

Independent Commission on Freedom of Information

Minutes of the 6th meeting

1:00pm - 3:00pm, 9 December 2015

102 Petty France, Room 10.50b

Attendees:

- Lord Burns (Chairman) (TB)
- Lord Carlile of Berriew (AC)
- Dame Patricia Hodgson (PH)
- The Rt Hon Jack Straw (JS)

Secretariat

- Stephen Jones (Secretary) (SJ)
- Narinder Tamana (NT)
- Alexandra Avlonitis (AA)
- Poli Stuart-Lacey (Press Office) (PSL)

Apologies

- Lord Howard of Lympne (MH)

Introduction

1. The Chairman opened the meeting by welcoming members of the Commission to their sixth meeting and inviting comments and amendments to the minutes of the fifth meeting. The minutes were approved without change.

Communications Update

2. PSL summarised recent press coverage including that generated from responses uploaded to the Commission's website; by the evidence submitted to the Watson Commission; and on the back of the Policy Exchange's recent report – "[*Judging the Public Interest: The Rule of Law vs The Rule of the Courts*](#)" – which focused on the case concerning HRH The Prince of Wales' correspondence with Government Ministers. The Policy Exchange report had also been submitted as formal evidence to the Commission before the closing date.
3. There was some discussion about the whether the Commission was expected to publish its report, or whether it should submit the report to the Cabinet Office for publication. It was agreed that a handling plan would be developed closer to the time.

Summary of responses received thus far

4. The Commission discussed in general terms the submissions that they had considered thus far, which they agreed had been very interesting and contained a number of considered recommendations in response to all of the matters raised in the call for evidence.
5. The Commission agreed to continue to review responses to the call for evidence and to discuss in more detail matters raised in them at the upcoming meeting.

6. SJ confirmed that the Secretariat would continue to review the evidence submitted to the Commission, and that further resource was being considered to facilitate this process. SJ confirmed that he would update the Commission in due course.

Paper 1 and annex A – Paper on the veto

7. The Chair introduced the paper, which covered options around section 53 of the Act, the ministerial override, and the implications of the Supreme Court decision in the *Evans* case¹.
8. The Commission considered the advice, and discussed in addition the proposals in the Policy Exchange report. The Commission agreed to take a decision on the matter once all of the evidence submitted in response to the call for evidence had been considered and after receiving further advice.

Paper 2: Options to assist requestors

9. The Commission considered paper 2, which set out a series of options for assisting requestors that engage with the Act, and for improving transparency, most of which were suggested by respondents to the call for evidence. The Commission was sympathetic to making changes to improve the system for requestors and would make a decision about how to proceed when it had reviewed the evidence in full.

Paper 2A - Fol and public service contractors

10. The Commission was made aware of a significant number of responses to the call for evidence which recommended that the Act might be extended to private sector contractors of public sector functions. The Commission discussed the matter in the context of its Terms of Reference.

Paper 3 - Public Interest Test

11. The Commission were unable to consider this paper in the time available, and it was agreed it would be re-tabled at the next meeting.

Paper 4 – proposals for oral evidence sessions

12. The Commission addressed the recommendations in the fourth and final paper about oral evidence sessions, and agreed to proceed with two full days of evidence in late January.
13. NT ran through the logistics relating to the event, including venue space and timings. The Commissioners discussed who might be invited to attend and agreed that formal invitations should be issued as soon as possible to facilitate diaries. Members of the Commission felt strongly that those invited to provide evidence represented a broad spectrum of views.

¹ [2014] EWCA Civ 254

Stephen Jones, Secretary
December 2015