

STOP AIDS

New Freedom of Information Bill would open up government records

A Freedom of Information Bill, designed to open government records to the public, has been published by the Campaign for Freedom of Information.

The Campaign hopes the measure will be introduced as a private member's bill by an MP in the coming session of Parliament. The Campaign's three co-chairmen Chris Smith MP (Labour), Richard Shepherd MP (Conservative) and Archy Kirkwood MP (Liberal Democrat) are calling on their parliamentary colleagues to take up the bill if they are successful in the ballot which decides which MPs introduce bills.

The bill would give the public the right to see any records held by central government and many other public authorities. Only information which the bill itself exempts could be withheld. A department which improperly refused to release information could be ordered to disclose it by a new Information Commissioner and Tribunal, set up under the bill. These would be modelled on the Data Protection Registrar and Tribunal and would allow the Act to be enforced without the costs of going to court.

The bill would bring Britain



"In a democracy information is power. And access for the people to information about what their rulers are up to is an essential part of a democratic society."
*Chris Smith MP
Labour co-chairman of the Campaign*



"In the 80s the Conservative party emphasised the economic freedoms and rights of our citizens but the concomitant is freedom of speech, assembly and information for by those we express ourselves as human beings and as a democracy hold government accountable."
*Richard Shepherd MP
Conservative co-chairman of the Campaign*



"Too often secrecy is used to conceal the fact that mistakes are being made or that people are suffering injustice. A Freedom of information Act would be a vital safeguard against such abuses."
*Archy Kirkwood MP
Liberal Democrat co-chairman of the Campaign*

into line with the growing number of countries which already have freedom of information laws. Sweden has had such a law for over 200 years. America introduced its FOI Act in 1966. France legislated in 1978. Three commonwealth countries — Australia, Canada and New Zealand — all passed FOI laws in 1982. Norway, Denmark, Finland and Holland also have FOI laws and even Malta's government now is committed to an Act.

Exemptions

The bill recognises that certain information needs to be confidential. The main exemptions allow information to be withheld if disclosure would cause significant damage to defence, the security services, international relations, law enforcement, personal privacy, the economy and genuine commercial secrets. But the right to know about safety hazards would take precedence over commercial secrecy. Some policy advice given by officials could be withheld — but not the facts and analysis on which it was based. And recommendations affecting people's rights would be disclosed.

Records which didn't fall into one of these categories would have to be made avail-

able on request. Information could not be withheld in order to conceal mistakes, protect an ineffective policy from criticism or avoid pressure for action on matters of public concern.

The bill contains a public interest test which would allow even exempt information to be disclosed if there was compelling justification. The test would apply where there had been abuse of authority, official negligence, injustice, danger to the public or unauthorised use of public funds. In such circumstances the presumption that it is in the public interest for exempt information to be kept confidential may no longer be valid. Indeed, the contrary may be true: for secrecy may prevent the problem being dealt with. In these cases the Commissioner would be able to consider whether disclosure was jus-

The potential benefits of FOI were illustrated by a disclosure under the Australian FOI Act which forced the Government to cancel an unnecessary £266 million project. The released documents showed that a vast site which the army was insisting on buying for tank training was — by the army's own criteria — wholly inadequate for the purpose. The savings from the project's cancellation amounted to nearly 40 times the annual cost of the FOI Act.

tified in the public interest, taking into account any benefit and damage that might result. The Commissioner might conclude that the information was so sensitive that it must still be protected. But if it appeared that disclosure was in the public interest the information would be released.

To help applicants apply for records authorities would have to publish an index to the classes of records they hold. Access would normally have to be given within 30 days of a request. And people would not be charged for seeing records — only for any photocopies supplied.

The bill would establish a far reaching public right of access which could be used by ordinary citizens, journalists or even MPs. It would allow people to:

- see any information about safety and environmental hazards or the dangers of consumer products
- argue a case for reform with much greater authority, based on the same set of facts as the government
- discover whether policies are having the claimed results
- check that regulatory bodies enforcing laws to protect the public are doing their job
- monitor the lobbying of government by vested interests

- see the internal rules used by departments in making decisions affecting selves
- check their own personal files, and
- be compensated for any damage caused to them by inaccurate information.

