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PH-HP (Director) Documents - Unformatted Document

"Re: Fw: FOI - Request for CMO's advice - Comments from Karen Arnold"

File Reference:	WRK/002/025
File Title:	Working Files - Inbox - June 08
Filed by:	Laura Kennedy/OIS/DOH on 10/11/2008 at 16:27
Created by:	William Connon/PD-PMD/DOH/GB on 24/06/2008 at 10:58

Laura Kennedy/OIS/DOH, <- By default all readers can see document.

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William Connon/PD-
PMD/DOH/GB
24/06/2008 10:58

ToZubeda Seedat/PH6/DOH/GB@GRO-C
ccElizabeth Woodeson/CQEG/DOH/GB@GRO-C Patrick
Hennessy/POLICY/DOH/GB@GRO-C
denise.oshaughnessy@GRO-C
<Tamlyn.Edmonds@GRO-C
<Karen.Arnold1@GRO-C

bcc

SubjectRe: Fw: FOI - Request for CMO's advice - Comments from
Karen ArnoldFC4BD7B74F565AFE80257472003318ED



RESTRICTED - Policy

Zubeda,

Thanks you for copying me into this exchange. There are two points I would like to record:

Firstly, I thought that Sol's previous advice was that, although the position was far from clear-cut, their advice was that we should disclose the document, for the reason which have been circulated many times. I appreciate that having circulated the draft to different lawyers, the advice may have changed but I do not think it is correct to state that those different lawyers "supports the approach we are taking - suggesting that we seek the reasoned opinion of the Attorney General, and that we suggest to the Attorney that the document should be withheld.". That has not been my understanding of the legal advice to date.

Finally, I still feel on balance that minister's decision to release thousands of documents to date, weighs heavily in favour of disclosure of this document.

William G Connon
Head of Blood Policy
Department of Health
530 Wellington House
Waterloo Road
London
SE1 8EG

GRO-C

Zubeda Seedat/PH6/DOH/GB

**Zubeda
Seedat/PH6/DOH/GB**
24/06/2008 10:25

To Elizabeth Woodeson/CQEG/DOH/GB@GRO-C
cc William Connon/PD-PMD/DOH/GB@GRO-C Patrick
Hennessy/POLICY/DOH/GB@GRO-C
Subject Fw: FOI - Request for CMO's advice - Comments from
Karen Arnold

Liz,

I received two e-mails from Karen Arnold yesterday evening - below. As you are already amending the submission and letter, I am forwarding without making any changes at this end.

please let me know if you require me to do anything.

Zubeda

Zubeda Seedat
Blood Policy Team

GRO-C

----- Forwarded by Zubeda Seedat/PH6/DOH/GB on 24/06/2008 10:13 -----

**"Arnold Karen LEGAL
GROUP DH LEGAL
SERVICES"**

<Karen.Arnold1@GRO-C>

23/06/2008 18:16

To "Seedat Zubeda DOH GSI"
<Zubeda.Seedat@GRO-C>

cc "Edmonds Tamlyn LEGAL GROUP DH LEGAL
SERVICES" <Tamlyn.Edmonds@GRO-C>

Subject RE: FOI - Request for CMO's advice

Zubeda,

Frances Logan supports the approach we are taking - suggesting that we

seek the reasoned opinion of the Attorney General, and that we suggest to the Attorney that the document should be withheld.

I have suggested some amendments to the draft submission and draft letter.

I am happy to discuss.

Thank you.

Karen

Karen Arnold
Public Health and Medical Ethics
Department of Health Legal Services
Legal Group
Room 533A
New Court
48 Carey Street
London
WC2A 2LS

Tel - **GRO-C**
Fax -

I work full time, except for every other Monday.

-----Original Message-----

From: Arnold Karen LEGAL GROUP DH LEGAL SERVICES

Sent: 23 June 2008 16:59

To: Seedat Zubeda DOH GSI; Edmonds Tamlyn LEGAL GROUP DH LEGAL SERVICES

Subject: RE: FOI - Request for CMO's advice

Zubeda,

Since we spoke earlier I have spoken to Liz Woodeson about this matter and she asked that a senior lawyer here consider it. I have since then referred to Howard Roberts who previously led on FOI matters. Howard proposes that we suggest withholding the information but has suggested that I seek a view from the Director of DH legal services, Frances Logan for her view (in Paula Cohen's absence) to check that she agrees with the approach he proposes. I have asked Frances to respond as soon as possible since Liz would like to send the submission up tomorrow.

