

**Received via email: 31 Jan 08**

Dear Secretary,

I am writing to you with an opinion on the review conducted by Mr. Paul Dacre, Sir Joseph Pilling and Mr. David Cannadine, into the so called '30 year rule' . I am writing to give my response, which I submit as evidence for the writers of the review to consider. I discuss the terms of the review, and the methodology. I then go on to give my response and what other matters I consider important.

### **THE TERMS OF THE REVIEW**

The terms of the review are so narrow the review is pointless. It is focused, entirely, on 'when' Government records are made to the public which is pointless for these reasons:

1. Government can designate whatever rule it wants to, whilst at the same time it still possesses the power to withhold what it deems is sensitive information. Moreover, the Security Services will not disclose sensitive information. This will happen notwithstanding any changed rule.
2. Government is creating policy just for electioneering and expediency reasons. This 'when' question is not a real problem to ordinary people and it's hard to escape the impression this review is a gimmick.
3. No documents can simply be read, assessed, and given a pre determined time restriction on access. I defy you to come up with any principled or conceptual analysis on classifying documents and when they can be accessed. You will be aware much depends on context. The most serious government secrets in the world may very quickly lose their significance and documents relating to it should be ready immediately (e.g. Iraq war). On the other hand, the lightest government secrets in the world (such as government surveillance on telecommunications technologies around the world) may very quickly become so confidential that the government would want to protect themselves from disclosure indefinitely.

It is therefore all the more necessary that government documents be available for access almost immediately. Otherwise, the UK's educational and cultural development will continue to be stunted by the presence of arbitrary and unprincipled rules and complex classifications on when government documents can be accessed.

### **THE METHODOLOGY OF THE REVIEW**

The online "consultation" which ordinary people were referred to on numerous websites, appears designed and administered in a

tabloid-like way. This harms the credibility of the review. Further, it contributes to arguments that the review is somewhat gimmicky and pointless.

It's principle mandatory question, 'If the government were to change [the 30 year rule], what do you think the new arrangements should be?' offered just 6 options:

- More than 30
- 30 years
- Reduced to 25 years
- Reduced to 20 years
- Reduced to 15 years
- Less than 15 years

It doesn't allow for people to actually specify the option of immediate disclosure, 1 year, 2 year or any other numbers below 15 years, but catches all of this into the 'less than 15 years' box. I find this surprising. The whole design of the review makes it relatively tipped in favour of the government to pick some whole arbitrary pre-determined figure and claim a victory. I wouldn't be surprised if that figure turned out to be 15 years, just so the government can claim 'a halving' of the 30 year rule.

Moreover, there is no reference in the online consultation to other systems other than the 30 year rule.

Why?

## **MY RESPONSE**

My response is clear: access to information should be immediate.

If the government do not want records to be immediately available, the access to records could be entirely administered under the FOI without any period of exclusion whatsoever. This means we abolish the 30 year rule. Yet I notice you did not offer any other systems other than an 'XX year rule'. Why?

To my mind, the burden should be on the Government to prove it cannot disclose the information for reasons of national security or otherwise.

Also, practically speaking, if governments are so desperate they will not make records anyway (e.g. Government of Tony Blair).

## **OTHER CONCERNS**

Much more monstrous problems than any 'when' question, which I'd prefer a proper and ideal government to have flagged up, are:

1. the restrictions on how Government records can be accessed.

I complain to you in the strongest terms that access to documents on the website of the National Archive and arrangements on how people can personally visit to access documents, is poor.

The website charges sums of money for access to documents. I want these charges taken down. For poor people, the public, students and families, £3.50+ charges to download a document are severe and sufficient limitations on the ability of these people to access records. The charge is economically prohibitive for heavy users, and interested parties. It is almost always impossible to understand a PDF accessed without seeing the totality of the documents the National Archive has on a single topic. It means that to actually download all necessary documents is financially punitive.

Charging £3.50 per document, when  
(i) it is practically unknown what use, if at all, the document will turn out to be once downloaded, and  
(ii) the one line descriptions about documents given before access are worth scant,  
is an unfair charge that tips the balance against the buyer. First of all, it is punitive to those who seek education and to read records. Secondly, it is inconsistent with supply of goods and services laws; People do not know what they are getting for their money. Moreover, there are no arrangements for the refunding of the charges and return of PDFs if documents accessed prove completely useless.

Moreover, the charges are not necessary for funding the publication and storage of government records. Indeed, the shift should be on the government to make government records available free of charge. First, it puts the government on notice to cut down on documents it produces. Second, the government raises money on behalf of taxpayers to make the documents, so likewise people should be able to view the documents. Third, it runs consistent with the principle that the duty of the government is to make government records public. The reason for this principle is clear: it goes without saying that government abuse must be curbed at all times and, without publicising records, it is always easy for government power to be abused.

Therefore I strongly recommend that the National Archives cease and remove all charges for accessing documents online. Second, I strongly recommend that temporary measures are put in place to cease charges especially when there are building works which restrict seating capacity. Thirdly, I strongly

recommend that more friendlier arrangements are put in place for people to be able to personally access Archives uninhibited by restrictions on numbers of documents that can be ordered, how they can be ordered, etc.

## 2. the abuse of the FOI Act 2000

The other major problem is abuse of the FOI Act. Many public bodies prevent the disclosure of information in the public interest because they just do not want 'busybodies' prying in. The changed legal framework of access to 'information' is now more ridiculous than ever before, and it is contradictory. Often, conflicting and legalistic reasons are cited for the denial of information. The result is an enormous morass of complexity and plenty of legal textbooks and frameworks.

## **CONCLUSION**

Records created by people employed within central and local government are a matter of great historical record and cultural significance. It is absolutely vital they are opened up. Access by ordinary people (not just privileged historians and those that can afford to travel etc) must be unrestricted and unimpeded. That way, any abuse of power is plain to see by the ordinary person. Immediate access to records acts as a check and warning for future governments. Furthermore, the immediate access to government records means any errors made by other people like historians in interpreting government records can be investigated by the ordinary person and discovered. Also, other institutions, such as Parliament, have already opened up Parliamentary committee meeting reports to the public on the web for free, including the evidence they have had to sift through. This shows the extent to which public scrutiny and access to government records is and must be.

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