

E-Mail

RESTRICTED : POLICY

Mr Scofield

From: Dr J S Metters DCMO
6 April 1995

Copies to: Ms Roughton PS/PS
Mr Shaw
Mr Podger
Dr Rejman
Mr Blake SOL
Mr Brownlee
Mr Gooderham
Mr Kelly
Mr Burrage

PAYMENTS FOR THOSE INFECTED WITH HEPATITIS C THROUGH BLOOD TRANSFUSION/BLOOD PRODUCTS

1. Your minute of 5 April refers. As you say, the draft submission is necessarily long because it attempts comprehensively to cover all aspects of a possible payments scheme. That makes the summary all the more necessary, as Ministers may concentrate their attention on this only dipping into the main paper.
2. With that possibility in mind, I have the following suggestions for the summary.
3. First and foremost, it should be emphasised that the payments scheme is not no-fault compensation by a different name. The scheme is intended to provide for those who have been harmed by NHS treatment (HCV infected blood or blood products) in a way that is proportional to the harm experienced.
4. However, the summary should also make it clear that should such a scheme be agreed, there are implications for other NHS treatments. There must be some reference to CJD in the summary, and I suggest also to other viral disorders such as HTLV and CMV that may also be transmitted by blood transfusion.
5. The summary makes no mention of number of cases involved. It should be clear we anticipate 3000 from the haemophilia group and a further 3000 from blood transfusion recipients.
6. Turning to two specific points in the summary:

Paragraph 1: It would be useful here to point out that the patients with haemophilia who are infected with Hepatitis C receive the blood products at least four years before there was any test for Hepatitis C and therefore no question of negligence could arise.

Paragraphs 4 & 5: Between these it may be necessary to point out that Treasury are firmly opposed to any extension of such compensation schemes. They will be difficult to persuade. Furthermore there is no PES provision.

Paragraph 9: A point to emphasise here is that any payment scheme must be related to the degree of harm experienced. Some of those infected will suffer no adverse effects whatsoever, apart from anxiety.

The last sentence needs expansion. Proof of causation with Hepatitis C will need to be tighter as most cases in the UK are thought to arise from intravenous drug abuse. It may be necessary to do special tests to determine whether the recipients' Hep C status with the result of transfusion or otherwise.

Paragraph 12, penultimate sentence: It might be better to say "brought about by transplantation of tissues or organs".

Main Paper

Paragraph 16, first line: This needs to be strengthened: "The Government has been firmly opposed to a general no-fault compensation scheme."

The same paragraph might spell out the differences that there are between Hepatitis C and HIV. In the first place the patients with haemophilia were regarded as being at "double jeopardy", both from their pre-existing disease, and the fact that they have contracted HIV. Secondly, there was the stigma attached to HIV. Thirdly, there was the much greater likelihood of sexual transmission to spouses. Thus there are real differences which could be spelt out.

Paragraph 19, second sentence: Change to " ... it would be inappropriate to make payments which implied the Transfusion Service, the NHS or the Department were at fault."

Paragraph 24, lines 7 & 8: I have already commented on the greater likelihood that Hepatitis C might have been acquired prior to blood transfusion or receipt of blood products. Hence there is good case for confirmatory testing, which was not done for the HIV scheme.

Paragraph 28: For tissue, organs and gametes the scheme could be limited to those infected through NHS treatment. However for blood and blood products those transfused in the private sector using products from the BTS would need to be covered.

Paragraph 31, third line: "... but as yet its long term efficacy seems ...".

Paragraph 33 (iv): Some where here one needs to include the possible risk, though low, of sexual transmission to spouse.

Paragraph 41, second sentence: The number of people infected through blood products and blood transfusions is therefore finite and falling.

Paragraph 43, first line: "This leaves 3000 people with haemophilia who were infected with"

Paragraph 58, first sentence: The point to bring out here is that the transfusion service and the Department may even now be vulnerable because we are not screening for viruses that are rare in the UK, donor population such as HTLV1.

J S METTERS
Room 509
Richmond House

453/YdeS