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### Committee News Release

**CHEAL 05/2001**

**Tuesday 2 October, 2001**

## **HEALTH COMMITTEE REPORT CALLS FOR FINANCIAL SUPPORT FOR ALL 'HEP. C' BLOOD TRANSFUSION SUFFERERS**

Financial and practical support should be provided for all NHS patients who contracted Hepatitis C through blood transfusion services, regardless of whether negligence can be proven, says a parliamentary report published today.

And the Scottish Parliament's influential Health Committee is calling upon the Scottish Executive to put in place mechanisms to provide such support within twelve months.

Committee convener Margaret Smith said:

"Having considered the issues raised in two petitions to Parliament, our committee is persuaded by the 'moral' case for providing financial and practical assistance to those individuals infected with hepatitis C through blood transfusion services.

"It is important to stress, however, that we are not advocating the principle that all injury caused through NHS treatment should be compensated. Nor are we asking the Executive to establish any new, wide-ranging precedent on the management of risk in clinical decision-making. We realise that all medical treatment carries risk, and we agree with the Health Minister that a risk-averse NHS is in no-one's interests.

"Instead, we are simply seeking to correct an inconsistency in the operation of an existing, narrow precedent, namely the precedent created when the UK government set up the MacFarlane Trust in 1988. The MacFarlane Trust provides financial assistance to all individuals infected with HIV through medical treatment, regardless of whether there was any medical negligence involved. Today, we are calling upon the Executive to provide similar assistance for Hepatitis C sufferers who received contaminated blood or blood products from NHS agencies.

"On compensation for medical injuries generally, this committee believes that the current system is badly in need of re-appraisal. There is too much onus on aggrieved patients having to prove their case in the law courts. Justice is often

simply deferred for years as cases proceed expensively through the legal system.

"There must be a better way of resolving disputes between the NHS and patients, and it is perhaps time to begin questioning old certainties about the way in which such disputes are handled. We welcome the Health Minister's announcement (on August 29) that she already intends to re-examine the effectiveness of the NHS complaints system as a first step in that process of re-appraisal."

The following Conclusions and Recommendations are included in the Health and Community Care Committee's Report on Hepatitis C:

**Conclusions include:**

- We are not persuaded of the case for a further, independent inquiry into all the concerns raised by the Haemophilia Society and others, if that were to focus mainly on exploring questions of alleged fault. On the basis of the information we considered, we could find no evidence of negligence on the part of the Scottish National Blood Transfusion Service.
- We have come to the view that financial and other practical assistance, awarded on a no-fault basis, is the clearest solution to the issues raised in these petitions. We believe as a matter of fairness that these individuals who have suffered serious, long-term harm as a result of receiving hepatitis C - contaminated blood or blood products through NHS treatment should receive some practical assistance.
- ...we also believe that this solution is required for reasons of consistency, in recognition of the fact that HIV sufferers already receive assistance, under clearly analogous circumstances, via the MacFarlane Trust.
- Should the Executive accept the principle of our recommendation, we are content to leave it to the Executive to decide the best mechanism by which to make financial and practical assistance available.

**Recommendations include:**

- We recommend that the Executive set up a mechanism for providing financial and other appropriate practical support to all hepatitis C sufferers who have contracted the virus as a result of blood transfusions provided by the NHS in Scotland, or which involved blood or blood products produced by the Scottish National Blood Transfusion Service.
- We recommend that this mechanism for providing financial and other support comes into operation within a period of twelve months.
- The level of financial assistance awarded to any claimant should be determined on the basis of need, having regard to the physical or psychological loss individually suffered, and should include redress for practical difficulties such as the inability to obtain an affordable mortgage or life assurance.

The full report will be available on the Parliament's website from Wednesday 3 October or for purchase from outlets of the Stationery Office.

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