

Summary of evidence presented to the 30-Year Rule Review Committee, 5 February 2008 at Church House, Westminster

Committee members present:

Paul Dacre (chair)
Professor David Cannadine
Sir Joseph Pilling

Evidence from David Hencke

Asked if Fol had made the 30-year rule out of date, Mr Hencke said that it had. He had been a member of the Advisory Committee on implementing the Fol Act. It had been decided, he said, that people wished to be proactive and release information that was 20 and 10 years old. The Committee had also discussed subjects that they thought the public might be interested in. Issues had included the miners' strike, poll tax riots, and "Black Wednesday". It had been left to individual departments to decide if they wished to release or not. The then DTI had taken the view that as the National Coal Board had been closed down there was no reason why the public should not know what had happened at the time of the strike. In contrast the Cabinet Office and Home Office did not pursue this course. Mr Hencke said he had used the Fol Act to obtain "secret" advice given to Mrs Thatcher. He had learned lessons from America on how best to use the Fol Act to "circumvent" the 30 year rule.

Asked if he was in favour of reducing the rule to 20 or 15 years or even abolishing it, Mr Hencke said that he saw no reason why it could not be reduced to 15 years.

Asked if that would damage good governance and whether civil servants would be less frank if they knew their advice would be made public sooner, Mr Hencke said that two factors would militate against that. Firstly, without proper records civil servants would not be able to defend themselves when decisions were subject to inquiry and scrutiny. Secondly, the sheer complexity of Whitehall meant the need for records. He said that under Fol papers cannot be released until the issue was dead, and there was also the public interest test.

He was then asked by Professor Cannadine if reducing the 30-year rule would increase trust between the public and the government. Mr Hencke said: "It would suggest that the Government has less to hide, and I think as long as it was reported fairly it could increase trust...it depends on the way the government behaves. If they are full of spin and manipulation the public have every reason to be suspicious of government, of whatever colour."

He was then asked whether a reduction in the 30-year rule would increase the level of trust in journalists. Mr Hencke thought that it would, because journalists would be better informed about the background to an issue.

The Chair asked if reducing the time limit or FoI disclosure had led to better governance. Mr Hencke said if a decision was likely to come under close scrutiny then you might adopt a more considered view and think how you would argue your case.

Professor Cannadine said that it had been put to the Committee that some politicians had, given the 30-year rule, been able to “trail, allude to or on occasion make up accounts of what went on which it is not possible to verify by access to the documents...whereas if the 30-year rule was significantly brought down or abolished, that whole mode of activity for superannuated politicians, and lucrative mode of activity, would be got rid of.”

Mr Hencke agreed, observing, “a politician can get access to their papers, write it up in a way that shows they were wonderful at the time, everybody else was appalling, when in fact the papers might show it as something different.”

The Chair thanked Mr Hencke and the session ended.