

Mrs James Sol B4
Dr Rejman CA/OPU2 *ak ad,*
Mr Pudlo CA OPU2

Ref : LIE 22
From : Ann Towner CA OPU2
Date : 15 January 1996

CONTINUING CORRESPONDENCE : LITIGATION RE HEPATITIS C

1. You commented recently on my draft reply to an initial letter from solicitors acting for a HA. I now attach a copy of a further letter from the solicitors, and my draft reply - together with copies of the original letter and my reply for reference.
2. The solicitor's first question is understandable in view of what PS(H) said - the Treasury too have been asking questions about whether this implied we were going to give way.
3. On the request for us to copy any independent advice we have obtained, I note that counsels opinion begins by saying that the Department wants to establish a payment scheme. I don't think we should copy this - it could mislead the solicitors in the present case and would certainly be most unhelpful if it were more widely cited. In any event, as Dr Rejman has asked, is there a distinction to be drawn between blood itself - on which the advice majors - and the blood products we are concerned with in relation to the present enquiry ?
4. My draft reply assumes that we copy only Counsel's conclusion, and draws attention to the possibility of a distinction between blood and blood products. But it principally repeats our earlier emphasis on the HAs being concerned with whether the circumstances of individual cases mean that they should accept that negligence has occurred.
5. I am not very familiar with this type of legal question, and must look to recipients for advice. But I felt it would be helpful for me to at least make some attempt at a draft reply for others to comment on, rather than simply request views/contributions. I would be grateful for comments (or confirmation that you are content with the draft) by close of play on Friday 19 January.

GRO-C

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