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From: C P Kendall FA2

LIE 16

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Miss Pease EHF  
Ms Stuart FB  
Mr Dobson EHF1  
Mr Brownlee FB1  
Mr Powell SOL  
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## HAEMOPHILIACS WITH HIV

### Problem and Recommendation

1. The Chief Secretary's letter of 28 March rejects the proposals in Secretary of State's letter of 25 March about funding the settlement for haemophiliacs with Aids. It proposes that the settlement should be funded as far as possible from within the existing programme, and gives no assurance that any further funds will be made available. The draft reply below presses the Chief Secretary to provide the funding needed.

2. Mr Dobson's submission of 18 April is linked to this issue, as it indicates that we are very close to the point when a commitment will have to be made to pay the money. At present we have no assured source of funding for it.

### Background

3. My submission of 22 March warned that the message to the Chief Secretary that costs would fall into 1991-92 instead of the previous financial year was unlikely to be welcomed. His response is however even less helpful than expected. It refuses to authorise access to the Reserve, to cover any part of

- a. the £42 million needed now to fund the payments to haemophiliacs;
- b. the funding of their legal costs (estimated at up to £6 million); or
- c. any costs that may be needed to fund extra payments to haemophiliacs who come forward over the coming months.

The Chief Secretary suggests that these costs should be contained within existing programmes if at all possible, and that he will consider a bid on the Reserve for the £42 million only if experience during the year shows "you are unsuccessful in absorbing all of [the cost]". For the other elements of the cost, he rejects access to the Reserve outright.

4. The effect of what is proposed is that the cash-limited Departmental Votes would be expected to make every effort to absorb this cost. It would mean that the normal switching between spending heads within the year, which give the only flexibility to meet unexpected urgent needs/Ministerial priorities, would be stopped. Any reductions available on one head would be taken by Treasury to contribute towards the £42 million. The costs would fall directly on Vote 3 (Administration and Centrally Financed Services, £700 million), but Vote 1 (Health Authorities etc) would also be seen by Treasury as a possible source of funding so long as it is not "directly concerned with the treatment of NHS patients".

5. In reality, there are no "spare" resources in health authorities or the central monies to meet this bill. The available resources have already been allocated - to health authorities, and to specific purposes for the money retained centrally - and none of this could now be easily adjusted. Nor could we advise that the Department should over-allocate funds in the hope that something will turn up when, and despite the delay it is likely to be soon, the time comes to pay the money for the haemophiliacs settlement.

6. Secretary of State would be badly reducing his options to manage the programmes' needs if he agreed to give up to the Treasury any minusses that occur among the plusses and minusses inevitable on the Department's Votes. The ways forward are very limited:

a. to respond to the Chief Secretary, pressing him to meet both settlement and legal costs;

b. to press the Chief Secretary to meet the settlement costs, but concede that the legal costs will be met within the existing resources available. Unless the sum involved can be substantially reduced in negotiation, this is likely to require Ministers to cut back on some already approved expenditure for the year; or

c. to follow the Chief Secretary's line, and offer up to about £48 million of spending for this year as items become available. This is not recommended, and in any event would be possible only if the Chief Secretary were to guarantee to provide whatever part of the needed resources are not in the event found in year.

d. in negotiation, to back out from the settlement offered to the haemophiliacs. Ministers are very clearly committed, and this "option" cannot be a serious one at this stage.

The case for arguing for funds to meet possible future claimants (para 3c above) is at present hypothetical, and pressing the Chief Secretary on that point is unlikely to be productive at present.

7. In considering these points, Secretary of State should be aware that Treasury will undoubtedly refer to the "underspend" from 1990-91 unless we agree to aim to absorb these cuts. Although the

Position for health authorities was very tight in 1990-91, authorities know that they must avoid exceeding their cash limit. They have also been told that underspending, within given limits, may be carried forward. There is inevitably some uncertainty, and our provisional indications are that the Vote may have been underspent by around £25 million (0.15% of the total). Although this is in line with the outcome of previous years, and (for the most part) represents spending which has been delayed (by health authorities and others) rather than foregone, there is no doubt Treasury will suggest that this sum would be available to meet any payments to haemophiliacs this year.

8. Nevertheless, the advice of officials must be that the Chief Secretary be asked again to make these resources available. The arrangement made by Secretary of State last November was on the understanding that the costs would be met from the Reserve and not at the expense of patient care. It must be doubted whether any agreement would have been reached to announce the offer had it not been understood that the Treasury offer was a firm one. The fact is that the Chief Secretary is reneging on the deal he struck last year, and he should be pressed to stick by it.

9. Draft letter attached.

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