

To: Charles Lister HSD1

From: Anita James SOLB4

Date: 1st October 1999

Copy: Dr McGovern HSD1
Ms Skinner HSD1
Ms De Zoete HSD2
Miss Trefgarne SOLC4

Re: HCV Litigation

1. I refer to your minute dated 29th September 1999.
2. I propose to deal with the points you raise as they arise in your minute. So far as the proposed reference to ECJ is concerned, I take the view that Deas Mellon Souter are using it as a bargaining tool.
3. I think it is unlikely that Mr Justice Burton would refer the issue to the European Court because I believe that litigation is remote from the issue of implementation of the Directive and is almost hypothetical. Should the matter proceed, I would expect the Department of Health to take its own advice since the Government was responsible for implementation and I would expect the Government in the form of at least the Department to intervene.
4. So far as any consideration of the European Issues is concerned I would have liked to have been involved or least informed of the conference in advance. I think the Department can legitimately complain at its exclusion. We need to find out, if Davis Arnold Cooper will tell us what advice they received on the European issues. I further agree that there should be no concession on body parts.
5. Finally I agree with you that we should recommend settlement to Ministers. Please let me know if I can help further in any way.

GRO-C

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