

Independent Commission on Freedom of Information

Minutes of the 2nd meeting

4pm to 6pm, Monday 7th September 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. Paper 1: Call for evidence document

1.1 The Chairman opened the meeting and tabled the first item for discussion: the draft call for evidence paper. The Chairman invited comments on the paper in particular about the style of questions, the number of questions and any drafting points.

1.2 The Commissioners made some comments on the structure and content of the paper for example moving certain text on international comparisons and moving the data to an annex to make the paper more user friendly. In addition thought needed to be give as to how to represent the original intention of Parliament during the introduction and passage of the Freedom of Information Bill.

2. Paper 2: Illustration of age of material at time of request

2.1 The Chairman introduced the paper on the age of material at the time of request. He explained that the paper provided the Commission with some illustrative examples about the age of material at the point of request in a number of difficult and or high profile freedom of information cases. Commissioners noted the contents of the paper.

3. Paper 3: The Ministerial Veto

3.1 The chairman introduced the paper on the Ministerial veto and explained that it was a strategic document which set out options for discussion in light of the Supreme Court's judgment in the decision of Evans vs Attorney General which concerned correspondence between the HRH the Prince of Wales and Government Ministers.

3.2 The Commissioners undertook to reflect on the information the paper contained as part of the independent review process and looked forward to more detailed research on the options and the evidence that would be provided in this area.

3.3 Alongside this paper the Commissioners also considered the paper that had been provided on international comparison through correspondence. The following key points were noted:

- In Australia: Cabinet notebooks are out of scope, and Cabinet documents are absolutely exempt. Qualified class exemption subject to public interest test was in place for safe space. The veto had been in place until 2009 but was now abolished.
- In Canada: Cabinet minutes and papers are excluded from the scope of the Act for 20 years. Qualified class exemption subject to a public interest test was in place for the safe space. But there is no veto.
- In Ireland: Cabinet minutes are absolutely exempt; Cabinet papers have a qualified exemption subject to a public interest test. In place for the safe space was a qualified class exemption subject to a public interest test (exemption inapplicable after 5 years) but there is no veto.
- In the US: The Office of the President and his personal advisors are outside the scope of FOIA Communications between FOI agencies and the Executive Office are absolutely exempt. In terms of the policy safe space the pre-decision deliberative documents are absolutely exempt. A veto does not exist.

4. Any other business

4.1 It was agreed that the meeting scheduled for the 17th September would be cancelled as two members were unable to attend.

Stephen Jones

Secretary to the Independent Commission on Freedom of Information

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