

*R/28*

FROM: R B SAUNDERS (ST2)

DATE: 20 NOVEMBER 1989

x GRO-C

CHIEF SECRETARY

cc Chancellor  
Mr Anson  
Mr Phillips  
Mrs Lomax  
Miss Peirson  
Mr Griffiths  
Mr D Rayner  
Mr Tyrie

*Mr Burns*  
*J. Hile*

#### HAEMOPHILIACS AND AIDS

You are attending a meeting about this with the Prime Minister this afternoon.

2. Its genesis, I understand, is a meeting which the Prime Minister is having with the Haemophilia Society on Wednesday. I attach a draft of the note he sent over the weekend indicating how he proposed to tackle the issue; at the time of writing, I have not seen the final version.

3. You should support Mr Clarke's proposals, so long as he agrees to absorb the costs as in paragraph 5 below, and join with him in resisting any pressure for more generous treatment.

4. The only Government contribution so far was £10m to the Macfarlane Trust 2 years ago. The Trust makes discretionary payments to haemophiliacs infected with the AIDS virus on hardship grounds. The Trust has funds of around £8m at present.

5. The proposition is that the Trust should alter its trust deed to allow non-discretionary payments, in the first instance £10,000 to each of the 1200 sufferers. The note is not explicit about financing this. But I am told by DH officials that it would be financed partly out of the existing resources of the Trust, and partly from new money provided by the Department. The Department would put in £7m next year, funded from within the agreed survey provision for HCHS and CFS, and a further £13m over the next 3 or 4 years.

## Discussion

6. These proposals are probably the minimum required to meet public concern about these cases. So long as Mr Clarke agrees to absorb the costs within the survey settlement for next year, we can go along with them. But we need to be very careful about repercussions, in two directions.

7. Other AIDS victims. There is, in logic, no reason to compensate haemophiliacs who contracted HIV from infected blood products, but not other victims of the disease. The Department and health authorities were almost certainly not liable in the legal sense. And, given the state of knowledge at the time (the early 80s) about the causes of, and method of transmission of, AIDS, there was little reason to suspect that haemophiliacs receiving Factor VIII were at risk.

8. Nevertheless, there is a public perception that these cases are particularly deserving of sympathy and compensation. Underlying this is the invidious idea of "deserving" and "undeserving" AIDS victims; indeed one can criticise the original decision to contribute to the Macfarlane Trust as drawing this distinction. There are other categories - unsuspecting spouses, rape victims, babies - who might be regarded as "deserving" by the public at large but will not benefit.

9. The closest parallel, and the only group which the department think will probably have to be compensated as well, are those who contracted the virus after receiving blood transfusions. But there are only 12 known cases of these.

10. Other diseases. There are other highly unpleasant diseases which can be transmitted by infected blood - hepatitis B, for example. But cases like this are relatively few nowadays, and the department believe there would not be serious repercussions from what they are now proposing.

11. The position would be quite different, however, were the Department to settle the forthcoming court cases. That would not only be much more expensive - at least £86m is estimated - but would also open up the vista of no-fault compensation. That is a very difficult issue. It has been rejected in the past because of the difficulty of compensating those who get sicker as a result of accident but not those who get sicker because of the natural progression of a disease. It could also be extremely expensive. For the Government to pay out £100,000 where no liability is accepted could establish a very expensive precedent.

#### Finance

12. If Mr Clarke or the Prime Minister suggest that money should be found from the Reserve, you can point out that the cost of the initial payments next year will be only £12m and that the Trust should be expected to contribute in part from its existing funds. For the rest, it is ridiculous to argue that some part of the £2.6 billion extra resources next year cannot be used for this purpose.

13. There may be difficulty over persuading the Trust to alter its trust deed to allow its existing funds to be used to make non-discretionary payments, because of the element of retrospection involved. However the new willingness of the Government to make non-discretionary payment changes the situation completely, and it is reasonable for the Trust to make part of its existing funds available for this purpose. If the Fund are not prepared to do this, you should ask Mr Clarke to absorb the further costs (about £5m) within his existing resources.

GRO-C

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