

20 February 2008

Sir Brian Bender KCB

Permanent Secretary

Paul Dacre
Chair
30 year Rule Review Team
c/o The National Archives
Kew
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Dear Paul Dacre

REVIEW OF THE 30 YEAR RULE

Thank you for providing information on the work of the independent review panel to look at the operation of the 30 year rule and the arrangements under which government records are made available to the public. Herewith some comments on the issues as I see them from the point of view of this Department.

Any reduction in the 30 year rule would demonstrate that government is accountable, transparent and open and would align with the Freedom of Information principle of openness. But there are some points of concern, which I believe need to be addressed.

A reduction in the rule would need a long transition period and adequate resources to manage the subsequent backlog. Indeed, it is not easy to see how departments would meet this extra burden within current financial constraints. Since information would be placed in the public domain sooner than is currently the case, effective management of the resulting risks will require more intensive and time consuming records reviewing practices to be put in place.

Let me illustrate this. If the 30 year rule was reduced to 20 years BERR would have an instant backlog of 100,000 files to second review, which would take current reviewing resources 10 years to clear, or would require an extra 35 reviewers. If efforts focused entirely on clearing this backlog it would take 5 years to clear or require an extra 17.5 Reviewers. This option would result in higher storage costs to the Department and would interfere with other record reviewing activities which enable the early destruction of ephemeral records in

order to support the BERR accommodation strategy. Lack of experienced resources to deal with the backlog could also result in the accidental release of sensitive information as it is much more difficult to judge the sensitivities of younger information, some of which may still be current albeit many years after the event.

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Additional costs would also be incurred in the process of preparing and transferring files to The National Archives and an extra 10 staff would be needed to manage this work.

There is of course also a need to think through the impact of any reduction in the 30 year rule on the period for which most FOI exemptions are available. If the FOI exemption period was reduced in line with any reduction in the 30 year rule (as I assume it would be) we would have real concerns with commercially sensitive information, which would be placed in the public domain earlier than is currently the case. My officials have met with the Secretary to the 30 year review team to emphasise this point and have suggested that the CBI is contacted as part of the consultation exercise.

In BERR we have established a resource intensive process for scrutinising records requested under FOI to ensure that information released is good for the public domain. In contrast when records are reviewed with a view to making them publicly available at TNA, the large volumes involved mean that this approach is not possible. (BERR reviews in excess of 100,000 files and transfers an average of over 3000 files to TNA each year.) Any reduction in the 30 year rule would require us to set up an ever more tightly controlled and resource intensive review process, as younger files will self evidently contain a greater proportion of sensitive information than is the case at 30 years. With the large volumes of files involved, a tightening of procedures to identify sensitivities will inevitably increase the burden to the Department of the overall review operation.

The Chief Executives of the Insolvency Service and Companies House have been consulted and their views are that any changes in the 30 year rule would be unlikely to have an impact on their operations as they transfer very few records to The National Archives.

Yours sincerely

Brian Bender

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