Northern Ireland
Assembly

COMMITTEE FOR
HEALTH, SOCIAL SERVICES AND
PUBLIC SAFETY

OFFICIAL REPORT
(Hansard)

Lifetime Ban on Men Who Have Sex with Men Donating Blood

26 October 2011

NORTHERN IRELAND ASSEMBLY

COMMITTEE FOR HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY

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Members present for all or part of the proceedings:
Ms Michelle Gildernew (Chairperson)
Mr Jim Wells (Deputy Chairperson)
Ms Paula Bradley
Mr Mickey Brady
Mr Gordon Dunne
Mr Mark H Durkan
Mr Sam Gardiner
Ms Pam Lewis
Mr John McCallister
Mr Kieran McCarthy

Witnesses:

Mr Harry McAnulty	)	
Mr Matthew McDermott	)	The Rainbow Project
Mr John O'Doherty	)	
Mr Edwin Poots	)	Minister of Health, Social Services and Public Safety
Ms Christine Jendoubi	)	
Dr Michael McBride	)	Department of Health, Social Services and Public Safety
Dr Andrew McCormick	)	

The Chairperson:

I welcome John O'Doherty, Harry McAnulty and Matthew McDermott from the Rainbow Project. You are very welcome. I think that this is the first time that you have been before the Health Committee in this mandate. We are delighted to see you. John will make a short presentation, and then we will take questions from members. Thanks a million. Tá fáilte romhaibh.

Mr John O'Doherty (The Rainbow Project):

Thank you very much, Chairperson. I thank the Committee for giving us the opportunity to provide evidence. We will be speaking to the report, which I think everyone has received an advance copy of, and on some of the points raised therein.

The Rainbow Project welcomes the Advisory Committee on the Safety of Blood, Tissues and Organs (SaBTO) review of donor selection criteria, which was published in April 2011. We found the report comprehensive, which is what we would expect from a review of such an important issue. The issues covered include the level of compliance with current donor referral criteria; the advances in blood testing, which one of my colleagues will touch on in a few moments; the advances in processing donated blood; changes in the epidemiology of sexually transmitted infections (STIs); and improved scientific knowledge. The increased information available in 2011 is what prompted the review of donor selection.

Other issues that were covered in the report include UK blood supply; advances in testing and processing methods; HIV and STI rates in populations; other countries' practices; and a review of data from other countries that do not practice a blanket ban on men who have sex with men (MSM). The report recommended a move away from a blanket ban to a one-year deferral period. We feel that that is a good move, based on the evidence provided in the SaBTO report.

Except for the information provided in the SaBTO report, which is the most up-to-date information available, we are unaware of what other information was provided to the Minister. Under freedom of information legislation, we have requested whatever other evidence the Minister used in making his decision. We have been told that a decision is being made on whether it is in the public interest to advise us of what other evidence the Minister used; therefore we are unaware whether alternative information was provided to him. Since the SaBTO report is the most up-to-date and comprehensive review into this serious issue, we are unsure of what other

evidence is available that would be more comprehensive or relevant than it.

The Minister's decision concerns us greatly, particularly because it puts us out of line with the rest of the UK. As you will be aware, England, Scotland and Wales have all decided to remove the lifetime deferral period and to change to a one-year deferral period. It also puts us out of line with some of the governing bodies on blood management, such as the competent authority of Medicines and Healthcare products Regulatory Agency (MHRA).

We are unclear about how the Minister arrived at a different decision from his counterparts in England, Scotland and Wales after, as far as we can see, reviewing exactly the same information. We need to know whether he received additional information or advice that differed from what is in the SaBTO report, and we seek clarity on the advice taken.

Mr Matthew McDermott (The Rainbow Project):

Thanks very much, Chairperson. I will be very brief in outlining what we believe to be the implications of the Minister's decision for the Department, the Blood Transfusion Service and the Government generally. The most obvious is its effect on the amount of blood donated here every year and on the number of potential donors who will be denied the opportunity to give blood. Its most obvious impact will be on reaching our blood targets, and that should be highlighted.

The decision also impacts on the integrity of the Government, as it put this Government out of line with the Governments of England, Scotland and Wales and puts the Blood Transfusion Service out of line with its counterparts. As far as we understand, the Minister did not consult the Committee, which affects the Committee's integrity. That issue should be taken up.

The Minister and the Department are being less than transparent in how they came to that decision. We do not understand how it is not in the public interest to disclose the evidence that was viewed when a decision was taken that was different from that of other Governments. All the experts on the SaBTO committee, the UK Government, the NHS Blood Transfusion Service, the Scottish Government and the Welsh Government say that a one-year deferral period is adequate. The Minister says that it is not. Is he in receipt of information that contradicts that expert advice? We would like to know.

Lack of transparency is also an issue, particularly with regard to potential legal proceedings or

judicial reviews. If the process is unclear or flawed, the Minister and Department will know rightly that that is grounds for a judicial review. The fullest transparency should be required, particularly on such an important issue.

Finally, it is our understanding that the Minister's two main grounds for his decision were, first, that all other countries in the European Union have a lifetime ban. That is not true: Italy and Spain do not. They have deferral periods that are not based on sexual orientation but on sexual behaviour. Therefore, anyone who changes his sexual partner would be subject to a deferral period of a few months. The number of months varies; I think that it is four in Italy and six in Spain. It is not the case that all other EU countries have a lifetime ban; therefore that is not valid grounds for such a ban.

Secondly, the Minister said that his decision was made on the grounds of safety. However, he has not produced any evidence outside the SaBTO report — which states that there are no significant safety concerns — to justify his concern about safety. Moreover, he has said that blood will be taken from England, Scotland and Wales under the system that they will implement, which I believe starts in about 11 days' time. There are higher incidences of HIV in England, Scotland and Wales than in Northern Ireland. Therefore, in order for the Minister's argument to be consistent with the lifetime ban on the grounds of safety, he would have to apply the ban to blood from England, Scotland and Wales as well. However, that is not the case.

