

hep090

RESTRICTED - POLICY

Mr Shaw

From Roger Scofield

Date 1 February 1995

copies
Mr Brownlee
Dr Rejman
Mr Kelly
Mr Paley
Mr Burrage

LIE 22 - all papers
TBL 19 - all papers
MAC 3

(minis 8/1/95
31/1/95
& 5/1/95
only)

HEPATITIS C AND HIV LITIGATION MATTERS

In his minute of 23 December Mr Heppell asked if the time had come for him to hand over responsibility for HIV litigation matters to you. I said that in principle this seemed right but there might be vote accounting implications. Mike Brownlee has since minuted me, copy to you.

Firstly Strachan Heppell is retiring shortly and there will not be a direct replacement. The options of leaving it with Strachan or his successor are not available.

It is also generally agreed that CA OPU should look after these matters on a day to day basis. You are our main board director and we would normally see our reporting line being through you to Alan Langlands as CE of the Executive.

Recent changes have sought to regularise the organisational and Accounting Officer positions so that Vote 1 reflects the work for which the CE has responsibility and conversely he has the staff to advise him on the work for which he is held responsible.

In the case of HIV litigation (or more precisely the payment of funds to discretionary trusts for onward payment to those infected with HIV through blood or blood products) the money is currently paid out from Vote 3 for which Perm Sec has AO responsibility. Mike Brownlee says that it would be technically difficult to transfer this to Vote 1. We have no such vote entry for corresponding payments in respect of HCV. I think there must be a possibility that some sort of payments may be made at some stage in the future.

Payments of this kind are to some extent an outcome of the running of the NHS and may be argued to be part of CE's responsibility. He certainly would be the AO for normal clinical negligence claims. But there is also a very strong political element including the impact on OGDs etc. For this reason I see no strong argument against it staying on vote 3 under Perm Sec.

Perm Sec has, as you know, maintained a personal interest in the development of the hepatitis C policy which constantly looks back to the way in which HIV was handled.

My conclusion is that responsibility for litigation on HIV and HCV should be with CA OPU reporting through you to Perm Sec who has vote accounting (AO) responsibility for the money concerned. Alan Langlands (and indeed Dr Calman) would of course need to be kept fully informed of developments.

Although this is an unorthodox arrangement I think it reflects and regularises current practice.

If you agree you may wish to drop Strachan Heppell a line.

R M T Scofield

CA OPU

EH303 Ext GRO-C

RESTRICTED - POLICY

To: Mr Scofield CA-OPU

From: J M Brownlee F1

Date: 31 January 1995

Copies: Mr Shaw NHSME
Dr Rejman HC(M)1
Mr Kelly CAO-PU2
Mr Paley FCIA-FLIP2
Mr Burrage CA-OPU2

HEPATITIS C AND HIV LITIGATION MATTERS

1. Thank you for copying to me your minute to Mr Shaw of 4 January. You asked for my comments on the vote accounting for HIV litigation if responsibility for this became an NHS Executive matter.
2. The HIV budget (£100K for 1995-96) is currently in Vote 3 and therefore Mr Hart is the Accounting Officer for this budget. If it remains in Vote 3 following the transfer to the NHS Executive Mr Hart would remain AO. This anomaly could only be rectified by a transfer to Vote 1 to enable Mr Langlands to become AO for this budget.
3. A transfer to Vote 1 however would not be straightforward because we do not believe that the ambit of Vote 1 allows for payment to voluntary bodies. This could be changed but this could probably not be achieved until 1996-97.
4. F1 would be prepared to start the process of arranging a transfer from Vote 3 to Vote 1 from 1996-97 if all concerned are agreed that this should take place.

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(E-MAIL)

Mr Keith Paley
FCIA-FLIP2
DHMTA008
Department of Health

Item posted: Thu 5 Jan 95 14:48
Message ID: PC1008-950105144800-31E3
In reply to: PC1014-950104093637-614E

To: Mr R M T Scofield
CA-OPU
DHMTA014
Department of Health

Mr T Kelly
CAOPU2
DHMTA014
Department of Health

Cc: Mr Mike Brownlee
F1
DHMTA005
Department of Health

Mr J Shaw
NHSME
DHMTA011
Department of Health

Dr A Rejman
HC(M)1
DHMTA014
Department of Health

Mr D E Burrage
CA-OPU2
DHMTA014
Department of Health

Subject: Re: HEPATITIS C AND HIV LITIGATION

You can be reassured - the reporting change will have no bearing on the existing vote accounting arrangements for HIV litigation and the relationship with Macfarlane Trust.

