

POLICY IN CONFIDENCE

CMO

From: Dr H Pickles  
Date: 5 December 1990  
Copy: Dr Metters  
Mr Dobson

**HAEMOPHILIA/HIV LITIGATION**

1. I spoke this morning about my concern at the possible implications of one of the options being considered for our S of S to use in tomorrow's discussions with the Chief Secretary. This is presented in Mr Dobson's note as option 3.2

2. Whilst I appreciate this presents the best arguments for encouraging Treasury to cover settlement costs and could be used for "ring-fencing" this deal, it may be very difficult to present this line of argument in a way which does not damage the reputation of the professionals concerned. If there is said to be a risk of losing which is sufficient to justify a settlement, then either the case is weak because there was negligence or the judge and legal system biased, yet neither of these reasons are ones we could/should use.

3. There are already signs that our Counsel (and perhaps others) are giving undue emphasis to the legal risks if the trial goes ahead. If our case is presented in the worst possible light in this way, even if only in internal papers, the clear implication is that dud advice was offered and accepted or the implementation of policies was deficient. If this argument gets used in presenting the deal, or perhaps in explaining why future episodes are not to be treated the same way, there is reinforcement of the impression that there really was some negligence. With the passage of time, this will become the perceived wisdom.

4. What I sought this morning was reassurance that you were aware and content that this line of argument was being used, and would be acting to minimise the impact on the reputation of those individuals who were most involved (Dr E Harris, Dr D Walford and Dr A Smithies as well as yourself for the Department, all past CSM members and haemophilia specialists).

5. My clear preference is for option 3.1 in Mr Dobson's paper. However cleverly option 3.2 were presented, I believe the risks of misinterpretation are too great.

GRO-C

Hilary Pickles  
Room 414 EH Ext: GRO-C