

Sam Pandya  
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6 May 2020

The Hon. Jenny Mikakos MP  
Minister for Health  
Level 22, 50 Lonsdale Street  
Melbourne, Victoria 3000

Dear Minister,

### **Blood donation review**

The Law Institute of Victoria (**'LIV'**) writes to request that the Victorian government support a reduction in the current sexual activity deferral period for blood donations from 12 months to three months. This would align with the recent recommendation by the Australian Red Cross and the Therapeutic Goods Administration (**'TGA'**) to reduce the deferral period for various groups, including men who have sex with other men. The LIV acknowledges that the government's workload has increased significantly due to COVID-19. However, during this pandemic, it is vital that blood donations are available to save Victorian lives. A shortage of blood donations, as seen recently in the United States, is not desirable.

In 2016, the Victorian government provided in-principle support for a reduced deferral period, labelling it a 'discriminatory policy'.<sup>1</sup> Further, it stated that the policy was 'born out of the AIDS epidemic and subsequent panic of the 1980s'.<sup>2</sup> The LIV recognises that some deferral period is required, if it is necessary to ensure blood, and blood products, are as safe as possible for

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<sup>1</sup> Victorian Government, Minister for Health, 'Victoria Calls for Blood Donation Review to End Discrimination Against Gay and Bisexual Men' (7 October 2016).

<sup>2</sup> Ibid.

blood recipients. However, to the extent the policy is discriminatory, the LIV submits that it should be changed.

Recently, the Australian Red Cross concluded a review of the 12-month deferral period. It recommended that the deferral period should be reduced to three months. This reflects similar deferral periods in Canada and the United Kingdom (three months), and Denmark, France and the Netherlands (four months). The Red Cross noted that the decision was ‘underpinned by the most up-to-date clinical and scientific evidence’.<sup>3</sup> The TGA subsequently approved this recommendation in April 2020. The LIV submits that adoption of this policy by the Victorian government is now justified.

Should you have any queries about this correspondence, please contact Michelle Luarte, Lawyer to the Health Law Committee (03 9607 9413 or MLuarte@liv.asn.au), or Alexander Laurence, Paralegal to the Health Law Committee (03 9607 9565 or ALaurence@liv.asn.au).

Yours sincerely,

**Sam Pandya**  
President  
Law Institute of Victoria

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<sup>3</sup> Australian Red Cross Lifeblood, ‘Sexual Activity Deferral Review: Current Review Update – April 2020’ < <https://www.donateblood.com.au/sexual-activity-deferral-review>>.