to Quality (ISO) guidelines.

PhD in Business Management from State University of New York at Buffalo.