A REPORT BY JUSTICE

FREEDOM OF INFORMATION

CHAIRMAN OF COMMITTEE

ANTHONY LINCOLN, Q. C.

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2 Clement's Inn, Strand, London WC2A 2DX
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THE REPORT

A practical approach

1 'Freedom of Information' is a misnomer. What we have to consider is in truth not a freedom at all (*c.f.* freedom of expression or freedom of choice), but a right of access to official information and whether the public should enjoy such a right and if so within what limits. Now that the phrase has become universally accepted, it may appear pedantic to criticize the use of the word 'freedom' in this context. If we do so, it is with the purpose of reminding legislators and those who are urging wider access to official information that this is not in any sense free nor will the public in any foreseeable circumstances be 'free' to obtain all the information they want. Information is, as Paul Sieghart said in his address to the Royal Society of Arts, 'a commodity which is often in short supply and which can confer unequal power on those who have it as against those who have not'.* Those who campaign for open government are ultimately concerned with a shift of power, a concession by the organs of State of its current power to possess and withhold this important commodity.

2 Despite recent improvement in practice, we subscribe to the view that too little information is furnished to the public by government in the United Kingdom and its agencies and that unnecessary secrecy surrounds many aspects of administration and the legislative process. To state that more open government is desirable is easy – it has recently been done by the present Government – but this leaves undetermined the extent to which such openness is to be carried. Again, it is easy to lay down the principle that the citizens of a democracy have the right to learn, through access to government information, what their government is doing and that open government is the best insurance that government is being conducted in the public interest. But how much information, how many files are to be opened up and at what cost to the taxpayer ?

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* 'Computers, Information, Privacy and the Law', 4 April 1977.

3 These are important questions for which partial solutions have been found in some countries, though in very different contexts from our own. They are difficult questions which give rise to conflicting opinions among those opposed to secrecy. An example will demonstrate the difficulties.

4 In the course of an enquiry as to the medical efficiency of some new drug, the early stages will throw up many adverse opinions and doubts which subsequent and more up-to-date research may show to be unfounded. If the whole of the enquiry were conducted in public the bad news, to which undue importance was attached in the early stages, would be likely to be remembered, while the good news might never receive equal publicity. It can be argued that the public should be told everything and left to reach its own conclusions, but on the other hand there is a strong case for saying that in the pursuit of 'openness' damage will have been done which could have been spared those who were deterred by the bad news and missed the good.

5 We do not think the situation can be met merely by any general declaration in favour of 'openness'. We believe that, however high-sounding, its application is bound to be circumscribed by massive limitations and exceptions and its enunciation by itself would raise expectations that are not likely to be fulfilled under our present arrangements. Our approach to the whole topic has been dominated by practical considerations. At the risk of appearing conventionally pragmatic, we believe that there are no rigid formulae which will provide for the multiplicity of situations where the public ought or ought not to be granted access to official information. The more precise area and ambit of such access will require to be worked out and developed over a period of years. Nor can we disregard the time likely to be consumed in attempting to introduce complex legislation modelled on the lines of the relevant legislation in the United States and Sweden.

6 For these reasons we have reached conclusions which can, we think, be put into effect without legislation. If their implementation proves to be a success, whatever Government is in power will be the more ready to extend the ambit of their operation by detailed legislation, and it is our hope that there will eventually be such legislation. A small but

immediate success, however undramatic, in facilitating access to official information, even on a modest scale, is much to be preferred to a prolonged and indefinite controversy over a *statutory right* on a larger scale, a controversy which may produce no practical results.

A first step

7 Accordingly, as a first step, *we recommend* the introduction of a Code of Practice to govern the actions and attitudes of all servants of the Crown and other persons acting on behalf of a Government department or other authority to which the Parliamentary Commissioner Act 1967 applies. Our reason for framing our recommendation in this way appears below. A suggested Code is set out in Annexe 2 to this report.

