

**"Re: vCJD compensation scheme"**

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**Eileen Lawrence**

03/08/2004 15:00

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 Subject: Re: vCJD  
 compensation scheme

Brett

I attach some recent off-the-shelf briefing on the vCJD scheme which might provide helpful background (I haven't included the annexes).

On the specific issue of whether the scheme applies to "worried well" the clear answer is no. The terms of the Trust Deed say that: "The SofS on behalf of HMG wishes to provide funds by way of compensation in respect of persons *who suffered or who are suffering from the disease known as vCJD* to be held and applied in accordance with the trusts set out below."

The Deed then defines a victim as:

"in respect of whom the CJD Surveillance Unit has either i)

stated in writing that he is or was on the balance of probabilities a victim of vCJD or ii) following his death and any post mortem examination has confirmed in writing that he was on the balance of probabilities suffering from vCJD prior to his death."

Therefore a suggested line to take is:

"The Government compensation scheme for vCJD was developed to make payments to each of those who have been diagnosed with vCJD and their families. A vCJD Trust was set up to administer the scheme and its terms are set out in the vCJD Trust Deed. The Trust Deed does not allow for payments to be made to claimants without a diagnosis of vCJD."

It would present considerable difficulties in administering the Scheme to widen the terms of the Trust Deed to include those (and their families) who are worried well. However, I do recognise that you may well be under pressure to compensate the 'worried well' with respect to psychological trauma. The Trust Deed allows payments in respect of 'experience of vCJD for the family of the victim' and for 'personal injury from an identifiable psychiatric condition' - with additional payments allowed where this has given rise to particular financial or emotional hardship. It might be argued therefore that the Trust Deed recognises, albeit not explicitly, psychological trauma.

A possible alternative for the worried well (but I do not know enough about this to offer an informed view) would be perhaps to consider the existing mechanisms for compensating patients who have suffered an adverse event as a result of a medical intervention. I think the NHS Litigation authority deals? It might be worth checking with them to see if there are any precedents in other areas for compensating 'worried well'.

Hope this helps,

Eileen



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Eileen  
Brett  
vCJD

Dear Eileen

Colleagues in General Health Protection are drawing up briefing in preparation of the decision to inform certain individuals that they have received plasma derivatives implicated with vCJD infection. These individuals will include haemophiliacs, SCID and burn patients.

I would be grateful if you could provide me with any Q&A you may have on the vCJD compensation scheme. More specifically have you a line to take on extension of the scheme to include the worried well w.r.t. to psychological trauma?. If possible please could you provide any available information by the 13th August and copying in Ed Davis and Zubeda Seedat.

Many thanks

Brett

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