I have figures on the disparity in HIV rates per head of population between Northern Ireland and England, Scotland and Wales. I will go through them in response to questions if that is OK. Those are the main implications that we believe the Minister and the Committee need to consider.

Mr Harry McAnulty (The Rainbow Project):

Thank you, Chairperson, for giving us the opportunity to speak to the Committee. I will give a brief overview of recent testing technology. Blood products in the UK have been tested for antibodies since 1985, and new technology called HIV ribonucleic acid (RNA) detection has been used since 2007. It looks for the genetic material of HIV that is composed in RNA. HIV-specific sequences of RNA can be detected by nucleic-acid amplification testing (NAT) technology. It detects HIV approximately nine days after exposure. Therefore, using NAT technology and applying the 12 months' deferral means that HIV infection would definitely be picked up. The same technology is used to detect other blood-borne pathogens.

The Chairperson:

Therefore HIV manifests itself within nine days after exposure.

Mr McAnulty:

Yes. Using that technology, it would be detected within nine days.

The Chairperson:

Is that technology used to detect other pathogens?

Mr McAnulty:

NAT testing is applied to hepatitis C and hepatitis B. The window periods are quite similar.

The Chairperson:

OK. And all blood is screened?

Mr McAnulty:

Screening is carried out on all blood.

Mr O'Doherty:

We urge the Committee to seek absolute clarification on the process that was undertaken by the Minister in arriving at his decision and all advice that he took on the issue, both official and unofficial, and to undertake a full, wide-ranging inquiry on the implications of that decision on the Northern Ireland Blood Transfusion Service with regard to working relationships with its counterparts throughout the UK, the potential difficulties for the Blood Safety and Quality Regulations 2005 and the impact on the number of blood donors in Northern Ireland.

We believe this to be step one in a process. The introduction of a 12-month deferral period would allow us to gather much more and better information on the risks in relation to blood management. With that information, we hope that we could take steps to implement a real risk-assessment procedure for everyone who wants to give blood. That would take into account all the risks presented by all people, regardless of their sexual orientation.

The Chairperson:

I have donated blood in the past, and I know how difficult it was to do so. I used to donate blood when I was at university in Coleraine. I would ask big tough footballers whether they would give blood and they told me that they would not because they were afraid of needles. It is difficult to get people to donate blood at the best of times.

I have also donated human milk, as I believe in doing what you can. Therefore I know how strict the regime is for donating human milk, with all the dos and don'ts attached; for example, having a tattoo makes you unsuitable for donation. They do not take milk from anyone who might have posed a risk; but you knew what you were signing up for.

However, with these changes, young men who have had sex with men and who want to give blood might feel that they cannot be completely upfront about their behaviour, as they would be unable to give blood. In those circumstances, they might feel it best not to mention that they had had sex with a man, whether it was once, 10 times or more. Given the ban, there is an incentive for people not to be entirely open when they give blood. What is your opinion?

Mr O'Doherty:

We agree, Chairperson. Moreover, there are men who have sex with men who give blood but who do not give the correct information; we can be almost certain of that.

Other points need to be considered, particularly for those in large workplaces that the Blood Transfusion Service may visit to accept blood donations. The ban is not publicised, so people who go to give blood in those situations may be unaware of its existence. Men who have sex with men may try to give blood, be refused and then have to explain to their colleagues why they are unable to give blood. That may cause difficulties and embarrassment for them, as they would have to out themselves to explain why they cannot give blood. The fact that some individuals cannot give blood is very off-putting, and it would encourage people to tell lies about their sexual activity.

Mr McDermott:

In Australia, a one-year deferral period exists where previously there was a five-year deferral period. A report into the comparisons between the two deferral periods found two things: that there was no significant increase in HIV transmission among MSM when a deferral period was in

place; and that non-compliance presented a much bigger risk than a deferral period ever did.

The Chairperson:

Even the figures from the Department show that the compliance rates would be much enhanced if we were to go down that route.

Mr Brady:

Thank you for your presentation. I have two questions. First, without knowing, I would have to assume that the medical opinions that were given in England, Scotland and Wales were as good as any of the advice that was given to the Minister here. Would that advice have been based on the same criteria? Matthew mentioned figures. How much blood from donors in England, Scotland and Wales has been used for blood transfusions in the North? If you follow the logic of this decision, presumably blood donated would have to be totally confined here in the North.

Therefore, without knowing the figures, I assume that the supply of blood to people here would be so limited that it would become virtually impossible to sustain any kind of service. Perhaps I am prone to hyperbole, but that seems to put the matter simply.

Mr O'Doherty:

I will start with the first question. The medical opinions provided by the SaBTO committee in England, Scotland and Wales are based on exactly the same evidence that was provided to the Minister here. We are not sure whether any other evidence was provided to him, and we have not been able to access that information.

Mr McDermott:

Unfortunately, I do not have the figures on the amount of blood that comes here from England, Scotland and Wales; in hindsight, I should have brought them. I will put into context the Minister's statement that he will take blood from England, Scotland and Wales by providing the figures on HIV rates in those places compared with Northern Ireland: 424 people access HIV specialist care in Northern Ireland, less than half of whom are men who have sex with men; in England, the figure is 1·23 people per thousand; in Scotland it is 0·59 per thousand; and it is 0·40 per thousand in Wales. Taking those figures together, 1·12 people per thousand of the population in England, Scotland and Wales are in that category; in Northern Ireland, the figure is 0·24 per thousand. There is a much greater risk in England, Scotland and Wales, although, as the experts

say, it is still insignificant, and the system that they have put in place is more than robust. The argument that the ban is on safety grounds does not stack up if you are going to take blood from England, Scotland and Wales. In theory, the system there will be much more unsafe.

Mr O'Doherty:

Based on the number of people accessing HIV care per head of population, the risk in Britain is four and a half times greater than in Northern Ireland.

Mr Brady:

I assume that the population here cannot sustain the amount of blood needed by donations alone, so it is a reasonable assumption that a fair amount of blood has to be imported from places where the scenario is much riskier than in the North.

