

Summary of evidence presented to the 30-year Rule Review Committee, 14 April 2008 at Church House, Westminster

Committee members present:

Paul Dacre (chair)

Professor David Cannadine

Sir Joseph Pilling

Evidence from Natalie Ceeney, David Thomas, and Stuart Abraham of The National Archives

Asked by the Chair if the Freedom of Information Act undermined the 30-year rule, Ms Ceeney said that she did not think that it had. If anything it had made the rule more important. FoI had meant that there is now a wider public understanding of their right to access information – “it has whetted the public appetite for information.” With FoI the presumption was that something was closed unless asked for, whereas at 30 years the default switched to an assumption that something was open unless there was a good reason for it not to be – so the rule had become more crucial not less.

Asked if it would be desirable if government departments were more proactive about earlier release, Ms Ceeney agreed but she said there were some operational difficulties, as the information management and record-keeping profession was small and tightly stretched. “FoI came on top of everything else so they are quite stretched...while I think there is a willingness, I do not think the infrastructure and the push is there to enable it.”

Ms Ceeney said that it was “bizarre” that it was possible to know what had happened one year ago but not 29 years ago. “I think we are in a period where 30 years feels a very, very long time to wait for information to be opened by default in an era where you have a lot of current information out there.”

She was then asked why she had recommended reducing the rule to 20 years. Ms Ceeney said she had been persuaded by the experiences in other countries, particularly Canada and the US. In the US the Presidential record starts to be opened after five years and must be completely open by 17 years. The US National Archivist had told her that “he [did] not believe that there are things at 17 years that would not be opened at 30... We know from evidence overseas that in a similar democracy 20 does work.”

A reduction in the UK to below 20 years would be entering into the unknown; “if you go too close to the point where records are created you do get the risk that people might not write things down.” A reduction would probably lead to an increase in the number of redacted and closed files. “Our view at 20 years is you would see a small but not material increase from five per cent up to, we have estimated, ten per cent.” If the rate increased to 20 or 30 per cent then that would have a damaging effect on the public’s perception of openness.

Asked to explain why she favoured phasing in a reduction to the rule, Ms Ceeney said lessons had been learnt from when the rule was cut from 50 to 30 years. She said it was done quickly and consequently records were not properly catalogued and were therefore inaccessible. She favoured a three- to five-year phasing period as this would allow departments the time to hire new staff and “ramp up” preparation. However, a longer period would not provide enough incentive to start the project. She added that there would be a “big risk” if additional money was not allocated. When FOI was introduced teams were switched from working on record-keeping and 30-year review work to deal with FOI.

“There is a real risk if this is done within existing resources, that FOI has to happen, we have statutory deadlines to respond to requests, the 30-year [rule] down to whatever would have to happen, and what would give is current record-keeping.” The National Archives would need an additional £2.5 million lump sum and £250,000 a year. Without additional funding they would be able to manage a reduction, but would have to reduce reading room hours or stop building maintenance work.

Asked about the reasons for possible decline in record-keeping standards, Ms Ceeney said that accountability was “one of the benefits of record-keeping but it is not why people keep records. People primarily keep records to do their business...The way people have done business has changed...a consequence has been the record-keeping that has underpinned it has largely certainly deteriorated.”

David Thomas said that there were two factors, of which one was cost-cutting. “It is very easy to get rid of registry clerks and that has pretty much happened across Whitehall. Also people have not come to terms with the electronic revolution. We are struggling with this mountain and tidal wave of information which threatens to overwhelm us.”

Ms Ceeney said there were particular problems associated with digital records – the sheer volume and the lack of an infrastructure. “People will never do it on top of their day job. You can literally chart this back to the 12th century, of why records were kept, and it is about business practice – but therefore, if you can get the infrastructure right you can show the business benefit of keeping records.” The Ministry of Defence had learned this lesson and had included archivists among the servicemen sent to Afghanistan. She said the use of e-mail had compounded the problem a thousand-fold.

“A good example of this is one of the smallest government departments, DCMS, estimate that ten years ago they were producing information equivalent to the complete works of Shakespeare every day. Five years ago that switched to every hour, now it is every minute, and they reckon by 2010 it will be every second. That is just to give you an idea of the scale -- and that is one of the smallest government departments.”

Mr Thomas added: “The critical thing about electronic records is unless you take action within the first seven years of their life, then there will not be any

electronic records. Paper you can leave around on a shelf and come back in 30 years and it is still there. Electronic records are vulnerable because the software decays, the operating systems do not work, the machines do not work, the stuff they are stored on is not readable in the future, so they are very vulnerable and they need early action to ensure their survival. This is a really serious issue. Unless action is taken, people will lose a whole generation of history. It is not a trivial matter.”

Asked about ‘sofa government’ and the alleged lack of adequate records kept by special advisers, Ms Ceeney said that was “problematic” and, “from a National Archives point of view, if we are meant to be illustrating what happened in political history, having a gap of what special advisers advised, which is pretty core in today's government as a way of making decisions, feels like a gap.”

Mr Thomas added that changes in the way Government operated had also affected record-keeping. Increased use of the voluntary and private sectors as well as special advisers had led to “a much more flexible and much more inchoate system.”

Asked if the Civil Service Code should be amended to improve the standard of record-keeping, Ms Ceeney said that would be helpful. She said that Government needed to recognise that information was an important asset – as important as people or money. Information issues needed to be addressed at a senior level and should be seen as a strategic issue.