

## REVIEW OF THE "30 YEAR RULE"

Response from the Newspaper Publishers Association, the Newspaper Society, the Periodical Publishers Association, the Society of Editors, the Scottish Daily Newspaper Society and ITN

1. We welcome the opportunity to contribute to this timely review of the "30 year rule". This submission is made on behalf of a wide range of media organizations including publishers and editors of both the national and regional press, magazine publishers, Scottish newspaper publishers and ITN.
2. This review comes at an important time, when the full impact of freedom of information legislation on the release of public records is beginning to be felt. In addition, the application of new technology, the increasing trend for both politicians and civil servants to write memoirs long before the release of official papers, and the general increase in openness in Whitehall all make the need for fundamental change to the existing 30 year rule long overdue.
3. From the perspective of the media, the most important change that has occurred in recent years has been the implementation of freedom of information legislation. In many ways, FoI is making the 30 year rule at best increasingly irrelevant, and at worst redundant. Information even about contemporary events is now available to investigative journalists at both the national and local level many years before it is formally released by The National Archives.

4. However, the release of information can be random and depends to a large extent on the ability of journalists to target relevant documentation. In an age of greater openness (which we welcome) this is unsatisfactory, and the case for more formal, regular and proactive disclosure of information at a much earlier stage than currently exists is overwhelming.
5. There would be many other advantages in terms both of good government and increasing public interest in politics. Earlier release of papers would allow politicians, civil servants, regulators and those involved in local services – such as Councils, schools and NHS Trusts – to learn much more effectively the lessons of the past. Debate would be better informed which must be in the interests of good governance. All those involved in public life would draw great strength from earlier access to papers to avoid mistakes and to build on what has worked.
6. We believe that earlier release of papers would help counter the trend towards unaccountable “sofa government”. If both politicians and civil servants are aware that material will be released much earlier into the public domain, they are far more likely to ensure that there is a proper “paper trail” towards decision making and that accurate records are kept of meetings. Here both FoI and a reduction in the 30 year rule can significantly help in improving the quality of government.
7. The public, too, would benefit from earlier release of documentation and more open information. At the moment, release of papers after three decades provides information only about events which seem remote and unimportant – and consistently can only be of interest to

those aged 45 and older. While it may have been interesting last year to know about the inner working of the Lib Lab Pact in the 1970s, these events seem part of a bygone age to most people. Releasing information about events of the recent past – while individuals involved are still alive and in the public consciousness – will help foster greater public understanding about Government and involvement in it.

8. Another key issue making the existing 30 year rule increasingly irrelevant is the growing propensity of politicians – and in some case civil servants and other public figures – to write their memoirs soon after leaving office. Even those involved in the Royal Household – where access to papers is most restricted – such as Lord Luce, former Lord Chamberlain, are now writing memoirs about recent events. However, they self evidently present only a partial, one sided view of history. It must be wrong that the public has to wait up to thirty years more for a full and objective account of events. Earlier release of papers would help put instantaneous memoirs or diaries in proper context.
9. Allied to this point is the fact that political careers are now much shorter. When the 30 year rule was introduced, politicians – including Prime Ministers like Eden, MacMillan, Heath and Wilson – were often active at the top levels of national government for many decades, making a “30 year rule” more appropriate in order to protect them. Both the previous Prime Ministers were at the top of politics – as either Shadow Cabinet members or Cabinet Ministers – for less than twenty years. Tony Blair entered the Shadow Cabinet in 1988 and retired in

2007. John Major's career - entering the Cabinet in 1987 and resigning his leadership of the Party in 1997 - was even shorter.

10. We appreciate that, of course, there will still be need for some restriction. The FoI legislation exempts certain categories of information to protect national security and confidentiality of advice. It remains appropriate that there should be a time limit under which the majority of public sector papers remain closed before full and proactive release. But in view of all the factors listed above, it seems to us that a figure of ten years is more appropriate - balancing both the need for "safe space" for advice on current issues, and the realities of the FoI regime and the other issues outlined above.

11. There are three other issues we would like to address.

- First, it is clear that within the last few years there has been a significant growth in the role of Ministerial Special Advisers, and their impact on policy making. As we understand it, the papers of Special Advisers are currently exempt from the FoI and 30 year rule regimes, and accordingly not released to The National Archive. However, no account of policy formation in the 1990s and beyond is going to be complete without these papers, which are crucial to accurate historical understanding. We urge that these papers be brought within the FoI and 30 year rule regimes.
- Second, we would be concerned if any liberalization of the 30 year rule regime was matched with a tightening of FoI exemptions. The FoI framework is already restrictive in terms of exemptions, and these should not be increased. A 10 year rule for the release of papers would still give enough "safe space" for civil servants and ministers to form policy without any further FoI protection.

- Third, we suggest that liberalisation of the 30 year rule ought also to entail the substantial reduction of the statutory 60 and 100 year duration of certain FOI exemptions, currently covering areas such as conferment of honours and a medley of law enforcement activities, which we believe no longer truly merit such exceptional treatment. For avoidance of doubt, we would also of course anticipate that the formal review of all such records and those relating to national security and other categories of material, for which no time limit for FOI exemptions to fall away are specified under the FOI Act, would also take place at ten years. This Review provides the opportunity to consider whether the National Archives should routinely take material of higher security classification and at a much earlier date than the 50 years cited by the Review documentation, what steps can be taken to ensure this and perhaps whether the FOI Act should fix such earlier times for the FOI exemptions to fall away automatically. We would welcome the Review also enquiring into whether the grounds on which documents can remain closed, (notwithstanding the role of the Advisory Council), should be revised and reviewed in favour of greater and earlier openness.
12. We would be happy to make any further contribution to the Review, and to give oral evidence if the Review Team would find that helpful.

February 2008