Mr O'Doherty:

Evidence was provided that, every year, we receive blood donations from other parts of the UK. The figures were provided by the Department, but we do not have them to hand.

The Chairperson:

In addition, robust screening processes would screen out blood that is affected. There is a slight difference in risk, but it is between low and very low. It is not risky to use blood from England.

Mr McCarthy:

Madam Chairperson, I am not comfortable with your statement about not being upfront.

The Chairperson:

About compliance rates?

Mr McCarthy:

Yes. Is all blood not tested and screened? If so, why would you hide anything or tell a fib?

The Chairperson:

It is because there is a lifetime ban. If you had had sex with a man when you were 17 and went to give blood 10 years later, you would be refused; they would not take your blood.

Mr McCarthy:

Yes, but you do not have to lie about it.

The Chairperson:

There is a lifetime ban on giving blood if you have ever had sex with a man. The point that the lads are making is that if you give blood at your place of work —

Mr Durkan:

The ban applies only if you are a man who has had sex with a man.

Mr O'Doherty:

Or a woman who has had sex with a man who has had sex with a man.

Mr McCallister:

It might be difficult to remember when you think back. *[Laughter.]*

Mr McCarthy:

Perhaps Matthew answered my question. I was distracted. Which potential donors will be excluded by Minister Poots's decision?

Mr McDermott:

The SaBTO report is comprehensive and covers the moral and ethical reasons to drop the ban, the legal protections, the advances in technology and the safety grounds. It also covers the number of new potential donors.

Mr McCarthy:

Is there a figure?

Mr McDermott:

I do not have it, and I am not sure what it would be. It may be a bit early to measure that increase based on other people's one-year deferral period.

Mr O'Doherty:

The difficulty, Chair, is that sexual orientation is not monitored in Northern Ireland in any way,

including in the census, so it is impossible for us to put an actual figure on the number of gay and bisexual men or men who have sex with men who live in Northern Ireland. We advise that between 6% and 10% of the male population identify as gay or bisexual.

Mr McCarthy:

I am sure that you have written to the Minister on the subject. Are you saying that you have not got a satisfactory reply as to why he is taking a different step from that taken in England, Scotland and Wales?

Mr O'Doherty:

We have written to the Minister twice, once before he announced his decision, requesting an opportunity to meet him to provide evidence and have a discussion on the blood ban. Following his announcement, we sent another letter, which was a freedom of information request, to ask what information was provided to the Minister that allowed him to come to that decision. As I said, we have been told that a review is being carried out to establish whether or not that is in the public interest.

Mr McCarthy:

The Minister is coming back to talk about this shortly. Finally, you mentioned England, Scotland and Wales. What about the Republic of Ireland, which is just across the border?

Mr McDermott:

It is a lifetime ban.

Mr McCarthy:

OK. I did not know that.

Mr McCallister:

My views on this are probably not a great surprise. I know that others in the Committee have different views, but I took a very simple view that you follow the medical advice whether you approve or disapprove of any lifestyle. That should be irrelevant; it should be based on the risk and the medical advice. In this case, the medical advice seemed quite clear. While you always want to encourage people to be honest and upfront, it seems a bit strange that the Minister said that he will accept blood donations from England yet the rough figures that you gave us,

Matthew, show that the rate of infection in England is nearly five times higher than it is here. When this story came out, there was not a massive amount of blood going either way, but it seems bizarre to make the decision based on the fact that you will accept blood from England, which has a higher rate of infection. Do you have any stats on the growth of HIV in the heterosexual and gay communities? Is the rate not higher in the heterosexual community?

Mr McAnulty:

The statistics from last year show that there is a higher percentage rate for heterosexual transmission than for transmission in the MSM community. That is the figure in the rest of the UK as well. It increased in the last number of years.

Mr McCallister:

So, year-on-year, the rate has been increasing in the heterosexual community, yet there are no restrictions and the blood is screened in the same way.

Mr McDermott:

There are some restrictions for heterosexual people, such as people who have visited exotic countries where HIV is more prevalent.

Mr McCallister:

You are desperately dependent on someone admitting to that. You want to encourage everyone to be honest within the confidentiality of the Blood Transfusion Service, but you do not want to stop someone giving blood who is now safe to do so.

Mr O'Doherty:

It also does not take into consideration those who are living at zero risk: for example, two men who have been living together in a long-term relationship who are not having sex with anyone else and who have both been screened and know they are not living with HIV. That is a zero-risk relationship, and those people are not allowed to give blood. Assuming that they maintain that sexual relationship with each other, they will not be able to give blood for life, even with the one-year deferral period.

Mr McCallister:

The one-year deferral period starts from the time of last contact, even though, in that situation, the

risk would be absolutely zero.

I support the view that we should follow the medical evidence on this issue. I do not think it should be the role of the Department or of this Committee to be, frankly, prejudiced against any section of the community because they do not like a lifestyle. That is where it is wrong. I am on record as saying that, and I continue to say it.

I apologise for missing the presentation. I had to speak to a school in the Chair's constituency to try to shore up the vote down there.

The Chairperson:
Did you encourage them to vote for the Chair?

Mr McCallister:
I encouraged them to vote for my party leader.

The Chairperson:
I sit on the Assembly's all-party group on sexual health. The group heard an excellent presentation on homophobic bullying from the witnesses' colleagues at the Rainbow Project. John, you used the phrase "lifestyle choice" once or twice. I am not picking on you, and your views on this are of value to the Committee. However, anyone who heard that presentation would understand that you are not gay because you choose to be. If you are gay, you are gay. It is not a lifestyle choice; it is what you are. I just wanted to clarify that, in case the boys are too polite to pull you on that.

Mr McCallister:
You are right, and I appreciate that. I meant that some people, probably on this Committee and in politics, are maybe not comfortable, from a religious or moral viewpoint, about even heterosexual couples living together or anyone having sex outside marriage. I certainly would not want to offend, but that was the broad choice that I was putting it into context with.

