



"Re: Lord Archer Letter to SofS - Draft Reply"

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William Connon

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Woodeson/CQEG/DOH/GB@GRO-C

To: Elizabeth

cc: Ailsa

Wight/PH6/DOH/GB@GRO-C; Jonathan Stopes-Roe/HP-SL/DOH/GB@GRO-C; Zubeda Seedat/PH6/DOH/GB@GRO-C; Linda Page/SSU/DOH/GB@GRO-C; Hugh Nicholas/PH6/DOH/GB@GRO-C

bcc:

Subject: Re: Lord Archer

Letter to SofS - Draft Reply



RESTRICTED - Policy

Liz,

I agree with Jonathan on this. When I met the Perm Sec on 7th March he agreed that we should not cooperate with this Inquiry and we need to know what has happened to make him change his mind. I think that SofS's decision could have a significant impact for the department and for Ministers. It has consistently been stated by ministers, that there is no need for an Inquiry into this matter. To agree that officials cooperate with Lord Archer's Inquiry could be seen as contrary to that previous position. Furthermore by cooperating with the Inquiry the department and ministers will be in a potentially very difficult situation if the Inquiry concludes that the Government of the day or the department was in any way at fault.

I also note that SofS has directed that officials should give evidence but says nothing about ministers involvement. I would like to discuss this and establish the exact position, as Lord Archer may indeed subsequently ask for ministers to appear before the Inquiry. It is not entirely clear what is required of an official who "gives evidence". There may be a degree of theatricality in the proceedings which could be both bruising and damaging for individuals unless there are very clear "rules of engagement" established at the outset. This will require legal advice, and perhaps also elicit input from the unions. How do we approach the need for redaction of documentation? Then there is of course the issue of resources in terms of the amount of work involved, eg Linda's work in this area has taken 6 months and is not complete.

My initial advice was that once we start to cooperate with an unofficial Inquiry then it will be very difficult to qualify or limit any involvement and the department could find itself in some difficulty. I do of course agree we should be cooperative but not that we should be directly involved. Departmental involvement will also confer credibility on the Inquiry and ultimately any findings it comes up with. I had envisaged that DH's stance should be to respond to any requests from the Inquiry Panel on a strict FOI basis. If the Perm Sec now considers that official involvement should be on some other basis, we need him to give us clear instructions. I don't feel the revised draft reply to Lord Archer can be prepared until those instructions, and the legal advice referred to above, have been received. The Tuesday Pr Off deadline looks optimistic. I would suggest that we need to meet and discuss as soon as possible.

I also note that the response form Pr Off has not gone to Sp Adv or NO 10.

William G Connon
Department of Health
5th Floor
Wellington House
Waterloo Road
London
SE1 8EG

GRO-C

William G Connon
Department of Health
5th Floor
Wellington House
Waterloo Road
London
SE1 8EG

GRO-C