

LORD PRESIDENT

H(A) COMMITTEE: MEETING ON 10 NOVEMBER 1987
SPECIAL FINANCIAL ASSISTANCE FOR HAEMOPHILIACS:
H(A)(87)26

BACKGROUND

There are 7,000 haemophiliacs in the United Kingdom. 1,400 of them are infected by HIV: 40 have already died and the prognosis for the remainder is bleak. Most were infected by blood products (such as factor VIII) made in the USA but some were infected by products made here. Heat treatment of products and screening of donors means that no more haemophiliacs should be infected in this way.

2. DHSS Ministers have consistently resisted compensation (including when the present Employment Secretary and the Minister for Health gave evidence to the Social Services Select Committee earlier this year) on the grounds that there has never been a general State scheme to compensate those who suffer adverse effects from medical treatment. The full range of social security benefits (eg. invalidity benefit, invalidity allowance and in certain circumstances mobility allowance) is, of course, available to those who qualify.

3. The Haemophilia Society of Great Britain have recently launched a campaign for Government compensation for haemophiliacs with the HIV virus. Compensation is at present awarded only where negligence is proved. The Haemophilia Society have been advised that the prospects of proving negligence are slight; and in any case a settlement would take too long to meet immediate needs.

4. The Social Services Secretary originally proposed that, notwithstanding the support which the campaign would attract, the Government should continue to refuse compensation in order to avoid establishing a precedent which could have very wide ramifications.

CONFIDENTIAL

As expected, however, the campaign has attracted a good deal of all-party support in Parliament and among the public generally. Mr Moore now considers that the position is not sustainable unless concessions are made.

5. The case for reversing the present line and singling out haemophiliacs for special compensation is essentially a political one. There is naturally enormous public sympathy for those haemophiliacs who, already suffering from a serious disability (which often affects whole families), find themselves HIV positive through no fault of their own. The Haemophilia Society have apparently successfully got across their contention that the fault lies with the Government for failing to secure self-sufficiency in blood products. This is a tendentious argument but it is difficult to refute it convincingly. The Social Services Secretary and the Minister for Health met the Haemophilia Society on 3 November and told them that the Government were considering the matter of compensation; this is bound to have raised expectations.

MAIN ISSUES

6. The Social Services Secretary now proposes that a one-off grant of up to £10 million be made available to the Haemophilia Society to be distributed to cases of need. What this amounts to is not compensation - which could run to hundreds of thousands of pounds per person - but a gesture of limited financial assistance to meet particular needs. £10 million would be sufficient to provide an average payment of around £8,300 to each of those affected. This does not seem a great deal and you will wish to check with the Social Services Secretary that the Haemophilia Society would regard it as a reasonable sum. The Government would find it difficult to secure any credit at all if the Society were to dismiss such a grant as wholly insufficient.

7. The Chief Secretary, Treasury is concerned about the precedent that such a grant would set. It would not altogether be breaking new ground, since a vaccine damage payments scheme has been in operation

CONFIDENTIAL

CONFIDENTIAL

since the 1970s. The Memorandum is silent on the details of this scheme and you will wish to probe it. We understand that under this scheme the parents of a child who suffers brain damage shortly after being immunised are awarded a sum of £20,000 to help them meet the costs of looking after the child. The scheme was established in 1979 as a means of encouraging the immunisation of children to help reduce the level of infectious diseases. It is thus not entirely on a par with what is now proposed in respect of haemophiliacs.)

8. Despite the precedent of the vaccine scheme the proposed new scheme might nevertheless be very difficult to ring-fence. While haemophiliacs with the HIV virus naturally attract every sympathy, it is not clear that they are any more deserving than other groups who, through no fault of their own, have been damaged by medical treatment. The argument in paragraph 7 of the Memorandum that haemophiliacs are a special case because they already suffer from a limited earning capacity and find it difficult to get insurance at normal rates seems a little thin: a number of other groups are presumably similarly disadvantaged. Certain other AIDS victims (eg. non-haemophiliacs infected through blood transfusion; and hospital workers infected as a result of needlestick injuries) would seem to have an equally strong case for special assistance. And no doubt other groups could make out strong claims too.

9. DHSS lawyers are satisfied that the proposed grant would not imply any admission of liability by the Government. (This is a point Treasury officials are very bothered about because a finding of liability could, of course, have enormous financial implications for the Government.) The Solicitor General will be ready to advise on this.

10. Last, there is the straight public expenditure issue. The Chief Secretary wants the money to be found within a PES block that Mr Moore asserts to have no spare capacity. The Treasury will certainly wish to contain the money within DHSS totals by one means or another.

CONFIDENTIAL

CABO0000205_0003

CONFIDENTIAL

DECISIONS TO BE REACHED

11. You will wish the Sub-Committee to reach a view whether in principle haemophiliacs with the HIV virus should receive special financial assistance. If the Sub-Committee support this, you will wish to invite the Social Services Secretary, in consultation with the territorial Health Ministers and the Chief Secretary, Treasury to work up the details. The Social Services Secretary will also need to consult the Solicitor General on how the scheme should be presented in order to minimise the risk that it would be held to imply liability. It would probably be best for no announcement to be made until the details have been worked up (not least because this could otherwise lead to speculation that substantial compensation would be paid to individuals direct); you may wish to check that the Sub-Committee agree with this.

12. The letter from the Prime Minister's Private Secretary of 2 November records that the Prime Minister would wish to see the views of her colleagues on this and you will wish to report to her the outcome of the meeting before any final decisions are taken.

HANDLING

13. You will wish to invite the SOCIAL SERVICES SECRETARY to introduce his paper. You may then wish to invite the TERRITORIAL HEALTH MINISTERS to comment. THE CHIEF SECRETARY, TREASURY will wish to comment on the financial implications. The SOLICITOR GENERAL will wish to advise on whether the proposed scheme might imply Government liability. Other members of the Sub-Committee will have political points to make.

GRO-C

A J LANGDON
6 November 1987

CONFIDENTIAL

CABO0000205_0004