8 Our first principle is that as much information as is reasonably and practicably possible relating to government and administration should be disclosed. Although our proposed Code does not expressly say so, we believe that there should be a predisposition in favour of disclosure even where it is not asked for. The paramount criterion should be that the public may, by being adequately informed, have the opportunity of understanding and evaluating the nature of, and the reasons and the grounds for decisions taken by or on behalf of government and its agencies.

9 Who is to decide what is reasonably and practicably possible or what constitutes adequate information to satisfy this criterion? In the first instance the Code of Practice requires each department of State or other authority to which the Code applies to prepare and publish a document – a master guide for the public – setting out in simple language what classes and categories of documents may be seen on request. If a department or authority takes too restrictive a view of the access it proposes to grant to the public, the immediate remedy lies with Parliament. For it is there that the responsible Minister should be required to justify the restriction or meet any other complaint, and it is there that the desirability of deeper penetration into the documents of any particular department should properly be debated and resolved. We would expect to see departments and authorities adopting broadly similar approaches in laying down the extent of access to information in their possession. We would also

expect to find backbenchers of all parties pressing Ministers to push back the frontiers of secrecy in favour of ever greater disclosure.

10 The master guides should be indexed with subject headings so as to simplify the task of those seeking access to information and should be kept reasonably up-to-date. They should specify the charges, if any, that are payable for obtaining copies of or access to the documents. Much is made by those who oppose less secretiveness of the cost involved in creating large scale rights of access, indexing systems and the like. We do not think it easy or indeed particularly useful to determine how valid this argument may be, but we see no reason why charges, provided they are not unreasonable in all the circumstances, should not be paid by those who require production of documents.

11 An officer at a senior level within every department or authority to which the Code applies should be made responsible for dealing with applications for disclosure and the master guides should indicate the way in which applications are to be made.

Who is to police this Code ?

12 *We recommend* that the Parliamentary Commissioner for Administration, better known as the Ombudsman, should do so. He has jurisdiction, under section 5 of the Parliamentary Commissioner Act 1967, to investigate complaints of maladministration made by persons claiming to have sustained injustice in consequence of such an act. *We recommend* that failure to disclose documents or classes of documents which ought to have been disclosed should be treated as an act of maladministration. We envisage that in the event of the Code being adopted, a refusal to disclose to anyone, whatever his interest, would render him a person aggrieved, so as to give the Commissioner jurisdiction to investigate the complaint under section 5 of the Parliamentary Commissioner Act 1967.

13 Successive Parliamentary Commissioners have already acquired considerable experience in investigating complaints, and the office is respected by Parliament and the Civil Service as well as by the public. We therefore lay upon the Commissioner the crucial function of determining whether in any given instance insufficient information has been disclosed. A body of precedent will be developed. Guide-lines will emerge. In this way, instead of a rigid system seeking to provide an answer for a multiplicity of circumstances, we should have a flexible Code which leaves room for development by an independent figure in the light of experience.

14 We do not accept the assumption which is sometimes too readily made that all civil servants are by nature predisposed to secrecy. The habit of secrecy owes a good deal to the provisions of the Official Secrets Act 1911 and the repeal of section 2 of that Act was recommended by the Franks Committee and is indeed long overdue. When it is repealed, the adoption within the public service of a Code such as we recommend, and its evolving interpretation, will remove existing fears that disclosure may be an infringement of the law, and we hope that this will be welcomed by civil servants as much as anyone else. The Code should produce a new climate in which the onus is in favour of disclosure even where there has been no request for it. But in any event the fact that infringement of the Code would constitute maladministration would act as a powerful inducement to its observance and thus help to destroy the habit of secrecy.

15 The Parliamentary Commissioner's powers at present extend to the departments and other authorities set out in schedule 2 to the 1967 Act. Accordingly, *we recommend* that the Code of Practice as to disclosure should govern the officers of all such departments and authorities. Again, for the sake of immediate progress, we recommend these limited measures on the grounds that no legislation is required to bring them into effect. However, we should also like to see the Parliamentary Commissioner's powers widened by the elimination of the present need to channel a complaint through a Member of the House of Commons as soon as time can be found for legislation.

