



Chancellor of the Duchy of Lancaster

PRIME MINISTER

OFFICIAL INFORMATION: GUIDANCE TO DEPARTMENTS ON DISCLOSURE

I think it may be appropriate and timely to issue up-to-date guidance to departments on disclosure of official information to replace the 1977 "Croham directive".

A copy of this directive is attached. It was of course issued under the previous Administration. We have endorsed the policy it sets out, but it does not fully reflect our policy on official information as announced by Paul Channon on 20 June 1979, which we have since confirmed on a number of occasions. Yet it is widely believed (to judge from Parliamentary Questions and Press comments) that Croham is still the basic "open government" document of the present Administration. (I attach copies of several Questions on the subject).

This seems to me unsatisfactory. I am by no means certain that all departmental officials are as well informed as they should be about our policy. And we are not getting the full credit for making available "as much information as possible". I think the issue of fresh guidance is necessary to assist officials; and to ensure that our policy is properly understood and carried out.

The background is important. The pressure for "freedom of information" legislation will certainly continue and may well increase. This is more likely now that the Canadian, Australian and New Zealand Governments have all introduced their own Freedom of Information Bills. Frank Hooley's Bill earlier this year failed to obtain a Second Reading but received over a hundred votes. There is a strong probability of another Private Member's Bill, if not in the coming Session then at some other time during this Parliament.

The proposers of a statutory public right to information will be satisfied with nothing short of legislation. A demonstration of continued interest and action - even if limited - by the Government may help to detach moderate opinion particularly among our own supporters, from the "legislation lobby". And I believe it is vital that we should keep the initiative; that we should not appear to be giving in to pressure, but should act of our own accord. Before the next ballot for Private Members' Bills, therefore, I think it would be advantageous to have got rid of the Croham directive - which has attracted much criticism - and made our position clear.

There are, of course, some risks in issuing revised guidance. It might tend to be regarded as propounding a wholly new policy - which would not be the case - and raise expectations unwarranted by the modest step that we should, in fact, be taking. But in my view these risks are less than those involved in trying to hold the present somewhat unclear position, with no further initiative of any kind.

Draft of new guidance

A draft of new guidance is attached. It is in the form of a memorandum to officials, which might be circulated in the first instance under cover of a Ministerial letter. It might then be given maximum distribution as a CSD General Notice. Guidance of this kind should, of course, be published.

Nothing in it extends our declared policy. It represents no more than departments should already be doing, if they are implementing our policy of making available as much information as possible. It should not require any material addition to resources. What would be new, however, is the reflection in the standing guidance to departments of Ministerial policy statements, and the explanation of the implications. In particular, paragraphs 6-7 go beyond the narrow Croham principle of "deliberate presentations in the later stages of discussion and development of new policy", and invite departments to respond as positively as they can to any evidence that information on particular subjects is inadequate. It seems to me that this would do more than anything else to diminish the case for legislation.

I have not so far consulted our colleagues, though this would clearly be necessary before fresh guidance could be issued. I should, however, first be grateful for your views on the tactical considerations and on the general lines of the draft.

Baroness Young

BARONESS YOUNG

30 October 1981

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DISCLOSURE OF OFFICIAL INFORMATION

1. This memorandum is intended to guide officials on the Government's policy on making official information publicly available. It brings together the main statements about that policy which have been made from time to time. It supersedes the 1977 "Croham directive", bringing up to date the practical guidance. [The Prime Minister has approved the terms of the memorandum.]

GOVERNMENT POLICY ON OFFICIAL INFORMATION

2. The Government's policy on disclosure of official information was announced in Parliament by the then Minister of State, Civil Service Department, on 20 June 1979:

"...it will be the practice of this Government to make as much information as possible available".

In reply to a Parliamentary Question on 16 January 1981 the Prime Minister said:

"...I have asked all Ministers in charge of Departments to give close personal attention to ensuring that as much information as possible is made available".

3. The departmental Select Committees set up on the Government's initiative are very relevant. As the "Memorandum of Guidance for Officials appearing before Select Committees" (General Notice GEN 80/38, issued with the approval of Ministers in May 1980) says:

"...it is the duty of officials to be as helpful as possible to Committees...Ministers are ultimately responsible for deciding what information is to be given and for defending their decisions as necessary, and Ministers' views should always be sought if any question arises of withholding information which Committees are known to be seeking".