The Chairperson:
OK. I am sorry.

Mr Durkan:

Thank you, Matthew, John and Harry. Other Members have stolen the questions that I wanted to ask. One of the things we have to address is not so much the risk as regards blood coming from England but the fact that we are getting blood from there. Therefore, the implementation of a ban here is nonsense. It is irrelevant.

I am very interested in the FOI request that you have submitted. I do not know how it can be judged not to be in the public interest for the Department to disclose from where it took the additional information on which its judgement is based. It is very strange, and some on the Committee might want to probe the Minister on that. The damage that that could do to the Blood Transfusion Service is significant. We always try to encourage donors by stressing how important it is for people to donate blood and organs. This approach will reduce the numbers of people doing that. It will also do a great deal of reputational damage to the North. How can we take a stance like this, particularly when we have not seen the basis upon which it has been taken?

Mr McDermott:

We cannot answer that. The Minister or his officials need to answer the question as to why it may not be in the public interest to disclose that information. They say that they have the information but will not release it until after we have met the Committee. They will consider releasing it then.

Mr Durkan:

It is normally the other way around.

Mr McDermott:

Members can draw their own conclusions about that.

In our view, the Minister's argument on safety is, frankly, nonsense, as we take blood from England, Scotland and Wales. It is worth stating and putting on the record what was said by the NHS Blood and Transfusion Service, which regulates blood donation in England. It said that it supports and welcomes:

> "the review and the resulting change as it is supported by the most up to date scientific evidence."

It also says that its system:

> "is as safe as it reasonably can be and amongst the safest in the world."

That is the system of one-year deferral; it is still among the safest in the world. Our point is that, given the higher risk in England, Scotland and Wales, the Minister's argument here does not stack up.

The Chairperson:

We will certainly have an interesting session with the Minister.

John touched on a pertinent point. Society here can be very repressive, and there are people who are perhaps involved in political parties or in a religion who will not, for whatever reason, condone homosexuality. The whole issue can make people feel very lonely and that they do not have a lot of support, and I know how difficult it can be. The fact is that somebody who is gay is being told, "Your blood is not good enough for us". That is a very dangerous precedent to set. I am speaking for myself, but I certainly think that this is an issue that is worth addressing with the Minister to try to persuade him to change his mind. However, we recognise the struggle that people from the gay, lesbian or transsexual community face every day. We want to work with you and support you in your work, and I think that you will get a sympathetic hearing at this Committee if you need to come back to us.

Mr O'Doherty:

That is the most pertinent point. If the decision was not based on medical evidence, we need to know on what basis it was made.

The Chairperson:

We are bringing the Minister and officials back in now. Thanks a million for coming in to speak to us. We will see you again.

I welcome the Minister and his officials. Michael, you are very welcome. Is this your first time before the Health Committee in this mandate?

Dr Michael McBride (Department of Health, Social Services and Public Safety):

It is my second time. I have a season ticket.

The Chairperson:

It is good to have you back. We have just had an evidence session with representatives of the

Rainbow Project. We will deal with the blood issue, Minister, and then spend a few minutes on the Lissue Hospital issue.

Mr Poots (The Minister of Health, Social Services and Public Safety):
OK. I have the same amount of time that I had before I started, so I will ask you to bear that in mind. If you want to talk about the Lissue Hospital issue, we will need to do it promptly.

I thank the Committee for giving me the opportunity to make a statement on my position on blood donor selection criteria. For reasons I will explain, I will not be in a position to answer all the questions that I expect the Committee may ask this afternoon. I want to make it clear at the outset that I have not made the final decision on blood donations by men who have had sex with men and that I will consider carefully all the relevant issues. I assure the Committee that I will take full and proper account of its views on the issue, and I am more than willing to attend a future meeting when the way forward is clearer.

My first duty today is to provide reassurance to the public, recipients of blood donations and, indeed, the Committee on the robustness of the arrangements to maintain the safety and integrity of the blood supply in Northern Ireland. Appropriate donor selection, including compliance with deferral criteria, and accurate donation testing form the twin pillars that ensure the safety of our blood supply. That is the most important point for me in relation to this issue. As Minister, I will consider all the relevant evidence. I must also take into account the issue of wider public confidence.

Transfusion-associated hepatitis was first reported in the late 1960s. That led to the identification of hepatitis B and the introduction of a screening test for that virus. Since then, in the United Kingdom, the combination of appropriate donor selection and accurate donation testing has dramatically reduced the incidence of transfusion-transmitted infections. The history of blood safety has been one of recognition of emerging infections, the need for blood transfusion services across the world to address those challenges and the need to remain ever vigilant. Indeed, in more recent times, the blood safety agenda has been dominated by the need to address the risks of transmission of variant CJD associated with blood and blood products.

I will now outline the policy position on the safety of blood for transfusion. The Advisory Committee on the Safety of Blood, Tissues and Organs, known as SaBTO, advises the four UK

Health Ministers on how to ensure the safety of blood, cells, tissues and organs for transfusion and transplantation. To maintain blood safety, the UK blood services use various measures, and they include testing for certain infections and permanent exclusion from donation or deferral of acceptance of donations until a period of time after the potential donor has ceased behaviour that gives rise to risk. That restriction applies to groups that are known to have increased prevalence and incidence of specific transfusion-transmitted infections. Such deferrals are put in place because of the higher risk of serious blood-borne infections such as HIV, hepatitis B, hepatitis C, viruses and syphilis among those groups. If we look at the history of the identification of AIDS and HIV, we can see that the blood safety issues were recognised and that measures were introduced to protect the blood supply. In addition to testing donated blood for HIV once the test became available in the UK, since 1985, those measures have included the permanent deferral from blood donation of men who have ever had oral or anal sex with another man.

It is also worth emphasising that no test for blood-borne viruses such as HIV is 100% accurate. There will also be a small number of false negative and false positive results. New tests are more sensitive, with fewer false negatives and false positives. Those new tests have, therefore, improved the likelihood of infection being correctly detected, leading to improved blood safety. New tests can also detect infection more quickly. For example, HIV can now be detected in a person's blood nine days after they acquire the virus, which is as reliable as any such test can be. The period of the nine days is known as the "window period".

