

Lewis Macdonald  
Health and Sport Committee  
HealthandSport@parliament.scot

20 November 2020

Dear Lewis,

You will be aware that on November 10<sup>th</sup> the Evidence session on the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill was held. During this session Scottish Government officials agreed to share the official response from the Department of Work and Pensions Cost Recovery Unit regarding their position on the Bill.

Please find the response enclosed below for your consideration.

### **Response from Department of Work & Pensions (DWP) Cost Recovery Unit (CRU)**

#### Question

- What discussions have taken place between the CRU and Mr McMillian, regarding the CRU's potential delivery of the Liability for NHS Charges (Treatment of Industrial Disease) scheme, and what information can you give us about the content of these discussions?

#### Response

*“DWP CRU has not had any discussions on the administration of the proposed scheme. Any formal approach would need to be considered by DWP officials which would include a full impact assessment through our change governance process.”*

#### Question

- What assessment, if any, does the CRU make of the potential difficulties posed by the differences between recovering NHS costs under the existing legislation (for injuries) and under the proposed scheme for industrial-related diseases?

#### Response

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*“As highlighted above, any approach would need to be fully impacted. However, immediate questions/issues from the information provided include:  
How would we know if the compensation payment was in relation to an industrial disease as defined in the Bill? For example, Person A develops a condition through exposure to radiation in the power plant where they work. Person B develops a condition because they live next door to the power plant and they were exposed to radiation too. They both claim compensation from the power plant owner. It appears that under this proposal recovery of charges would apply to person A but not person B. Presently the compensator isn’t required to make a distinction between the type of claim so how would any administrator of this legislation be sure, unless it was a requirement in the legislation? This could result in many of the cases requesting mandatory reconsiderations and appeals.*

*What is the territorial extent: a person in Scotland is treated in England etc? Does the event that caused the disease have to take place in Scotland?*

*How many cases will there be? If the Act does not apply to cases where the harmful event took place before the Act comes into force, it will potentially exclude long tail diseases where people were exposed in previous years. Any administrator of this legislation would be required to know the date when the person was exposed to the “cause” of the disease.*

*Any administrator of this legislation would need to determine if the hospital treatment is for the industrial disease. The person may be having treatment for a specific condition but what if they also have to have treatment for another condition at the same time? Will it be obvious to be able to separate out what treatment is directly for the industrial disease?”*

### Question

- What input did the CRU have into the calculation of costs attributed to it running the proposed scheme outlined in the Bill’s Financial Memorandum (paragraph 37)? To what extent do you take these costs to be realistic?

### Response

*“DWP CRU has not been involved to date. In terms of costs, there would have to be clear forecasts of potential claims to inform any impact assessment as part of our change governance process. With any new work, there will be need to a defined customer journey, including any IT development implications and all of this would have to be impacted through any change proposal.”*

I hope this is helpful.

**Joe FitzPatrick**

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