

MR RICKETT

OFFICIAL INFORMATION

You sought my views on this paper embracing the ideas of a Code of Practice on the release of information, making a breach of its provisions "maladministration", and a second Reading Discussion of the subject in Cabinet.

I should first declare my interest. I think Government could usefully be much less secretive and make more information available more helpfully. But, we shall not satisfy the 'open Government' critics until each and every bit of paper is publicly available by right and until they have a statutory entitlement to information on the advice being tendered to Ministers, and thus an opportunity to wreck a particular policy in its formulation.

This may be a sour and cynical view, but I am sure it is right.

Lady Young's minute rules out legislation to provide a public right of access. She therefore eliminates, rightly in my view, any prospect that we might go a long way towards meeting the lobby.

There is thus no prospect whatsoever of satisfying it. That recognition should inform our approach.

Lady Young admits doing nothing has its attractions; and that we do not have to take any action at present. We are not at present under pressure. My judgement is that the one thing calculated to put us under pressure is to do something - eg. to issue new guidance - given that we accept there is really no means of satisfying the critics.

Lady Young does however question whether the issue will remain dormant for long with the following on the horizon:

- promulgation of a recent Council of Europe Recommendation on access to information;
- publication of a White Paper on data protection, possibly followed by legislation;



- publication of the White Paper replying to the Wilson Report on Modern Public Records (which we think will stir up the lobby a bit); and
- the run up to an election which could set off a public auction on the availability of information.

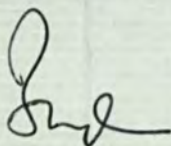
Her solution is to be ready to come forward with a Code of Practice in our own time, but with teeth in the sense that a breach of it would be "maladministration". I have the following observations:

1. this would be an enormous encouragement to the open government lobby, especially in the auction environment of an election, and would inevitably over-excite expectations;
2. the draft Code of Practice attached to Lady Young's minute shows how difficult it is to be positive or precise in a field where, as I say, you simply cannot satisfy the critics; it is far easier to say what shall not be made available than to say what shall;
3. I am far from persuaded that the resource/manpower costs of a Code stating the Government's policy of making as much information as possible publicly available will be as manageable as Lady Young's paper suggests; the Government cannot on the one hand severely prune the Civil Service and then place on it responsibility for operating, under pain of public odium, within such an inadequate framework of guidance as set out in the draft Code;
4. it is crucial to good Government that we do not allow the public's need for data protection to become caught up with or confused by open Government arguments about the need for more information to be made publicly available; the issues are separate and distinct and must be so kept in the public mind;
5. finally, (and as an extension of 4 above), Lady Young's paper serves the most useful purpose of highlighting the fact that the Government is ill prepared for a new onset of open-governmentitis. I am not aware of any work in hand which looks in the round at the subject as it is perceived to be developing. How do data protection, The Council of Europe Recommendation, our response to the Wilson Report and the information technology explosion, for example, relate to our entirely laudable but exceedingly problematical objective of providing the public with more helpful information? Are we clear what we are talking about and how one



development could or does react upon another? What considerations should inform our overall approach? And what should we be doing to inform public opinion on what is necessary, desirable, possible and the reverse? I believe we are concentrating far too much in trying to satisfy a lobby which I believe to be insatiable instead of seeking to establish what is sensible, reasonable and defensible in the minds of reasonable men and women. Such a change of approach would give us an opportunity to emphasise the positive point - the very great amount of information that is already available from what is rather superficially called the most secretive Government in the Western World.

To summarise, I do not think it is any longer adequate to look at the open Government issue in the narrow sense of release of official information, Codes of Practice, etc. Developments are crowding in upon us which require a broader and deeper examination if the public and Government interests are to be served. Lady Young's paper might serve as a catalyst for discussion but it would in my view be dangerous to permit such a discussion without other papers drawing attention to the considerations set out above. Would it be sensible to invite CPRS\* to prepare a commentary on these lines, initially for consideration by a small group composed, say, of the Prime Minister, Home Secretary, Lord Chancellor, Lord President, Lady Young and Secretary of State of Industry?



B. INGHAM  
15 March 1982

\*  
or a group of officials:  
This task may not be  
quite suitable for the  
CPRS. *WM*  
15/3



PLBF on 12/3

Home Affairs



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10 DOWNING STREET

Mr Ingham

CF have copied to you Lady  
Young's minute of 9 March  
to the Prime Minister on  
Official Information, which  
suggests the Government should  
publish a Code of Practice  
on the release of information.  
She proposes that Cabinet should  
discuss his proposal.

Any comments before I put  
Lady Young's minute to the PM?

CR 16/3