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Date: 22 February 1988

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#### LEGAL ACTION BY RECIPIENTS OF HIV POSITIVE BLOOD TRANSFUSIONS

##### Problem

1. A number of MPs have written seeking special financial payments for those infected with HIV by blood transfusions in line with the £10m ex-gratia payment for haemophiliacs. These claims have been refuted but over the weekend the Press carried stories of the first legal action for redress. The plaintiff was knocked down in a car accident, and is reportedly suing the driver for the injuries she sustained and for the fact that the blood transfusion she then received allegedly transmitted HIV infection.

##### Size of general problem

2. The exact number of patients in the UK who have received blood infected with HIV is unknown. In general infected patients would only be identified if they became ill later. At the end of January 1988, 42 cases of HIV infection associated with blood transfusions given in the UK had been reported to the Communicable Disease Surveillance Centre. This figure now includes nine cases of AIDS.

##### Safety of Blood

3. The safety of the blood supply is maintained in two ways. Firstly leaflets have been issued to blood donors since 1983. They describe those groups of people most likely to have been exposed to the AIDS virus and who must not give blood.

4. Secondly, as soon as properly evaluated HIV antibody screening tests were available they were introduced. Since October 1985 every single blood donation has also been screened. There have been no reports of HIV infection arising from blood collected by the National Blood Transfusion Service of England and Wales since that date.

5. Haemophiliacs were infected by blood products, not blood transfusions. The risk from blood transfusions has been estimated at about 1 in a million.

##### Trust Fund for Haemophiliacs

6. The Statement made by MS(H) on 16 November announced an ex gratia payment of £10 million to the Haemophilia Society to establish a special trust fund. It was emphasised that this was in recognition of the 'wholly exceptional' position of haemophiliacs. It was not compensation payment.

Features distinguishing Haemophiliacs from Blood Transfusion recipients

7. The Haemophiliacs case differs from the recipients of blood transfusions in the following ways -

- a) they were already suffering from a serious disability which affected their employment prospects and insurance status. They had little opportunity to insure their lives or their mortgages or to build up savings in order to provide for their dependents.
- b) the hereditary nature of haemophilia can and in some cases does, mean that more than one member of the family may be affected.

8. Whilst there may be exceptional cases of blood transfusion recipients who had a pre existing disability which the operation was designed to alleviate, this will not generally be the case. Nor is it likely that more than one family member will be affected.

Line to take

9. Great sympathy for all those infected with this terrible virus. There can be no comment on individual cases where legal action is in train since the matter is sub judice.

10. The special financial help for haemophiliacs announced on 16 November is an ex-gratia payment. It is not compensation. It is in recognition of their wholly exceptional circumstances. Their employment prospects and insurance status were already affected by their blood disorder, and the hereditary nature of haemophilia can mean that more than one member of the same family may be affected.

11. After careful consideration, we concluded that this combination of circumstances does not apply to those who unfortunately have become infected with HIV through blood transfusions. However all the facilities of the NHS and a range of Social Security benefits are of course available to those who suffer illness, unemployment or loss of earnings as a result of infection with HIV or as a result of contracting AIDS itself.

12. The risk of a unit of blood passing through the publicity and screening barriers has been estimated at about 1 in a million. There have been no reports of HIV infection arising from blood collected in England and Wales since October 1985, and this represents over 6 million donations.

GRO-C: Moore