PRACTICAL GUIDANCE

Policy studies

4. The general principle is that as much as possible of the factual and analytical background material relating to policy studies and reports should be made available. The Prime Minister drew the attention of all Cabinet Ministers to the Government's policy in a Private Secretary letter of 20 June 1979:

"The Prime Minister...has asked me to stress that Ministers should take the initiative in publishing information, especially on m_ajor issues of Parliamentary interest, to the greatest possible extent".

5. To assist Ministers to decide whether particular material should be released, and in the interests of economy, departments should aim to produce papers that can be released without re-writing. At the outset, therefore, of any policy study, factual survey or other assignment of this kind, consideration should be given to the likelihood of the results, or the background material, or both, being disclosed when it has been completed. Care should then be taken to ensure that disclosure is not impeded by the unnecessary inclusion of, or reference to, material that is properly classified or that Ministers are likely to consider unsuitable for release (for example because it has been given to the department in confidence, or it represents advice to Ministers). As the then Chancellor of the Duchy of Lancaster said in the debate on Select Committees on 16 January 1981:

"...a lot depends on the character of the document. If it is essentially a factual or analytical study, it should normally be possible to exclude any discussion of policy, so that it can be released as it stands. But if it is essentially officials' advice to Ministers, it may be impossible to separate the advice from the background material. This is the more likely if time is short".

But the aim should normally be to produce a document that can be released as it stands.

Other kinds of information

6. Disclosure should not be confined to material associated with policy studies. Any information that can properly be disclosed should be made available, if it appears to be of general public interest or it has been specifically asked for. Ministers should, however, be consulted where there is any doubt whether or not they would wish particular material to be disclosed. It may also sometimes be necessary to refuse particular requests because of the staff resources that would be required to meet them. Nevertheless, the aim of departments should be to respond to all requests for official information as helpfully as they can.

7. Departments should also be alert for criticisms, in Parliament, the Press or anywhere else, about any apparent inadequacy of information on subjects within their areas of policy or administration. If more information can be provided, this should be done. The Government's policy is to respond positively to public concern about the availability of information, and to requests for specific information.

Form in which material is released

8. A great deal of material is printed and formally published, whether by HMSO or otherwise. Nothing in this memorandum is intended to affect departments' practice in this respect.

9. It is also entirely in keeping with the Government's policy to make information available in other forms. If, for example, printing is not warranted by the likely level of demand, it may be possible to place a typescript in the departmental Library where it can be inspected on request, or photo-copies can be made if they are asked for. And information need not take the form exclusively of written material. Some requests can best be dealt with by telephone or personal interview.

Charging for the provision of information

10. In reply to a Parliamentary Question on 25 March 1981, on "whether it is ever the policy of Government Departments to charge for information requested by members of the public", the Minister of State, Civil Service Department said:

"Yes. A very substantial amount of information is provided to members of the public without any charge at all. But charges are frequently made for copying of documents, extraction of statistics, searches and the like".

In principle, no charge should be made for information as such; but charges may be made to recover all or part of the staff and material costs of providing information in certain circumstances. Guidance about charging for government services generally is given by the Treasury in Section L of "Government Accounting", published by HMSO. But this is only a general framework. Departments carry out a wide variety of functions, and their policies on charging for the provision of information will necessarily reflect that variety. Each department should, however, ensure that Ministers are content with their existing practice, and should invite Ministers to approve specifically any alterations that are proposed.

Making information available

11. Both the Departmental Press Office and the Library are natural places for people to direct their requests for information. So both should be kept fully informed of work in progress. Again, practice in departments may vary. But in all departments it should be the normal procedure for copies of every Press Notice to be sent to the Library. Indeed copies of all material suitable for release should be sent to the Library. Particular care should be taken to ensure that copies are available of discussion documents, in any form, which have been issued for comment.

12. A procedure which some departments have found useful is for one official to be given specific responsibility for examining all Press Notices and asking the originating Division whether there is any associated material that can be released. This helps to ensure that no material suitable for release is overlooked through inadvertence.

