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See by Mr Dobson

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Ref: Arthur259

- 1. Mr Dobson
- 2. Mr McKeon

From: M Arthur HS1A
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VISIT OF AUSTRALIAN HEALTH MINISTER; "COMPENSATION" FOR HAEMOPHILIACS WITH HIV

It may be useful for Secretary of State to be aware of the background on the Macfarlane Trust for HIV infected haemophiliacs, and current state of play on court actions seeking compensation for negligence.

Macfarlane Trust

1. The £10 million ex-gratia Trust Fund was announced in November 1987, and the Macfarlane Trust was established in March 1988. The Trust has wide discretion to make payments to haemophiliacs and their families on the basis of financial need (eg to maintain mortgage payments). In announcing the grant Mr Newton, then MS(H) made clear that it was awarded in recognition of the "wholly exceptional position" of haemophiliacs; and that it was not regarded as "compensation". Haemophiliacs would still have the right to take court action for negligence.
2. It was anticipated that the award could be securely "ring-fenced" because haemophiliacs were already disadvantaged because of their haemophilia; their employment prospects were limited, and they had not been able to make full provision for their families; the nature of the disorder was such that more than one member of a family could be affected. This ring fencing has been successful and was accepted by other HIV charities, eg The Terrence Higgins Trust.
3. The Trust is independent, and it is the duty of trustees to ensure that payments are made in the most effective and fair way. To date about £1.5 million has been paid out largely from interest on capital.

Court action for compensation

4. Of approximately 1200 haemophiliacs infected with HIV, around 500 are also pursuing court actions alleging negligence. The Department of Health is a co-defendant in the litigation and is denying liability. A reply to the Haemophilia Society from Lord Trafford on 12 August reiterated this line.

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