

# 30 YEAR RULE REVIEW

*An independent review commissioned by the Prime Minister*



## **Evidence from the Public and Commercial Services Union (PCS)**

### **Introduction**

PCS welcomes the government's decision to review the '30 year rule' – the time span under which public records are normally transferred to the National Archives by government departments and opened up to the public.

As a union which has nearly 325,000 members, majority of whom work in government departments, agencies and public bodies, PCS is keen to ensure that outcomes of the review do not have an adverse impact on its members. This is especially for those working in sensitive areas as well as the handling of information of personal nature.

PCS also notes the terms of reference for the review including the three key points identified by the review team for consideration, which PCS would like to address as follows:

- 1. Whether, in the Freedom of Information era, 30 years remains the point by which government records should normally be made available to the public**

Whilst the union would welcome a recommendation that calls for a relaxation in the existing rule, it is also mindful of the fact that an early release of public records could result in civil servants' names being made available to the public earlier than is currently the case. This means that many more members who are likely to be affected will be in employment when the records are released to the public.

The Freedom of Information Act (FOIA) already makes it possible for members of the public to request for information contained in departmental records including materials not made available at 30 years, except where FOIA exemptions apply.

As an employer, the civil service has an obligation under the Data Protection Act to ensure that employees' personal data is handled properly and to observe exemptions regarding the release of such information where they apply. However, it is also possible under the Act to request for information which includes personal data as long as the information is anonymised or redacted.

But the exemptions may not necessarily apply if the disclosure of personal data is a legal requirement, especially in circumstances where non disclosure is likely to prejudice outcomes (Section 31.5).

It is therefore recommended that any proposal calling for a relaxation of the 30 year rule should include a safeguard which would ensure that requests made for access to public records under the FOIA are monitored systematically.

## **2. Benefits and risks of any change**

PCS believes that a reduction in the current rule is likely to lead to the promotion of transparency in government and the enhancement of the delivery of public services.

However, a reduction in the time for the release of records would mean staff would have to catch up in order to absorb the backlog which would inevitably build up. Files held by departments under the 30 year rule go through a system of periodical reviews, the purpose of which is to identify files of historical value that are to be preserved. The process also includes a sensitivity review which is normally carried out jointly by departments with common interests to identify those that cannot be released because they contain information exempted under FOIA and other legal instruments, and those that are to be released in part. This is made more complicated and time consuming where a review involves high profile records such as those from the Prime Ministerial office or the Security and Intelligence Service, whereby permission had to be sought from the Lord Chancellor in order to retain records beyond the closed period.

Although it is not yet known what the review team's recommendation is likely to be in relation to the time span for the release of public records, there are clear indications that a reduction in the 30 year time span will have resource implications for staff involved in the process. PCS would therefore like to recommend that the review team, in its deliberations, give strong consideration to the issue of additional resources.

## **3. Options for planning and implementing a transition to any new arrangements**

Under the current rule, government departments operate systems for selecting and transferring records to the National Archives but it is not clear whether the systems are coordinated across the civil service. There is a strong case for a

national framework for government departments in order to monitor effectively the impact of the implementation of a reduction in the current time span, if this turns out to be the case.

There may also be a case for setting up more automatic selection procedures for electronic records as the time periods for these and paper records may well be different.

## **Conclusion**

Whilst PCS accepts that the focus of the review is to balance the need for openness with the interests of good governance, it would urge the review team to give strong consideration to the fact that effective implementation of the review outcomes will depend largely on the allocation of adequate resources.

PCS would also urge the team to give consideration to the fact that a reduction in the current time span would mean that many more staff who could be identified from some of the records may still be in service. Although the Data Protection Act provides protection in this regard, it is not absolute.

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