

Patients may sue over hepatitis-C in blood

THE Government faces a wave of compensation claims over supplies of contaminated blood from patients infected with hepatitis.

The National Health Service's Blood Transfusion Service (BTS) admits receiving — and passing on — between 1,000 and 2,000 donations a year of blood infected by hepatitis-C, a recently discovered strain. According to Dr Geoffrey Dusheiko, reader in medicine at the Royal Free School of Medicine, London, Hepatitis-C can kill after a long degenerative illness lasting more than 20 years and is more likely to cause premature death the younger patients are they when they get it.

"Many of those who have got it since 1989 will be young. It is patients needing dialysis or transplants, or with thalassaemia or other conditions in which you need blood regularly. These patients are often young," he said.

The BTS intends to begin screening for the virus next month. But a test for hepatitis-C has been available since 1989 and lawyers say the delay could amount to negligence. Hundreds of patients may have been infected with hepatitis.

This year, the Government gave an out-of-court settlement of more than £82m to 1,200 haemophiliacs infected with HIV from contaminated supplies of the blood-clotting agent Factor 8.

By Simon Denison

Lawyers who acted for haemophiliacs have been approached by patients infected by hepatitis. These patients have a stronger case for damages than the haemophiliacs had, one lawyer said, provided they were infected with the virus since the hepatitis-C test became available in 1989. No writs have yet been served.

Hepatitis-C has been known to exist for years, but doctors were unable to detect the virus in blood until 1988. It is carried by between one and two in every 2,000 blood donors, though in inner cities and among immigrant populations its prevalence is 10 times that.

Blood banks in the US and most EC countries began to screen blood for the virus as soon as the test became available. But the British transfusion service, which screens its 2 million donations a year for HIV and hepatitis-B, delayed screening for hepatitis-C because when the test was first available it registered a high number of "false positives", screening out five times too much blood.

Dr Dusheiko said that in spite of the imprecision of the earlier test, the BTS was legally and morally bound to put it into effect straightaway, while continuing to refine it at the same time. "On strictly scientific grounds the

transfusion service may have been right to wait for a better test. But I think they had little regard for the recipients of the blood and were more concerned with the effect of a wrong diagnosis on donors."

Mark Mildred, of Pannone Napier, one of the law firms that acted for haemophiliacs, accepted his first hepatitis case this week.

"There's obviously an arguable claim that they took too long to take an available precaution. If we can show that the delay was disproportionate to the danger to patients, it will be evidence of negligence," he said.

Tony Mallen, of Deas Mallen Souter, has two hepatitis-C cases. He said the best way to win them damages would be to show that the Government's decision not to test for hepatitis-C was "perverse" — which would have been the case if the test was cost-effective.

On that ground hepatitis patients were in a stronger position than haemophiliacs were. "There are only 5,000 haemophiliacs in the country who might have benefited from screening Factor 8. But with transfusions, the whole population's at risk."

Also, Mr Mallen said, most of the haemophiliacs had already been infected with HIV by the time it was first diagnosed in 1984.

"That's not the case for hepatitis-C patients infected since 1989."

According to Dr Dusheiko, it

would probably be cost-effective to do the test, which the transfusion service estimates would cost £5m a year. Using the latest drug for hepatitis-C, each patient cost £8,000 to treat. One thousand patients a year would cost £8m.

"Only a fifth of patients, however, get a meaningful response from the drug. So many will need transplants, which would cost £20,000 per patient. Moreover, the transfusion service's costs would simply be passed on to the consumer," he said.

Dr Roger Moore, BTS deputy national director, denied that it had been negligent. He said the original test would have caused more harm than good, by reducing the amount of healthy blood available and by scaring hundreds of donors. "A false positive is just as bad from our point of view as a false negative," he said.

But he denied the BTS was more concerned about not upsetting the donor supply than with the well-being of patients. "It has always been a dual function of the Blood Transfusion Service to be concerned about the health of donors as well as of patients. But the Department of Health's expert committee [which took the decision about when to start the test] took on board the views of both sides of the argument. The decision was certainly not based on any financial considerations."