

CD-17.12

Mr Alcock PS/SofS

From: J C Dobson  
EHF1

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### HIV/HAEMOPHILIA LITIGATION

1. Following Mr Heppell's minute of 14 December, this note reports briefly on a meeting with Junior Counsel earlier today.

#### Heads of Agreement

2. Mr Fenwick will be sending a new draft today to the plaintiffs' counsel. The main points of difficulty remaining are likely to be over:

- the detail of the social security disregards;
- the paragraph proposed by the plaintiffs committing ministers to securing them the "best available treatment" to alleviate the effects of AIDS (we are resisting); and
- the clinical management cases (see below).

Mr Fenwick is expecting the plaintiffs' counsel to comment on the new draft by Wednesday. We will report further on the outcome.

#### Clinical Management Cases

3. Mr Fenwick has put forward a number of suggestions for tying up the clinical management cases as quickly as possible, including the possible use of an informal arbitration panel to assess the cases against agreed criteria for eligibility to an agreed "tariff". We are discussing the proposals with health authority management and solicitors tomorrow, and will report further.

#### Timetable

4. We also discussed the timetable for the plaintiffs' response to the proposed settlement. Mr Fenwick's view is that we should not, at least initially, put any undue pressure on plaintiffs to make up their mind; but that towards the end of this week he should discuss with his opposite number the response so far and in the light of that agree a date (possibly around the middle of January) at which the response should be reviewed. If Ministers then agreed that the response was sufficiently encouraging, a form would be sent to all plaintiffs which they would have to sign and return by a given date giving their formal acceptance of the proposals. Those who fail to meet the deadline would be sent a letter offering them a further period of grace before the settlement offer was finally withdrawn.

5. Broadly similar arrangements would be needed for non-plaintiffs. Macfarlane Trust will write to non-plaintiffs inviting them to get in touch, probably by the same mid-January date as agreed for plaintiffs, to indicate whether they would be prepared to accept the settlement terms in return for waiving their litigation rights. A formal letter would then be sent as above to all those known to the Macfarlane Trust who are not involved in the litigation. Finally, a letter could be sent to all haemophilia doctors inviting them to discuss the settlement proposal with any haemophiliacs who have not yet been tested for HIV, inviting them to reconsider with their patients the possibility of HIV testing.

#### Conclusion

6. Secretary of State is invited to note these developments and to indicate if he is content with the proposed timetable.

GRO-C

*for* J C DOBSON

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