

**EDM 690: CENTRALLY FUNDED NO-FAULT
MEDICAL ACCIDENT PAYMENT SCHEME: 17.2.92**

That this House deplores the delays in providing for both haemophiliac and non-haemophiliac patients infected with HIV through National Health Service treatment; believes that no medical accident victim should be subject to uncertainty and legal pressures which compound their suffering nor should their financial welfare depend on the death-bed repentance of a government before a general election; and calls for the establishment of a centrally funded no-fault medical accident payment scheme.

Line to take

Since the Pearson Commission came down against introducing a system of no fault compensation, the arguments for and against have not fundamentally changed. No fault compensation would certainly overcome the perceived unfairness of treatment between those victims of medical accidents who are awarded damages after proving negligence and those who are not compensated because either they fail to prove negligence or because negligence was clearly not involved. However such a scheme would, in its turn, create unfairness between those who are disabled by a medical accident, and would then be compensated, and those who are equally disabled as a result of the natural progression of their disease.

Background Note

1. HIV infected blood/tissue recipients.
 - 1.1 The Government is extending the special provision for haemophiliacs to infected blood and tissue recipients infected with HIV through blood or tissue transfer within the UK. It has concluded that it would be right to recognise that this group who, like the haemophiliacs, being infected with HIV through medical treatment within the UK, are also a very special case.
 - 1.2 The exact numbers are not known. 74 cases are reported to have been transfused in UK and in a further 17 cases the place of transfusion is not known at present. Claims will have to be validated.
 - 1.3 We cannot be certain about the cost, as numbers with valid claims are not known. On the basis of the reported cases we estimate the cost could be £12 million.

2. No-Fault compensation.

- 2.1 Mrs Rosie Barnes MP introduced the NHS (Compensation) Bill in 1991 following her success in the Private Members ballot. The Bill called for the introduction of a system of 'No-fault' compensation in this country. The Government found that it was unable to offer support for the measure because it did not prescribe a system which would have been simple to run, straightforward in operation, fair in outcome or acceptable in cost.
Mrs Barnes' Bill did not receive a Second Reading.
- 2.2 During the Bill's Debate in the House of Commons the Secretary of State, William Waldegrave, agreed to look more closely at a suggestion, first made by Lord Griffiths, for the resolution of claims for compensation on the grounds of medical negligence by arbitration.
- 2.3 The Department has produced a consultation paper on the possibility of introducing arbitration. This was issued in October 1991 and officials are currently studying comments received. Ministers will promote, reject or amend the proposals in the light of comments received.