

via email

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RESTRICTED POLICY

Mr R Scofield CA-OPU

From: Dr A Rejman HC(M)1

Date: 16 December 1994

Copy: Dr Harvey PR/OFF
Dr Metters DCMO
Mr Shaw NHSME
Dr Nicholas HP(M)1
Mr C Blake SOL*
Mr Kelly CA-OPU2
Mr Burrage "

* with attachments

MSBT RECOMMENDATION ON HEPATITIS C "LOOK BACK"

1. Thank you for your minute of earlier today.
2. I would support your suggested line to take.
3. As I mentioned at yesterday's pre-meeting and following the meeting, I think it essential that solicitors be involved in the exact wording of what comes out of DH.
4. My understanding, as a non solicitor, is that SofS duty of care in respect of individuals has not been tested in the UK courts. This was a main plank of the HIV haemophilia litigation, and the plaintiff's initially wanted this separately considered by Mr Justice Ognall before the main trial. As you are aware the main trial never happened, and so this aspect was never put to the test. I would be very grateful if Mr Blake could advise in respect of this.
5. An alternative wording that might be more appropriate could:

"i) On the assumption that the NHS has responsibility towards those infected ..."
6. Under para iii), I do not believe that we should state that the medical practitioner makes known to the patient his/her risk status. There may be circumstances, and you are aware of this in respect of the wording of the HIV Blood Transfusion Scheme, where a practitioner may consider that it is not in the patient's best interests to be aware of the fact that they are HIV positive (in this case HCV).

Examples are individuals for instance who are recovering from life threatening illnesses, where the practitioner may decide that the psychological harm to the individual greatly outweighs any possible benefit of early treatment. This is particularly relevant in HCV where sexual transmission and risk to others in normal social contact is at a much lower level than for HIV.

7. I would therefore suggest that the section in brackets be omitted.
8. Incidentally, it is quite likely that the medical practitioner responsible for the patient will not be one that is experienced in treatment of Hepatitis, unless your words "what treatment should actually be given" is supposed to be generic and to include decide upon appropriate referral.
9. Para 2, my understanding is that the title of the group is Advisory Group on Hepatitis. Perhaps Dr Nicholas could correct me if I am wrong. I wonder incidentally whether we want to limit ourselves to these people, or whether we might need somebody from outside these two groups. In these circumstances it might be more appropriate to put the word "including" between the word "established" and "drawn".

Dr A Rejman
Room 420 Ext
EH

GRO-C