

# The Eileen Trust

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## **Eileen Trust – Funding for 2007/2008**

I acknowledge your letter of 15 February addressed to Martin Harvey. The Trustees reviewed this letter at a meeting on Wednesday 7 March.

There is no need to repeat the wording expressed by Martin on behalf of the Macfarlane Trust in his letter to you of 7 March. The Department's funding award to the Eileen Trust is as unacceptable to the Trustees of this Trust as is that to those of our larger "sister".

There are, however, some important differences between the Trusts which enhance the belief of my fellow Trustees that the Department have adopted a formulaic approach to us that totally neglects the nature and history of the Trust and the policy that has hitherto been adopted by Ministers towards its funding.

You will recall that the Trust was established in 1993, largely following the Macfarlane model, to provide support to people who were infected with HIV through the use by the NHS of contaminated blood products or tissue for the treatment of conditions other than bleeding disorders.

The heterogeneous nature of these routes of infection made identification of potential registrants very difficult. One result of this has been that the Trust has received no fewer than 5 new registrants in the last 3 years, and there can be no confidence that further new registrants will not come to light in the future.

It should be stressed here that the majority of these recent registrants have been in the community, unknowingly HIV positive, for many years. The consequent general risks to public health need not be enumerated.

In the scheme of *ex gratia* payments set up by the Department in 1992, as a precursor to this Trust (referred to in that scheme as a "Special Needs Fund"), the Department committed to a range of capital payments along the lines of those made to Macfarlane Trust registrants through the Macfarlane Special Payments Trust (Number 2).

The funding award for 2007/2008 attempts to transfer the responsibility for making these payments to this Trust, without the provision of any funds to finance them. There are three reasons why the Trustees do not accept this responsibility:

- in the absence of any legislation or statutory instrument covering this, there seems to be no legal basis by which the Department can simply over-ride the principles and procedures of the scheme set up by the Secretary of State on 24 April 1992
- the Trust is a discretionary charitable Trust and is not empowered, under charity law, to make payments according to a non-charitable tariff
- were there to be a single new registrant in the year 2007/2008 who was married with dependent children – not an unreasonable hypothesis – the capital payment laid down by the scheme, of £80,500, could not be made without forcing the Trust to reduce payments to existing beneficiaries.

This element of the funding award betrays inadequate thought within your Department and requires immediate re-consideration. If the Department does not withdraw this aspect of your letter (the third sentence of your second paragraph) the Trust will have to incur legal costs to ascertain how to enforce its withdrawal.

Unlike the Macfarlane Trust, this Trust does not have large reserves. The proposed payment of the £177,000 funding in quarterly instalments in arrears will put considerable strain on its finances, as well as reducing its limited scope for investment earnings. This aspect of the award makes your description of it as a “level cash settlement” specious and misleading.

The Trustees note that you have not yet replied to Martin Harvey's letter of 13 December concerning two recent registrants. I must remind you that one of them, Mr GRO-A, received a capital payment of £43,500, as he was entitled to under the April 1992 scheme, in 1993, but received no information then or subsequently until last year about this Trust. (I understand that Mr GRO-A is a most careful gentleman with a filing system that would put many of us to shame). There can be no doubt that the responsibility for this lies with the Department. We are in the process of calculating the regular income payments that he would have received from the Trust had he been registered since its inception – we cannot estimate what further payments we might have made by way of discretionary grants – of which we will inform him at the same time as you.

My fellow Trustees join me in asking that this letter be placed in front of the Minister for her urgent consideration. Further, since the needs of our registrants have been ignored in the funding awards for both this year and next, we request in addition a meeting with her, in the near future, at which the nature and needs of this Trust can be thoroughly explained and differentiated from those of the Macfarlane Trust.

Yours sincerely

Peter Stevens  
Chairman