

*From the Permanent Secretary*

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**Review of the "30 year rule"**

Thank you for your time on 7 February. We welcome the review you are undertaking of the '30 year rule'. Paul Dacre's letter of 28 December sought responses to the review by the end of this month; I set out our views below.

From Communities and Local Government's perspective, and subject to appropriate staged arrangements for managing the transition, a reduction in the 30-year period to 20 years should not cause significant difficulties.

It is recognised that since the introduction of the Freedom of Information Act in January 2005 much of the information held within the department is capable of disclosure if a specific request is made. However information disclosed as a result of such requests, accounts for a small proportion of the overall information held and so it does not follow that most of the department's recently created information can be readily accessed by the public.

When we met on 7 February, I emphasised the importance in respecting the thinking space of Ministers and officials in policy development – I reiterate this point. The Freedom of Information Act exemptions in sections 35 (formulation of government policy) and 36 (prejudice to effective conduct of public affairs) recognise this. A substantial reduction in the 30 year period would undermine confidence Ministers and officials need in order to provide uninhibited policy advice and thus for government to operate effectively.

Following an internal consultation within Communities and Local Government and its Executive Agencies, a reduction to 20 years is not expected to give rise to problems. This is subject to provisos. It is assumed that the existing provisions in the Public Records Act 1958 would still be applicable. We are particularly concerned to retain the existing rule in section 10(2) which provides that the 30 year period begins on the date when the last document on a file is created. For instance, whilst matters relating to a specific contract are current and possibly lasting several or even many years, the 30 year period does not begin.

Records may also be withheld from transfer to the National Archive at the end of the 30 year period if there is a continuing business need for their retention. In addition, those transferred may be withheld from disclosure subject to the Lord Chancellor's

agreement and it is assumed that the justification for not disclosing would be based on one or more of the exemptions in the Freedom of Information Act. We would wish this practice to continue.

A reduction of 10 years will need to be appropriately managed and resourced within the department. Rather than this taking place on a single date, I suggest that it should be a staged process.

We believe that such a reduction would meet the need for openness in government, but at the same time providing the necessary confidence to Ministers and officials that they can work within an environment, which will not be subject to public scrutiny.

*in good times*

*PH*

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