However, because there are still a very small number of false negatives, the blood services continue to ask donors about risks, including certain sexual behaviours. The questionnaire process depends on honest answers being given to the questions on medical behaviour or other factors; that is, the donor's compliance with the exclusion or deferral rules. If answered honestly, that allows those donors who present a risk of infection to be excluded from giving blood in the first place. That means that tests are only conducted on blood that should be free from infection, which further reduces the chance of a false negative result. Therefore, the key to improving blood safety lies with improving compliance with the criteria.

There were 79 new diagnoses of HIV in Northern Ireland in 2010. The highest ever annual figure of 91 new diagnoses of HIV was recorded in 2008. Previously, there were around 60 new cases annually in Northern Ireland. The trend in the number of new HIV cases is increasing in Northern Ireland, the UK and Europe, although compared with the rest of the UK, Northern

Ireland had the largest proportional increase — around 300% — of new HIV diagnoses between 2000 and 2009. HIV/AIDS prevalence remains lower in Northern Ireland.

The Department of Health announced on Thursday 8 September that England, Scotland and Wales were changing their blood donation policy for MSM and that the change would be implemented at blood donation sessions on 7 November 2011. Until 7 November, the permanent exclusion will continue to apply. I have not made any decision to change that at this point.

As the Committee is aware, SaBTO has considered advice from its review group on the issue of donations from men who have sex with men. SaBTO concluded that there was no longer a reason to maintain the lifetime ban on donations from men who have had sex with men. The details are set out in the briefing note, which was sent to the Committee. I have asked my officials to clarify a number of important issues around the circumstances and context of Northern Ireland in relation to the procedure for decision-making. I also intend to seek further information from SaBTO on the relative risks arising from potential donations. Until that work is complete, I am not in a position to finalise my views on those issues and to consider what response to the analysis of the SaBTO review group would be most appropriate in all circumstances.

It is worth noting that this change means that England, Scotland and Wales will be the first parts of Europe to remove the lifetime ban for MSM. With the exception of Italy and Spain, all EU countries operate a lifetime deferral for MSM. The Council of Europe's European Committee on Blood Transfusion is reviewing European practice with a view to establishing a harmonised approach to sexual behaviour deferrals and is watching the outcome of the changes announced in GB. Outside Europe, I note that the USA and Canada continue to operate lifetime deferral for MSM but that Australia and New Zealand have reduced their MSM deferrals in recent years to one year and five years respectively. A recent post-implementation study in Australia has not found a significant change in the number of HIV-positive donations.

In conclusion, I am sure that the Committee will understand that, given the complexity of the issue, I have asked for further advice and will be seeking further meetings to inform my decision. I will take whatever time is necessary to consider all aspects before reaching a final decision. I am happy to take any questions arising from the statement, but I emphasise that I am not in a position to add very much to what has been said. I ask for the Committee's understanding at this stage, bearing in mind that we have been threatened with a judicial review.

Mr Brady:

Thank you for the statement, Minister. I have a couple of questions. Will you receive, or have you received, any additional or alternative advice to that which has been given in England, Scotland and Wales to bring about the decision to remove the lifetime ban and have a deferral period?

My other question relates to what happens in England, Scotland and Wales. As someone who sits on the Social Development Committee, I am constantly bombarded with parity issues. This seems to be a parity issue to a degree, because decisions made there would normally apply here. However, you are saying that they may well not apply here. I wonder what the logic or rationale is behind that. Are we now having selective parity?

Mr Poots:

The advice that I received was that of the SaBTO committee. I have had conversations with a range of people, including people in the Blood Transfusion Service and my staff. I have had legal advice on the matter. So, we have taken advice from a range of areas.

I should say that I intend to meet SaBTO to discuss the matter. I also intend to speak to my counterpart in the Republic of Ireland, because it is important that there is some clarification about what goes on in either of the jurisdictions. If a major incident were to take place in Northern Ireland, we may well ask for blood from the Republic of Ireland and vice versa. Therefore, it is important that I consider the issue in that context as well.

Mr Brady:

You mentioned that there were 91 new HIV cases in 2008 and 79 in 2010. Do we have any figures on how many of the people involved were either heterosexual or gay?

Mr Poots:

The latest figures indicate that 67% of cases involved homosexual males.

Mr Brady:

Based on figures that were given in previous presentations, it seems that the likelihood of contracting HIV in England, Scotland and Wales is almost four times greater than it is here in the

North. That puts things in statistical context.

I apologise for leaving the meeting early; I have to meet your colleague Nelson McCausland in Newry.

Mr Poots:

My commiserations. *[Laughter.]*

Mr Brady:

I will pass on your best wishes.

Mr McCarthy:

I am looking at an answer that you gave recently to a question for written answer on this subject. You stated:

"I take the view that the current position in Northern Ireland should not be altered."

Will you clarify absolutely the process that you undertook in arriving at that decision?

A comment that related to that answer said:

"The Minister has requested further advice on this matter, including advice on the Minister's powers with regard to blood safety."

You are still getting advice on the subject. Have you had any advice on your powers where blood safety is concerned?

Mr Poots:

There are a number of views on that, and we are looking at all the legal perspectives on it.

Mr McCarthy:

What about clarification of the process that you undertook in arriving at that decision?

Mr Poots:

The process is ongoing. I indicated that I wish to meet SaBTO. I also indicated that I wish to meet my counterpart in the Republic of Ireland. I have received a request from the Rainbow Project for a meeting, and I feel that it is appropriate that I fulfil that request. I wish to talk to the Rainbow Project about a range of issues.

So, there is a range of things that I have to do before reaching a conclusion. We have to ask SaBTO a series of questions. Those questions are not about MSM but about people in general who give blood. For example, currently, people who have had sex with a prostitute can give blood after a year, as can people who have had sex in Africa. We want to pose questions about those issues, because I have concerns about them.