16 The interpretation of the Code and the application of the departmental master guides should be the result of an evolutionary process in which Parliament, Civil Service, the public, and above all, the Parliamentary Commissioner, provide the thrust. However, we feel that it may be helpful to express our view on the working of the Code.

The Scope of Disclosure

17 We have examined the many proposals and systems put forward and adopted in this country and abroad. Prima facie the clearest and, as it appears to many critics of the present system, the right course is first to declare the principle that all official documents are to be disclosed to the public and then to carve out of this over riding principle certain specific exceptions as has been done abroad, even though in some foreign systems the exceptions tend to take over. In the United States of America the earlier Freedom of Information Act came to be known as the Denial of Freedom Act: officials could readily invoke exemption clauses which gave respectability and validity to practices of non disclosure in which they had habitually engaged before the Act was passed. A substantial amending Act was passed in 1974. The Swedish legislation contains 43 sections of exceptions and there are other exceptions incorporated by reference and established by regulations.

18 It is not our intention to repudiate any specific form of legislation or to reject the general principle contended for by the absolutists. Our purpose is to reduce the area of secrecy and promote a change in the climate of secretiveness as quickly as is practicable in such a controversial field. We have explained in paragraphs 5, 6 and 7 above our reasons for recommending a Code of Practice. The criterion laid down in that Code may appear to be highly generalised. It was meant to be so. It will require to be worked out by public servants trained in and habituated to wholly different attitudes.

19 But it would be an error not to realise that, although generalised, the criterion calls for a wide-spread and dramatic abandonment of the custodial protectiveness currently afforded to official information. It may be helpful if we spell out how we would expect to see the criterion applied.

20 There are four areas that have to be considered in which there will be sometimes slight, sometimes substantial differences in the application of the criterion: (i) executive decisions affecting large groups, (ii) executive decisions affecting individuals, (iii) government policy, and (iv) information not connected with any executive decision or question of policy. We have had to consider in relation to the first three areas whether the body concerned (whether a department of state or authority to which the Parliamentary Commissioner Act

1967 applies) should be obliged to disclose information available to it before the relevant decision is taken or the relevant policy decided upon. Should the public have the right of access to documents during the build-up period of consultation, reports and discussions before any decision is reached, whether in the event this leads to a firm or merely a tentative policy or even to no policy decision at all ? The difficulties and disadvantages have been touched on in paragraph 4 above (a continuing inquiry into the efficacy of a medical drug). We believe that with the provision of certain safeguards there should be such pre-decision access and *we so recommend.* The safeguards are set out in paragraph 4 of the Code of Practice. They are intended to protect consultations which have reached a delicate stage, and to encourage the emergence of agreements and their subsequent implementation.

Executive decisions affecting large groups

21 A decision of this kind is almost invariably taken after the authority concerned has received material from external as well as internal sources. The material will have been received because of consultations initiated by the department or because it has been supplied to the department on their own initiative by persons anxious to make their views or information known. The material may in certain circumstances have become available in the form of a report by an inspector or as the result of official or semi-official investigation or reports of government committees, working parties or other bodies. The material will consist of factual or allegedly factual information and comment whether of a technical or non-technical character. *Documents containing such information fall within the category of documents to which the public, whether affected by the decision or not, should be granted access,* subject to a number of qualifications, and in particular the following four.

22 First, any information which has been entrusted to the department or other authority confidentially ought not to be disclosed.

