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28 February 2024

Dear Clare,

## **HUGHES REPORT: OPTIONS FOR REDRESS IN RELATION TO VALPROATE AND PELVIC MESH**

I thought it important to write to you to inform you about the work the Scottish Government is doing regarding the recommendations of the “Hughes” [report](#) about redress for patients affected by transvaginal mesh and the medicine valproate.

The report was prepared by Dr Henrietta Hughes, the Patient Safety Commissioner for England, at the request of the UK Government. Dr Hughes' remit extends only to England, although it is of course the case that patients from across the UK have been affected by these issues.

The report followed on from recommendations included in the [2020 report](#) of the Independent Medicines and Medical Devices Safety Review (the “Cumberlege Report”) which proposed the establishment of a UK-wide independent Redress Agency for persons affected by medicines and medical devices and also individual schemes for persons affected by transvaginal mesh and valproate, and other medicines. The UK Government rejected

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these recommendations in its [response](#) to the Cumberlege Report, published in 2021, but in 2022 asked Dr Hughes to consider the matter further.

The Scottish Government also published a [response](#) to the Cumberlege Report, in March 2021. In this response, the Scottish Government explained that it accepted all of the report's recommendations as they related to matters that are the responsibility of the Scottish Government.

The Scottish Government has focussed its actions on healthcare support through the NHS in Scotland, which included the establishment of a national mesh removal surgical service and improving support for persons affected by valproate. The Government also undertook to establish the office of a Patient Safety Commissioner for Scotland, and the [Patient Safety Commissioner for Scotland Act 2023](#) was passed by the Scottish Parliament last year, receiving Royal Assent in November.

The Scottish Government was not able to act upon the Cumberlege Report's recommendations that related to financial redress. This was because the report envisaged a new agency and schemes that would be funded via a levy on manufacturers of medicines and medical devices. The Scottish Government has only limited powers under the devolution arrangements to impose levies. We then noted the UK Government's rejection of the recommendations.

The Scottish Government now notes the further, fuller, consideration given to options for offering affected people financial and non-financial redress. The report notes that it considers the "how" of how redress might be provided rather than "why" it might be provided. It describes a range of options for how financial redress schemes might be designed, including with respect to eligibility, and how they might be administered. The report also notes the views of affected persons as to the amounts that might be paid. The report also addresses non-financial support for affected persons, including with respect to housing, education and healthcare.

The report does not address issues connected to Primodos (a hormone pregnancy test, which was prescribed for some time from the 1950s, until it was withdrawn in 1978), which were considered in the Cumberlege report. The UK Government considers that the available scientific evidence does not support a causal association between the use of Primodos and adverse effects relating to pregnancy. But it has also stated that they will review any new scientific evidence which may come to light in relation to hormone pregnancy tests. The Scottish Government will also review new evidence that becomes available.

Schemes along the lines envisaged by Dr Hughes would involve the distribution of substantial funds, and this needs to be considered carefully. The report does not make any recommendations with respect to how funds are to be raised but observes in paragraph 346 that the "government has levers with regards to extracting funds from industry". This comment is made in relation to the UK Government: the Scottish Government by comparison has only limited powers. Schemes funded exclusively or mostly through the use of public

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funds could only reduce funds available to public services, including of course the NHS, and we expect that the UK Government will wish to have regard to this in the consideration of its response.

The Scottish Government remains committed to offering assistance to those who have been affected by transvaginal mesh and by valproate. We will offer this assistance through the NHS in Scotland and also by continuing to offer the option of mesh removal surgery from independent sector providers commissioned by NHS Scotland (and offered free of charge to the patient). We will continue to seek improvement in these services and in the communication with and involvement of patients.

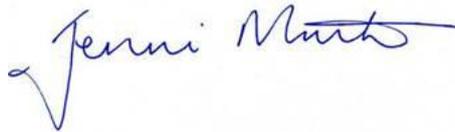
Having undertaken this initial review of Dr Hughes' report, the Scottish Government concludes that it is necessary now to await the view and any decisions of the UK Government. Scottish Government officials will continue to liaise with counterparts in the UK Government and in the other Devolved Administrations.

I will of course update the Parliament about any important developments.

In light of the widespread interest in this subject among colleagues I am sending a copy of this letter to all MSPs.

I hope this is helpful.

Yours sincerely,



**Jenni Minto MSP**

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