I am also concerned that SaBTO has looked at the issue of prostitutes being allowed to give blood. In fact, it identified that there was less risk in prostitutes giving blood than there was in people from the MSM community giving blood. However, it decided not to proceed with allowing prostitutes who had not engaged in sex for a year to give blood. You can see that this is not straightforward issue and that it is complex. It would be a very foolish Minister who would rush in and take the first bit of advice without fully ascertaining all the issues before coming to a conclusion.

Mr McCarthy:

I am glad that you agreed to meet the Rainbow group. It seems odd that all the countries across the water are prepared to relax this, but here, for whatever reason, you are still saying no. You said that no final decision has been made. The impression that I got from your answer was that you are not in any hurry to make a final decision, which would be unfair. We are very much concerned about the quality of blood and about safety and so forth. From the answer that you gave me, I felt that you were not in any hurry to make a final decision, even if you get all the information that is available.

Mr Poots:

I think that you have to be cautious when considering these issues. We are talking about public safety. To me, the important people are the recipients of blood, who, in the first instance, are unwell, otherwise they would not be receiving blood. It is not just a duty on us; it is a legal obligation to ensure that that standard is maintained. Therefore, for me to pose questions on a series of issues is not irresponsible — it is actually responsible.

Northern Ireland is in a slightly different situation from other parts of the UK when it comes to this matter. That is because the age profile of people who give blood in Northern Ireland is considerably lower than it is in other parts of the UK. Although we do not have a super abundance of blood, we have a relatively consistent supply. We will always encourage people to

become fresh donors of blood. However, we are perhaps not under as much pressure as other parts of the UK, so we do not need to rush into anything. We should give the matter due consideration.

Mr McCarthy:

Of course. You bring in blood from across the water, but that is the same as being here. Why are you saying no to here? Blood here will be screened in exactly the same way as that that comes from across the water.

Mr Poots:

Northern Ireland is largely self-sufficient in blood. It is exceptional for us to receive blood from outside sources.

Mr McCarthy:

That is interesting.

The Chairperson:

Before I let you in, John, I would like to ask the Minister a couple of questions. You said that you were seeking further advice. When did you seek that advice? Although your answer to Danny Kinahan stated that you had made up your mind, you said to us today that you are seeking further advice on the matter.

Mr Poots:

No; we have been seeking advice since this issue first came to our attention. That has been an ongoing process. Things have come to my attention even since I got the first SaBTO report. SaBTO considered allowing prostitutes to give blood. In fact, a recommendation came before it in January that, as I understand, it was prepared to accept. However, for whatever reason, it then decided not to proceed with that in May. That news came relatively recently to me. So, information has come to light even since Danny Kinahan submitted his question, and we are looking at that.

The Chairperson:

The answer to that question was issued on 23 September, and it is very clear that you take the view that the current position should not be altered. The answer states:

"Safety must be my primary concern and I want to ensure the maximum public confidence."

It sounds as though you had made up your mind, but you are now seeking further advice. On 23 September, you could have said that you are requesting further advice on the matter and that you had not yet made up your mind. However, your response was quite specific.

Mr Poots:

There was perhaps an urgency in the question about what we were doing. At this stage, we do not intend to change anything. We will take all advice on this matter. As I indicated, there are things that have come to light even since then that would lead us to ask further questions.

The Chairperson:

The question would certainly not lead you to believe that it required an urgent answer. The answer indicates that the matter was closed and that that was your position.

I think that we would all be very keen to seek clarity on any additional information or advice. The briefing paper that we got from the Department was very helpful on compliance levels and on the current risk of HIV-infected donations being released into the blood supply. I refer you to the fact that the information provided in the paper states that, if the 12-month referral were introduced, the risk would be 0·228 per million donations. The current risk is 0·227 per million donations, so that would be a rise of 0·001 per million donations. How many donations do we get here in the North in a year? I would imagine that one million would be quite high, but the number would need to be over 100 million donations before the figures would kick in. That is an awful lot of blood for such a small place.

Mr Poots:

I do not know precisely what the figure is for Northern Ireland, but I know that, across the UK, it is around 2·5 million.

The Chairperson:

So, you would presume that we certainly do not get anywhere near one million donations.

Mr Poots:

Given that we have 1·8% of the population, a divisor of just over 30 would be close to the figure.

The Chairperson:

It would still not be near one million. The paper goes on to state that, if there is enhanced compliance with having a 12-month ban instead of the lifetime ban, the risk could be reduced. We asked the Rainbow Project about that. We recognise that, for various reasons, there are issues about why people would not want to say that they had had sex with men at any time. They may be giving blood to prove that they can. There might be people out there who have had sex with men but who are trying to hide that from family or friends, and they may be giving blood to say that they did not have sex with men. If the lifetime ban were scrapped and a 12-month deferral put in place, it could actually reduce the risk of infection considerably — probably by one third — if the figures in your paper are anything to go by.

Mr Poots:

That is not a scientific assessment. It is something that is judgemental. On a lot of those issues, there is a requirement that scientific evidence be given. There is no scientific evidence to indicate that there would, in fact, be a decreased risk.

The Chairperson:

We are, however, basing our assumptions on the scientific evidence coming from the Department of Health. We would imagine that that is probably the best scientific evidence that we have available to us. It seems clear to me that there is no scientific evidence, given the robust screening mechanism that we have. Levels of HIV are much higher in England, Scotland and Wales than they are here, yet they can see beyond whatever advice you are waiting on that would allow you to change their ban.

The fact is that we are preventing an awful lot of people from being able to donate blood. If I am a heterosexual woman who has had sex with a man who has had sex with another man, there is a lifetime ban on me. There is a lifetime ban on a man if he is in a relationship with another man, even if they are not having sex with anybody else and neither of them has been infected by HIV. That is a zero-risk scenario. Neither of those men has HIV, and neither of them is having sex with anyone else, yet there is a lifetime ban on those people. The way I put it earlier was that people are being told that their blood is not wanted, yet we are coming up to Christmas, and I have no doubt that there will be another campaign encouraging people to donate blood. I can genuinely see no reason not to replace the lifetime ban with a 12-month deferral if, with higher compliance levels, people can be more transparent, those who are not a risk to blood donations

can give blood and there is robust screening. That would be similar to what has happened in other places around the world.