Publicising the available material

13. An essential part of the Government's policy is to ensure that the public can find out what material has been released, in whatever form. The exact arrangements for providing this "information about information" may of course vary from one department to another. As the Minister of State, Civil Service Department wrote to Mr Christopher Price MP on 31 March 1981:

"...Departments generally will be able to provide enquirers with information about their own publications, either by means of a list or in some other form. Because of the quite exceptional range and technical nature of the publications it produces, the Ministry of Defence does not keep such a list; but the MOD's library and information services will, of course, be able to help in identifying information about defence publications relating to specific areas of enquiry".

However, Departments should ensure that material available is adequately publicised, notwithstanding special exceptions.

14. In addition, HMSO bring out lists of the material which they have published on behalf of Departments and the firm of Chadwyck-Healey issue a "Catalogue of British Official Publications Not Published by HMSO". Enquirers should be referred to these publications where appropriate.

Crown copyright

15. If any question arises about the application of Crown copyright, including the requirement to provide copies of publications to the "privileged libraries" in Great Britain and the United States, the Librarian or another experienced official should be consulted.

GENERAL

16. Nothing in this memorandum affects either policy or practice on the protection of material that is properly classified or is likely to be considered by Ministers unsuitable for release.

17. Copies of this memorandum have been placed in the Libraries of both Houses of Parliament.

2 NOV 1981





CIVIL SERVICE DEPARTMENT
WHITEHALL LONDON SW1A 2AZ
TELEPHONE 01-839 7733 EXT

Sir Douglas Allen GCB
Head of the Home Civil Service

6 July 1977

Dear Head of Department

DISCLOSURE OF OFFICIAL INFORMATION

During the Debate on the Address on 24 November last, the Prime Minister announced that it would be the Government's policy in future to publish as much as possible of the factual and analytical material used as the background to major policy studies. A copy of the relevant part of the Prime Minister's speech is attached. I am writing in terms which the Prime Minister has specifically approved to let you know how his statement affects present practice and to ask you to ensure that your Department gives effect to it. You may wish to let your Minister see this guidance drawing particular attention to paragraph 10.

2. The change may seem simply to be one of degree and of timing. But it is intended to mark a real change of policy, even if the initial step is modest. In the past it has normally been assumed that background material relating to policy studies and reports would not be published unless the responsible Minister or Ministers decided otherwise. Henceforth the working assumption should be that such material will be published unless they decide that should not be. There is of course no intention to publish material which correctly bears a current security classification or privacy marking: at the same time, care should be taken to ensure that the publication of unclassified material is not frustrated by including it in documents that also contain classified material.

3. In effect, what is proposed is an increase in the already considerable amount of material put out by Departments. The additional material will mainly consist of deliberate presentations in the later stages of discussion and development of new policy. Some of these will probably, as now, take the form of Green Papers. Some may have kindred form, like the recent Orange Paper on Transport. While most material will be released on the initiative of the Department, probably through HMSO, some of lesser importance, or of interest to a limited audience, may well be put out through other means such as publication in magazines or in response to specific requests in the same way that a good deal of unpublished material is already made available to bona fide researchers. In some cases it may be preferable simply to publicise the existence of certain material which would be made available to anyone who asked. Consideration should also be given to the issue of bibliographies or digests so that interested parties are advised what material is available.

In adopting the working assumption described in paragraph 2 above for policy studies, including PAKs, the normal aim will be to publicise as much as possible of the background material subject to Ministerial decision once they have seen the study and reached their conclusions on it. When Ministers decide what announcement they wish to make, therefore, they will also wish to consider whether and in what form the factual and analytical material may be published, since there may, as the Prime Minister made clear in his statement, be circumstances in which Ministers will not wish to disclose such material.

5. It is not the intention to depart from the present practice of not disclosing PARs nor identifying them publicly; any question of releasing PAR material in circumstances not covered by a Ministerial decision should be referred to the Treasury.

