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16pm

10 JUL 1990

DEPARTMENT OF HEALTH

The Rt Hon Sir Geoffrey Howe QC MP
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From the
Minister for Health

Dear Geoffrey.

Sir Michael McNair-Wilson has given notice that on 17 July he intends to seek to introduce a Ten Minute Rule Bill to make provision for statutory rights to compensation to sufferers from serious side effects from prescribed drugs. There is no need to oppose leave to introduce such a Bill but it should not be allowed to received a second reading.

Since 'Opren', where a number of plaintiffs instigated High Court action against the manufacturers and the Government alleging that they had been adversely affected by taking the drug, there have been a growing number of such legal cases, claiming negligence and breach of statutory duty. The most widely known and on-going at present is the HIV litigation. A number of haemophiliacs who have contracted the AIDS virus have commenced proceedings against the health authorities, the Committee on Safety of Medicines (a statutory advisory body) and the Government both in its role as the Licensing Authority (Health Ministers) with responsibility for licensing medical products for the UK market and in its role as policy maker for blood in general. To date no case against the Government involving the side effects of a licensed drug has yet completed its journey through the Courts although there have been instances where the drug companies themselves have voluntarily offered compensation.

The Government position on the payment of compensation has always been that it is a matter to be resolved between the drug companies and individuals, if necessary through the Courts. The Civil Justice Review made recommendations aimed at reducing the delay, cost and complexity in the machinery of civil justice. These recommendations are being or have already been implemented because the Government has accepted the Review's recommendations. The recommendations are expected greatly to

improve the speed of actions for personal injury through the Courts. In addition the 1987 Consumer Protection Act had the effect from March 1988 of removing the need for complainants to prove negligence before establishing liability where they can show that they have suffered injury from using a defective medicinal product. The working of the Act is still under scrutiny and as far as is known none of these particular provisions have been successfully used in the civil courts.

Sir Michael and Jack Ashley in particular have been pushing the line for some time for a compensation scheme for drug induced injuries. The Goverment stance, which has been confirmed in a number of previous replies to Parliamentary questions on compensation, has been that it has no intention of introducing compensation of this nature or of advising the pharmaceutical industry to set up its own scheme.

For these reasons I propose, subject to you and your colleague's agreement, that any Bill resulting from the motion should not receive a Second Reading; and if there is a division, I suggest that Ministers abstain.

I am sending a copy of this letter to the Prime Minister, members of 'L' Committee and to Sir Robin Butler.

Yours ever
Virginia

VIRGINIA BOTTOMLEY

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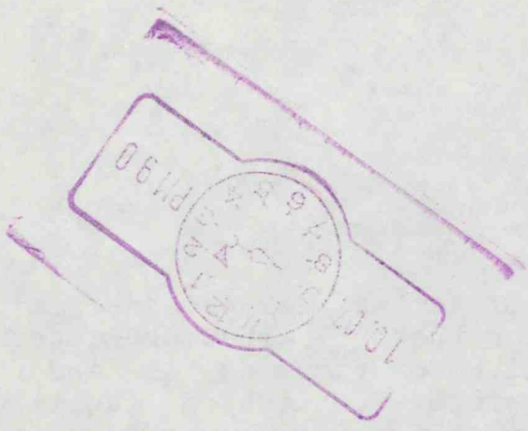

STATEMENT ON NHS TRUSTS, 4 JULY 1990

Yesterday, I gave a full response to 32 Questions about the establishment of NHS Trusts. I said then that 199 NHS units had expressed interest in NHS Trust status. These included single hospitals, groups of hospitals and non-hospital facilities. I understand that about 60 to 70 of those units which have expressed interest in Trust status are likely to submit applications in the first wave. I also explained that there would be three months of full public consultation on each application which will be undertaken by the relevant Regional Health Authority. I stressed that, ultimately, my decision would be based on my assessment of whether, in the light of all relevant factors, NHS Trust status for a particular unit will benefit NHS patients in that particular locality.

I do not propose to go over the same ground as I did yesterday in answer to Hon Members questions.

However, there are a few further points which I would like to make. First, I wish to state, absolutely and categorically that NHS Trusts will, as their name makes clear, remain fully part of the NHS. Their staff will be NHS staff, their property will be NHS property, the bulk of their funds will come from contracts with health authorities and the overwhelming majority of their patients will be NHS patients.

NHS Trusts will be established by the Secretary of State. Their chairmen and a number of the non-executive members will be appointed by the Secretary of State. They will be accountable to the Secretary of State for the performance of their functions. They can be dissolved by the Secretary of State.

There is a great deal of interest in Trust status within the NHS. Already in the few days since the Act received Royal Assent we have received nine applications. A further 25 or so units have informed my Department that they will be submitting early applications and a substantially larger number expect to apply by 20 July.

The first nine applications are:

Bradford Acute Services
Leeds General Infirmary and Associated Hospitals
St James' University Hospital, Leeds
Central Middlesex Hospital
North Middlesex Hospital
Southend District Services
Crewe Acute Services
Regional Adult Cardio-Thoracic Unit, Liverpool
Royal Liverpool Children's Hospital

They include major teaching hospitals, such as Leeds General Infirmary and St James' University Hospital Leeds. St James' is the largest teaching hospital in Europe. The Royal Liverpool Children's Hospital has an international reputation. Their application states that the promotors believe that:

> "local control and management is the most appropriate organisational model for the largest acute paediatric hospital and community child health services in Western Europe".

Clearly all these applications will need to be tested through the consultation process which we have set in place and I shall want to look carefully at the proposals and the comments made on them before deciding whether or not to approve applications.

Finally, I want to re-emphasise the very real benefits which we see flowing from Trust status. Trusts will be able to use the range of powers and freedoms which I have previously outlined for the benefit of patients, to improve particularly the quality of service which they provide.