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PETER HOBDAV:

The battle by British haemophiliacs to win compensation for being infected with the AIDS virus through blood given on the National Health goes on. The judge in the case wants both sides to give, as he put it, anxious consideration to finding a compromise. It's even being suggested this morning that because the Secretary of State, Kenneth Clarke, refuses to provide more compensation he's now been isolated by the health authorities who together with local authorities are prepared to cut elsewhere to provide the money.

The difficulty hinges on whether compensation would be admitting negligence, though Harriet Harman, the Labour health spokesman, wants to introduce a bill soon that would make these payments part of what's called a no fault deal. But this apart there are those who argue that the Government is morally obliged to act. Well the Health Secretary is on the phone now. Good morning Mr Clarke.

RT HON KENNETH CLARKE MP:

Good morning.

P.H:

The first question has to be, have you been isolated by the health authorities?

K.C:

No, I'm afraid these stories in The Mail On Sunday and in The Sunday Times were both completely untrue. I did have a meeting with Bruce Martin, who's the chairman of the North Western Regional Health Authority, who speaks for the health authorities on this sort of subject last week. We had a long discussion, neither newspaper had obviously spoken to anybody who was at the meeting - only a few people were there - and we agreed at the end that the Government should make no offer in the legal proceedings.

We have of course already acted on the moral obligation by making £34 million available now to the haemophiliacs to be paid out, at least 20,000 to all of them and more to others. And the newspapers praised me for increasing that sum before Christmas,

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and are now criticising me for conducting the legal proceedings without actually stumping up more.

P.H:

But at the same time, as you know, the haemophiliacs themselves are seeking much more than round about £20,000 a head. And the other argument is not only are they seeking it, they need a quick decision on this because unfortunately so many of them are dying.

P.C:

Well it's a horrendous situation, and they're all in a tragic position, which is why it is so difficult to handle it, and why it's annoying when completely untrue stories emerge. The first thing is, how do we face up to the particular personal position of the haemophiliacs? £10 million was made available to them a long time ago, I raised that to £34 million before Christmas, I said we would keep that under review.

Now, over and above that the haemophiliacs have chosen to bring a legal action, making claims of negligence against Governments - both the last Labour Government and the present one - against the health authorities, against the licensing authorities, even against the doctors who were treating them. And unfortunately as they were given the best treatment possible in the then state of medical knowledge they don't actually, in my opinion, have a claim.

Now, I believe the best way of proceeding is to accept that the public and the Government want to acknowledge their special situation, look at the 34 million we've already made available, keep that under review as I've always said. But I really can't have the health authorities having legal actions brought against them, and then be told "but you mustn't deal with that as a legal matter, you must somehow put more money in on that head as well."

P.H:

Though the judge in the case, Mr Justice Ognell, did say, Mr Clarke, that he urged both sides to what he said "give anxious consideration to finding a compromise." He, in a sense, was sort of saying "look, settle out of court, and settle quickly," wasn't he?

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.C:

Well he gave that... he wrote that letter some months ago, and he said a number of other things. And I think he accepted that firstly the legal costs in this case would be a dreadful waste of money, and that the long drawn out legal battle would be a harrowing experience for everybody concerned.

.H:

Isn't that the issue though Mr Clarke?

.C:

But the reaction.... well we have already met that. I think the judge had forgotten, with respect, when he wrote that that we had already made money available which had nothing to do with the legal claims, and that we had said we would keep that money under review. The judge was talking about settling an action, by which he means settling it according to the ordinary risks of litigation. And frankly I think the judge, plainly by the tone of his letter, shared my view that this... all these allegations against everybody one can think of connected with the history of this tragic matter are unlikely to succeed.

.H:

A final thought to you, Mr Clarke, isn't this really... the problem is that the minute the conversation moves into what is legally just, or unjust, or cases and the rest of it, one actually loses sight of what many people in the country would say is a moral obligation? These people are suffering through no fault of their own, many of them have little time to live, and it seems unseemly of a Government to quibble, just give them the money?

