

Review of the
30 Year Rule

Submission by
The Press Association

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Introduction

1. The Press Association is the national news agency for the United Kingdom and the Republic of Ireland, providing a 24-hour-a-day news service to national, regional and local newspapers, radio and television broadcasters, and internet service providers.
2. It has experience of obtaining information under the Freedom of Information Act 2000 and regularly reports on the files released into the National Archives under the 30 Year Rule.
3. The Press Association believes that the 30 Year Rule is obsolete. It conflicts with the supposedly new era of openness ushered in by the Freedom of Information Act, and serves only to delay, in almost all cases unnecessarily, the release of information to the public.
4. The existence of the 30 Year Rule is based on principles which might have been acceptable in a different era, but which have now been undermined, by political, economic and social change, and by the FOI Act.
5. Every year, Press Association journalists go to the National Archive and write stories based on newly released files. The stories done each year from 2004 to the end of 2007 are listed in Appendix A.
6. One notable point about these stories is that while they throw some extra light on events at the time the files were written, they contain little which could be described as earth-shattering disclosures. In January 2004, for example, disclosures in the newly released files included the information that the Foreign Office was unhappy about giving political asylum to the Chilean Ambassador to London following General Pinochet's coup because it did not want to upset the new dictator. Another disclosure described the anger of Prime Minister Ted Heath over US President Richard Nixon's staging of a nuclear face-off with Russia without informing Britain or other Nato allies.
7. In 2005, the reports included material reflecting Harold Wilson's government's difficulties and fears about the problems in Northern Ireland, and the disclosure that Ugandan dictator Idi Amin had offered to mediate to bring peace to the troubled province.
8. From a journalistic point of view, all of the stories listed above could and should have been revealed earlier and no good purpose was served by delaying their publication by 30 years. No doubt academics doing detailed research would make the same point.
9. One important issue regarding the release of documents is that files are sorted before being released. This sorting is an opportunity for material, which should be disclosed, to be withheld, or even destroyed. It must be clearly established that material must be preserved and the presumption must be, as under the Freedom of Information Act, in favour of disclosure and publication.
10. For example, in 2004, when the files on the scandal involving junior minister Lord Lambton were released under the 30 Year Rule, some information was even then being withheld. The files showed that the affair went further than Lord Lambton –

whose own mental health was under question following the original disclosures about the scandal – but the Press Association story noted in the final paragraph: “Even now many documents have been retained from the files released to the National Archives, while others have large sections - presumably including other names - blanked out.”

11. In a somewhat more serious case, it emerged in November 2005 that the files concerning the use of contaminated blood products which infected haemophiliacs being treated on the National health Service with HIV and Hepatitis C, had been destroyed, apparently in breach of the file-keeping rules and the requirement of the 30 Year Rule. Contaminated blood products used in the 1970s and 1980s led to the infection of about 4,800 haemophiliacs in Britain with hepatitis C and 1,200 with HIV. The destruction of the files has ensured that neither those who were affected, nor their families and friends, or medical specialists, can discover what went wrong.
12. The enactment of the Freedom of Information Act, which came fully into force only on January 1, 2005, opened a huge range of information to public access. If operated effectively, FOI should challenge the culture of secrecy which is enshrined in the current 30 Year Rule.
13. There are doubtless a large number of reasons for the current perceived lack of connection between voters and politicians. But the culture of secrecy does not help. Information is power, and government secrecy strengthens the suggestion that there must be some questionable reason or motive for the degree of secrecy embraced by the civil service and by many MPs. The longer information is kept secret, the deeper the entrenchment of distrust.
14. One of the main arguments put forward by the civil service has been that releasing files would make it impossible for officials to give ministers and policy-makers proper advice if they believed it was to become public knowledge. This argument was to all intents and purposes rejected by Parliament when it passed the Freedom of Information Act, although material on the formulation of current policy is still covered by a qualified exemption, meaning that when considering whether information should be released, the public body involved must take the public interest in disclosure into account.
15. The Information Tribunal noted the argument that disclosure could have a chilling effect on the ways in which civil servants operated in its ruling supporting the Information Commissioner’s decision that a draft of the dossier on Iraq’s weapons of mass destruction should be released. It said there had been other cases in which the “so called ‘chilling effect’ on civil servants’ relationships with ministers, caused by the fear of the future disclosure of advice, recommendations and opinions, was considered”.
16. The Tribunal then went on: “However, we adopt two points of general principle which were expressed in the decision in *H M Treasury v Information Commissioner* (EA/2007/0001). These were, first, that it was the passing into law of the FOIA that generated any chilling effect - no Civil Servant could thereafter expect that all information affecting government decision making would necessarily remain confidential. He or she would be aware from then that its privacy or disclosure would depend on whether it fell within the terms of an exemption, absolute or qualified, and,