Mr Poots:

The 12-month deferral would apply to the people who you are talking about. If someone were in a relationship with another man, for example, and if that relationship had been monogamous from the outset and they had never had sex with anyone who had HIV, they would have to cease having sex for 12 months before they could give blood in any event.

The Chairperson:

That is a zero-risk scenario. If they were still in a sexual relationship —

Mr Poots:

That is how things stand with the SaBTO recommendations. In that situation, they would still have to cease having sex for 12 months.

The Chairperson:

However, if you can point out an anomaly in the SaBTO recommendations where sex workers, for example, are concerned, another anomaly could be pointed out, which is that the people I am talking about are in a stable relationship, they are not having sex with anybody else and they are not a risk. They are probably looking after themselves a lot better than a whole lot of the rest of us, yet they are still refused the ability to donate blood.

Mr Poots:

I am not coming to the Committee apologising for taking a precautionary approach. Ultimately, my responsibility is to the health and welfare of the wider public. It is good that people want to give blood. However, the reason that this took place in the first instance was because people who received blood developed an illness as a consequence. I laid out how that developed from the late 1960s. People have developed hepatitis B and C, HIV, Creutzfeldt-Jakob disease (CJD), and syphilis from contaminated blood. It is not something that we should treat glibly or say that we must lift the ban because it is an equality issue. First and foremost, this is a public safety issue, and I will not shy away from dealing with public safety.

Had this come to me today and had the recommendation not been about MSM — had it been

for prostitutes, for example, who are at a lower risk to give blood — I would have taken the same decision and I would have looked at it in the same way. I would have said that we will hold off here and view everything in the round and take full advice on all those matters. So, I am not going to be rushed, pushed or harassed on an issue that is about public safety. I make no apology for standing by people who are ill and for making sure that they receive blood that has gone through the best possible methods to ensure that it will make them better.

The Chairperson:

Nobody is harassing you, Minister. However, SaBTO's scientific evidence that led it to change its decision —

Mr Poots:

The scientific evidence was there for the prostitutes as well.

The Chairperson:

It is the same evidence as you have. We would be keen to see any contrary evidence that you have. It would be in the public interest to see that evidence.

I frequently disagreed with the Department for Environment, Food and Rural Affairs (DEFRA) in the previous mandate, and I probably will for time immemorial. However, with respect, Minister, this is the first time that I have heard of you disagreeing with serious scientific advice that you got from Britain. Were there other areas, such as the swine flu vaccine policy, where you said, "No, that is not for us"? Have you disagreed with advice like this in the past?

Mr Poots:

Certainly. In previous Departments and in Committees that I sat on I quite often disagreed with the viewpoints used in the rest of the UK. In fact, policy planning statement (PPS) 21 is a significant demonstration of that. We are not west Brits here: we are Northern Ireland, and we are a devolved Administration. We receive advice, and we have civil servants and others to give us advice. I am not some direct rule Minister. I am in charge here, and I make the decisions. I will seek to do that within the law, I will seek to do what is right for the population that I serve and I will give due consideration to everything. That is what the democratic process in the devolved Administration of Northern Ireland is about, and, as a former Minister, you should know that.

The Chairperson:

Does that mean that you agree that the Committee is part of that democratic process and it should have the opportunity to scrutinise the advice that you received that helped you to make that decision? If so, I think that it is incumbent on you to share that advice with us so that we can see the basis on which you rejected the advice that you were given. We will wait to see what that advice says. It will make interesting reading.

Mr McCallister:

Minister, I did not feel that your answer to Danny Kinahan was open to looking at the situation any further than you appear to be doing now. If the earlier answer had been, "Look, I am taking more advice on this", we might all have said that that was fine — take the advice.

You commented earlier that you will not rush into anything foolishly. Does that suggest that your three colleagues in the rest of the country have been rushed into accepting the evidence and into making that decision?

Mr Poots:

That is a matter for them. I am not sure whether they will come and answer to this Committee or not.

Mr McCallister:

They are not entitled to come and answer to this Committee.

Mr Poots:

I am not their judge. The public in England, Scotland and Wales are their judges, and the public in Northern Ireland will be my judge.

Mr McCallister:

On the Chair's point, will you share with the Committee any extra evidence that you get?

Mr Poots:

I indicated in my opening statement that I will be happy to share any extra evidence in due course as things transpire and as we reach finality on the issue. It is an ongoing issue, and we do not

normally release papers during a process.

Mr McCallister:

The rate of infection in Northern Ireland is significantly lower than that in England, even setting aside the fact that our blood supply is pretty self-sufficient. The infection rate is five times higher in England than in Northern Ireland. The fact that the process is seen as right and proper in England, where the rate is higher, should surely be factored in to any consideration. Notwithstanding your point that the average age of a blood donor here is lower, many of us find it hard to believe that something here is so significantly different. All the other factors seem to indicate that there is a lower risk here.

I accept that we all want people to donate blood. Everyone should have confidence in the Blood Transfusion Service, because those donating and receiving blood should feel safe. You monitor all these things constantly. You made the point about sex workers, and that may well come around again and a deferral made on it the next time this issue is looked at.

Mr Poots:

I am not away out on my own on this issue. If you look at what happens in Europe, you will see that Italy and Spain allow sex workers, as well as MSMs, to give blood. However, the rest of Europe, North America, Canada, Singapore and Hong Kong do not. New Zealand has a five-year deferral, and Australia has a one-year deferral. So, this is not a case of little Northern Ireland standing out alone in some sort of battle with a particular group; it is a wholly rational process that we need to go through.

Our system is not broken. We have a system that works and in which there is significant public confidence. We have an adequate supply of blood, but that always needs to be replenished, so we will always seek new blood donors.

