cc. Dr Pickles.
ACQ9
4E35

cd-23.4 **POLICY IN CONFIDENCE**

Mr Alcock PS to S of S

From: J C Dobson EHF1

Date: 23 April 1991

cc: Dr Nicholas PS/CMO
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Mr Heppell HSS
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HIV INFECTED BLOOD TRANSFUSION RECIPIENTS

At yesterday's meeting Secretary of State asked for a note on our present position on compensation for people infected with HIV through blood transfusion, and on the costs which would be incurred if we were to extend to them the compensation scheme for haemophiliacs. This is attached at A, and revised briefing sent to Press Office yesterday is at B.

2. As the note shows, the cost of a scheme limited to people with HIV transfused in the UK would not be trivial - probably some £3-5m depending on assumptions. But 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. The government has always justified its special provision for HIV-infected haemophiliacs on the grounds that they are a uniquely unfortunate group - in particular, because the tragedy of infection with the HIV virus was superimposed on a severe hereditary disability. In contrast, it is difficult to draw <u>any</u> logical distinction between the HIV-infected blood transfusion cases and other victims of medical accidents. If ministers wish to reconsider the case for some general system of no-fault compensation that is another matter, but in my view the worst of all possible worlds would be to slide into no-fault compensation through a series of reluctant concessions to well-orchestrated campaigns.

3. One final point is that Treasury would strongly resist any further concession, and might well accuse us of bad faith in even considering it. (The danger of knock-on effects was raised with Treasury officials in the discussions leading up to last December's announcement, but the assumption was that a settlement for the haemophiliacs could be ring-fenced.) At a time when Treasury are trying to renege on their agreement to fund the haemophiliac settlement, it would be particularly unfortunate for us to put up the price even by a modest amount.

GRO-C

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A

HIV INFECTED BLOOD TRANSFUSION RECIPIENTS

At the meeting yesterday the Secretary of State asked for a note on the numbers and cost of compensating those blood transfusion recipients infected with HIV on the same terms as the haemophiliacs, and the arguments for resisting such a claim.

Numbers

The latest available figures for HIV infected blood transfusion recipients by place of transfusion (as at December 1990) are shown below:

Place of transfusion:	**Infected with HIV**	**Contracted AIDS**
UK	49	28
Abroad	49	37
Unknown	37	-
	135	65

The table also shows the number of blood transfusion recipients who have developed clinical AIDS. It is not known exactly how much double counting there is between the two sets of figures, but at least half of the reported AIDS cases transfused in the UK are also included as cases of HIV infection. The total number of independent cases is thus in the range 135 to 186 of which at least 49 were infected in the UK.

Costs

For the purposes of the costing we have assumed that half of the unknowns will have been transfused abroad and half in UK; and that half of all reported AIDS cases are included in the reports of HIV infection.

On this basis, the total number of HIV infected and AIDS cases would be 168 of whom 82 would have been infected in the UK.

The payment scheme for haemophiliacs ranges from £21,500 for an infant to £60,500 for a haemophiliac with children. The cost of payment for blood transfusion recipients would therefore be in the range:

	£	£
UK transfused cases	1.8m	5.0m
All transfused	3.6m	10.2m

The cost is likely to be nearer the top end of the range as the blood transfusion recipient population is likely to include more people qualifying for the higher rate of payment.

Arguments against compensation

1. Those campaigning on behalf of the HIV infected blood transfusion recipients suggest that those people should be compensated for NHS treatment which has gone wrong. However a significant number of blood transfusion cases were transfused abroad or the place of transfusion is not known. There is no basis for people to seek Government compensation for a misfortune arising from treatment outside this country. The compensation for haemophiliacs is restricted to those infected with HIV as the result of treatment in the UK.

2. The validation of claims by those transfused would not be as straightforward as for haemophiliacs whose medical history is well known. Most HIV infected haemophiliacs have received treatment on many occasions (virtually all in the UK) and so there is little doubt that their infection was due to infected blood products. In contrast, some transfusion recipients have only ever been given a few units of blood; if they have ever taken part in high-risk activities there must be a real element of doubt over the cause of infection.

