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GRO-C

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Dear Mr Donald

I have been asked to thank you for your letter of 17 June to the Secretary of State enquiring about the likelihood of an ex-gratia payment scheme being established for patients infected with Hepatitis B or C as a result of NHS treatment with blood or blood products and to reply. I am also aware that you have written on a number of occasions to the Department's Solicitors who have drawn your questions to my attention and I hope that this letter will answer any outstanding issues you may have raised with them. I would be grateful if any future letters on this issue were addressed to me.

We are aware of the Haemophilia Society's representations to the Department of Health in England and of their report completed earlier this year which graphically described the problems experienced by some sufferers who now find that they have to contend with the effects of the Hepatitis C infection on top of those of haemophilia.

The Government has great sympathy with those patients who have become infected with Hepatitis through blood transfusions or blood products. These patients however received the best treatment available in the light of medical knowledge at the time.

The first anti-Hepatitis C tests did not become available until late in 1989. These first tests had too large a number of false positive and false negative results and no satisfactory confirmation tests were available. Expert advice at that time was that these tests should not be introduced because of these deficiencies. The Department of Health in England funded several trials of the first and second generation anti-Hepatitis C test kits. Routine screening of all blood donations was introduced in late summer 1991 when satisfactory kits became available together with confirmatory tests. The screening tests now available are even more accurate than the second generation kits.

The Government does not accept, however, that there has been negligence and has no plans to make ex gratia payments to such patients. On the more general issue of compensation, the Government has never accepted the case for a no fault scheme of compensation for medical accidents. It is unfair to others and still requires proof of causation which is often difficult to establish. Every case where a medical accident has occurred is a personal tragedy for both the individual concerned and their family. If the NHS is shown to have been negligent, it accepts its liability to pay damages.

It is the Government's view that the most effective use of resources is to be realised by seeking to improve the understanding, management and treatment of the condition. Only in this way can the impact of the disease on individual patients and their families be effectively minimised. The Department of Health in England is supporting an initiative by the Haemophilia Society to undertake a study into the best way to support its members who are affected by the virus and has made £91,000 available in 1995-96 with a commitment to further funding in 1996-97 and 1997-98.

Special provision was made for haemophiliacs and others who tragically contracted HIV through treatment with blood or blood products because of their exceptional circumstances. Those affected were considered to have a very poor life expectancy. The decision to compensate also reflected the understanding that there might also be significant numbers of young children who had lost a parent or perhaps both if the disease had been transmitted to their partner. HIV sufferers were also subjected to significant social problems including varying degrees of ostracism.

We are not trying to make light of the physical suffering of those who have been infected with Hepatitis C. It is recognised, however, that those who have contracted Hepatitis C are not also subjected to certain additional problems experienced by HIV sufferers, who were accepted as being a very special case. Many people with Hepatitis C live perfectly normal lives for decades without any symptoms appearing.

In the absence of proven negligence on the part of the NHS, there is no case for using funds which would otherwise go towards the care and treatment of other NHS patients to make special payments to those affected.

I hope this is helpful and clarifies the position for you.

Yours sincerely

GRO-C

GARY WILDRIDGE