.C:

No, I agree with all that. The moral obligation's never been argued about, and we have made the money available. We pay it to a body called the MacFarlane Trust, and they haven't used up the 34 million we made available. It was the claimants who went to law, it is solicitors who are pressing the present action, and it really does not make sense to go off onto a separate heading saying that "despite there's no fault you should pay legal compensation."

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There are very many people listening to this programme who are terminally ill with cancer, who are chronically sick and disabled, who face the risk of life because of real disease, many of them have young families; we don't actually pay full legal compensation without fault to all those people. If you asked why your heart would tell you it would be very nice if you should, but your head will tell you it is simply not possible. The unique nature of this case we have recognised with the £34 million we've already made available to haemophiliacs, but we can't tell the Health Service to abandon its legal defence to legal actions brought against it by this particular group.

.H:

Mr Clarke, thank you.

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UE MacGREGOR:

Well with me is the General Secretary of the Haemophilia Society, David Watters. Mr Watters, you heard what Kenneth Clarke said. Now, first of all, are you disappointed that he said that the story about health authorities perhaps providing money separately for victims is untrue?

DAVID WATTERS:

I'm not altogether sure that I believe Mr Clarke when he says that, because on Friday and Saturday he denied that meetings had taken place, and we're in the situation where we have a true story which unfolds gradually.

.M:

So you believe that some health authorities may be prepared to make some sort of payment?

.W:

I firmly believe that, yes.

.M:

Can you tell us why?

.W:

Because they see it as much more morally distinct than Mr Clarke does. Mr Clarke's very worried about the principles of law, I think that the community is very worried about the principle of people suffering, and people dying.

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.M:

I would imagine that the Department of Health is also worried that if there were, in a sense, an open door to paying huge amounts of compensation that they would actually have to cut back on many of their capital projects. In fact they've said that large compensation would mean that at least three large capital projects would have to be stopped altogether.

.W:

That would be if compensation was paid by that route. There are Treasury resources which could be used, and in this very singular case - which His Honour Mr Justice Ognall has very neatly ring-fenced to make it distinct from any other - that could appear to be the logical solution.

.M:

Mr Clarke said that at least £20,000 was already available through the MacFarlane Trust, how much more would some of the lemmings who have contracted the HIV virus be prepared to accept do you think? How much are they aiming at?

.W:

Well I can't really say, but all I can say is that over a year ago the lawyers were putting the figure at something in the region of £100,000 each. Of course £20,000 falls very far short of that, £20,000 is not a life changing sum of money.

.M:

Well I don't think either you or I, or Peter indeed, detected much shift of emphasis in Mr Clarke when he spoke earlier. What are your tactics going to be now? When the House returns for the new session of Parliament, is this going to be brought up in the Commons?

.W:

Oh yes indeed. There is already a very large number of questions tabled from MPs from all sides of the House. MPs from all sides of the House will be receiving letters from all my members in the next few days, as will Kenneth Clarke and Mrs Thatcher. And we'll be having a meeting in the House of Commons in the very near future.

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M:

Well David Watters, thank you. I think Kenneth Clarke is still on the line, and has heard what you have said. Mr Clarke, your reaction to what you've just heard?

C:

Well I'm saddened that he was disinclined to believe me. It isn't true that I ever denied any meetings took place, it is unfortunately the case that the stories in the newspapers were untrue. I respect everybody's motives, but people who believe they have a very good cause sometimes run some very bad stories. As far as the moral claim is concerned I do think, as we said, the £34 million remains under review but it hasn't been spent yet.

As far as the legal claim is concerned it was the Homophobia Society who choose to go to law, and I really think if you or I were sued, Miss MacGregor, we would expect to be allowed at least to discuss it with our lawyers, we wouldn't expect to be told we must pay up whatever sum of money is asked from the plaintiffs; even in a harrowing and tragic case of this kind, because the Health Service could have a lot of other harrowing and tragic cases behind it, and I have to weigh up all the competing pressures from every part of the Service for money.

M:

Mr Clarke, Mr Watters, thank you both.
