

Mr Alcock PS/SofS

From : J Canavan EHF1A

Date : 22 March 1991

cc : Mr Heppell DS
Mr Dobson EHF1A
Mr Powell SOLB3
Dr Rejman MEDISP
Mr Kendall FA2
Mr Gutowski MCA

FILE GEB 5
LIE 16

**HIV HAEMOPHILIA LITIGATION - MAIN SETTLEMENT -
SITUATION REPORT**

1. This note reports the position we have reached in the settlement since the last report, under cover of Mr Dobson's minute of 25 February. It now seems very unlikely that a settlement could be approved by the Judge at the hearing in chambers on 27 March as there are two unresolved issues.

- **social security disregard:** Secretary of State will recall from the last report that the plaintiffs were proposing a wider disregard than intended by DSS for money inherited from the HIV haemophiliac. The DSS position was put to the other side, and they countered with proposals of their own, but which essentially were as wide as their earlier ones. DSS feel that their current proposals are generous and more than meet the commitment made by Ministers. However they have asked their S of S to consider whether they should make any further concession and are awaiting a reply. We understand however from DSS that Treasury would probably resist going any further.

It seems to us that the plaintiffs would not be in a particularly strong position to defend delaying a settlement to try and secure additional disregards that are likely to affect very few people. It isn't clear whether, if their counter proposals are not fully met they would indeed make this a sticking point.

- **schedules:** The plaintiffs' solicitors are supposed to be providing schedules of plaintiffs organised into the various categories for payment. These would be an integral part of the settlement. There would appear to be errors in assigning people to the various categories and deficiencies in the information provided to support categorisation, indeed in two thirds of cases no supporting information has been provided at all. The Department's solicitors have been

pressing the plaintiffs for additional information, but it seems highly unlikely that the schedules can be completed in time for the hearing on 27 March.

Costs

2. The Chief Secretary has written to say that he is unwilling to meet the plaintiffs' legal costs from the Reserve. A submission is coming forward from Finance Division. Preliminary bills from the plaintiffs total around £6 million, but there will need to be much more checking and discussion before a figure could be agreed. This would not in itself prevent a settlement of the litigation being reached.

Macfarlane Trust

3. A draft trust deed for the new trust has been submitted to the plaintiffs, and although they have not formally responded, informally they have indicated that they are unlikely to have any major difficulties with the deed as proposed.

4. We are working with the trustees towards having the new trust in place in case a settlement can be reached on 27 March. We are also preparing a modified trust deed to be set up in advance of a settlement to enable the £42 million to be paid out in this financial year, if the secretary of State decides on this course. This issue is considered in the submission today from Mr Kendall in Finance Division.

GRO-C

J CANAVAN
Room 505 Eileen House
Extension GRO-C

DEPARTMENT OF HEALTH

FAX MESSAGE

TO:

Mr Alcock PS/S/S Pm 404 R.H.

FAX NUMBER

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NUMBER OF PAGES (Excluding this cover)

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ACTION

HIV HAEM. R.T. - MAIN SETTLEMENT
SITUATION REPORT

FROM

D. BURRAGE ENFI 506 EM

✓ GRO-C

EHF1/PHS1 FAX NUMBER: 071 972 2818

MAIN SWITCHBOARD: 071 972 2000

Department of Health
Room 515/7
Eileen House
80-94 Newington Causeway
LONDON
SE1 6EF

In the event of queries, please telephone 071 972 GRO- or GRO-C