As I read it the vote accounting distinction to be drawn in cases like this would be that payment of compensation for non-negligent harm is a political decision, and hence a departmental ('the Government's' - vote 3) responsibility; whereas 'active support' to sufferers - cf. the CJD helpline and expert counselling services, and including any treatment - have been/would be delivered through the NHS (vote 1).

Mr J Shaw
NHSME
DHMTA011
Department of Health

Item posted: Wed 4 Jan 95 09:44
Message ID: PC1011-950104094424-6743

To: Dr J S Metters
Pr/Off
DHMTA003
Department of Health

Dr A Rejman
HC(M)1
DHMTA014
Department of Health

Cc: Mr Andrew Hollebon
PR/OFF
DHMTA003
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Dr Felicity Harvey
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Dr G Winyard
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Romola Christopherson
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Mr D E Burrage
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Ms Jean Ward
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DHMTA006
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Chris Kenny
CA-QUAC
DHMTA011
Department of Health

Subject: Hepatitis C

Two or three quick comments on Roger Scofield's minute of yesterday's date to you.
First, Roger's sense of urgency about all this and the speed and skill with which he and his colleagues have been 'getting our act together'

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strikes me as highly commendable.

Secondly, although Ministers have declined to take part in the Panorama programme itself, the Department is going to put in a statement answering certain key questions. Is there any reason why the proposed (and now agreed) 'look back programme' should not be included as part of that statement? It seems to me that it would be better to get that announcement included in the programme itself if at all possible rather than using it simply as a subsequent defensive measure. Incidentally, although I share Roger's sense of irritation at the BBC's plans to proceed with the programme, I see no advantage in our trying to get it postponed at this late stage. They are almost bound to refuse, thereby putting us in the position of having unsuccessfully tried to 'gag the media'.

I am broadly content with the practical steps proposed in Roger's third paragraph. I do, however, think that the NBA may be overwhelmed if all inquiries to the RTCs are channelled to them. The NBA must be able to rely to some extent on senior management of the RTCs, give them a clear line to take and then hold them to account for sticking to it. That approach is, in any case, more consistent with the line which Roger is advocating in respect of the collection centres.

As regards handling viewers' initial inquiries, it is clearly important for the BBC to be given an appropriate line to take. On that score, we should not overlook the availability of the free-phone Health Information Services which are operating effectively throughout the country (England, at least) and to which the BBC could refer inquirers for more information, if necessary. The HIS people would, of course, have to be properly briefed (Chris Kenny in QUAC is the G5 i/c HIS).

hep019

RESTRICTED - POLICY

Mr Shaw

From Roger Scofield

Date 4 January 1994

copies
Dr Rejman
Mr Brownlee
Mr Kelly
Mr Paley
Mr Burrage

HEPATITIS C and HIV litigation matters

Ref Strachan Heppell's minute of 23 December and your E-mail of 3 January.

2 I believe that the decision to place general issues of no fault liability within the Public Health Group is the right one. It remains for us to see where it will actually go and with what priority a generic policy will be developed.

3 I am content to continue to take the lead in handling compensation claims etc. on hepatitis C subject to having the resources to do the job.

4 So far as the issue about HIV litigation is concerned I don't think we can fault the logic that this is now an NHS Executive matter and as such it would be more appropriate for me to report on this to you rather than to Strachan Heppell. The contrary argument would be only one of continuity. Strachan has been in on this since the beginning and has developed good relations with the Macfarlane Trust etc. But he is retiring soon and new people will have to take over. The work has slowed down to a trickle although our ability to deal with it relies heavily upon a couple of key individuals.

5 I need to check whether there would be any implications for vote accounting if this were taken on by the NHS Executive and I am copying this (and Strachan's minute) to Mike Brownlee in F1, Keith Paley in FCIA FLIP and Dave Burrage in CA OPU2 for advice.

R M T Scofield
CA OPU
EH303 Ext GRO-C