



Ministry of Defence

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FAX COVER SHEET

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REMARKS: Urgent For your review Reply ASAP Please comment

MOD/8/0005

Bircham Dyson Bell

18 AUG 2003

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BY HAND

Dear Ms Wheldon

The Kelly Family: The Hutton Inquiry

As you may know, I represent Mrs Kelly and her daughters in relation to the Hutton Inquiry into the circumstances surrounding the death of the late Dr David Kelly. I understand that you represent the Government and Ministries involved in the issues under debate.

All Dr Kelly's papers at home have been seized by Thames Valley Police in the course of their enquiries for the Coroner. Because of this, the family at present has had access to very few items.

I am aware that you propose to disclose to the Hutton Inquiry the medical report prepared on Dr Kelly at RAF Honington shortly before his envisaged departure to Iraq and also his personnel file. I have, as requested, given the Hutton Inquiry authority on behalf of the family for those items to be released, subject to the proviso that they are also copied to ourselves on behalf of the family. I imagine, therefore, that they will be forthcoming. I should be grateful if those items could be made available fairly rapidly, given the impending start of the Inquiry proper on Monday 11 August.

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I would also like copies of the following:-

- 1 Any exchanges of correspondence with Dr Kelly over the course of time, including, but not exclusively, his line manager, the Press Office or others with whom he was working within the control of the MoD/FCO. Some of these may, of course, be highly relevant in interpreting his current portrayal in the media.
- 2 Documentation including letters, e-mails, file notes, etc, regarding the disclosure/confirmation of Dr Kelly's name.
- 3 Any Whitehall protocol that exists on officials rather than Ministers giving evidence before Select Committees.
- 4 Departmental regulations, instructions, procedure and guidelines applicable to Dr Kelly in dealing with the media.
- 5 If Dr Kelly's personnel file does not contain his contract of employment I should like to have a copy of that separately, including any appraisals.

If you envisage difficulties I should be grateful if you would kindly let me know. However, I consider that nos. 1 and 5 are items that are likely to have been in Dr Kelly's possession and to which we currently have no access.

I am aware of press reports quoting unnamed MoD spokesmen. For example, may I refer you to the leading article on page 1 of the Independent of Monday 4th August where, inter alia, it is asserted that, according to MoD sources, Dr Kelly was being investigated for his contact with journalists long before the current difficulties; a copy is attached. If information of this nature is being disseminated, either formally or informally, I should like to know on whose authority this is being done. On the one hand the Government for every good reason is calling for restraint during the course of the Inquiry which has, of course, commenced; on the other hand the various arms of Government appear at least through the press to be following a different course. If the report is true, may I please have details of the investigation?

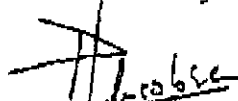
Obviously Dr Kelly has now been the subject of criticism in the media without the facts firstly having been established by Lord Hutton. There is, therefore, a danger that the public will prejudge the issues on the basis of the selective information filtered out through so called "sources"

I am further concerned to read in the press of the possible shredding of documents. I attach a copy of the passage taken from the Mail on Sunday of 3rd August and again should welcome your comments, given the sensitivity of what has occurred.

Bircham Dyson Bell

In order to better understand the situation, guide the family through this traumatic time and forewarn them of possible revelations about Dr Kelly which they will otherwise learn for the first time through the media, I need to see the paperwork relating to Dr Kelly and to which the Government clearly has access. I, therefore, look forward to hearing from you as speedily as possible.

Yours sincerely



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cc. Martin Smith, The Hutton Inquiry

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XTRME
INFORMATION

No 10 dismisses Kelly as a 'Walter Mitty'

By PAUL WAUGH
Deputy Political Editor

DOWNING STREET will seek to defend itself over the death of David Kelly by portraying the scientist as a Walter Mitty character who exaggerated his own role in the Government's intelligence case against Iraq. Coming shortly before Dr Kelly's funeral on Wednesday, the description of one of Britain's most respected weapons experts as a fantasist is certain to spark fury among friends and former colleagues.

