



SCOTTISH EXECUTIVE

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News Release

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FIRST DRAFT

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EXECUTIVE MOVES TO SETTLE WITH SOME HEP C VICTIMS

The NHS in Scotland has today been instructed by Scottish Health Minister Susan Deacon to begin talks aimed at settling outstanding claims from a small number of Scottish haemophilia patients who contracted Hepatitis C through infected blood products contaminated with hepatitis C virus.

The announcement follows the decision of the Department of Health in England's decision not to appeal a judgement by Mr Justice Burton in the English High Court on actions raised by English and Welsh haemophiliaes under the Consumer Protection Act (CPA).

The Executive is acting now to save legitimate claimants those in Scotland the cost and distress of fighting actions through the Scottish courts.

All those in Scotland who have if these claimants have raised an action under the CPA and who allege that they received blood from the Scottish National Blood Transfusion Service (SNBTS) after 1 March 1988 that was contaminated and were subsequently infected with Hep C, have they will today be en contacted through their solicitors.

Ms Deacon said:

"This is a very complex and emotive issue. As I have said repeatedly, Executive Ministers and the wider NHS have huge sympathy for everyone who has been infected with the hepatitis C virus in this way. The human cost has been great.



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"I realise too that for many that human cost has also translated into financial costs. For some it is also a question of recompense for the pain and suffering. Again I understand the strength of feeling there is on these related issues.

"In considering this issue very carefully, two things are absolutely clear. There was no fault involved here. First, patients were not infected deliberately. Second, it is now widely accepted that the NHSScotland (?) was not negligent in its efforts to ensure that blood was safe.

"That is an important operational and philosophical point. No treatment in the NHS is 100 per cent safe. No treatment in the history – or indeed in the future – of the NHS can be deemed to be 100 per cent safe. The NHS finds itself in a unique position. It has an inescapable duty to supply life saving materials when it has access to them – but may have no way of ensuring that those materials are 100 per cent safe. It is also a fact that without life-saving blood transfusions and blood products, thousands of vulnerable and sick people would already have died. It is about a balance of risk.

"This Executive does not believe that the NHS should pay out compensation for non-negligent harm. That position is one which is consistent with current and previous UK administrations. What has changed is the ruling that blood should now be considered a product under the Consumer Protection Act, and that the courts have ruled that the public had an inalienable right to expect that the blood supplied was completely safe. This is a ground-breaking ruling.

"On that basis, we have decided to act now to begin the process of settling with the small number of Scottish patients ~~covered~~-affected by this ruling. Solicitors acting for the NHSScotland have today contacted every individual involved and discussions and investigations on individual settlements will begin almost immediately. This will necessarily involve checking that the actions are legally competent and the relevant facts can be proved.

"Our decision will not please everybody. There are others who feel they have been made similar victims of this debilitating disease but who fall outside the scope of the new ruling. I understand their feelings but as Health Minister I am responsible not just for the feelings of the individual but for the effective running of the NHS. Much has been made, not least in the Health Committee, around the debate on 'where to draw the line' on compensation in these cases. That is a very significant debate with potentially very significant consequences for the medical profession and the NHS. Today's announcement seeks to strike a balance. I believe it is the right one."

NOTES FOR NEWS EDITORS

A fact sheet on this issue and the chronology of how individuals were infected is available for the media by telephoning 0131-244 2968.



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