23 Secondly, advice and comment offered by members of the department to each other or to their Minister, and advice and comment exchanged between departments ought not to be disclosed. Accordingly, minutes of meetings, internal

memoranda and working papers, as well as correspondence, should be protected to the extent that they contain such advice and comment. Partial disclosure of a document should offer no difficulty. In litigation it frequently occurs. We believe that the maintenance of this limited degree of secrecy is necessary for the proper working of the Civil Service. Above all it means that the Minister remains responsible for the decisions taken by his department, not the officers whose advice may have been accepted, partially accepted or disregarded. In this respect we fully endorse the directions given in August, 1977 by Sir Douglas Allen, head of the Home Civil Service (as he then was) on open government, in particular with regard to the segregation of documentary advice and comment (see the report in *The Times* for 5 August, 1977).

24 Thirdly, an exception is incorporated in the Code of Practice which protects from disclosure information where such disclosure would constitute an intrusion into the privacy of an individual. There is no law of privacy in the United Kingdom, but this is not to say that the concept of privacy in its ordinary meaning cannot easily be recognised, and we think it should be respected. If an employer is obliged to inform a government department of the amount of an employee's salary, the size of his family or the existence of dependent relatives, it would clearly be an intrusion into the employee's privacy to disclose that information.

25 Fourthly, we draw attention to paragraph 1 of the Code of Practice. We are anxious to create a climate favourable to disclosure and paragraph 1 has been drafted with this objective in view. We think that the onus should lie on those who seek to withhold a document. This onus will be discharged only if the authority refusing disclosure can show reasonable grounds for believing that the case falls within one of the excepted categories. It will be for the Parliamentary Commissioner to consider whether this is so.

26 The other exceptions formulated in the Code (see paragraphs 10 and 11) are, we hope, self-explanatory and have been fully canvassed in other reports on this subject, particularly that of the Outer Circle Policy Unit* from which we have derived much assistance.

27 We have consciously refrained from stating that *all*

* An Official Information Act (1977).

documents within the relevant class or category must be disclosed. There may be circumstances in which all documents relating to an executive decision affecting large groups should be disclosed, but this will by no means always be the case. If it were otherwise, the task of classification and disclosure would become onerous, costly and slow. Photo-copying has its dangers. It will be the experience of everyone concerned with examining large files of correspondence on some dispute or issue that there is much that is repetitive, much that is filled out with minute detail, and that, not infrequently, the material information which is necessary for understanding or evaluating a decision can be found in one or two key documents or summaries. It would, in our view, be most unfortunate if it came to be thought that access had to be given to every relevant document involving, as it might, the disclosure of very large numbers of files. Apart from the impact on administration, the effect would probably be not to enlighten but to confuse the applicant for information as to the reasons of a particular decision. Each case will have to be considered in the light of its particular circumstances.

Executive decisions affecting individuals

28 In the case of an individual there are bound to be certain practical differences in the application of the principles set out in the previous paragraphs. Two examples may be given. First, an individual may be in dispute with a government department or would be if he were aware of facts justifying him in disputing a decision affecting him. Ought he to be entitled to see documents which would enable him to mount such a challenge? *We recommend* that he should have such a right of access. As often as not, claims are made against the executive which would not have been made, and litigation would have been avoided, had the facts been known to the claimant beforehand.

29 Once legal proceedings are started the procedures of 'discovery' and compulsory disclosure are enforced against both sides and their respective documents are examined. It is true that government departments may claim protection for certain documents or classes of documents under the doctrine of so-called Crown Privilege, a doctrine which, since the classic case of *Conway v Rimmer* (1968) A.C. 910 has been applied

in a manner more generous to the citizen. Since the individual will see the relevant documents in the course of the proceedings, we see little purpose in withholding them until then. On the contrary, it is in the public interest that he should see them at the earliest possible moment. The executive, as a potential litigant, is in a different position from its opponent; the Crown and public departments are concerned with furthering the public interest, one aspect of which is fair dealing with the citizen and the proper administration of justice.

30 We have therefore incorporated in the Code of Practice the requirement that the applicant for disclosure be given assistance in the form of generous disclosure of documents, and this should be given just as generously in the case where a person is unaware of the existence of a right or of the fact that he may have a valid claim. *We so recommend,* subject to the exceptions listed in the Code.