6. In his November statement the Prime Minister said that it was the Government's wish to keep to a minimum the cost to public funds of the new initiative on disclosure. One inhibition to the publication of background material in the past has been that it has often been incorporated in submissions to Ministers which could not be published in their entirety. Re-writing material specially for publication is wasteful and expensive in staff time. Therefore when policy studies are being undertaken in future, the background material should as far as possible be written in a form which would permit it to be published separately, with the minimum of alteration, once a Ministerial decision to do so has been taken. It will generally assist Ministers to reach their decisions on publications if they can see an identifiable separate part of the report appropriately written for this purpose.

7. The form and way in which material is released will have to be considered on each occasion. The cost of any extra printing, or publishing, falls under present arrangements on the HMSO Vote, and HMSO is of course affected by the current restrictions on public expenditure in the same way as other Departments. HMSO is also responsible for deciding what prices should be charged for published material. You should ensure that discussions with HMSO are initiated at the earliest possible opportunity on any proposal which will add to expenditure. The following particular considerations should also be borne in mind:

i. Great care should be taken to keep costs to a minimum. If copies are to be run off in advance of demand, the quantity should be carefully and prudently assessed, to avoid waste rather than to offer instant response. (But of course, there is a countervailing need to aim where appropriate for the economics of longer reproduction runs. The right balance here may be difficult and decisions should not be left to too low a level).

ii. In general, double printing should be avoided, eg the published form of the material should be the same as that used internally (and the same print).

iii. There should be a charge for all material, at a price set by HMSO for each item, to include all aspects of reproduction and handling, but not of course any of the costs of the primary study itself.

iv. As regards Crown Copyright, attention is drawn to CSD General Notice GEN 75/76 dated 12 August 1975 (and corrigendum of 8 October 1976).

8. The Government's decision on this question is in a form which should not involve substantial additional work but which could all too easily be lost to view. There are many who would have wanted the Government to go much further (on the lines of the formidably burdensome Freedom of Information Act in the USA). Our prospects of being able to avoid such an expensive development here could well depend on whether we can show that the Prime Minister's statement had reality and results. So I ask all of you to keep this question of publicising material well on your check-list of action in any significant areas of policy formulation, even at Divisional level; and to encourage your Ministers to take an interest in the question.

9. Since the Prime Minister may well be asked what effect his announcement has had on the amount of information made available, I should be grateful if you could arrange to have some kind of record kept of the relevant items made available by your Department. Where the material is of an unusual kind, or of a variety not usually made available in the past, it would be useful if a copy could be sent to CSD. In cases where it has been decided not to publish material which might be expected to be of considerable public interest, I suggest that the reasons should be briefly recorded.

10. The greater publicising of material can hardly fail to add to one cost - that of responding to the additional direct correspondence to which it may well give rise. In a Service operating under tight resource constraints, it may not always be possible to afford to give to such additional correspondence the kind of full and studied replies to which we have long been accustomed within the sort of timescale that has hitherto been customary. Nevertheless, Departments must do their best in these matters, and should inform a correspondent if the timescale for a reply is likely to be longer than normal.

11. I am copying this to Heads of Departments as on the attached list.

Yours sincerely

Douglas Allen



28.1.81

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COL 922-923

Croham Directive

55. Mr. Christopher Price asked the Minister for the Civil Service when he intends to update the Croham directive on openness in Government.

Mr. Hayhoe: I refer the hon. Gentleman to the reply given by my right hon. Friend the Prime Minister to my hon. Friend the Member for Aldridge-Brownhills (Mr. Shepherd) on 16 January. [attached.]

Mr. Price: That is rather inconvenient as I do not have the text of that question in front of me. When the hon. Gentleman takes responsibility in Committee for the Freedom of Information Bill, which is coming up, what attitude will he take to a properly established code of conduct governing the release of documents, to which his Conservative colleagues committed themselves while in Opposition?

Mr. Hayhoe: My predecessor made clear to the hon. Gentleman on 20 June 1979 that a code of practice was not appropriate. I am not quite sure to which Committee the hon. Gentleman is referring. In my experience in the House, which extends back only 10 years or so, it has always been the custom that Bills should obtain a Second Reading before they are considered in Committee. Hurdles have to be jumped one at a time.

Mr. Stokes: Is my hon. Friend, whom I congratulate on his appointment, aware that a lot of nonsense is talked about openness in Government? Quite apart from the essential secrecy in Cabinet, surely advice from civil servants to Ministers, many defence matters and all foreign diplomacy must be handled in secrecy.

