

HIV HAEMOPHILIAC LITIGATION
PROPOSED HEADS OF COMPROMISE

1. The Plaintiffs' Counsel would be prepared to advise the Steering Committee and individual Plaintiffs to settle their cases for payments of categorised amounts to the MacFarlane (Special Payments) Trust totalling approximately £42M, subject to what is set out below.
2. The proposal is made on the instructions of the Plaintiffs' Steering Group of solicitors but without the knowledge of the lay clients and their individual solicitors; accordingly it is subject to Counsel advising their clients and taking appropriate instructions from lay clients.
3. In response to the Government's desire to make payments to all haemophiliacs and not just those who are suing, the figures cover all haemophiliacs registered with the MacFarlane Trusts as well as all the Plaintiffs ("the claimants"). It is exclusive of all previous payments to the MacFarlane Trusts. It is to be emphasised that the Plaintiffs' solicitors and Counsel do not act for and are not instructed by haemophiliacs outside this litigation.

4. The figure is derived as follows:

Category	number	quantum each	total
child	175	£21,500	£3,762,500
single man	533	£23,500	£12,525,500
married but childless	214	£32,000	£6,848,000
married with children*	293	£60,500	£17,726,500
infected intimates	25	£23,500	£587,500
category G	150	£2,000	£300,000
		Total:	£41,750,000

*"Children" here means dependant minors and adult children in full time education.

5. The table is calculated in the following way:
- (a) The numbers are those registered with the MacFarlane Trusts, with the exception of the numbers of infected intimates and category G plaintiffs which are of plaintiffs only. The numbers are as up to date and precise as possible but may not be completely accurate.
 - (b) The numbers of single men, married childless men and married men with children are calculated on the known figures of 514, 207, and 283 respectively, with the 36 infected adult haemophiliacs whose family status is not known divided rateably between those categories.
 - (c) The term 'married' includes unmarried haemophiliacs in stable relationships.
 - (d) The numbers include live and deceased haemophiliacs; thus for example "married with children" includes "widowed with orphans".
6. There is no guarantee that further infected intimates may not appear in time (either existing Plaintiffs, categories G &/or I, or fresh claimants) although the problem is expected to be a small one. The Defendants shall accept the responsibility to pay the agreed amount to these people (and any unknown infected haemophiliacs) on the same terms as the claimants, if they should emerge in the future. There is a continuing risk of infection, and some intimates have received medical advice not to be tested. Thus, even now, their true category may be unknown or may change.
7. State Benefits. Payments to the claimants, whether in the haemophiliac's hands, or following his death, in the hands of his dependants, shall not affect any entitlement to state benefits.

8. Medical Negligence (MSC paragraph 92, sections 7 and 8). These cases should be resolved on an individual basis and credit will be given for any sum received from the proposed generic settlement.
9. In order to ensure that the plaintiffs are not penalised in relation to the non-Plaintiff claimants and to assist the Court in considering whether to give its approval to the settlement, the Defendants should pay the Plaintiffs' costs on an indemnity basis (not on a solicitor and own client basis) such costs to be so taxed if not agreed.
10. The settlement should be announced in open court with an opportunity for Counsel to mention the settlement and in appropriate cases explain why it should be approved.
11. Payment should be made to the Trust within 28 days of the hearing referred to in 10 above.
12. The Defendants should commit themselves publicly to giving haemophiliacs and their infected intimates the best possible treatment to delay and alleviate the effects of HIV infection.

These proposed heads of compromise have been produced in four working days and we seek a response in a similar period having regard to the extreme urgency of the matter, i.e. by noon on Thursday 15th November 1990.