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IMPLEMENTATION OF THE GOVERNMENT'S RESPONSE TO THE ARCHER REPORT – FUNDING OF THE MACFARLANE AND EILEEN TRUSTS

Decision or rule	DH Rationale
The total budget for 2009/10 will be £7.6m, for both Trusts (i.e. introducing £3.8m new money), with the current number of registrants.	This comprises £12.8k x 401 infected beneficiaries (385MFT + 16ET) = £5.13m + £2.47m for discretionary payments and management costs.
The non-discretionary budget will be reviewed annually to take account of the number of infected registrants. The total budget <u>will</u> similarly be re-visited to take account of the wider context of <u>increasing living costs but allowance for inflation cannot be</u> guaranteed. On the death of an infected registrant, the balance of the £12,800 will continue to be paid into the estate for the year in question.	These budgets cannot be treated in isolation from the rest of DH budgets. Avoids the need for in-year re-calculation, and provides some consideration for surviving family.
The budget includes admin costs	Simplicity of DH funding, and provides downward pressure on costs.
DH will provide total funding to the Trust(s) 6-monthly in advance. The flat payments of £12.8k to registrants will be paid monthly, as at present. Any interest accrued on the non-discretionary funding in the hands of the Trust should be regarded as a charitable donation to the discretionary fund.	Balances admin cost against convenience to claimant. Avoids large "overpayment" on death.
"Overpayment" of advance payment due to death will not be recovered, assuming that to be the present arrangement.	Continuation of the present arrangements. Claw-back of a few weeks' advance payment on death would be unacceptable, <u>as</u> it is not the present practice.
The £12.8k payments to beneficiaries for 2009/10 will be at part - year rate, as from 20 May.	Avoids possible over-payment
Trustees will take into account, in making the payment of £12.8k, any regular payments already made since 20 May 2009. Any payments made before 20 May will be excluded.	Avoids duplication of benefit, whenever the scheme payments start.
New entrants will receive the flat payments w.e.f. the first of the month they are registered or the following, whichever is current ET practice. The present lump sum payments to new registrants will continue, as at present, funded separately by DH.	Simplicity
No payment of a suggested £50k to claimant's spouse or partner on death.	The <u>raison d'être</u> of the Trusts is recognition of special circumstances and that <u>dependants</u> would still be eligible for discretionary payments after death of infected claimant.
No "equalisation" of MFT and ET lump sum entry payments.	The two Trusts' lump sum provisions are <u>strictly equal already</u> as between the sexes. No action needed.
If an existing claimant refuses to accept the £12.8k, the Trustees	A fair and proper use of money which belongs to the claimant or the

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should regard the sum rejected as a charitable gift to the Trust's general fund. Those who refuse will be allowed to change their minds at any time but will then only be paid as from the time of accepting the new payment.	Trust, not to the Secretary of State.
MFT and ET to be encouraged to merge under a new Trust Deed.	Economy, simplicity and maximises the flexibility of the new Trust in serving claimants' interests.
Tax and Social Security status of all funds and payments remain immune, as at present.	<p>Avoids leakage of funds, and ensures simplicity. Aims to maximise funds available to recipients and maintain current position.</p> <p>But recognises that major questions have to be resolved with HMRC and the Charities Commission:</p> <ol style="list-style-type: none"> 1. Can a single body administer this mixture of discretionary and non-discretionary payments while remaining a registered charity (current advice via MFT indicates otherwise) 2. What might be the tax implications for the beneficiaries 3. Would the increased payments affect the beneficiaries' DWP payments 4. Any new arrangements <u>must</u> be structured, if possible, so that neither the Trust nor the beneficiaries have any more stringent tax or DWP treatment than they have at present.

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