The costs of the legislation would be modest. Canada's access law costs around £10.5 million a year — yet deals with 67,000 requests, the majority for personal files. The Australian freedom of information act costs even less, about £4.7 million. This compares with the £62 million Britain spends each year on military bands; and the £164 million spent by the Central Office of Information in 1989-90.

Both the Labour and Liberal Democrats parties are committed to introducing an FOI Act. A MORI poll in January 1991 showed that 75 per cent of Conservative voters were also in favour of FOI.

More details of the bill are given inside.

A copy of the bill itself and a detailed commentary on it (total appx. 150 pages) can be obtained from the Campaign price £12.00 post free.

The drafting of the bill was funded by the Joseph Rowntree Charitable Trust and Consumers' Association.

1991 FoI Awards

Each year the Campaign presents awards to the authorities, journalists, organisations and individuals who have done most to further freedom of information. The 1991 awards will be presented in January 1992 by the Rt. Hon. Paddy Ashdown MP, leader of the Liberal Democrats.

If you know of a council or other authority which has taken an important initiative to make more information public; or of a local newspaper, journalist or individual who has campaigned effectively against unnecessary secrecy, why not nominate them for an award? Nominations should reach us by the end of November and should be sent to:

Awards, the Campaign for Freedom of Information, 88 Old St., London EC1V 9AR.

Medical records open

The Access to Health Records Act 1990 comes into force on November 1 1991. Under the Act people will be able to see information recorded after that date on their medical or other health records. The Act does not apply to information recorded before November 1, but the Department of Health is encouraging health authorities and doctors to allow access to earlier records on an informal basis if asked.

The Act was the result of a private member's bill promoted by the Campaign and introduced by Doug Henderson MP.

It will allow people to be more fully informed about their health and to check that their records are accurate and fair. A detailed guide to the Act can be found in *Secrets No 21*.

A guide to the Freedom

The bill creates a general public right of access to all official records held by public authorities. Information can only be withheld if it falls into one of the bill's exempt categories. In certain circumstances even exempt information may be disclosed in the public interest. The bill would be enforced by a Commissioner and Tribunal with powers to order disclosure.

ACCESS TO OFFICIAL RECORDS

Authorities subject to the bill

The bill applies to "public authorities" which as defined include (a) government departments; (b) nationalised industries, including British Rail, London Regional Transport, the Post Office, National Power, and the regional electricity companies; (c) executive bodies such as the Health and Safety Executive, the National Rivers Authority, the National Curriculum Council and the Northern Ireland Housing Executive; (d) "Next Steps" agencies such as the Driver and Vehicle Licensing Agency and the Laboratory of the Government Chemist; (e) a large number of government advisory bodies such as the Advisory Committee on Conscientious Objectors, the Advisory Committee on Dangerous Substances, the Advisory Committee on Pesticides, the Advisory Committee on Women's Employment, the Committee for Monitoring Agreements on Tobacco Advertising and Sponsorship, the Committee on the Safety of Medicines, the Food Advisory Committee, the Standing Advisory Committee on Human Rights and the Government Hospitality Fund Advisory Committee for the Purchase of Wine; (f) National Health Service bodies including District and Regional Health Authorities, Health Boards, Family Practitioner Committees, the Prescription Pricing Authority, and NHS Trusts.

The bill is not intended to apply to local authorities. This avoids over-extending the current draft which is intended as a private member's bill.

Records subject to the bill

All records held by these bodies are subject to the bill, whether on paper, computer, film, tape or other form. Records created before the bill comes into force would be accessible, though with some restriction during the bill's first year. Information which authorities have obtained from third parties such as companies would be accessible. But the bill

provides no direct right of access to information held by third parties.

The right of access

The bill takes precedence over any Act which prohibits disclosure, or any common law or other restriction apart from a court order. But it does not override any law which specifically protects the privacy of individuals, for example by preventing the public disclosure of an individual's social security, tax, or medical details.

Applying for access

Applications would be made in writing, identifying the records wanted or providing enough information to enable the authority, with reasonable effort, to identify the relevant records.