31 *Secondly,* the question arises whether a private individual should have the right of access to any personal file kept by the executive concerning him. In many cases such access could properly be denied under the exceptions in paragraph 9 of the Code, e.g. documents relating to internal security or law enforcement or information supplied in confidence. But where the file is concerned with none of these matters but is a career record for the purpose of selection for some appointment, then *subject to paragraph 23 above* (advice to Ministers, comment, internal memoranda, etc.) access to factual material should be granted. The exceptions would no doubt eliminate the disclosure of large sections of most personal files.

Government policy

32 A distinction has to be drawn between government policy generally and the policy of a particular department. As to the latter, no special considerations arise. The system of disclosure should apply as we recommend it should in the case of executive decisions. Government policy generally raises more difficult problems. The recent Government statement that there will be more 'openness' in the sense that the option considered by Ministers will be revealed is one that we endorse. Should access be granted to the material and data out of which the options have emerged ? We believe that it

should, subject to the exceptions referred to in paragraph 4 (a) and (b) of the Code of Practice.

Other information not connected with any decision or policy

33 This residual area consists of information supplied to or stored by the executive, the great treasury of data of which glimpses are gained in answers to Parliamentary Questions. Unless such information falls within any of the exemptions mentioned in the Code, we think that access to it should be granted.

34 Two further matters remain to be discussed. The obligation formulated in the Code of Practice is the disclosure of as much information 'as is reasonably and practicably possible'. The formula is intended to protect the administration from demands for disclosure which are oppressive and vexatious, the satisfaction of which would entail expense and labour wholly disproportionate to the circumstances of the case. What would be oppressive and vexatious, and what expense and labour would be disproportionate, must depend on the facts of each case. Such considerations have persuaded us that a rigid code was to be avoided and that the evolutionary approach was the right one, policed, as the code would be, by the Parliamentary Commissioner.

35 Finally, we believe that the applicant for information should not have to show any direct interest in a decision or its implementation. As we have already observed in paragraph 12, we envisage that a person refused access, whether or not having a special interest in disclosure would properly be treated as a person aggrieved within the meaning of section 5 of the Parliamentary Commissioner Act. The Code is intended to open up access to the public generally.

Summary of Recommendations

36 (i) A Code of Practice should be established for all government departments and other authorities to which the Parliamentary Commissioner Act 1967 applies.

(ii) The Code should require the disclosure (subject to certain necessary exceptions) of as much information as is reasonably and practicably possible relating to the actions and decisions of the government and other organs of public

administration.

(iii) The paramount criterion should be that the public may be enabled to understand and evaluate the nature of, and the reasons and the grounds for, such actions and decisions.

(iv) Departments should establish a master guide which sets out in easily understood terms what documents or classes of documents are subject to disclosure.

(v) Charges may be imposed for access to information but they must not be unreasonable in all the circumstances of the particular case.

(vi) Any infringement of the Code should be regarded as maladministration.

(vii) Any complaint that the information has been unjustifiably withheld should be made to the Parliamentary Commissioner (the Ombudsman).

(viii) The applicant for information should not have to show an interest special to himself.

(ix) Certain categories of information should be exempt from disclosure (see paras. 9, 10 and 11 of the Code) and in any event there should be no disclosure if there are reasonable grounds for believing that the public interest would be adversely affected.

(x) The Code should be worked out and precedents established by the Commissioner as part of an evolutionary process in the light of the paramount criterion mentioned in (iii) above.

ANNEXE 1

THE RIGHT OF ACCESS TO INFORMATION IN OTHER WESTERN DEMOCRACIES

[1] The committee investigated the right of access enjoyed by citizens of other western democracies and in particular those of Sweden and the United States. The main conclusion of the committee is that, although they enjoy an enviable clarity in that the citizens of these countries have a legally enforceable right to inspect a substantial proportion of government documents, the transplanting of legislation is not possible given the different constitutional and political contexts.

