

Ruth
Miss R McEwen
SOL B4
Room 512A
New Court

From: Mrs A M James (SOL B4)

Date: 18 March 1996

HEPATITIS C

1. We discussed this matter and you very kindly agreed to take the matter forward. I have to say at the outset that this will involve a lot of work - both from you and from the support staff and it all may come to nothing as it might be decided by the Secretary of State to set up a scheme like those he has had in relation to HIV and haemophiliacs and HIV and Blood/Tissue Transfers.

2. At present, we have some eleven letters before action and three writs but only one is active - ie **GRO-A**. We also have one case in the County Court **GRO-A**. I have told J Keith Park who act for all the potential and actual Plaintiffs that I intend to apply for Mr **GRO-A**'s case to be transferred to the High Court. They have now taken non-party discovery against Nottingham Health Authority so I have put that matter on hold.

3. Our clients are in the Department of Health. It is said by J Keith Park that the Department has been negligent principally in not providing adequate tests for Hepatitis C. Hepatitis C is carried in blood. Hepatitis C was identified relatively late in the history of hepatitis. Hepatitis A and B have been identifiable for some time but as I understand it although "non-A/non-B hepatitis" was noted in patients following blood transfusion it did not actually become identified as Hepatitis C until the late 60s. It was not until 1989 that tests became available for Hepatitis C in blood and it was not until 1991 that the Department approved these tests as a matter of routine for blood that was to be transfused. Apart from blood transfusion, the spread of Hepatitis C is associated with "lifestyle" - particularly drug addiction and shared needles. In 1985, tests were available for HIV and the routine screening of blood for that began. This screening may well have reduced the incidence of Hepatitis C in transfused blood. The Department's vulnerability is in the period between 1989 and 1991. It should be noted that unlike HIV which almost inevitably leads to full blown AIDS and death, Hepatitis C does not follow this path although in some cases it may well result in cirrhosis of the liver. In others, only jaundice occurs but as I understand it in all cases the sufferers are carriers of the disease which is a problem since it is sexually transmittable. The irony in all this is that seriously ill patients were given life saving transfusions and haemophiliacs, blood products in good faith but the outcome has been Hepatitis C.

4. Your primary task at this point is to instruct Counsel to draft a defence in the **GRO-A** case and to agree a timetable with J Keith Park as to the delivery of that defence. We should have a reasonable degree of flexibility about that because, J Keith Park took months to get the Statement of Claim to us. I suggest you use Nigel Plemming QC and Steven Kovats at 39 Essex Street. We already have had advice from them about whether blood came within the Consumer Protection Act 1987 (see general file).

5. You will see from the general file, that there is some discussion of setting up a compensation scheme. We have had two schemes in the past - the first was in the context of litigation. We were sued by haemophiliacs infected with HIV through their treatment. That matter settled at the door of the Court and a scheme was set up to compensate them. The Department was then under pressure to compensate those infected with HIV through blood transfusion and tissue transplant. Many of those (in both categories) were represented by J Keith Park and to some extent, the letters before action are designed to make us do the same in relation to Hepatitis C. I have to say that to date J Keith Park have not proved to be very good lawyers but they are political with a small 'p'. You should also note that in taking money under earlier schemes, beneficiaries had to sign an undertaking not to bring any further proceedings. There may be an over lap between those making the Hepatitis claims and those who were compensated under the scheme for haemophiliacs so that needs to be explored.

6. The people you need to know about - besides me (I have had a lot of input into the HIV Blood Tissue Scheme) are:-

Ronald Powell, SOL B3, who handled the haemophilia litigation and whose branch have all the files;

Dr Jeremy Metters, Deputy Chief Medical Officer, who chaired the Committee on testing for Hepatitis C;

Branch CA OPU2 at the Department of Health:-

Dr Rejman, CA OPU2's doctor and haematologist;

Mr Pudlo, the Grade 7 in CA OPU2, who is responsible for the policy.

Dr Rejman is the only person who has been involved with the matter from the very beginning.

7. One last thing to note: as I have said above, we have had two schemes thus far but we have other "class" actions as you know. GRO-A has human growth hormone litigation and there is always the prospect of further scientific discovery. Mr Guinness mentions Hepatitis G in his latest missive. There may therefore be a reluctance to make any more provision by way of schemes but the matter is very much up in the air.

GRO-C

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