

NPH 23/1/1

## MACFARLANE AND EILEEN TRUSTS - A BRIEF SUMMARY

### 1. Macfarlane No 1 Trust

- The establishment of a Trust using £10M of Government funds was announced in the House of Commons on 16 November 1987.
- The purpose of the Trust was to make special hardship payments available to those with haemophilia and HIV as a result of blood transfusion or tissue transfer.
- The Haemophilia Society was asked to set up the Trust and consider how its funds would be distributed.
- At this time it was felt that a compensation scheme was not appropriate, as the Trust needed to be as flexible as possible when considering an individuals circumstances.
- The Trust was established as an independent UK body.
- It was also agreed that payments from the Trust would not affect entitlement to social security or other statutory benefits.

### 2. Macfarlane No 2 Trust

- The Secretary of State for Health announced on 11 December 1990 that the Government had agreed to a proposed settlement in respect of litigation from haemophiliacs with HIV.
- The purpose of the settlement was to provide compensation to haemophiliacs with HIV and their families according to their respective circumstances.
- £42M was made available as an ex-gratia payment to endow the Trust. This money was a claim on the Reserve, and additional funds were to be made available for legal expenses incurred by the plaintiffs' solicitors.

### 3. Special Payments Scheme for Recipients of HIV Infected Blood and Tissue

- The Special Payments Scheme was announced by the Secretary of State for Health on 17 February 1992.
- The purpose of the scheme was to extend the special payments already available to those with haemophilia and HIV noted at 1, to all patients infected with HIV in this way and their needy dependants.
- A separate scheme was established in Scotland because of our separate legal system, however, the principals of the scheme were applied throughout the UK and there were no differences in vital matters such as eligibility or payments.
- The most significant difference is that the scheme established by the Department of Health in England required applicants to sign an undertaking discharging the Secretary of State for Health in respect of liability for infection of the applicant with the hepatitis virus. The Scottish scheme does not. Legal and medical advice supported the exclusion of this reference from the Scottish undertaking as we were considered to be bound by the terms of the haemophilia settlement which did not limit an applicant's rights in connection with hepatitis infection.
- The Scottish version of the scheme was announced by the Scottish Office on 23 April 1992.
- Payments were agreed and paid in line with those made through the Macfarlane No 1 Trust.

#### 4. Eileen Trust

- The Eileen Trust was established by the Secretary of State for Health on 29 March 1993.
- Similar to 1 above, this trust was established to make hardship payments to any patient infected with HIV and their needy dependants.
- The Trust is an independent UK body.
- £0.5 million was made available as an ex-gratia payment to endow the Trust. This money had to be found from health resources and includes funds for the administration of the Trust and legal expenses incurred by the plaintiffs' solicitors.
- The Eileen Trust is independent of the Macfarlane Trust; however, the Macfarlane Trust provides the administrative support for the Eileen Trust.