

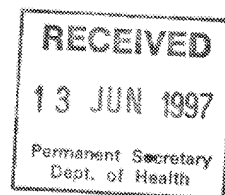
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**MEETING TO DISCUSS
HGH/CJD LITIGATION
10 JUNE 1997 RM 420 RH**

PRESENT

M(PH)
Sir Graham Hart
Dr Metters DCMO
Mrs Fry HP4
Mr Dean HP4B
Ms McEwan SOLB4
Mr Young SCS(B)1
Neil Townley (note)



MEETING

1. Mr Young explained the background to the current situation [attached is a copy of Ms Fletcher-Cooke's minute of 16 May]. The issue to be considered was that of whether unsuccessful litigants should nevertheless receive compensation on a no-fault basis.
2. M(PH) asked about progress in paying the successful litigants. Ms McEwan said that the Department's lawyers were awaiting documentation from the litigants' in support of their over-inflated claims.
3. On the issue of no-fault compensation, M(PH) indicated that she was unwilling to expose the Department to such an unlimited liability by allowing it in this case. Dr Metters said that 3,000 Hep C Haemophiliacs were asking for this sort of compensation, and there were many others potentially in the pipeline - e.g. all those who had suffered harm from a range of drug therapies which had been administered in good faith at the time.
4. M(PH) asked why the AIDS Haemophiliacs had been given their no-fault compensation. Perm Sec and Dr Metters explained that it was felt at the time that the circumstances of their case were exceptional, and that there had been irrefutable pressure to be charitable towards them. Perm Sec said that M(PH) would also need to see the arguments for saying that any other case was different from that of the AIDS Haemophiliacs.
5. M(PH) asked for a note on the legal aspects of no-fault compensation, on the tactics to be used in fending off the HGH/CJD victims' claims for no-fault compensation, and on the other potential sources of claims were this principle to be admitted by the Department. She confirmed that the Department needed to hold the line, but she wanted reassurance that the position was unassailable. Her view was that claims for anxiety were futile - it was a universal quality of everyone's life - and it was for the courts to decide where fault, and therefore the right to compensation, lay. This was fairer and more consistent than using Ministerial discretion to decide cases.

ACTION

- i) Mr Young to provide a note on a strategy to fend off the HGH/CJD victims' claims for no-fault compensation.
- ii) Mr Dean to provide a note on no-fault compensation (including the arguments for allowing it for the AIDS haemophiliacs) and the potential other claimants.

COPIES:

Mr Gallagher PS/SofS
Dr Gray PS/Perm Sec
Dr Shepherd PS/CMO
Dr Metters DCMO
Dr Winyard HSD

Dr Adam HSD
Mr Walden HP
Dr Rubery HEF
Ms Fletcher-Cooke SCS(B)
Ms McEwan SOLB4

Neil Townley
APS/M(PH)
Rm 422 RH
Ext. **GRO-C**

13 June 1997