

Mr Davey PS MS(H)

From: Strachan Heppell PG
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cc: Mr McKeon PS SofS
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Mrs Baldock PS PS(L)
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Dr McInnes PS CMO
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Miss Pease HS
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Mr Barton AIDS Unit
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Dr Pickles MED SEB
Mr Kendall FA
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HAEMOPHILIACS WITH AIDS/HIV

MS(H) will want to have a brief account of my meeting yesterday with Rev. Tanner and Mr Watters of the Haemophilia Society and also Mr Chisholm of G J W Government Relations who is also acting in a personal, unpaid advisory capacity to the Society. We shall be preparing a fuller agreed note of their views but this sets out their main concerns. The note below also takes account of further information from Mr Watters this morning.

The Society's position

2. The Society is interested in promoting an out of Court settlement as the Court action is likely to drag on over a number of years and any compensation awarded would come too late for many of their members.

3. The Society would commend a settlement to its members but only if the amount were sufficient to win the support of the plaintiffs solicitors. The Society has been criticised by some for accepting an inadequate £10 million for the Macfarlane Trust and they do not want to be put in the same position again. Their aim is to obtain compensation but they would be happy not to call it that as they recognise the difficulties for Government in making any payment which implied acceptance of any liability on its part, on the part of the NHS or on the part of Committee of Safety on Medicines.

4. They envisage a panel being appointed - perhaps lawyers skilled in this field to decide on the distribution of individual payments. They are inclined to favour variable payments reflecting individual circumstances:-

- varying them according to four categories: death with or without children, and infected with or without children.

5. The plaintiffs have seen press reports of payments in other countries, usually the generous end of the scale, and this has raised expectations. The Society's present view, having consulted lawyers, is that a sum of £120 million - on average around £100,000 a case - would be required to bring legal action to an end.

6. The Society would prefer the payment to be kept separate from the Macfarlane Trust. Since Trust payments are based on need the plaintiffs do not feel they are in control of their own affairs. The Society might, though, be prepared to use that channel if the Deed could be amended to permit lump sum payments without strict regard to financial need.

Government's position

7. The aim of the meeting was to enable the Society to explain their views, so it was not the occasion to enter a lengthy debate on the pros and cons of the Society's position. I did, however, take the opportunity to make three points:-

First, that my own view was that the Government would be bound to challenge any Court proceedings. It could not concede liability for action taken on the best available advice at the time. To do so could undermine the future ability of the NHS to do its best for patients. Equally, though, it would not wish to continue proceedings simply to establish its legal case.

Second, that there were very considerable disadvantages for the Societies and for the haemophiliacs concerned in pressing on with proceedings. A worst scenario from their point of view was lengthy proceedings which were unsuccessful, expensive and put the families involved under very considerable strain indeed.

Third, (though not in so many words) that Ministers would want to listen very carefully to what the Society, which they hold in high regard, had to say. But the sort of figures they had in mind were very high. And we must take into account the implications eg for others apparently infected with HIV through treatment.

Assessment

8. The Society are anxious to reach an agreed settlement very soon, rather than face a prolonged legal case, in the interests of the families concerned.

9. I am doubtful, however, whether they will be able to commend any payment by the Government of the order we have had in mind. Indeed they are clearly concerned that the families concerned may not even be ready to settle at the sort of levels the Society are going for, given the high figures available or likely to be available in a few countries like West Germany and Canada.

10. On the other hand, the meeting did underline the need to move quickly to make the most of any initiative if the Government is to make one.

GRO-C

STRACHAN HEPPELL