But, in what appears to be a change of tactics by the Government, a senior Whitehall source told *The Independent* that Dr Kelly had misled the Ministry of Defence and the BBC journalist Andrew Gilligan over claims that a dossier used to justify war against Saddam Hussein had been "sexed up".

According to the insider, Dr Kelly told Mr Gilligan more than he knew and then failed to tell his employers the whole truth of his contacts with

journalists. "This guy was a Walter Mitty," he said.

Once his name became public and he was questioned by MPs over the affair, Dr Kelly became increasingly worried about his statements to the BBC, the insider said.

A reason for his suicide was the decision by the Foreign Affairs Select Committee to recall Mr Gilligan to comment on his own evidence, the source added. Dr Kelly went missing at around the time the journalist gave evidence and his body was found a day later near his Oxfordshire home.

The Downing Street version of events is sure to be seized on by the BBC as an admission that Dr Kelly had indeed given Mr Gilligan good reason to make his claims about "sexing up" intelligence.

But the scientist's family and friends are sure to be appalled at the "Walter Mitty" description of a man who was nominated for the Nobel Prize and was about to join the US-

led Iraq survey group's hunt for weapons in Baghdad.

MoD sources have also revealed that Dr Kelly was being investigated for his contacts with journalists long before the row over Mr

Gilligan's broadcast began. Downing Street will also seek to persuade the Hutton inquiry, which begins its formal hearings next week, that it and the MoD were forced to publicise Dr Kelly's name by a parliamentary committee.

With Tony Blair, Geoff Hoon, the Defence Secretary, and Alastair Campbell, Downing Street's director of communications, all due to give evidence, the stakes couldn't be higher for the Government. But a main plank of their defence will be to insist that the Intelligence and Security Committee, which is conducting its own inquiry into the intelligence case against Iraq, left them with no option but to confirm Dr Kelly's identity.

Sir Kevin Tebbit, permanent

secretary at the MoD, and Sir David Omand, Number 10's head of intelligence and security, approached the committee's chairman, Ann Taylor, on 8 July to suggest she may want to call Dr Kelly as a witness.

However, Mrs Taylor is understood to have told them that while the committee would be willing to question the scientist, it could not act "blind". The MoD would first have to issue a public statement that an unnamed official had approached his line manager and was claiming to be the potential source for Mr Gilligan's report. The committee was worried that it might be accused of a cover up if Dr Kelly's approach were to be later made public.

Following the ISC's response, Mr Hoon and Sir Kevin decided on the infamous "confirmation strategy" in which the MoD would issue a statement saying that an employee had come forward and giving clues to Dr Kelly's identity. By the fol-

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2 page article. Page 1 of 2.

5th AUGUST 2003 – HUTTON INQUIRY**WHY DID BLONDE SHRED SECRET KELLY DOCUMENTS?****CHRISTOPHER LEAKE**

03 August 2003 - The Mail on Sunday - p1

A MYSTERY blonde shredded documents in an office used by an assistant to Government weapons expert Dr David Kelly, it was revealed last night.

The Mail on Sunday has been told by unofficial defence sources that the woman in her late 30s was spotted by a member of the Ministry of Defence Guard Force as she left the office on the fourth floor of the Metropole building near Whitehall just two days after Dr Kelly was found dead.

She was seen on Sunday, July 20, apparently holding a large paper bag, marked 'Please Remove Immediately', containing shredded documents. The woman placed it in the corridor before leaving the building.

She was not recognised as a Defence Ministry staff member, yet she was not challenged.

And this has led to concerns that she was from a Government security agency controlled by the Home Office or Foreign Office or even from No10.

The office was that of a man who was a deputy to 59-year-old Dr Kelly, whose suicide near his Oxfordshire home has prompted an official inquiry by Lord Hutton, a senior Law Lord.

Dr Kelly slashed his left wrist and had an open packet of co-proxamol painkiller tablets next to him. But senior defence officials have told The Mail on Sunday he did not leave a suicide note.

There was speculation inside the Ministry of Defence last night that the intruder was, indeed, from a Government security agency intent on destroying embarrassing evidence.