An authority would be under a duty to help people make applications. Each authority would also have to make available: (a) a code of guidance to help applicants; (b) an index describing the kinds of records it holds and (c) an index of records it has released to previous requesters.

Applicants could apply for all records on a particular subject but an authority could refuse a request if a substantial number of records were involved and locat-



"With its current insistence on 'good governance' for others now is perhaps an opportune moment for the British government to show an example by embracing freedom of information as a democratic right".

Sir Douglas Wass, KCB, former Permanent Secretary to the Treasury and Joint Head of the Home Civil Service.

ing them all would interfere substantially and unreasonably with its work. There are safeguards to prevent this provision deliberately being used to frustrate applicants.

Once a record has been requested an authority may not destroy it. An official who knowingly does so would commit an offence.

Giving access

Access would have to be given within 30 days of an application. Where the record contains third party information the period is extended to 45 days to allow the third party to be notified and make representations.

Applicants would be able to inspect records or obtain photocopies or print-outs from information held on computer. Fees could be charged only for photocopying (limited to £1 per 10 copies) and postage. Copies of non-paper records such as computer discs or tapes could also be obtained.

Correction of inaccurate information

Authorities would be required to correct inaccurate information held about anyone. Where practicable the authority would have to pass on the correction to anyone to whom it had previously given the inaccurate information.

Where the inaccuracy of the record could not be proven, or where there was a difference of opinion, the authority would have to indicate on the record that the information was dis-

"Prior to the introduction of the (Official Information Act) it was felt by some that it could bring about a change in the relationships between Ministers and their Permanent Heads; that the possibility of conflict could arise if it was seen that there was a divergence of views between the department and the Minister. In the perceptions of permanent heads this had not eventuated and they do not see any substantive changes in their relationships with their Ministers."

Report of the New Zealand Information Authority, 1985-86.

puted and attach the application for correction to the record.

"Inaccurate" is defined as incorrect, incomplete, misleading or not relevant to the purpose for which the record is held.

Compensation for damage

Anyone damaged by the inaccurate information held by an authority would be entitled to compensation for the damage and any associated distress. The authority would not be liable if it could show that it had taken reasonable care to ensure the accuracy of the record.

GROUNDS ON WHICH INFORMATION MAY BE WITHHELD

Records containing exempt information

An authority would not be required to give access to exempt information. But it could not withhold the whole of a record if only part was exempt.

Applicants would have to be told that information had been withheld, the specific exemption involved, the reasons it was thought to apply, and of the procedures for challenging the decision.

Exempt information which has previously been made public, or which is obtainable from public sources cannot be withheld.

CLASSES OF EXEMPT INFORMATION:

(1) Defence, security, international relations

Information whose disclosure would be likely to cause significant damage to defence, the work of the security and intelligence services or international relations.

(2) Law enforcement

Information whose disclosure would be likely to: (a) result in the commission of an offence; (b) impede significantly the prevention or detection of offences or the apprehension or prosecution of offenders by lawful means; (c) facilitate an escape from legal custody; (d) prejudice the fair trial of a person against whom proceedings have been brought or (e) endanger the safety or life of any person.

(3) Legal professional privilege

Communications between an authority and its legal advisers about actual or possible litigation involving the authority are exempt. This reflects the normal rule preventing one party in litigation being forced to reveal its legal strategy to the other.

(4) Policy advice

The advice, opinions or recommendations given by an official or a Minister for the purpose of policy formation are exempt.

However, this exemption does not protect:

- factual information; its analysis, interpretation or evaluation; or projections based on it;
- expert advice on a scientific, technical, medical, financial, statistical, legal or other matter;
- guidelines used in taking decisions about the rights of persons; or the actual decisions and reasons for them;
- information about the personal affairs of the applicant.

(5) Personal privacy

Information whose disclosure would involve the invasion of the privacy of an individual is exempt.

Information about the affairs of someone who has died is also exempt unless: (a) disclosure is in the public interest because it tends to indicate that a public authority contributed to the death, or; (b) disclosure is to, or with the consent of, the next of kin.

However, the medical records of someone who has died would not be available to the next of kin unless they were relevant to a legal claim.