The submission will need to be amended in any event to take account of further points that Howard raises about accurately representing Kenneth Clarke's concerns. I will, separately, provide further comments on the submission and draft letter. One of my comments will be that Howard has suggested that regard should be had to the other briefing which was presented to the former Secretary of State, particularly as he recalls that the weight of the briefing differed from that which he received from the CMO. Howard advises that full consideration of the context of the CMO advice is appropriate and that the submission should address the former Secretary of State's concerns in this regard. He does not consider that it could be in the public interest simply to release information which shows that CMO advice was not followed, particularly in circumstances where a former Secretary of State recalls a context

which makes rejection of the advice reasonable. In Howard's opinion a full consideration of the alleged context is essential. Would you be able to add to the submission and letter as appropriate?

I am happy to discuss.

Thank you.

Karen

Karen Arnold
Public Health and Medical Ethics
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Room 533A
New Court
48 Carey Street
London
WC2A 2LS

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Fax: [GRO-C]

I work full time, except for every other Monday.

-----Original Message-----

From: Seedat Zubeda DOH GSI

Sent: 23 June 2008 12:11

To: Arnold Karen LEGAL GROUP DH LEGAL SERVICES; Edmonds Tamlyn LEGAL GROUP DH LEGAL SERVICES

Subject: Fw: FOI - Request for CMO's advice

Karen/Tamlyn

Liz has made some amendment to the letter. She would like me to check that you are happy with the revised version. Grateful if you could let me know asap. Liz would like to send this to Hugh Taylor today.

Thanks

Zubeda

Zubeda Seedat
Blood Policy Team

[GRO-C]

----- Forwarded by Zubeda Seedat/PH6/DOH/GB on 23/06/2008 12:03 -----

Elizabeth

Woodeson/CQEG/DOH

/GB

To

Zubeda Seedat/PH6/DOH/GB@[GRO-C]

23/06/2008 11:57

cc

Ailsa Wight/PH6/DOH/GB@[GRO-C]

Caroline Wyatt/ISD4A/DOH/GB@GRO-C

Patrick
Hennessy/POLICY/DOH/GB@GRO-C

Steve Wells/ISD4/DOH/GB@GRO-C

William Connon/PD-PMD/DOH/GB@GRO-C

Subject

Re: FOI - Request for CMO's

advice

(Document link: Zubeda Seedat)

Zubeda,

Thank you. I have revised the letter a little so please could you run it past lawyers again to check they are still happy with it. Response today would be really good. I want to get this to Hugh quickly.

I would also like to know why the letter simply gives both points of view and asks for an opinion. Would it be an option - if Hugh decided he agreed with MoJ and Cabinet Office and wanted to withhold - to change the end of para 4 so that it simply says "This letter seeks your agreement to use Section 36 in this case as justification to withhold the document." The rest of the letter would stay the same.

(See attached file: Letter to the AG june 08.doc)

Liz Woodeson
Director of Health Protection

Room 170
Richmond House
Tel. GRO-C
Mobile GRO-C

Zubeda

Seedat/PH6/DOH/GB

To

20/06/2008 17:06 Elizabeth
Woodeson/CQEG/DOH/GB@GRO-C

cc

William

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

Connon/PD-PMD/DOH/GB@GRO-C Patrick

Hennessy/POLICY/DOH/GB@GRO-C Steve

Wells/ISD4/DOH/GB@GRO-C Caroline

Wyatt/ISD4A/DOH/GB@GRO-C

Subject

FOI - Request for CMO's advice

Liz,

I enclose a draft submission and letter to the Attorney General's Office for your consideration. Both documents reflect comments from our lawyers and MOJ, and agreed by our FOI team.

(See attached file: Submission to Hugh Taylor.doc) (See attached file: Letter to the AG.doc) The following documents are the Annex's to the Attorney General's letter

(See attached file: content.pdf) Annex A

(See attached file: HAEMOPHILIACS HIV 28APR08.doc)(See attached file: Kenneth Clarke 060608.tif) - Annex B

Zubeda

Zubeda Seedat
Blood Policy Team
GRO-C

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Submission to Hugh Taylor2.doc Letter to the AG june 0821.doc

(Content modified in mailfile prior to filing since first received on 24/06/2008 10:58.

Last modified in mailfile: 24/06/2008 11:14)