

Miss Harper

From: Dr R J Moore

HS1A

Date: 23 June 1988

cc: Mr Podger
Mrs Grafton
Miss Dempster
Mr Heppell
Mr Cashman
Mr Nilsson SOLC5
Mr Wilson MD
Dr Purves MB5A
Dr Rotblat MB3
Dr Jefferys MB3A
Mr Stewart MB5A
Mr Hagger MB2
Dr Pickles MEDSEB
Mr Harris HS1
Mr Barton AIDS Unit
Mr Powell SOLC3
Mr Gutowski MB1B

RE: GRO-A - ALLEGED AIDS INFECTION OF A HAEMOPHILIAC BY
FACTOR VIII

1. Ministers will wish to be aware that a Haemophiliac (GRO-A) is taking legal action for compensation after allegedly being treated with AIDS infected Factor VIII in 1985.
2. A writ has been served on five defendants, including the Attorney General (on behalf of both the Committee on the Safety of Medicines (CSM) and the Licensing Authority) and the Secretary of State for Health and Social Services.
3. The writ alleges negligence and/or breach of a statutory duty in causing, permitting or allowing untreated AIDS infected Factor VIII to be, become or remain available and used for haemophilia treatment and/or in failing to devise and/or implement additional or substitute safe treatment for haemophiliacs. Mr GRO-A has been granted Legal Aid.
4. Treasury Solicitors have been instructed by our solicitors that the CSM, the Licensing Authority, and the Secretary of State wish to resist the allegation and they will acknowledge the writ accordingly.
5. Our information indicates that Factor VIII from a least 7 manufacturers - including the Blood Products Laboratory at Elstree - was available in 1985. It is impossible from our present information to identify the product alleged to have infected Mr GRO-A.

6. An ex-gratia payment of £10 m was made to the Haemophilia Society in November 1987 to provide financial help in case of need to the estimated 1200 HIV infected haemophiliacs. This money is being distributed by a special trust called the Macfarlane Trust.

7. It was made clear when the announcement of the ex-gratia payment was made in the House that the payment was not compensation and in no way precluded individuals from taking legal action for compensation on the grounds of negligence.

8. Mr GRO-A's case is the first action by a Haemophiliac in England but a writ with similar allegations was served in Scotland against the Secretary of State for Scotland by two Scottish haemophiliac brothers in February this year.

9. Similar actions in the USA against manufacturers of Factor VIII and haemophilia doctors have so far all failed - broadly on the grounds that the state of the art at the time of infection was not such as to enable infection to be either foreseen or prevented.

R J MOORE