

Appendix B

Documents

There has been some recent correspondence with the Trust about a number of relatively early documents which are either missing from DH archives or are known to have been destroyed. Registrants may raise any of these issues as examples of poor management of their cases by the Department.

Handling of documents returned by solicitors

At the request of both MS(PH) and MS(R) officials are giving high priority to examining the files which have been returned to the Department by Blackett, Hart and Pratt (Solicitors). The work of existing staff in the Division has been reprioritised to accommodate this but the work required to examine the returned documents, together with several other related tasks, represents a major undertaking. This will require extra staff from elsewhere in the department, which are currently being recruited. We have also arranged with SOL to commission an initial analysis of what the returned papers contain, to be carried out by an independent legal expert (panel counsel). We will also pursue MS(PH)'s suggestion of seeking assistance from the Information Commission.

We have raised with SOL the question from Baroness Barker about what steps the Department would be taking to ensure that the returned documents would be adequately protected. They have given assurances that the returned documents are being held securely. SOL have arranged for independent Counsel to list the recently returned documents and undertake an initial evaluation of their contents as set out in the letter of 8 June 06 from Ministers to Lord Jenkins. A report from Counsel is expected imminently.

Documents which have been destroyed

We know that there were two instances in the 1990's where papers were destroyed in error. The first instance was following the HIV litigation. Currently we do not know the full extent of what was destroyed. We propose to establish more information about these papers, and the circumstances of the destruction. In the second instance, we know that 14 volumes of papers relating to the Advisory Committee on the Virological Safety of Blood (ACVSB) were destroyed. An internal investigation was undertaken in April 2000 by colleagues in Internal Audit to establish why these files were destroyed. We have a copy of the report by Internal Audit, therefore in relation to these files we may be able to establish whether some of the papers recently returned include papers from the ACVSB. We will also list the documents (of which there are thousands) recently released in Scotland.

We have identified an additional member of staff who is expected to start work next week, to identify and analyse all the papers currently available, including the very large number recently released in Scotland. We anticipate that preparing a comprehensive inventory and report of all the papers may take up to six months (a recent similar, incomplete, exercise in Scotland took nine months).

RESTRICTED – POLICY

Waivers of litigation rights

We have had several letters recently (one of them from Mr **GRO-A**) asking for a copy of any waiver of their right to pursue litigation which they may have signed when they registered their claim with the Trust. We have been unable to locate the Department's copies of these waivers on our files – which is unfortunate, but not entirely surprising, given that the files in question are over 20 years old. We are confident, however, that all registrants were required to sign such waivers before their claims were processed and we have provided copies of the form of words used for some of the waivers at the time.

Lines to take

The purpose of this meeting is to discuss the funding of the Macfarlane and Eileen Trusts. However, we regret that any papers relevant to the Trust's work have been destroyed in error. I have explained on a number of occasions that there has been no deliberate attempt to destroy past papers.

During the HIV litigation in the early 1990's many papers from that period were recalled. We understand that papers were not adequately archived and were unfortunately destroyed following the litigation. Officials have also established that a number of files on the Advisory Committee on the Virological Safety of Blood (ACVSB) between May 1989 – February 1992 were unfortunately destroyed in error. These papers were destroyed between July 1994 and March 1998.

An internal investigation was subsequently conducted by the Department's internal audit team.