

**Mihailovic Anne LSPG Sol LIT**

**From:** Ailsa.Wight@GRO-C  
**Sent:** 25 May 2006 17:06  
**To:** Mihailovic Anne LSPG Sol LIT  
**Cc:** Gidden Mark LSPG Sol LIT; Gerard.Hetherington@GRO-C  
Zubeda.Seedat@GRO-C; William.Connon@GRO-C  
**Subject:** RE: Self-Sufficiency and the destroyed papers

Thank you for your prompt reply.

I have discussed with Gerard and William, who were at the meeting with Ministers last night, and we agree that we should proceed as you suggest in the second sentence of your first paragraph: as well as providing an assurance to Ministers about probity etc, it will be very helpful to have an assessment of the content of the files. Do you have any indication of the costs involved?

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<Anne.Mihailovic@GRO-C>  
GRO-C  
25/05/2006 15:14  
the destroyed papers

To: Ailsa  
cc: Gidden Mark LSPG Sol LIT  
<Mark.Gidden@GRO-C>  
bcc:  
Subject: RE: Self-Sufficiency and

Dear Ailsa,

Thank you for forwarding the email from William Connon on this matter. In respect of the Documents returned to Sol - (4th para. of the email) I understand our instructions to be that you would like to commission an independent legal expert to examine the returned documents and carry out an initial analysis of what they contain. I have now discussed with Mark Gidden and confirm that we would be able to instruct Panel counsel to carry out this task. One issue that you will need to consider is that you are satisfied that Panel counsel have the necessary degree of independence. Of course they are all members of the independent Bar and not part of the Department but they are included on the Attorney General's list of counsel authorised to carry out Government work.

Secondly, if we go down this route, we will need to consider the precise instructions that we give to counsel covering the nature of the analysis to be undertaken. From our discussion, I understand the task to be identification and description of the documents and assessment as to whether there is any legal reason why they should not be released into the public domain - including whether any of the FOI exemptions or Data Protection requirements may apply - but we will need to receive precise instructions from you on this.

Thirdly, it would also be helpful to provide some background information on the issue

to counsel to set the context and again we would be looking to you to provide this.

if you feel that Panel counsel are not sufficiently independent, the only other suggestion we are able to come up with at this stage is to instruct a High Street firm of solicitors - this would be more expensive as Panel counsel do have agreed and very reasonable rates for our work. The Department will be billed for the fees for this work.

As I am on leave after today until 5 June, I would be looking to receive your instructions on this matter on my return so that we can identify suitable counsel and get the papers to them during that week if possible. In the meantime I am able to confirm that the documents are being held under lock and key.

Finally, I do recognise that these documents are part of a much bigger picture and task that needs to be carried out and you are looking for suggestions as to how this might be done. I note from the background briefing for Lord Warner that a DH( EX?) official, Peter Burgin, was commissioned for 3 months to review paperwork. I don't know if it might be possible for him to continue this task generally, however as I do think that what is needed is to identify a dedicated policy resource to go through all the documents systematically and comprehensively. Having counsel involved in the matter at this stage may reap benefits if there are legal issues to consider arising from the other documents later on.

I hope that this is helpful. If there are any matters that you need to discuss during my absence, Mark is fully aware of the issues.

Regards

Anne Mihailovic  
Sol Lit

GRO-C

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From: Ailsa.Wight@GRO-C  
To: Anne.Mihailovic@GRO-C  
Cc: Mark.Gidden@GRO-C, Gerard.Hetherington@GRO-C  
Subject: Self-Sufficiency and the destroyed papers  
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As discussed. Hope this explains some of the context of current Ministerial concerns.

We agreed that on the fourth point in William's note below, we would say in a note to Ministers (to be sent before the weekend to update them on what we're doing in relation to the various points):

'SOL have given assurances that the returned documents are being held securely. SOL are considering the best way of securing independent assessment of the documents'.