Mr. Hayhoe: My hon. Friend is absolutely right, however, putting that in the balance, it was also necessary—my right hon. Friend the Prime Minister stressed this in her directive to Ministers—that Ministers should give close personal attention to ensuring that as much information as possible is made available, especially to the House. The Government's record on making information available to Select Committees is better than that of any other Government this century.

Mr. Straw: As the Government are so committed to the Croham directive and to openness of Government, will the Minister confirm that the Scott report on index-linked pensions in the public sector will be published in full and without delay, notwithstanding that leaks from the Government suggest that it is highly embarrassing to the Prime Minister's prejudices?

Mr. Hayhoe: I understand that it has been made clear that the report will be published soon. As far as I am aware, it will be published without any change being made in it.

Mr. Budgen: Does my hon. Friend agree that there is a vital distinction between information on matters of fact and information about the opinions of various people?

Mr. Hayhoe: As so often happens, my hon. Friend has elaborated an important distinction. It would be wrong if the confidential advice made available to Ministers were to get into the public domain. That would upset an important relationship to which all previous Governments have rightly attached considerable secrecy.

Mr. Alan Williams: Would not more open Government be helpful to the Prime Minister? Would it not enable her to avoid the embarrassment of having to sack fellow Ministers for the sin of leaking information when she is the worst culprit in the Government? Will the Hon. Gentleman explain why the Government have refused to publish the findings of the Pay Research Unit and why we are still waiting for the Scott report on pensions, although it was promised to the House before Christmas by the Prime Minister? Is that because, as rumoured, both items fail to confirm the preconceived conclusions that are sought by the Prime Minister?

Mr. Hayhoe: My right hon. and noble Friend the Lord President made it clear to the Civil Service unions towards the end of last year that pay research could not play any part in the determination of Civil Service pay increases in 1981. It is not the case, contrary to the hon. Gentleman's suggestion, that the reports of the unit are available to the Government but not to the unions. They are available neither to the Government nor to the unions. They are being retained by the Pay Research Unit. As I indicated, the publication of the Scott report will take place as soon as possible. The part of the right hon. Gentleman's supplementary question that referred to leaks has nothing to do with me. The Government have a good record—

Mr. William Hamilton: Of leaking.

Mr. Hayhoe: —on openness and the presentation of information to Select Committees.

EXTRACT FROM HANSARD.

DATE 16 JUNE 1981

COL 305

VOL 6.

Croham Directive

Q38. Mr. George asked the Prime Minister if she is satisfied with the working of the Croham directive.

The Prime Minister: We are committed to making available as much information as possible and are doing so. Our policy therefore incorporates and goes rather wider than the Croham directive.



16.1.81

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COL 665

Croham Directive

Mr. Richard Shepherd asked the Prime Minister what is the Government's policy towards the Croham directive; and what instructions she has given for its implementation.

The Prime Minister: The Government have endorsed the policy set out in the Croham directive. I have asked all Ministers in charge of Departments to give close personal attention to ensuring that as much information as possible is made available.

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* OFFICIAL INFORMATION *
("CROHAM DIRECTIVE")

Mrs. Renée Short asked the Prime Minister how many documents and reports her Department has published under the "Croham Directive" since May 1979; and if she will list them.

The Prime Minister: As my hon. Friend the Minister of State, Civil Service Department, indicated on 20 June 1979, it is not possible to distinguish between material published under the Croham directive and material that would have been published in any case. Since May 1979 the Cabinet Office has published, in addition to material produced regularly, the following five items:

- Technological Change—Threats and Opportunities for the United Kingdom—(Advisory Council for Applied Research and Development, December 1979).
- Computer Aided Design and Manufacture—(Advisory Council for Applied Research and Development, January 1980).
- Joining and Assembly—The Impact of Robots and Automation—(Advisory Council for Applied Research and Development, October 1979).
- R & D for Public Purchasing—(Advisory Council for Applied Research and Development, February 1980).
- Climatic Change—its Potential Effects on the United Kingdom and the Implications for Research—(Report of an Interdepartmental Group, January 1980).