If we are to change the system and look at introducing new donors, it is not unreasonable to address the issues in a timely manner. If there is an urgency to do it in the rest of the UK, that is a matter for the rest of the UK.

Mr McCallister:

That is the point that we have been making. I accept that we have confidence in the blood supply,

and that must continue.

As you outlined, we have reviewed the issue constantly since the 1960s. However, surely the very point of having a review mechanism of experts is that it looks at the advice, takes that advice and gives it to Ministers for them to make a decision. You would hope that, if the medical advice says that it is safe to lift the ban and it is the way that the rest of the country is going, we will act on that advice.

I have no problem with the Department taking extra time; it is fine if there are extra things that it wants to clarify or check. However, if the evidence for the rest of the UK is moving in one direction, we should head that way as well.

Mr Poots:

That is a point that you can take, and we have looked at it. There has been a modest increase in the prevailing risk. We are not under the same blood donation pressure as other parts of the UK. We will assess all this in the round.

The Chairperson:

Minister, you said that the system is not broken. However, given that there are high levels of non-compliance, it is not perfect either. I think that you have to take that into consideration.

Mark, did you want to come in?

Mr Durkan:

John covered most of what I was going to say.

Mr Wells:

Minister, how would you characterise the emphasis that the USA, Canada, Finland, Sweden, Switzerland and Germany put on public health and disease prevention?

Mr Poots:

They have a good record.

Mr Wells:

Would you regard them as very developed Western societies with very good medical care?

Mr Poots:

Yes. They are modern societies that are very strong on a whole range of issues.

Mr Wells:

Some of those countries — the USA in 2007 and Finland in 2006 — reviewed the evidence and came to the conclusion that the lifetime ban should continue to apply. Do you see that as significant?

Mr Poots:

Yes.

Mr Wells:

If we were to change our policy in Northern Ireland, would we be stepping out of line with some of the most developed medical economies and treatment facilities in the world?

Mr Poots:

We would certainly be leading change.

Mr Wells:

Am I right in thinking that you have the power to not just follow GB standards but to actually go for a higher level of public protection than that which exists in the rest of the United Kingdom? Do you have the power to do that?

Mr Poots:

It is certainly something that I am investigating. I will be raising with SaBTO my concern about some of the other categories that are currently giving blood.

Mr Wells:

You said that you have not yet spoken to your colleagues in the Irish Republic about this.

Mr Poots:

I wish to speak to them.

Mr Wells:

Has any research been carried out as to why they have come to exactly the same conclusion as you about the lifetime ban?

Mr Poots:

I am not sure. I would like to talk to James Reilly about why they have adopted that position and about whether they have any plans to change it. I think that it is important that we do that. As I indicated, there will always be the potential for a significant event to take place on either side of the border that requires someone to make a phone call to ask to receive blood. If such an event were to happen in the Republic of Ireland, I would like to think that we would be in a position to assist colleagues there, just as they assisted us in putting out the fires in Belfast during the air raid in 1941. I would like to think that, if there were a major catastrophe, we would be there to support them and they would be there to support us. Therefore, I would like to have confidence in both systems.

Mr Wells:

You looked at me, Minister. I was not there; I do not remember those air raids. Is there any flow of blood between the Irish Republic and Northern Ireland or vice versa?

Mr Poots:

It is very modest. As I say, Northern Ireland's blood supplies are largely self-sustaining. We receive small quantities very occasionally when there is an emergency.

Mr McCarthy:

Minister, if, at the end of the process, all the indications are that there is no further risk, would you be in a position to consider changing your mind about the answer that you gave to Danny Kinahan a couple of weeks ago?

Mr Poots:

We will go through due process. I have to look at all the legal ramifications of lifting or not lifting the ban. The legal ramifications on both sides have been highlighted to me.

Mr McCarthy:

So, if the answers come back the proper way, would you be prepared to lift the ban?

Mr Poots:

What I am doing is engaging in due process to ascertain what I can and should do. I intend to do the right thing to ensure that we have a consistent supply of blood, that we do not endanger people who receive blood and that we treat everyone with equality.

The Chairperson:

I suppose what Kieran is trying to ask is whether there are any other objections, besides scientific ones, that you might apply to your decision.

Mr Poots:

As I indicated, there may be legal issues and issues with the legislation.

Mr Durkan:

This is just a wee point. Minister, a couple of times, you alluded to the fact that we in the North are largely self-sufficient in our blood supply. I was wondering whether it would be possible to get a breakdown — I obviously do not expect this here and now — of the amount of blood that has been imported each year from the rest of the UK for the past x number of years.

Mr Poots:

It is normally fewer than 100 units a year. So, last year, for example, I think that we received two lots of 40 units. Blood was brought in at the time of the bus crash, because it was thought that there might have been a considerably higher requirement. As it transpired, this year we did not need additional blood. It happens primarily when a major incident takes place, such as the Omagh or Enniskillen bombings, although I hope that those days are well behind us. However, there could be a major incident, in which case we would be very glad to receive blood from either the UK or the Republic of Ireland.

The Chairperson:

Do you request that such blood is not derived from the MSM community?

Mr Poots:

No.

The Chairperson:

So whatever the risk is, it is safe enough. The very low risk is low enough.

Mr Poots:

If you are looking at the relative risks involved, they are diminished greatly by the small amounts that we receive.

The Chairperson:

What about transfusions, organs donations, and things like that? Do they come into your thinking at all?

Mr Poots:

At the moment, we have a system that works and I do not propose to change it.

Mr Durkan:

Maybe we should change the terminology. Rather than being largely self-sufficient, we are almost self-sufficient. Regardless of the smallness of the amounts involved, we are still importing blood.

Mr Poots:

On an occasional basis, yes, but it is very occasional.

The Chairperson:

With the agreement of the members, we will leave the issue for now. However, given the number of questions that have been asked, I suspect that we will come back to it. We are keen to see further evidence as you get it, Minister.