

1. Mr Dobson JND
14.5
2. Parliamentary Branch

From : J Canavan EHF1A

Date : 13 May 1991

CC :

Mr Powell SOLB3
Dr Rejman MEDISP
Mr Merrett FA2
Mr Thompson
AIDS Unit
File GEB 5
LIE 16
ACQ 9
HTS 3

HIV HAEMOPHILIA
HIV INFECTED BLOOD TRANSFUSION RECIPIENTS
HEPATITIS C VIRUS

I attach briefing for No 10 as requested

GRO-C

J CANAVAN
Room 505 Eileen House
Extension GRO-C

**HIV HAEMOPHILIA SETTLEMENT - BRIEFING FOR
NO 10 - 13 MAY 1991**

Glad to say that an offer has now been made, conveying the detailed terms of the settlement. I believe this will be acceptable to the vast majority of plaintiffs.

The first payments were made by the Macfarlane Trust last Friday.

I understand that the settlement has been approved for some infants and that the Court is expected to announce the final details of the settlement in June.

We welcome these developments.

HIV HAEMOPHILIA SETTLEMENT - BRIEFING FOR NO 10 - 13 MAY 1991

Background Note

1. A final offer was made on 2 May which we know to be acceptable to the Steering Committee of Solicitors for the plaintiffs (although one firm of solicitors is holding out for more).

2. The offer and the setting up of the Macfarlane Trust were announced on 3 May. Acceptances are being received from individual plaintiffs, and the first payments were issued from the Macfarlane Trust on Friday 10 May.

3. Regulations have been made to enable payments from the new Trust to be disregarded for Social Security benefit purposes.

4. At a court hearing on 9 May, Mr Justice Ognall approved the settlement for certain specified infants, and hospital patients unable to act for themselves and indicated that other cases where infants were plaintiffs could be submitted to him in writing for approval.

5. The final details of the settlement will be announced in open court during June.

6. The settlement offer is in addition to the £34 million already paid:-

- £10 million being disbursed by the Macfarlane Trust on the basis of need
- £24 million to provide £20,000 lump sum for all infected haemophiliacs

Offer of £42 million:

- payments to infected haemophiliacs range from £21,500 for a child to £60,500 for a married adult with dependent children
- certain other relatives involved in the litigation on grounds they may be at risk of becoming infected through association with the haemophiliac will receive £2,000 each.

HIV INFECTED BLOOD TRANSFUSION RECIPIENTS - BRIEFING FOR No 10 -

13 MAY 1991

In general the Government does not accept the case for no fault compensation for medical accidents. However, it recognised that special circumstances applied to the haemophiliacs with HIV.

Haemophiliacs were doubly disadvantaged by the pre-existing haemophilia, which affected their employment, mortgage and insurance prospects, and by their HIV infection.

The hereditary nature of haemophilia can mean that more than one member of the family might be affected.

A similar combination of factors would not generally apply to blood transfusion cases.

In principle blood transfusion cases are no different from other people who suffered from medical accidents or the unintended side effects of treatment.

**HIV INFECTED BLOOD TRANSFUSION RECIPIENTS - BRIEFING FOR NO 10 -
13 MAY 1991**

Background Note

1. The previous two awards to haemophiliacs, in 1987 and 1989, have been followed by campaigns to give similar help to those who had contracted HIV/AIDS as a result of blood transfusions.
2. 135 reports have been received of cases in UK infected with HIV through blood transfusions. The number known to have been transfused in the UK is 49. The number reported with AIDS is 28 of whom 20 are known to have died. (At least 14 of the number reported with AIDS are already included in the HIV reports.)
3. No claims for compensation have been made against the Government, although in Scotland it has been intimated that claims may be made against the Secretary of State in 4 cases.
4. We estimate that the cost of a payment scheme limited to people with HIV transfused in the UK would not be trivial - probably some £3-5m.
5. Pressure on behalf of those infected with HIV through blood transfusions has been resisted on the grounds that the circumstances of the haemophiliacs would rarely apply to the recipients of blood transfusions.
6. Haemophiliacs were doubly disadvantaged by their pre-existing haemophilia, which affected their employment, mortgage and insurance prospects, and by their HIV infection. Moreover the hereditary condition of haemophilia can mean that more than one member of the family may be infected. (A similar combination of factors could apply to others such as those suffering from thalassaemia or sickle cell anaemia, but there have been none reported with HIV, and in any case they would be few in number).

7. The real difficulty over granting a concession would be to re-establish a credible "ring fence" to prevent any further movement towards a general system of no-fault compensation. In contrast to the haemophiliacs, it is difficult to draw any logical distinction between the HIV-infected blood transfusion cases and other victims of medical accidents.

8. The worst of all possible worlds would be to slide into no-fault compensation through a series of reluctant concessions to well-orchestrated campaigns. No-fault compensation was recently debated in Parliament, and rejected on the grounds that a general scheme would be unworkable and unfair.

Hepatitis C Infection

Haemophilia

Haemophiliacs now have the protection of heat treated blood products in which the risk of transmission of hepatitis C is minimal.

In the past benefits of treatment with blood products had to be weighed against the risk of infection with the hepatitis C virus which was originally not thought to be a particularly serious illness, for which there was no test, or effective means of inactivation.

[If pressed on litigation] - we deny that the Government has any legal liability.

[If pressed on moral case for compensation] - regrettable that in the past most haemophiliacs will unavoidably have been infected with hepatitis C in the course of their treatment. However for the great majority there will be no adverse clinical effects.

Blood Supplies

Committed to maintaining the safety of our blood supply, which is already among the safest in the world. The risk of hepatitis C being contracted through blood transfusion, though it exists, is remote.

The evaluation of the newly developed screening tests is underway, as recommended by our expert advisers. Testing is likely to begin in September.

[if pressed] - Northern Region decision to start testing now, does not affect the position of the other Regions. Northern results will make useful contribution to wider evaluation.

no10bri14.May

Briefing for No 10

Background (HCV)

Hepatitis C Infection in Haemophiliacs

Hepatitis C is now considered to be the main cause of post transfusion hepatitis and in the past has also been transmitted to most haemophiliacs through treatment with blood products. The disease may run a symptomless course but in some cases can result in chronic liver damage which may ultimately be fatal. There is also a rare but serious acute form of illness.

Effective methods for heat treatment of blood products were only developed after 1984 (as a by product of concern over HIV infection). Methods of screening blood donations for hepatitis C were only developed in 1989 and have still not been adequately validated for routine use. Some other countries have already begun testing. However, our experts advised not to introduce screening until after evaluation of the tests, until supplementary tests to eliminate false positive reactions to the screen were satisfactory and counselling arrangements for infective donors were in place. The routine screening of blood is expected to start in the UK from 1 September 1991.

Northern Regional Transfusion Centre made a unilateral decision to start screening from late April. This is now being regarded as part of a wider evaluation and the date for the introduction of general screening is unchanged.

We are not aware of any writs having been issued on the Department in respect of Hepatitis C infection. Haemophiliacs in the HIV litigation are prevented by the settlement from raising the hepatitis issue (the arguments about protecting blood products from HIV and hepatitis are essentially the same). Non litigants who accept payments under the settlement will also be required to forego litigation about hepatitis. It would be difficult for any others to demonstrate that the Government had any legal liability. The moral arguments are also far weaker than for HIV since hepatitis C does not necessarily produce symptoms and the mortality rate is believed to be much less than that for HIV.