Information about someone acting as a representative of an organisation is not exempt. Information about an official or a Minister acting in his or her capacity as such is also not exempt.

Information about disciplinary proceedings against an official:

"Written communications appear to have improved. For example, the Health Department reports that files which once resembled streams of consciousness have now become succinct and to the point. Prejudicial commentary has been significantly reduced. Inspectorial records have become more analytical, and psychiatric records more reflective and relevant."

Report on FOI in the State of Victoria, Australia by the Legal and Constitutional Committee of the Parliament of Victoria, November 1989.

"In all three countries fears were widely expressed that advice would no longer be put in writing, or that it would be heavily diluted. I looked hard for evidence of this. There is still a belief that it happens, but when I pressed people they could never come up with examples. Of the two permanent secretaries I interviewed in Australia, both said that they had noticed no reduction in the frankness of official advice which flowed across their desk on its way up to the minister. One of them had certainly feared this would happen; but his fears had not been borne out in practice."

Robert Hazell, "Freedom of Information: Lessons from Canada, Australia and New Zealand". Policy Studies, Autumn 1991, pages 38-46.

● would be publicly accessible if they related to a matter of public interest;

● would be available to an individual if the proceedings resulted from a complaint by that individual or involved the way in which that individual has been treated;

● would otherwise be exempt.

(6) Health records

Because the bill applies retrospectively it creates new rights of access to health records. The existing right of access applies

"Freedom of information and is the touchstone for United Nations is consecrated"

Resolution of the UN 1946.

only to information recorded after November 1991.

The exemption allows health information to be withheld if disclosure would be likely to cause serious harm to the applicant's health. This would bring access under the bill into line with existing rights of access under the Access to Health Records Act 1990 and the Data Protection Act 1984.

(7) Economic and commercial affairs

Information is exempt if disclosure would be likely to cause significant damage to:

- the economy, by prematurely revealing any change in taxation, exchange or interest rates or other instruments of economic management;
- the financial interests of the authority, by giving unreasonable advantage to any person negotiating a contract with the authority about property, goods or services;
- the authority's position in pay negotiations with its employees, by revealing information prepared for those negotiations;
- the lawful commercial activities of the authority, by revealing information to a competitor.

The last exemption does not apply if the damage to the au-

"We suspect that the temptation to resist a request for disclosure which was not backed by the force of law might prove irresistible in at least some cases in which disclosure is most needed... We therefore recommend the introduction of legislation providing a statutory right to official information by the public."

The Law Society, July 1979.

The Campaign

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thority results from consumers exercising more informed choice about the goods or services they buy; and it does not protect information about any public safety hazard.

(8) Competitive position of a third party

Information obtained by an authority in confidence from a third party is exempt if disclosure would, by revealing information to a competitor, be likely to cause significant damage to the lawful commercial or professional activities of the third party.

This exemption does not apply if the damage to the third party results from consumers exercising more informed choice about the goods or services they buy; and it does not allow information about public safety hazards to be withheld.

(9) Authority's ability to obtain information

Information is exempt if:

- it was provided to the authority in confidence by a third party, and
- the authority has no legal or contractual power to demand the information and
- disclosure would be likely to cause significant damage to the work of the authority by impairing its ability to obtain similar information in future.

Where the third party is under some incentive to carry on supplying information even if disclosed, the information would not

a fundamental human right the freedoms to which the

General Assembly, December

be exempt. Information would not be exempt if provided:

- for payment;
- in the hope of securing some advantage for the third party or
- in order to persuade the authority not to take some action against the third party.

Thus a firm which has been responsible for a major pollution incident may try to persuade an authority not to prosecute it by giving it information which indicates that the accident was not its fault or that it is now doing everything possible to prevent a recurrence. That information is provided in order to avoid some adverse effect, and is not exempt.

On the other hand, information provided to help the authority — and not to secure advantage for the submitter — would be exempt. If a business person returning from abroad briefs the Foreign Office on a sensitive political problem in that country — but would not do so if the fact of the briefing were to be made public — that might be exempt.

Information is not exempt if it is provided in response to a consultation by the authority on a proposed change in legislation, policy or practice. Nor if it is an employment or other reference.

