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PH-HP (Director) Documents - Unformatted Document

"RE: Draft letter from Liz Woodeson to Ken Clarke - 17 March 2009"

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Filed by:	Laura Kennedy/OIS/DOH on 29/12/2009 at 15:33
Created by:	Elizabeth Woodeson/CQEG/DOH/GB on 19/03/2009 at 18:53

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

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Who can read? All readers of this document database

Elizabeth
Woodeson/CQEG/DOH/GB
19/03/2009 18:53

To "Kent Graham LEGAL GROUP DH LEGAL SERVICES"
<Graham.Kent@GRO-C>

cc Ailsa Wight/PH6/DOH/GB@GRO-C; Konrad
Borowski/PH6/DOH/GB@GRO-C; Mark
Noterman/CQEG/DOH/GB@GRO-C; Patrick
Hennessy/POLICY/DOH/GB@GRO-C; Rowena
Jecock/PH6/DOH/GB@GRO-C

bcc

Subject RE: Draft letter from Liz Woodeson to Ken Clarke - 17 March
20094C42D2ACA09C93F08025757D0063B9F1

Graham

We talked about this case today. We considered suggesting to Mr Clarke that we should publish the document but redact the final paragraph, using the exemption at Section 35. We thought he might be willing to agree to this. However, I have looked at the document again and I'm afraid this won't work as it would still involve releasing the annex from the RDsPH - and this is actually far more strongly worded in terms of offering advice, than the covering minute from CMO. There could be no justification for redacting para 3 of the covering note and at the same time releasing the annex in its entirety. And redacting the whole of the annex (which I think would be necessary for consistency if we were to redact para 3 of the covering note) is surely not an option - it would look ridiculous.

So I'm afraid we are back to square one and simply need to ask him whether he still thinks we should withhold. I have tweaked my letter slightly. Could you please let me know asap. if you think it's OK? It would be good to get this letter off tomorrow if at all possible.

Many thanks



Ken Clarke from LW/ Mar09v3.doc

Liz Woodeson
Director of Health Protection

Room 170
Richmond House

Tel. [GRO-C]
Mobile [GRO-C]

"Kent Graham LEGAL GROUP DH LEGAL SERVICES" <Graham.Kent@[GRO-C]>

"Kent Graham LEGAL
GROUP DH LEGAL
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<Graham.Kent@[GRO-C]>
[GRO-C]
18/03/2009 18:05

To Elizabeth Woodeson/CQEG/DOH/GB@[GRO-C] Mark
Noterman/CQEG/DOH/GB@[GRO-C]
cc Ailsa Wight/PH6/DOH/GB@[GRO-C] Konrad
Borowski/PH6/DOH/GB@[GRO-C] Patrick
Hennessy/POLICY/DOH/GB@[GRO-C] Rowena
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Subject RE: Draft letter from Liz Woodeson to Ken Clarke - 17
March 2009

Remember that I have not seen the relevant documents, so I'm in some difficulty in advising, but it is difficult to see what the arguments for the public interest in not making this document public is.

We owe it to Mr Clarke to point out the difficulties in resisting this request. The letter seems to indicate that it is entirely a matter for him. This is not the case. The applicant has the right to make a complaint to the ICO, who may well decide that the balance of the public interest is in the other direction. I think the Department largely takes this view, so I would be very surprised if we can persuade the ICO that this document ought not to be released,

Graham

Graham Kent,

DH Legal Services

Public Health and Medical Ethics (part of Legal Group)

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graham.kent@[GRO-C]

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

From: Woodeson Elizabeth DOH GSI
Sent: 18 March 2009 17:58
To: Noterman Mark DOH GSI

Cc: Wight Ailsa DOH GSI; Kent Graham LEGAL GROUP DH LEGAL SERVICES; Konrad.Borowski@[GRO-C]; Woodeson Elizabeth DOH GSI; Hennessy Patrick DOH GSI; Jecock Rowena DOH GSI

Subject: Re: Draft letter from Liz Woodeson to Ken Clarke - 17

March 2009

Dear Mark

Thank you for picking this up while Ian is on leave. I know this is not your responsibility and I appreciate your willingness to help, particularly given how important it is that we respond quickly.

I was interested to see that when the FOI responded to the original request last year, they did not explain that a key reason for withholding the document was that we had taken into account the views of Ken Clarke himself and that he had been strongly opposed to disclosure for the reasons given in his letter of 3rd June last year. I do think this is important and that - assuming Mr Clarke has not changed his views - the FOI team should refer to this in responding to the applicant if we decide to continue to withhold the document. With this in mind, I have amended the letter to Ken Clarke to seek him permission to refer to his views. I don't think there is any point mentioning in this letter to Mr Clarke the other arguments we used to justify our decision as they were not arguments used by Ken Clarke himself.

Here is my amended letter:

Liz Woodeson
Director of Health Protection

Room 170
Richmond House
Tel: [GRO-C]
Mobile: [GRO-C]

Mark Noterman/CQEG/DOH/GB

17/03/2009 13:38

To

Liz Woodeson, Graham.Kent@[GRO-C]

cc

Rowena Jecock/PH6/DOH/GB@[GRO-C], Konrad Borowski/PH6/DOH/GB@[GRO-C], Patrick Hennessy/POLICY/DOH/GB@[GRO-C], Ailsa Wight

Subject

Draft letter from Liz Woodeson to Ken Clarke - 17 March 2009

RESTRICTED - Policy

Liz / Graham

I attach a draft letter to send to Ken Clarke about the internal review of our refusal to release CMO's 1990 advice to him about haemophiliacs/HIV.

Grateful for your comments on the draft, by close tomorrow please. Once I have your comments I will forward the draft to Stephen Fay (Fol team) and cc to Richard Bishop for MoJ's view before the letter goes to Mr Clarke. I'll also check with CMO's office explaining the request for an internal review, and reminding him of his previous advice - he was in favour of release.

Kind regards

Mark Noterman
CJD & Branch Co-ordination
Infectious Diseases and Blood Policy
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