

HIV HAEMOPHILIAC PROPOSED SETTLEMENT: Q & A

(i) Q. Is the Government now admitting negligence?

A. No. We do not believe that anyone - either in the Department of Health or in the NHS - was to blame for this tragedy. The advice given to Government, and the treatment given to patients, was at all stages reasonable in the light of knowledge available at the time.

(ii) Q. What about the "clinical management" cases?

A. There are a small number of cases in which the plaintiffs allege specific errors of judgement on the part of clinicians. These raise particular issues and are being handled separately from the generality of cases. The Health Authorities are responsible for defending these issues, but we understand that they too deny any negligence on the part of clinicians employed by them.

(iii) Q. Why then are you settling the litigation?

A. We have all along recognised the very special circumstances of the HIV-infected haemophiliacs. On top of their hereditary condition they have, through nobody's fault, developed the tragic infection of AIDS. The Government recognised their special claims in setting up the original Macfarlane Trust, and in the £20,000 a head ex-gratia payment announced last December; and promised to keep the position under review. Ministers have now decided in principle, in the light of the proposal that the plaintiffs should drop their litigation, to make a further ex-gratia payment.

(iv) Q. Why didn't you settle at a much earlier stage instead of forcing the plaintiffs through the courts?

A. The ex-gratia payment of £20,000 a head announced last year, coupled with the Macfarlane Trust and the normal provision of social security benefits and NHS services, represented a

generous level of support by comparison with many other countries. We also made it clear we were keeping under close review the amounts payable through the Macfarlane Trust. We did not force the plaintiffs to go to court to seek compensation, though we made clear at the time that we would not seek to deter them if they chose to do so.

(v) Q. Are not the sums proposed insultingly low?

A. No, because:-

- * they are on top of the £20K per head already paid.
- * individual cases of need will still be eligible for special help from the Macfarlane Trust.
- * normal social security rules will be set aside so that haemophiliacs and their families will still have access to the full range of social security and related benefits. [see annex 1]

[The Steering Committee of the plaintiffs' solicitors have accepted the proposal as a fair and reasonable settlement.]

(vi) Q. Is this a change in course, resulting perhaps from the Government's new leadership?

A. No. We have always promised to keep the level of assistance available to haemophiliacs under review. This was the first proposal we have received from the plaintiffs which seemed to offer the basis of a fair settlement.

(vii) Q. Can you reveal the details of the allocation to individual categories of plaintiff?

A. No, not until the individual plaintiffs themselves - and the court on behalf of minors - have had the opportunity to study them. But the general principle is that those with greater family responsibilities will receive a larger amount.

(viii) Q. Would all HIV-infected haemophiliacs receive the payment?

A. Yes, including those who have not so far joined in the litigation, provided that they agree not to start an action in future.

(ix) Q. Would the proposed settlement apply to other parts of the UK?

A. Yes.

(x) Q. What about people infected with HIV through blood transfusion/transplants?

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A. The Government believes that the haemophiliacs are a very special category, because they were already affected by a serious hereditary condition before their tragic infection with HIV. [If pressed: people infected with HIV as a result of blood transfusion/transplants are no different in principle from other groups of patients harmed as an unfortunate side result of NHS treatment.]

(xi) Q. What about the Christmas Island veterans?

A. The Government's policy continues to be based on the findings of a study by the National Radiological Protection Board in 1988, which did not find any association between participation in the atomic bomb tests and the incidence of disease. There will be a follow-up report in 1991 and we must await the results of that.

(xii) Q. Is the Government now changing its stance on no-fault compensation?

A. Not at all. The Government still believes that a general scheme of no-fault compensation would be unworkable and unfair. The circumstances of the HIV-infected haemophiliacs are wholly exceptional and justify the special provision which the Government is making.

(xiii) Q. Are payments from the Macfarlane Trust taxable?

A. No income tax is payable.

[NB. But they will be included as part of the estate of a deceased haemophiliac for inheritance tax].

(xiv) Q. Where is the money for the settlement coming from?

A. From the Reserve, except for any settlement of "clinical management" cases which will be for Health Authorities to pay for in the usual way.

(xv) Q. How does this compare with other countries?

A. Total payments through the Macfarlane Trust will compare very well with payments from nearly all other countries.

- Annex 2

[Schedule attached]