if the latter, how the public interest balance would be applied. Secondly, the Tribunal could place some reliance on the courage and independence of Civil Servants, especially senior ones, in continuing to give robust and independent advice even in the face of a risk of publicity (a point that has been made in other Information Tribunal cases including, in particular, *Department for Education and Skills v Information Commissioner* (EA/2006/0006). We add that Civil Servants must have been aware at the time that there was at least a possibility of an inquiry being ordered into events surrounding any decision to take the nation to war, (there have been at least three on various aspects of the process, in addition to the one conducted by Lord Hutton), and that this may itself have contributed to any perceived “chilling effect” on the advice given at the relevant time.” (*Foreign and Commonwealth Office v Information Commissioner* (EA/2007/0047), at paragraph 26 of the decision promulgated on January 22, 2008).

17. It is worth adding that the experience of other countries which have stronger freedom of information legislation than the UK also demonstrates that the argument is a fallacy – in none of those countries has policy formulation been paralysed by the existence of freedom of information laws.

The time lag

18. If, as the Press Association believes is necessary, the 30 Year Rule is abolished, the question arises as to what, if any, period of delay there should be in relation to the release to the public of files which might be considered to be particularly sensitive.
19. The Press Association believes that the answer should be the absolute minimum, possibly a year and certainly no more than five years except for the disclosure of those matters concerning national security, which might put the lives of intelligence staff or members of the armed forces and police at risk.
20. All other information should be released as soon as possible, including that involving commercial contracts involving public money.
21. The reason for what at first sight might seem to be a startling degree of openness is simple: The United Kingdom is a democracy, and a democracy only works properly if electors are effectively informed and are able to make sensible and informed decisions about what is done in their name.

Appendix A

Stories done by the Press Association from files released at the National Archives.

January 1 2004:

FO DIDN'T WANT TO OFFEND PINOCHET, ARCHIVES REVEAL

The Foreign Office secretly blocked an application for asylum from the former Chilean ambassador because they did not want to offend the new military dictatorship of General Augusto Pinochet, it was disclosed today.

: SECRET PAPERS REVEAL HEATH'S FURY WITH NIXON

The full fury of Tory Prime Minister Edward Heath when the Americans staged a nuclear face-off with Russia without informing Britain or other Nato allies, is disclosed in secret files made public today.

SPIES WARNED OF US PLANS TO INVADE ARAB STATES

British spy chiefs secretly warned that the United States would be prepared to invade Saudi Arabia and Kuwait to seize their oilfields following the 1973 Arab-Israeli war, it was disclosed today.

CRITICS `UNLIKELY TO ACCEPT WIDGERY'S FINDINGS'

Ministers in Edward Heath's Tory government were privately warned that the official inquiry into the Bloody Sunday shootings would not satisfy critics of the Army, it was disclosed today.

FILES REVEAL CABINET TENSIONS OVER MINERS' STRIKE

Tensions within Edward Heath's Tory government over how to deal with the miners' industrial action which finally brought his downfall are exposed in official files made public today under the 30 year rule.

