

DEBATE ON THE MOTION FOR THE SUMMER ADJOURNMENT - CALLS FOR
COMPENSATION FOR HAEMOPHILIACS INFECTED WITH HEPATITIS C

SPEECH

We have great sympathy with those patients who may have become infected with hepatitis C through blood transfusions or blood products. The Government does not accept, however, that there has been negligence and we have no plans to make payments to such patients.

The UK record of blood safety is among the best in the world. But medical procedures are rarely without risk. It is not always possible at the time to fully appreciate the risk or to avoid suspected or known risks.

Most haemophilia patients infected with hepatitis C were so infected before blood products were treated to destroy viruses in 1985. This was well before the first Hepatitis C tests were available in 1989. These patients received the best treatment available in the light of medical knowledge at the time. At the time these patients were infected little was known about hepatitis C, or non-A, non-B hepatitis as it was then known, and even today a lot more information is needed.

Members will be well aware that the availability of Factor VIII concentrate has brought about great benefits to patients with haemophilia. Previously only about 5% of patients with

severe haemophilia reached the age of 40, whereas by 1980 the life expectancy was very close to that of normal males. Also there was less need for long periods of hospitalisation, and boys had a better chance of achieving a reasonable education. Additionally the convenience of patients being able to keep concentrate in a domestic fridge, and treat themselves at the first sign of a bleed, meant a considerable reduction in long term disability. [It is only since the onset of AIDS, that the optimistic outlook has been somewhat diminished].

Before there was any test for non-A, non-B hepatitis the only way to safeguard blood was to limit those from whom blood was taken by a system of self deferral. This excluded those known to be suffering from hepatitis or any other liver disease; drug misusers; and men who had sex with other men.

The Haemophilia Society stated in the press release launching their current campaign that over 40 haemophilia patients have died through infection with hepatitis C virus. It is important to retain a clear sense of proportions and timescales. The figures quoted by the Society relate to the 5 year period 1988 to 1993. In 1993 12 haemophilia patients died with the cause of death shown as liver disease. This was out of 126 haemophilia patients known to have died in that year. Of these 12, 8 were also HIV positive. [Without seeking to minimise the tragedy, these are small numbers when weighed in the balance of the good that treatment for haemophilia has brought to many of these and countless others.]

Many people infected with Hepatitis C may enjoy a long period without any symptoms appearing. 50% of sufferers may progress to chronic hepatitis with varying degrees of good or ill health. Perhaps 20% of infected patients will develop cirrhosis, a progressive destruction of the liver, that may take 20 to 30 years. The majority of those years will be trouble free in terms of ill health , and as I have mentioned, only a small proportion will die of liver disease. Although

every death is a tragedy for the family concerned.

In the case of those who contracted HIV through NHS treatment, special payments were made, and trusts established to help sufferers or their families in cases of hardship.

These arrangements were put in place in recognition of the very special circumstances of those who contracted HIV. Those affected were all expected to die very shortly, although it has since become clear that fortunately this is not always the case. This meant that there might also be significant numbers of young children who had lost a parent, or perhaps both if the disease had been transmitted also to their partner. Sufferers were also subjected to significant social problems, including ostracism. They had their doors daubed with graffiti, they lost their jobs, their children were not allowed to mix with other children at school. They were denied a normal family life.

I sympathise with those who have been infected with Hepatitis C through blood or blood products and would in no way wish to minimise either the physical suffering which may result or the worry which they and their family may experience. But each situation has to be looked at on its merits and in the light of all the relevant facts. Those who have contracted Hepatitis C are not also subject to all the add the additional

problems experienced by HIV sufferers, who were accepted as being a very special case. Hepatitis C is generally less severe than HIV. Many people infected with Hepatitis C may enjoy a long period without any symptoms appearing, or may never experience any at all.

[If payment were to be made to those who had contracted Hepatitis C through NHS treatment it is not clear that this could be restricted to those with haemophilia.] In either case, there could be others who could argue that although they had been affected in different ways they were entitled to payments, even though no fault on the part of the NHS was proven. The Government has never accepted the case for a no fault scheme of compensation for medical accidents.

There are sound reasons for this.

- * First of all proof of causation is still needed. It may be just as difficult to establish that medical treatment has caused injury as to prove that someone has been negligent. It also has to be demonstrated that it was not a foreseeable and reasonable result of treatment;

- * It would be unfair to others, in that those whose plight was the result of a medical accident would be compensated, whereas those whose condition stemmed from

instance from disease from birth would not;

- * health negligence is not considered to be fundamentally different from negligence in other walks of life, where claims for compensation are resolved through the courts;

- * the present system arguably has a deterrent effect on malpractice. No fault compensation might conceivably encourage doctors to be less cautious.

The experience of other countries who have tried to follow this path has strengthened the Government's view. The costs of the New Zealand scheme have proved to be extremely high, some 1% of the gross domestic product - equivalent to some £6 billion in the UK. In addition to practical difficulties the scheme effectively denies access to the courts. I understand that in Sweden payments under the no-fault compensation scheme are much lower; but the authorities have found it necessary to make additional payments to those infected with HIV. [Apart from Austria no other country in Europe has introduced payments for haemophiliacs infected with hepatitis C through blood products.]

Every individual case where a medical accident has occurred is a personal tragedy for both the individual concerned and their family. If the NHS is proved negligent in a Court, it accepts

its liability to pay damages. However, if payments were to be made in these cases, or in others where negligence was not proved, the costs would run into many millions of pounds. This would be money that would have to come from resources which would otherwise be available for use elsewhere within the health service for patient care. Hard choices have to be made. I do not see that payments could be made in these cases, sad as they are, without this being at the expense of help which might be given to others by the health service.

It is the Government's view that the most effective use of the available resources is to seek to improve the understanding, management and treatment of the condition. Only in this way can the impact of the disease on individual patients and their families be effectively minimised.

The Department is already supporting an initiative by the Haemophilia Society to undertake a study into the best way to support its members who are infected with hepatitis C, and has made available £91,000 in 1995/96, with a commitment to further funding in 1996/97 and 1997/98 for this purpose.

We are also discussing with haemophilia centres what needs to be done to develop good practice for the treatment of people with haemophilia who also have hepatitis C.

I hope that this will reassure you that the Government will do

all it can to care for those affected.

To summarise therefore. We have great sympathy for those who have contracted Hepatitis C through NHS treatment, and are taking a number of measures designed to identify them and enable them to receive the best possible advice and treatment. But we do not feel that, in the absence of proven negligence on the part of the NHS there is a case for using monies which would otherwise be used for the care and treatment of other NHS patients to make special payments to those affected.