

Police Division 1
Scottish Executive Justice Department
Area 1W
St Andrews House
Regent Road
EDINBURGH
EH1 3DG

**BLOOD TESTING FOLLOWING CRIMINAL INCIDENTS WHERE THERE IS
A RISK OF INFECTION: PROPOSALS FOR LEGISLATION**

Tayside Fire Board welcomes the opportunity to respond to *Blood Testing Following Criminal Incidents Where There Is A Risk of Infection: Proposals For Legislation* and hopes that this response will assist in the development of the legislation.

Question 1. Do you agree that any legislation giving rights to individuals to apply for information about blood-borne viral infections with which they may have been infected, should apply universally? Or should the protection be restricted to particular groups of people? If the latter, what groups should it be restricted to and what would be the justification for this?

Tayside Fire Board considers that this proposed legislation should apply universally. If the final decision is taken to restrict this legislation to particular groups, then members of the fire and rescue services should be included.

Question 2. Do you agree that mandatory blood testing should only be ordered by a sheriff?

Yes. Provided that this does not unnecessarily delay the process to the detriment of the applicant.

Question 3. Do you agree that mandatory blood testing should not be applied to anyone who has committed no crime but may *accidentally* have exposed another person to a prescribed blood-borne viral infection, so that such people should be free to decline to give a blood sample?

No. Tayside Fire Board is concerned that this appears to rule out the ability to carry out blood testing of victims of road traffic accidents due to the accidental nature of the exposure of fire and rescue services' personnel, other emergency services' personnel and other victims of the road traffic accident to blood-borne viral infection.

Question 4. Do you agree with the principle of mandatory blood testing for those who commit serious physical or sexual assaults and thereby put the victim of the crime at risk of infection with a prescribed blood-borne virus?

Yes.

Question 5. Do you agree that the provisions for mandatory testing should extend to any type of case where the applicant may have been exposed to a prescribed blood-borne viral infection as a result of a crime being committed by the other party?

Yes, but would refer you to the Board's concerns detailed in the answer to Question 3.

Question 6. Do you think there should be any variation in these provisions for cases where the suspect is under age?

No.

Question 7. Do you agree that persons at risk of infection from a criminal incident should be entitled to seek information from the Procurator Fiscal about the prescribed blood-borne viral infection risks they may face?

Yes.

Question 8. Do you agree with the proposed criteria for mandatory testing orders?

Yes, but would once again refer you to the Board's concerns detailed in the answer to Question 3.

Question 9. Do you have any comments on the proposed civil application process?

No.

Question 10. Do you agree that information provided from mandatory testing orders should be for the sole purpose of benefiting the applicant, and should not be retained by the police?

The Board agrees if this information is subsequently held on the suspect's medical records. Otherwise the Board does not agree.

Question 11. Do you agree that the costs of the testing process should fall to the applicant?

Yes.

Question 12. Should some support organisations be empowered to act on an applicant's behalf and to provide support and advice as appropriate?

Yes.

Yours sincerely

Gillian A Taylor
Clerk to Tayside Fire Board