Please let me/Gerard know by return if you want to add any other comments at this stage. We will be in touch when you've had a chance to consider both this specific issue of the returned documents and any wider implications in more detail.

Many thanks

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Forwarded by Ailsa Wight/PH6/DOH/GB on 25/05/2006 12:36 -----  
William Cannon

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25/05/2006 08:48

Denise

Hughes/PH5/DOH/GB@GRO-C Hugh

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To: Gerard

cc: Ailsa Wight/PH6/DOH/GB@GRO-C

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Seedat/PH6/DOH/GB@GRO-C Darren

Nicholas/PH6/DOH/GB@GRO-C Lindsey

bcc:

Subject: Self-Sufficiency and the

destroyed papers

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to file: RESTRICTED - Policy  
pic32757.pcx)

Gerard,

Following yesterday's meeting with Caroline Flint and Lord Warner the following action is urgently required:

FOI case: there are, I believe, three cases including the GRO-A one. I had already agreed yesterday, and Ailsa confirmed the decision, that we should write to Mr GRO-A (one of the other correspondents on this) stating that we would provide all documents by 20th June. Ministers yesterday asked that we copy this letter to Lords Morris and Jenkin and all others, to whom we wrote at the time of the publication of the self sufficiency report. I assume we will have to clear this with the FOI team as we may not be able to copy personal correspondence in this way without the inquires consent. Ministers also asked for details of the total number of documents (references in the report), which ones have already been released, which ones are in the public domain and which ones are outstanding. Numbers only, not details of the actual docs.

Destroyed documents: although not explicitly requested, I think it would be helpful to compile a definitive list of all the sets of documents which have been destroyed {

there are two sets and we know more about one than the other), when they were stroyed (if we know), circumstances of destruction and likelihood of the documents which have just been found by the solicitors being copies of some the destroyed documents. We have this info but just need to pull it together in a crib sheet. We should also perhaps attach the list of documents (of which there are thousands) recently released by Scotland.

Public Inquiry: Ministers asked that we look carefully at the issues surrounding the continued and increasing requests for this, including the Scottish position. You mentioned the name of a departmental contact re Inquiries (Richard Humphries?) and I think we need to speak to him urgently, in order to establish exactly what we can/ should do regarding this and establish just how decisions on inquiries are taken, costs involved, timescales etc. as the pressure to hold one looks set to continue.

Documents returned to Sol: Ministers suggested that we could ask an independent legal expert to examine the returned documents and provide an initial analysis of what they contain. I think it was on this point that it was suggested that we could invite the Information Commissioner to look into this and we need to discuss this. We also need to stress to Sol the importance of ensuring these documents are held securely.

Resource Management: Minsters have asked that you appraise CMO and Hugh Taylor of the position and impress upon them the urgency and potential embarrassment for DH (although not discussed yesterday the same will apply to ministers) if we do not bring this situation to a satisfactory conclusion. All concerned are agreed that we need to have additional resources to do this and you agreed to explore this. My initial view, which we briefly discussed, is that it will require a minimum of a high calibre IP3U ( or poss fast streamer), with some support, preferably full time and also I think dedicated medical/expert advice is essential. The latter would not need to be full time. We agree to discuss this today. Ministers also asked that we contact the Scottish Executive, at the highest level, and establish precisely what they are going to do regarding the request in Scotland for an inquiry and by when they hope to decide on this.

Secretary of State: Ministers agreed that they will write to the SofS to appraise her of the situation but that they would firstly like to know the outcome of your discussions with CMO/Perm Sec/Scotland.

Conclusion: Given that I will be on leave from today and you are also on leave next week we have to decide quickly how to progress the above and who will manage all of this during our absence, and beyond. I suggest we meet today at some stage, if possible with Ailsa, to plan the way forward. I have one meeting from 9-10 , another from 11:30-12:30 and a final one from 14:00-16:00 at the MOD from which I am not planning to return to work unless essential.

Please excuse this rushed note! I will wait to hear from you.

William G Connon  
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