[2] One of the most obvious differences between these countries and the United Kingdom is that they both have a written constitution. This has meant that the degree of judicial 'intervention' in political matters and in settling the rights of the various participants in the political process has been substantially greater than in the United Kingdom. The courts in Sweden and the United States have become used to the idea that the public interest is not something for the government to determine and that the determination and enforcement of certain rights of due process and accountability are matters for judicial participation. The role of the courts is particularly important in relation to administrative law, in that Sweden has always recognised its existence, and has a system of administrative courts, and that in the United States such recognition is rapidly developing. In contrast Britain has only recently recovered from the view propounded by Dicey that the common law gave fully adequate protection to the citizen. The supervisory role of the courts has been greatly enlarged but is necessarily hamstrung by its inability to investigate executive discretion save within narrow limits.

[3] In the case of Sweden the legislation which grants the citizen access to government documents is part of the Constitution, entitled *The Freedom of the Press Act.* This Act provides that any person has the right to inspect and copy government documents, except within certain general areas which are further specified in the *Secrecy Act.* The main objective of this legislation was to enforce the individual

accountability of Civil Servants in law, to ensure that any decision taken by an official corresponds to the law and that the record justifies the particular decision taken. In the event of these not being the case, then the court had the right to punish the individual Civil Servant and to set its own decision in the place of the decision found in error. The purpose of the legislation was to ensure the rule of law by making the decisions of officials open to scrutiny after a decision had been taken, to relate the existing record to the decision taken. Under the Swedish constitution most administration is not carried out by officials who are responsible to a Minister and thereby to Parliament, but by administrative Boards which are autonomous and independent in that the officials of these Boards have an obligation to carry out the law but not to formulate policy or obey ministerial directives, although of course the relationship between the Boards and the Ministers is not one of mutual ignorance. It is an important difference between Britain and Sweden that the greater part of Swedish government action is immune from parliamentary scrutiny or questioning because a Minister could only be questioned on things for which he was responsible and he was not responsible for administration. The control of administration is effected by judicial invigilation of the administrative process and not by the application of the doctrine of ministerial responsibility. This legalistic approach – the resort to the courts – necessarily entails 'openness', a system of administrative courts and a system of special prosecutors, better known as the ombudsmen.

[4] In the case of America the legislation which grants access to government documents is the *Freedom of Information Act*, an amendment of the 1947 *Administrative Procedure Act*. Until modern times the American Courts had dealt with administrative authorities mainly in terms of constitutional problems relating to the delegation of authority. The recognition of a new body of law, administrative law, did not come until the late Thirties. The powers of the regulatory agencies and the increased size of the federal bureaucracy encouraged legal authorities to recognise the need for a definition of the rights of citizens in relation to these agencies. This led, in 1947, to the *Administrative Procedure Act*. The emphasis has been upon laying down procedures rather than upon challenging the constitutionality of the action of the agencies.

America does, however, share an important characteristic in common with Sweden and this is a certain autonomy of administration. The dual role of the President and Congress over the federal bureaucracy has created a situation in which administration is more exposed to public view, the most famous example being congressional oversight committees. some of the most powerful agencies, such as the Interstate Commerce Commission were made independent, in that they have the right to make decisions free from instruction by either the President or Congress. It was in relation to these independent agencies that judicial intervention developed, although the fear that bureaucracy was uncontrolled has spread to cover the whole of government. This produced a demand for openness.

[5] In the case of Britain we have the *Official Secrets Act*. This does not give statutory rights to information but statutory exclusion from it. The reason for this is that our constitutional system is based upon the belief that Parliament is in control of the actions of administrators through the mechanism of ministerial responsibility and this committee does not feel that the country is willing to overthrow this principle, which could be a consequence of a British Freedom of Information act in its most widely proposed form. Administration is not independent and is controlled, or so it is claimed, by political means and one cannot easily run a system of government based upon the principle that administration is apolitical though open and that it is political though closed. That is why this committee is sceptical of the transfer of legislation from Sweden and the United States in Britain.