HEATH ORDERED MI5 TO BRIEF BOSSES ON `SUBVERSIVES'

Tory Prime Minister Edward Heath ordered MI5 secretly to brief senior industrialists about "subversive" organisations trying to infiltrate their workplaces, it was disclosed today.

LAMBTON `ON VERGE OF COLLAPSE' AFTER SEX SCANDAL

A junior minister forced to quit Edward Heath's Tory government over a three-in-a-bed sex scandal told MI5 that he turned to prostitutes because he was bored by the "futility" of his job, it was disclosed today.

January 4 2005:

WILSON CONSIDERED REDRAWING ULSTER BORDER

The British Government considered redrawing the Northern Ireland border and relocating more than 500,000 Catholics and Protestants in a bid to defeat terrorism, official papers revealed today.

HEATH CONSIDERED SERVING UNDER WILSON IN COALITION

Tory Prime Minister Edward Heath secretly considered serving under his arch rival, Labour leader Harold Wilson, in a "Government of National Unity", according to official files made public today.

IDI AMIN OFFERED TO BROKER ULSTER DEAL

It may go down as the most unlikely attempt ever to broker a settlement to Northern Ireland's long-running Troubles.

WILSON GOVERNMENT REJECTED ID CARDS

Harold Wilson's Labour government rejected the introduction of identity cards, dismissing them as "extremely expensive and largely ineffective" in combating IRA terrorism, according to official files made public today.

WILSON DREW UP SECRET DOOMSDAY PLAN FOR ULSTER

At the height of the Northern Ireland Troubles, Prime Minister Harold Wilson drew up a secret "Doomsday" plan in readiness for a "panic" British withdrawal from the province, according to official files made public today.

Freedom of Information Act - January 4, 2005

MIXED BAG RELEASED UNDER FREEDOM OF INFORMATION ACT

Some 50,000 Government files from the past three decades were made public today as a result of the Freedom of Information Act.

January 30 2006

SECRET PAPERS REVEAL SCOTS DEVOLUTION OIL FEARS

Secret documents released today reveal the extent of concern in Whitehall in the 1970s that moves towards Scottish devolution could lead to London losing control of North Sea oil. (January 30)

December 29 2006

BACKBENCHER PRESCOTT FAILED TO IMPRESS PM

John Prescott may have been dubbed "a voice of reason" during the 1976 Cod War, but his efforts to broker a deal with the Icelanders did little to impress No 10, according to official papers made public today.

SECRET FILES REVEAL DEFENCE FUNDS PANIC

Former Labour prime minister James Callaghan pushed through swingeing defence cuts despite a warning that he could be forced to abandon Britain's nuclear deterrent, according to secret files made public today.

WILSON FEARED UK CIVIL WAR

Prime Minister Harold Wilson feared loyalists in Northern Ireland could declare independence from the United Kingdom, triggering a civil war, according to official files made public today.

WILSON'S RESIGNATION TIMETABLE REVEALED

The meticulously choreographed arrangements surrounding the resignation of Prime Minister Harold Wilson are revealed today in previously secret documents.

POLICE HAD SUSPECT FOR AMBASSADOR KILLING

Police hunting the IRA gang which blew up Britain's ambassador to Ireland identified a possible suspect, according to official papers made public today.

HAROLD WILSON IN A PADDY OVER RABIES

Former Prime Minister Harold Wilson personally intervened when a council's efforts to prevent rabies threatened to banish his dog from the family holiday home, restricted files reveal today.

RECORDS REVEAL REVOLT OVER WILSON DEVOLUTION PLAN

Prime Minister Harold Wilson was warned his 1970s gamble on devolution would lead to Scottish independence if it failed, official documents made public today reveal.

SECRETS OF THE DIAMOND PAKISTAN WANTED BACK

The British Government's steadfast refusal to hand over the priceless Koh-i-noor diamond to Pakistan is detailed in secret files released today.

