

Independent Commission on Freedom of Information

Minutes of the 1st meeting

12.30pm to 2.30pm, Thursday 30th July 2015

102 Petty France, Room 10.50b

Attendees

Lord Burns (Chairman)

Stephen Jones (Secretary)

Lord Carlile of Berriew

Narinder Tamana (Secretariat)

Dame Patricia Hodgson

Lord Howard of Lympne

The Rt Hon Jack Straw

1. Introductions and Welcome

1.1 The Chairman opened the meeting and welcomed the members to the newly formed Independent Commission on Freedom of Information (*“the Commission”*). The agenda for the first meeting was intended to give Commissioners an opportunity to discuss the task and ways of working and programme of work during the life of the Commission

2. Discussion: The task of the Commission

2.1 The Chairman set out the background to the Freedom of information Act 2000 (*“the Act”*) and the need to consider whether there was an appropriate public interest balance between transparency, accountability and the need for sensitive information to have protection. The Commission also needed to consider the operation of an executive veto (section 53 of the FOI Act), particularly in light of the UKSC decision in the Prince of Wales letters case, and the original will of Parliament when passing the legislation.

2.2 The Commission were in favour of an evidence-based approach to the Commission’s work, and agreed to issue a call for evidence to seek a wide range of views. The Commission also asked the secretariat to provide: research on what information is currently released in the public interest where s.35 of the Act applies; thorough research on the passage of the FOI Bill; and further work on international comparisons about how different countries dealt with the public interest test in practice and the question of safe space.

Actions: The Secretariat to produce a detailed chronology of the development of the FOI Bill, further work on international comparisons, and to commission research on s.35.

3. Paper 1: Proposed ways of working and work programme

3.1 The Chairman presented the paper which detailed proposed ways of working in which the Secretariat will operate in reviewing the FOI Act. The Commission agreed that meetings

would be held every three to four weeks. The Commission also discussed the questions that should form the core of the call for evidence paper, and asked the secretariat to prepare a draft of the paper for the next meeting. The paper would be published online and advertised appropriately. It was proposed that following the closing date of the call for evidence, all responses would be published on the website (subject to any relevant legal restrictions). The Commission would then consider what further evidence was needed, including whether to hold oral evidence sessions.

Action: The discussion paper to be drafted over the next few weeks.

4. Paper 2: Legal support for the Commission

4.1 The Commissioners considered how best to provide legal support to the Commission. It was agreed that option 1 was acceptable (support from within the Government Legal Department), although it may also be helpful for the Commission to retain independent counsel with practical experience of FOI.

Action: The Secretary to discuss the Commission's requirements with GLD.

5. Paper 3: Draft Framework Document

5.1 The Chairman presented the draft Framework Document and explained that it defined the relationship between the Cabinet Office and the Commission and set out the respective roles and responsibilities in order to provide for the effective operation of the Commission. The document was still subject to some final changes to be agreed by the Cabinet Office, which would be conveyed to Commissioners. The Commissioners had no comments on the document and it was agreed, subject to Commissioners signing off any final changes.

6. Any other business

6.1 The Chairman introduced a paper prepared by the Secretariat on international comparisons which provided a comparison with the FOI regimes broadly comparable with the FOI Act namely Australia, Canada, Denmark, the Republic of Ireland and New Zealand.

6.2 The Secretariat agreed to circulate relevant press coverage on the Commission to the Commissioners.

Stephen Jones

Secretary to the Independent Commission on Freedom of Information

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