

The last word on Lockerbie

✘ With the publication of papers by the UK Government related to the case of Abdelbaset al-Megrahi, The Scottish Government took the opportunity today to release the [final documents](#) it considers it can publish which primarily relate to notes of meetings and calls between Scottish and UK Ministers in 2007 and 2008.

[The UK Government review of their documents](#) makes clear that: “Alex Salmond said that if Scottish Ministers were to contemplate release on compassionate grounds they would need to be satisfied that it was appropriate and genuine, and that any release could not be on the basis of fixing any wider UK/Libya relationship issues – it needed to be treated on its own merits.”

- [Cabinet Secretary’s review of papers relating to the release of Abdelbaset Al-Megrahi](#)

Alex Salmond has said on Radio Scotland this afternoon that the Review vindicates his government’s decision to release the Lockerbie Bomber, that the decision followed the guidelines set down in law, and was made in good faith based on the medical evidence set before it. The First Minister went on to say that although medical evidence is one criterion to be looked at, there are others which must be given due consideration in cases like this.

The UK review also confirms that, in contrast, the UK Government’s position on the negotiation of a prisoner transfer agreement with Libya was influenced by commercial considerations, including lobbying by BP.

The UK Government review details a conversation between Jack Straw and Kenny MacAskill on 2 November 2007, which states: “Jack Straw explained that the Libyans understand that they

will not get al-Megrahi back to Libya.”

The Review states how UK Government policy was developed in late 2008 to favour the release of al Megrahi: “Policy was therefore progressively developed that HMG should do all it could, whilst respecting devolved competences, to facilitate an appeal by the Libyans to the Scottish Government for Mr Megrahi’s transfer under the PTA or release on compassionate grounds. Such an approach was understood across all relevant Government Departments.”

The Scottish Government documents confirm that The Scottish Government dealt with both the issues of Prisoner Transfer and compassionate release according to the “due process” of Scots Law (24 October call between the First Minister and Jack Straw).

They also make clear that other justice and non-justice issues discussed in the same conversations – in separate meetings between the Justice Secretary and First Minister with Jack Straw on 13 July 2007, and between the Justice Secretary and Mr Straw on 8 November 2007 – were addressed separately and on their merits.

A Scottish Government spokesperson said:-“In terms of the UK review of documents, the key issue which emerges is how UK Government policy changed in the autumn of 2008 to favour the release of al Megrahi – while maintaining that UK Ministers had no position.

“The Scottish Government is delighted to have the opportunity to release the final documents we can publish, which relate to notes of meetings and conversations with UK Ministers – they confirm that Scottish Ministers followed the due process of Scots Law and practice throughout the entire period, without regard to foreign policy, economic or any other considerations.

“The Scottish Government maintained our opposition to the

Prisoner Transfer Agreement and to the UK Government's reneging of its commitment to secure the exclusion of al Megrahi – regardless of any understanding arrived at by the then UK Government.”

The difference between Prisoner Transfer Agreements and the alternative of prisoner release on compassionate grounds is a crucial one. The Scottish Government received an application for Prisoner transfer from the Libyan Government in respect of Mr Al Megrahi on May 5, 2009. This is an agreement between the two nation states to release a prisoner held in custody in one jurisdiction to custody in the other. Al Megrahi abandoned this appeal in light of his release on compassionate grounds. This is a copy of the application from the Libyan Government.

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Section 3 of The Prisoners and Criminal Proceedings (Scotland) Act 1993 gives the Scottish Ministers the power to release prisoners on licence on compassionate grounds. This process is akin to the system of medical parole that exists in many other jurisdictions.

The Act requires that Ministers are satisfied that there are compassionate grounds justifying the release of a person serving a sentence of imprisonment. Although the Act does not specify what the grounds for compassionate release are, generally it encompasses:

- * those suffering from a terminal illness and death is likely to occur soon. There are no fixed time limits but life expectancy of less than three months may be considered an appropriate period;
- * where the prisoner is severely incapacitated; or
- * where continued imprisonment would, in light of the conditions in which the prisoner is being held, endanger or shorten his or her life expectancy.