FILES REVEAL EARLY FALKLANDS WAR WARNING

Defence chiefs warned seven years before the Falklands War that the islands would be almost impossible to defend in the event of an Argentine invasion, according to official papers made public today.

STRAW 'RELUCTANT' TO GIVE UP COUNCIL SEAT

Jack Straw resisted pressure to stand down as a Labour councillor after taking a job as a government special adviser, according to official files made public today.

RAF BAULKS AT COST OF ROYAL RESCUE COVER

The cash-strapped Ministry of Defence quietly scaled back RAF's emergency search-and-rescue cover for the Queen and other royals after seeing its budget cut, according to official documents made public today.

CREATIVE SCHEMES TO DEAL WITH 1976 DROUGHT REVEALED

The Government considered cloud seeding and shipping water in from Norway during the devastating drought of 1976, papers released today reveal.

August 5 2007

EX-KING ADVISED NOT TO ATTEND QUEEN'S CORONATION

The Duke of Windsor was "advised" not to attend the Queen's coronation ceremony in 1953 by the then Prime Minister Sir Winston Churchill, documents released today reveal...

Details of the discussions from minutes taken during cabinet meetings, from 1951-1954, by cabinet secretary Sir Norman Brook, were made available today at the National Archives at Kew, west London.

The minutes had not been released under the 30-year rule because sections contained information that could harm national security or undermine the principle of collective ministerial responsibility.

DELIBERATIONS OVER DATE OF QUEEN'S CORONATION

The date of the Queen's coronation was chosen so as not to clash with the Derby or fall on an unlucky day, documents released today reveal.

December 28 2007

THATCHER AND THE MICROPHONE TUSSLE

A US official was given an early lesson in the perils of trying to cut off Margaret Thatcher in full flow, according to official papers made public for the first time today.

SCARGILL `MONITORED BY MI5'

Labour Prime Minister James Callaghan called for Arthur Scargill to be "warned off" after he led a series of mass pickets in the infamous Grunwick dispute in north London, according to official papers.

BENN A WHISKER FROM THE SACK

Tony Benn came within a whisker of being sacked from James Callaghan's Labour government after he tried to challenge a pact struck with the Liberals, according to papers made public today.

MINISTERS FEARED POLICE STRIKE COULD DESTROY LABOUR

Senior ministers in James Callaghan's Labour government feared that they could be brought down by a police strike, according to official files made public for the first time today.

BENN `TRIED TO UNDERMINE QUEEN'S SILVER JUBILEE'

The "anti-monarchist" Tony Benn sparked a bitter Whitehall row amid accusations that he deliberately tried to undermine the Queen's Silver Jubilee, according to official papers made public today.

Appendix B

Other relevant stories

November 2, 2005

FILES ON CONTAMINATED NHS BLOOD `DESTROYED'

Most files on contaminated NHS blood products which infected people with HIV and hepatitis C have been destroyed, a sufferer was told today.

September 25, 2006

Evening Standard:

How the MoD tried to cover up its alien hunters

The Ministry of Defence went to extraordinary lengths to cover up how much it investigated UFOs, according to documents released under the Freedom of Information Act.

Files show that officials tried to expunge information from documents released to the Public Records Office under the "30-year rule" that would have revealed the MoD's interest.

In particular, the ministry wanted to cover up the operation of a secret unit dedicated to the subject within the Defence Intelligence Staff.

The files were made public following FOI requests by David Clarke, a lecturer in journalism at Sheffield Hallam University, and his colleague Andy Roberts.

Dr Clarke said: "They don't tell us anything about UFOs but they do show how desperate the MoD have been to conceal the interest of the intelligence services."

The files begin with a request, in 1976, from a UFO enthusiast for access to the MoD's records. A note from the UFO desk to the MoD's head of security shows that officials intended to refuse him access as the files were confidential and had "very little of value to a serious scientific investigator".

But the note continues: "This is not to say that the investigation is not taken seriously." Files also show that attempts to alter the public record went on well into the Nineties.