3. For those transfused in the UK a distinction can be drawn between them and haemophiliacs on the grounds that :-

- 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.

4. A similar combination of factors would not generally apply to blood transfusion cases. (Those suffering from thalassaemia or sickle cell anaemia who require blood transfusion may claim to be doubly disadvantaged but they would be few in number).

5. If an exception were to be made for blood transfusion recipients, there would be many other people who mount an equally good case eg. skin graft or organ transplant cases with HIV, those with other transfusion transmitted diseases, victims of medical accidents or those injured as an unintended side effect of medical treatment. Any extension of compensation beyond haemophiliacs could result in the piecemeal introduction of general no fault compensation, a scheme which has already been

debated and rejected on the strength of case against it.

Effect on the UK Blood Transfusion Services

Another argument, which could not be voiced in public, is the effect on the UK Blood Transfusion Services if any such payments were given. We understand that the vast majority of, if not all haemophiliacs have been or will be tested for HIV, but the majority of blood transfusion recipients have not been tested. Any such payment could result in many of those transfused since 1978 wanting tests. This would put intolerable strain on the counselling and HIV testing services of the UKBTS. In consequence, there would be great resistance from the Blood Transfusion Service and major financial implications. Tests on this scale are bound to lead to requests for additional funding which, if not met, would have a severe impact on the normal functioning of the Blood Transfusion Service.

B

Ms Christopherson
Information Division

From : J Canavan EHF1A

Date : 22 April 1991

cc : Mr Heppell DS
Mr Dobson EHF1
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File - GEB5
ACQ 9

HIV INFECTED BLOOD TRANSFUSION RECIPIENTS

Following the article in the Sunday Observer about blood transfusion recipients infected with HIV the Secretary of State asked us to provide you with a revised line to take. This I enclose along with a background note.

GRO-C

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LINE TO TAKE

In general the Government does not accepth 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 csaes are no different from other people who suffered from medical accidents or the unintended side effects of treatment.

BACKGROUND NOTE

1. The previous two awards to haemophiliacs, in 1987 and 1989, have been followed by campaigns to give similar finacial help to those who had contracted HIV/AIDS as a result of blood transfusions.

Numbers

2. The latest available figures for HIV infected blood transfusion recipients by place of transfusion (as at December 1990) are:

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Arguments against compensation

3. Those campaigning on behalf of the HIV infected blood transfusion recipients suggest those people should be compensated for NHS treatment which has gone wrong. However a significant number of blood transfusion cases were transfused abroad or the

place of transfusion is not known. There is no basis for people to seek Government compensation for a misfortune arising from treatment outside this country. The compensation for haemophiliacs is restricted to those infected with HIV as the result of treatment in the UK.

4. The validation of claims by those transfused would not be as straightforward as for haemophiliacs whose medical history is well known. Most HIV infected haemophiliacs have received treatment on many occasions (virtually all in the UK) and so there is little doubt that their infection was due to infected blood products. In contrast, some transfusion recipients have only ever been given a few units of blood; if they have ever taken part in high-risk activities there must be a real element of doubt over the cause of infection.

5. A similar combination of factors, the double jeopardy which besets infected haemophiliacs and the possibility of more than one case in a family, would not generally apply to blood transfusion cases. (Those suffering from thalassaemia or sickle cell anaemia who require blood transfusion may claim to be doubly disadvantaged but they would be few in number).

6. If an exception were to be made for blood transfusion recipients, there would be many other people who mount an equally good case eg. skin graft or organ transplant cases with HIV, those with other transfusion transmitted diseases, victims of medical accidents or those injured as an unintended side effect of medical treatment. Any extension of compensation beyond haemophiliacs could result in the piecemeal introduction of general no fault compensation, a scheme which has already been debated and rejected on the strength of case against it.