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Falconer S (Sandra)

From: Stock RG (Bob)
Sent: 30 March 2004 13:14
To: Falconer S (Sandra)
Subject: FW: Hep C Herald Story

Bob Stock

GRO-C

-----Original Message-----

From: Macleod AK (Andrew)
Sent: 30 March 2004 12:38
To: Gordon IW (Ian); Stock RG (Bob)
Subject: RE: Hep C Herald Story

Ian – thank you for this. Unfortunately we now have an FM Oral PQ which needs answer by 4.30 this afternoon!

We have been discussing with OSSE the need for this condition. I have to say it seems to us a standard condition which would appear in any offer of ex gratia payment to protect the interests of the taxpayer, and avoid the risk of a double payment for the same event. To my mind there is really no more to it than that, and some of the press statements about our motives in including this condition are wild. A similar condition applied to the payments that were made for HIV, and we are checking whether this applied also to nvCJD compensation

Andrew

-----Original Message-----

From: Gordon IW (Ian)
Sent: 30 March 2004 11:54
To: Stock RG (Bob)
Cc: Macleod AK (Andrew)
Subject: FW: Hep C Herald Story

Bob, take your time in answering this. It is important to get it right, ie to explain this convincingly to the minister. Ian G

-----Original Message-----

From: Minister for Health and Community Care
Sent: 30 March 2004 10:31
To: Stock RG (Bob)
Cc: Deputy Minister for Health and Community Care; PS/HD Health; Macleod AK (Andrew); Falconer S (Sandra); Gordon IW (Ian)
Subject: RE: Hep C Herald Story

Bob

The Minister has seen your advice and has asked why is the waiver necessary? It sounds as if we're going to get lots of grief and bad publicity for no very good purpose.

Grateful for advice.

Thank you

Beverley Garvie
APS/Minister for Health and Community Care

-----Original Message-----

From: Stock RG (Bob)
Sent: 29 March 2004 16:53
To: Minister for Health and Community Care
Cc: Deputy Minister for Health and Community Care; PS/HD Health; Macleod AK (Andrew); Falconer S (Sandra); Gordon IW (Ian)
Subject: FW: Hep C Herald Story

Beverley

There are possibly 4 elements to the Sunday Herald article (<http://www.sundayherald.com/40878>);

- That the waiver statement is 'morally outrageous' [quotes from David Davidson and Shona Robinson]
- That it is revealed in a 'leaked documents' (and implicitly was being kept out of sight)
- That the waiver 'closes up any more civil claims' [Frank McGuire quote]
- That the waiver 'would stop the facts being heard' [Philip Dolan quote]

Commentary

1. My submission of 11 December proposed that a scheme condition would be "People who receive payments under the scheme would undertake not to institute future legal proceedings against the NHS or Ministers in relation to the situation that formed the basis of those payments." This condition was agreed with OSSE (who advised that such conditions were standard when making ex gratia payments). I understand DoH received similar advice from their lawyers.
2. The condition was further amplified in the Q&A issued at the time of the announcement by the four UK health Ministers on 23 January. The wording used was "People who receive payments under the scheme will be asked to sign an undertaking not to institute proceedings against the NHS or Ministers in relation to their having been infected with Hepatitis C from blood, blood products or tissue received from the

NHS before September 1991” and it is this wording that is quoted in the Sunday Herald article. However, it was not included in the press release itself.

3. We provided the abovementioned Q&A to Philip Dolan and to the Hepatitis C Resource Centre at the time of the January announcement.
4. Civil claims under CPA are already absolutely time barred. Civil claims for negligence are also likely to be already time barred (since actions have to be raised within 3 years of the person becoming aware of the basis for a claim) – but in this case it is within the power of a judge to ignore this if the circumstances warrant it.
5. It is very hard to see how an individual signing the waiver would have any effect at all on the facts being heard (eg if there was ever to be a public inquiry)

Bob Stock
GRO-C

-----Original Message-----

From: Minister for Health and Community Care

Sent: 29 March 2004 15:18

To: Stock RG (Bob)

Subject: Hep C Herald Story

Bob

The Minister would like a note on the Hep C story on the front page of yesterday's Sunday Herald.

Grateful if you could arrange for this please.

Thanks

Beverley Garvie

APS/Minister for Health and Community Care

29 March 2004

David - we know the waiver was included in the HIV payment scheme. Do you know whether it is also a condition in the vCJD payment scheme?

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Sandra

<<S2F-00803.doc>>

-----Original Message-----

From: Stock RG (Bob)

Sent: 29 March 2004 11:00

To: David Reay; Gerry Dorrian; Richard Gutowski; Sue Paterson

Cc: Falconer S (Sandra)

Subject: Skipton Fund waiver

We had an adverse press report on Sunday (<http://www.sundayherald.com/40878>) in relation to the waiver, which is going to result in ministerial correspondence which will have to be answered in 2 weeks time ? and maybe PQs before then. I was convinced we had mentioned the waiver in our press release, but we hadn't ? water under the bridge I suppose.

It could be quite helpful in dealing with this if we were able to officially reveal that the condition that 'other awards' (eg from CPA litigation) would not be deducted from SF awards. I know we had thought that this would be revealed in the announcement about SF opening its doors ? but this now looks to be several weeks away.

When I last checked on this it seemed that the only actual impediment to revealing the change (in the interim we have been saying the issue is under review) was that Jane Hutt had not yet signed up to it. Are we now at the position where all the UK Health Ministers are signed up to the change? If so, how do people feel about it becoming public knowledge in advance of the SF announcement (perhaps even on the basis of it being "very likely") and about how we could do this?

Bob (See attached file: S2F-00803.doc)

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