

SCHEME OF FINANCIAL HELP FOR THOSE INFECTED WITH HIV THROUGH BLOOD OR TISSUE TRANSFER

The scheme that we propose to set up for this group is outlined below. Some aspects are considered in the main submission.

1. Scope of the Scheme

1.1 The scheme will cover those infected with HIV through:-

- (a) blood transfusion (red cells, platelets or plasma)
- (b) tissue transfer (ie transplantation of an organ, part of an organ or tissue)
- (c) non-haemophiliacs infected through treatment with blood products (whether fractionated eg factor 8, or not eg cryoprecipitate)

in the UK during the period 1979 to 1985. However some flexibility will be needed over the relevant period as discussed in the submission.

- 1.2 Cases where the treatment was given in a private hospital in UK but the blood or tissue came from a NHS source would be included.
- 1.3 Infected spouses, partners or children who acquired HIV from those above would also be covered.
- 1.4 In the case of those who would have qualified but have died the money will be paid to the estate.

2. Numbers eligible

- 2.1 We do not know how many there might be beyond the reported cases (around 80 if blood product cases are included). We do not have crucial data on which to base estimates but by making assumptions we arrive at theoretical figure of 370 or so possible infected recipients of blood; around half of whom are likely to have died from their primary disease or condition. This figure must be treated with great caution but the scheme may have to accommodate significantly more cases than those already reported.

3. Rates of payments

- 3.1 The payments will be the same as those made to the infected haemophiliacs ie.

<u>Infected Blood/Tissue Recipients</u>	£
- Infant	41,500 each
- Single Adult	43,500 "
- Married Adult without dependant children	52,000 "
- Infected person with dependant children	80,500 "

Infected Partner/Children of the above

Adult spouse/partner	23,500 "
Child who is married	23,500 "
Other child	21,500 "

- 3.2 The payment category would be determined by reference to the date of the announcement or time of death, if the person had died.
- 3.3 The issue of payments for uninfected relatives is discussed in the submission.
- 3.4 In addition the blood/tissue recipients will need to be given access to a special needs fund to put them on level terms with the haemophiliacs. The machinery for doing this is considered in the submission.
- 3.5 Payments would be disregarded for social security benefits on the same basis as those for haemophiliacs.

4. Medical Criteria

- 4.1 A person will need to show that he/she has become HIV positive, received blood/tissue during the relevant period and that it is reasonable to assume that the blood transfusion/tissue transfer was the source of infection.
- 4.2 Where a person has died it will need to be shown that
- there had been an HIV positive test result before death, or
 - a stored blood sample now tests positive, or
 - there had been a diagnosis of clinical AIDS [or AIDS related condition] before death and there was no other condition to account for the immune deficiency.

The extent of proof required to qualify for payment is discussed in the submission.

5. Conditions Attaching to the Scheme

- 5.1 Applicants will need to agree to give the Department/the assessors access to their medical records.
- 5.2 Those accepting payment will be required to give an undertaking not to pursue legal action against Government or the Health Authorities over matters of policy or broad operational concerns.
- 5.3 Subject to the above, allegations of medical negligence over individual treatments could be pursued against the relevant Health Authority.
- 5.4 Any award in a subsequent medical negligence case should, as with the haemophiliacs, take account of the sums paid under this scheme.
- 5.5 In cases referred for decision by the expert panel, undertakings should be given not to use any confidential information about a donor (eg identity, HIV status) in subsequent litigation of their own or other cases or make public any such information.

6. Procedures

Identifying Potential Beneficiaries

- 6.1 This will be done through
 - (a) contact with plaintiffs solicitors;
 - (b) Communicable Diseases Surveillance Centre and possibly National Blood Transfusion Service records;
 - (c) Circular to NHS Consultants
 - (d) Press Release once panel set up giving details how they can be contacted

Assessing Claims

- 6.2 Straightforward claims where there is clear evidence of entitlement will be approved by the Department.
- 6.3 Other cases will be referred to an expert panel of lawyer and two medical assessors for a decision.
- 6.4 They would make decision not only about the causation but

also the appropriate rate of payment if there was unresolved doubt over the status of the applicant.

- 6.5 The panel will normally decide cases on the papers but will have the discretion to hold a hearing.

7. Payment Machinery

- 7.1 Payments will be made either by the Macfarlane Trust as paying agent or the Department. This to be discussed with the Trustees.

8. Time Limits for claims

- 8.1 Claims should be made within 6 months of the announcement, or the date a person learns of his/her HIV positivity whichever is later.
- 8.2 As with haemophiliacs, claims from infected partners or children will be accepted up to the end of 1999. Within that period individuals will need to claim within six months of learning they are HIV positive.

(These time limits will be discussed and possibly revised in the light of discussions with the Panel Chairman, CDSC and NBTS.)