

PS/First Minister

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**From:** Orman C (Chris) **On Behalf Of** Lord Advocate

**Sent:** 30 November 2004 14:34

**To:** First Minister

**Cc:** Minister for Education and Young People; Minister for Parliamentary Business; Solicitor General; Kellet MC (Michael); Campbell D (Douglas) (Special Adviser); Edgar R (Rachel); PS/Solicitor; Layden P (Patrick); McNicoll G (Gordon); Foubister SR (Stuart)

**Subject:** Institutional Abuse - Apology

**Importance:** High

First Minister

Copy to: Minister for Education  
Minister for Parliamentary Business  
Richard Henderson  
Patrick Layden  
Michael Kellet  
Douglas Campbell

#### **INSTITUTIONAL ABUSE – APOLOGY**

I have just seen the draft statement for the first time. It is, of course, your decision on what to say. There is a risk that any apology, however crafted, will be used against Ministers.

At presently drafted the apology is pretty unequivocal: it is on behalf of the Government and people of Scotland. It is done in a context of recognition of institutional abuse, and a recognition of the role of government in regulating such institutions.

I consider that at present there is a strong possibility that this could be taken as an admission of neglect, and failure by the predecessors of Scottish Ministers and opens the door to establish fault and liability against Ministers. There are at present some 1300 claims and the potential liability is enormous.

You should also be aware that the institutions where the abuse occurred and who, arguably, should bear the primary responsibility will be only too pleased to see Ministers seemingly accepting liability in order to minimise their exposure to actions for damages.

**COLIN BOYD**

30<sup>th</sup> November 2004

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

**From:** Campbell D (Douglas) (Special Adviser)

**Sent:** 30 November 2004 13:13

**To:** Kellet MC (Michael); Lord Advocate

**Cc:** McGuire S (Siobhan); First Minister

**Subject:** apology25nov

**Importance:** High

M -

I have amended. I have also accepted the changes from Danny, with the exception of the paragraph on others, which is now back in. Lord Advocate's office are looking for a copy now so I am sending to him direct. Best, I think, to get his view on this before there are any further changes.

Margaret Curran desperately needs to know if she can tell other Business Managers about the statement and why it is important, to the victims, that it is an FM statement.

FM will need reassurance from LA that he is content with these words.

Thanks.

<< File: apology25nov.doc >>