

RESTRICTED - POLICY

THE DEPARTMENT'S RESPONSE TO HIV INFECTION

**Litigation**

1 A number of writs were taken out against individual medical practitioners, against HAS and the Department. Although some individual cases were settled on the basis of specific negligence, none were successful on the grounds of general negligence. A settlement out of court was eventually reached but the indications were that the courts would not have upheld the case for negligence against the Department. The motive for settling was as much to bring the matter to conclusion and to save the enormous costs of taking it to court.

**Non-financial help**

2 The Government has commissioned extensive research into all aspects of HIV infection and its treatment and management. Good practice guidance is available to the Field. Patients receiving treatment for haemophilia have been carefully screened for HIV infection and extensive counselling and support services set up, run both by NHS haemophilia centres and by the Haemophilia Society in the form of a self-help initiative. The latter has been supported by the Department through S64 funding. A limited process of "look back" has been undertaken for those receiving transfusions of infected blood. However since no cure or effective treatment has yet become available the motive has largely been to limit possible further transmission.

**Financial assistance**

3 In December 1990 the Government agreed to special payments for HIV infected haemophilia patients in return for settlement of outstanding litigation. A scheme of payments for those infected with HIV and their dependants was introduced and a discretionary trust was set up to make payments to those who had additional social need.

4 In 1992 following a campaign on behalf of those infected with HIV through blood transfusion, the Government extended the payments to this group, concluding that they too were a very special case.

5 Both groups shared the tragedy of becoming infected with HIV through medical treatment and were considered to be a special category through:

- i) the nature of the HIV infection which was believed to be invariably fatal;

- ii) the significant lifestyle implications of HIV;
- iii) in the case of the infected haemophilia patients the problems of HIV which were superimposed on the health, social and financial disadvantages they already suffered as a result of their hereditary haemophilia.

#### **Scale of payments made**

6 The solicitors representing the haemophiliacs negotiated a global figure for the settlement, starting with a claim for £90m and eventually settling for £42m. This was broken down between patients, partners and children as follows.

Single person infected (whether the principle person or a spouse of the principle person) £41,500

Married person infected £

Married person with children £81,500

In addition the partners of all infected persons were awarded £2000 each to compensate them for the worry of possible infection.

7 The same rates were applied for the those infected through blood transfusions. No adjustment was made for inflation over two years.

8 In addition to the above a discretionary trust (The Macfarlane Trust) was set up for those covered by the above payments in order to enable additional payments to be made to those suffering particular hardship. The trustees established scales of support for those in need so that as far as was possible there was equality of treatment to all those who applied. A similar discretionary trust (The Eileen Trust) was set up for those infected through blood transfusions)

#### **Cost to date**

9 The costs of the haemophilia payment scheme have reached £81 million. (This includes £15 million paid to the Macfarlane Trust for the special needs of HIV haemophilia patients and their families.) Costs of the scheme of payments for those infected with HIV through blood or tissue transfer has reached £3.5 million including £0.5 million paid to the Eileen Trust for the special needs of this group. The scale of payments made in the above schemes varied between £41,500 and £80,500 per patient according to marital status and the number of dependants.

CA OPU  
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