ANNEXE 2

PROPOSED CODE OF PRACTICE

(1) It is essential to the effective working of a democratic society that the public should be adequately informed about the actions and decisions taken by the Government and other organs of public administration of the United Kingdom. The paramount criterion should be that the public may, by being adequately informed, have the opportunity of understanding and evaluating the nature of, and the reasons and grounds for, such actions and decisions. Accordingly, with certain necessary exceptions, all documents containing information on such matters should, so far as is reasonable and practicable, be disclosed within a reasonable time to any person requesting their disclosure.

(2) This Code of Practice applies to all government departments and other authorities to which the Parliamentary Commissioner Act 1967 applies.

(3) Servants of the Crown and other officers and persons responsible for disclosing information in accordance with this Code should disclose sufficient information to satisfy the criterion stated in paragraph (1).

(4) Documents will not be disclosed if:–

(a) the case falls within paragraphs (9), (10) or (11) below; or

(b) there are reasonable grounds for believing that the public interest would be adversely affected by disclosure.

With these exceptions, documents should be disclosed where the information they contain relates to decisions on matters of policy or to other acts or decisions (whether of an executive or quasi-judicial character) of any authority to which this Code applies. Information relating to any matter on which a decision has not yet been reached should also be disclosed unless disclosure is likely to prejudice consultation or negotiation with persons or bodies directly affected by the ultimate decision, or to affect the outcome adversely to the public interest: in either of these cases there will be no disclosure until a decision is reached.

(5) In determining whether or what disclosure should be made it is immaterial that the person requesting disclosure is or is likely to be in dispute with the government department or other authority from which disclosure is sought. On the contrary, all practicable assistance in the form of generous disclosure should be given to any such person since disputes or misunderstandings may well arise from misinformation or inadequate information. So far as is practicable, all information should be disclosed which might be of advantage to the person requesting disclosure, either with a view to redressing a wrong or which could be helpful in understanding the reasons for a decision.

(6) No regard shall be had to the nature of the applicant's interest in seeking disclosure.

(7) Any complaint of failure to disclose a document or class of documents which ought, in accordance with this Code, to have been disclosed shall be treated as a complaint of maladministration at the instance of the person requesting disclosure and, if he claims to have sustained injustice in consequence thereof, his complaint may be investigated by the Parliamentary Commissioner for Administration in accordance with the provisions of section 5 of the Parliamentary Commissioner Act 1967.

(8) Arrangements shall be made within every government department and other authority to which this Code applies for the preparation and publication of a document in ordinary language giving information about the documents or classes of documents which, or copies of which, will be disclosed in accordance with this Code; as to the persons responsible for dealing with applications for disclosure, and as to the charges, if any, which may be made.

(9) Documents containing information relating to matters listed below shall be exempt from disclosure to the extent that they contain such information, so that there shall be disclosure of that part of the document which contains no reference to or indication of matters which may not be disclosed. There will be no disclosure of information:–

(a) relating to defence, foreign relations or internal security;

(b) relating to law enforcement;

(c) Which could be privileged against disclosure in litigation;
(d) entrusted in confidence to a government department or other authority to which this Code applies whether or not required by or under any enactment to be disclosed to any such department or authority;
(e) the disclosure of which would infringe the privacy of an individual;
(f) which, if disclosed, could reasonably expose the person disclosing it to a significant risk of proceedings for defamation.

(10) Cabinet and Cabinet committee documents as a class are exempt from disclosure.

(11) There will be no disclosure of any document which comprises advice or comment tendered by any person in the course to his official duties to a Minister or servant of the Crown or other officer of an authority to which this Code applies to the extent that the document contains such advice or comment.

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