

Ms Corrigan

from: Fiona Anderson PS/SofS

date: 18 May 1998

copies: Mr Connors PS/MS(L)
Dr Shepherd PS/CMO
Ms McLain PS/Perm Sec
Dr Metters
Dr Winyard
Mr Hewlett
Dr McGovern
Mr Dean

DISCUSSION ON SCREENING FOR HTLV AND ON EX-GRATIA PAYMENTS TO HAEMOPHILIACS

You, Dr Metters, Dr Winyard and I had a meeting with MS(L) today on these two subjects. This note records the main outcomes.

Hepatitis C and haemophilia

As you recall, the Secretary of State has been considering writing to No 10 about the scope for an ex-gratia payment scheme for haemophiliacs infected with Hep C through NHS treatment. We discussed the principal problems around such a scheme: such as the problems of adding to the precedent already set by the HIV/AIDS scheme; the scope of any system of payments (such as the inevitable pressure - as with HIV - to extend the scheme to blood transfusion patients and deciding the stage in a patient's condition at which such payments should become available); and the dangers of appearing to start to introduce a no-fault compensation scheme for the NHS. This last point was the most significant.

MS(L) has asked if you could draft her a note to send to the Secretary of State. This needs to cover:

- * the fundamental logic of the position dictates two diametrically opposite approaches: either we offer compensation and so open the gates to no-fault compensation or we refuse and so must also have a clear explanation as to why the HIV/AIDS position was exceptional and will not be repeated. MS(L)'s clear position was that we must hold the line that the HIV decision was the "aberrant" one and that we must resist this pressure for compensation;
- * the presentational problems given the force of the haemophilia and transfusion lobbies;
- * the costs of this exercise, given it will have to be extended to recipients of infected transfusions;
- * the likely subsequent pressures of other claims such as the new HIV antigen test plus MS(L)'s point about additional pressure from claims for alpha interferon

(or its successor drug) from the same group once they have won this concession; and

* importantly, the request that the Haemophilia Society could have first access to s64 underspends this year as a small "sop" to them. (I think this probably needs checking with SC2 as my recollection of underspends is they are rarely accessible before the very end of the financial year at best).

HTLV1

Dr Metters outlined the position in relation to this rare virus: that MSBT's original advice was to screen all blood for transfusion for HTLV1; this was then re-considered because the process would not be at all cost-efficient and the suggestion made that we could announce screening would not be introduced but that there would be compensation for anyone negligently harmed as a result of acquiring infection through unscreened blood.

There was some discussion of the problems in explaining the differences in position between compensation for HIV in the past, hepatitis C in haemophiliacs and for HTLV. The logic was clear and centred on whether or not tests for the viruses were available at the time and therefore whether any subsequent harm was negligent or not. But it was not an easy matter to explain to a mass media audience.

There was also reference to other looming pressures of a similar sort, most notably nvCJD and a need to settle an agreed view for the future.

MS(L) decided that she wished to discuss this further with the Secretary of State: we will look to reschedule the meeting as soon as possible. This meeting will need to get an agreed line and it will probably be helpful to have single page summarising the issues in advance of it for SofS's consideration. This should reflect MS(L)'s view that we could not avoid screening for HTLV, despite the disproportionate cost, given the Government's choice about handling nvCJD. It should also refer to the need for an interim solution before the NICE mechanism can be used to tackle problems such as this.

Happy to discuss further.

FIONA ANDERSON
Room 407 RH ext GRO-C