

**"Fwd: Re: Hep C in Scotland - compenstion and public inquiry demands"**

Document Type:	Formal
File Title:	GHP - Blood Policy - Haemophilia - Haemophilia Campaign
File Reference:	GHP/005/006/032 Vol 2
Protective Marking:	No Marking
Filed by:	Zubeda Seedat/PH6/DOH/GB on 10/09/2008 at 10:04
Created by:	Charles Lister on 10/09/2008 at 10:04

**Named Security Prior To Moving To Archive:**

Who can edit?	Nobody
Who has edited?	Zubeda Seedat/PH6/DOH/GB
Who can read?	All readers of the document database

**Modification History Prior To Moving To Archive:**

Modified Date and Time	Details
18/08/2009 14:57	Modified registered file
08/02/2012 15:48	Refiled from GHP/005/006/032 to GHP/005/006/032 Vol 2

**Charles Lister/PH6/DOH/GB**

01/05/2003 12:24

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cc

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SubjectFwd: Re: Hep C in Scotland - compenstion and public inquiry demands

All

To note the latest prediction on the timing of a Law Officers decision on whether Scotland can go it alone on hepatitis C compensation. I understand that DWP have decided not to address the question of whether there could be a social security disregard for such payments until we have a decision for the Law Officers. This issue is therefore going to drag on for a little while yet.

Charles

----- Forwarded by Charles Lister/PH6/DOH/GB on 01/05/2003 12:26 -----

"Peter Thompson"  
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01/05/2003 12:13

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To: Charles

cc:

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Subject: Fwd: Re: Hep C in  
Scotland - compenstion and public inquiry demands

Charles

It now appears that the Law Officers will not reach a view until the end of May (wheels certainly do turn slow!). I'm afraid that I've not been able to establish the more interesting question as to what view they might reach! If I get any inkling I'll be in touch.

Peter

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>>> Peter Thompson 29/04/03 14:30:41 >>>  
Charles

Thanks for this and please accept my apologies for not responding sooner - I've been off ill.

On the Law Officer's opinion I'm afraid that my usual contact is away and no one else appears to know. I'll be in touch as soon as I have something.

On the question of whether a Scottish Parliamentary Committee can conduct an inquiry, from memory the answer is yes. And they have pretty wide ranging powers too, within the general proviso that they can only inquire into matters that relate to Scotland. My understanding of the legal position is that a Scot Parl Cttee could demand access to the papers dealing with transferred matters - including papers which pre-date devolution - but not those relating to reserved matters. For the latter they should approach the S of S for Scotland and make a case as to why they should have access to reserved papers.

Given that Health is almost entirely devolved I would imagine that it would be difficult to refuse the Cttee access to papers so far as they relate to Scotland. The difficulty would I imagine arise where the Cttee felt that the "answer" lay in DoH papers relating to England.

As I said this is all from memory. I shall check with our Solicitors to see if they have anything to add. I hope this is helpful in the meantime.

Peter

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>>> <Charles.Lister@GRO-C> 16/04/03 14:37:58 >>>  
Peter

Bob Stock in the Scottish Exec has recently updated me on his perception of likely developments in Scotland after the election. Just prior to the Election the outgoing Parliamentary Health Committee expressed some support for continuing demands from Scottish haemophilia patients with hepatitis C for a public inquiry. Those same demands are being made here. Bob expects these demand to be renewed with some vigour after the election with a good deal of support from the Scottish Parliament. Should Scottish Ministers concede on this under Parliamentary pressure, we will inevitably find ourselves dragged in despite our Ministers determination to resist an inquiry. Any inquiry would focus on events in the 70s and 80s when policy in Scotland was largely determined by Whitehall and by DH in particular. It therefore seems to me that even if an inquiry were set up only in Scotland it would become de facto a UK inquiry. Do you have any advice on what the constitutional position would be in such a situation?

On compensation, Bob Stock's feeling is that too much time may have already elapsed since Malcolm Chisholm raised the proposect of payments substantially below those recommended by the Expert Group, for him to sustain this approach. He is expecting a lot of Parliamentary pressure for much bigger cash pay outs. Do you know if the Law Officers have formulated their advice and are waiting for the end of the purdah period before releasing it, or is it still under consideration? Some idea of timing would be very helpful. Some - even preliminary - advice on the outcome of the Law Officers deliberations would be even better.

Charles

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