

Freedom of Information

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- Government Open Data White Paper published, p.19
- Plain English Guide to EIRs, p.20

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FOIA review Committee finds very little wrong with the Act

The report of the Justice Select Committee on post legislative review of the Freedom of Information Act 2000 ('the Report') has been published, with the authors reaching the conclusion that 'the Freedom of Information Act has been a significant enhancement of our democracy.'

The Report shows that, despite strong arguments from distinguished figures, the Committee was not convinced that the Act has had a 'chilling effect' on government and policy development. The Committee acknowledged that Parliament had legislated for a 'safe space' for poli-

cy discussions, but came to the conclusion that:

"Given the uncertainty of the evidence we do not recommend any major diminution of the openness created by FOIA, but...we remind everyone involved in both using and determining that space that the Act was intended to protect high-level policy discussions."

However, the Committee did make a concession by saying "we also recognise that the realities of government mean that the ministerial veto will have to be used from time to time to protect that space," which commenta-

tors have suggested may have the effect of encouraging the government to use the veto (see below).

Despite concerns that the Committee would bow to pressure to call for FOI requesters to pay a small charge to make a request, there is no such recommendation in the Report, the Committee finding that "fees at a level high enough to recoup costs would deter requests with a strong public interest and would defeat the purposes of the Act."

Some witnesses had called for charges for

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Government accepts Committee's 'open invitation' to deploy veto

The government has vetoed an order by the Information Commissioner to release the minutes of Cabinet meetings held immediately before the invasion of Iraq in March 2003.

The information request was refused by the government on an application of section 35 FOIA (exemption in respect of policy formulation). Upon his examination of the case, the Commissioner

had accepted that section 35 was engaged in respect of the minutes, but found that the public interest balance weighed in favour of disclosure.

The Commissioner made his decision in view of the extremely strong public interest in creating transparency and accountability around the Labour government's decision to go to war in Iraq, the passage of time and the changed circumstanc-

es since the Cabinet discussions took place.

The Attorney General, Dominic Grieve, consulted his colleagues in the Cabinet, the Commissioner and the Leader of the Opposition prior to issuing the veto. In his Statement of Reasons, Mr Grieve said he issued a certificate because the circumstance was 'exceptional' and one where, in his

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