OTHER GROUNDS FOR WITHHOLDING INFORMATION

Substantial and unreasonable interference with the authority's work

Applicants would be able to make broad requests for all records on a particular subject. But

"We value the Westminster system of government; we do not seek to change it; nor do we believe effective freedom of information legislation would change it... Very often people have alleged that the Westminster system is under attack by freedom of information legislation when what is actually under attack is their own traditional and convenient way of doing things, immune from public gaze and scrutiny. We are indeed seeking to put an end to that. What matters is not the convenience of ministers or public servants, but what contributes to better government."

Australian Senate Standing Committee on Constitutional and Legal Affairs, 1979, prior to the introduction of the 1982 FOI Act.

if such a request involved a substantial number or volume of records (e.g. "all records relating to environmental pollution"), and locating them all would interfere substantially and unreasonably with the authority's work, the request can be refused.

However:

- the authority can only refuse access if it has taken reasonable steps to help the applicant make a new application which it will be able to grant;
- the authority must report every refusal under this clause to the Commissioner, who will be able to monitor any unreasonable behaviour;

"You... have my unequivocal assurance that during the first year of the next Labour government a Freedom of Information Act will become law."

The Rt. Hon. Roy Hattersley, MP, deputy leader of the Labour Party, letter to the Independent, 9.7.91.

- if the interference to the authority's work can be avoided by allowing an extra 30 days in which to give access, and the applicant agrees, the records cannot be withheld.

Published documents

An authority would not have to give access to a document which it has published (or which it has bought) so long as the document is also available for sale to the public.

If a report is about to be published in the next 45 days the authority can refuse access, so that its planned publication will not be pre-empted. If it fails to publish at the end of this time it must automatically supply a free

copy of the report to the applicant.

Broadcasting materials

The BBC would be subject to the bill but not in relation to information or recordings which were obtained or produced in order to be broadcast. Other information — e.g. about the BBC's administration — would be subject to the bill.

DISCLOSURE OF EXEMPT INFORMATION

Disclosure in the public interest

In certain circumstances even exempt information may be disclosed, in the public interest. A public interest test could apply if there was reasonable evidence of significant: —

- abuse of authority or neglect in the performance of official duty;
- injustice to an individual;
- danger to health or safety of an individual or the public;
- misapplication (ie unauthorised use) of public funds.

Where abuses of this kind have occurred it is no longer self-evident that the public interest is best served by continuing to keep exempt information confidential. Indeed, the contrary may be true: for secrecy may prevent the problem being dealt with. In these cases the Commissioner would be able to consider whether disclosure was justified in the public interest, taking account of all the circumstances, including any damage or benefit that might result. He or she may conclude that the information is so sensitive that it must still be protected. But if the benefits outweighed any harm the commissioner could order disclosure.

Notice to third parties

Before an authority gives access to third party information it must notify the individual or company from whom the information was obtained. The third party would be able to make representations and to appeal against any proposed disclosure of exempt information to the Commissioner or Tribunal. The information could not be disclosed until the appeal had been determined.

Notification of benefits

The bill contains a special procedure to help non-commercial organisations get in touch with particular classes of individuals to notify them of benefits they can claim or invite them to take

"If, as seems likely, the Tories are reluctant to see themselves outflanked by Labour on civil rights issues, then the debate now beginning should lead to many overdue reforms... The focus of this debate should be the relationship between government and governed... the availability of official information, the accountability of the security services and the freedom of the media and parliament to exercise proper scrutiny of the executive... Mr. Major should not be shy about stealing Labour's clothes."

Times editorial, 29.12.90.

part in research likely to help them.

DOCUMENTS TO BE MADE AVAILABLE BY PUBLIC AUTHORITIES

Authorities would have to make available certain documents including:

- codes of guidance to help applicants;
- indexes to their records;
- indexes to records previously released under the bill and;
- a summary of other rights of access to records held by the authority.

An authority would also have to make available any guidelines which it used in making decisions affecting the rights or obligations of persons under any scheme which they administer or statute which they enforce. Thus the internal rules used in determining eligibility for benefits or liability for tax would be disclosed. If an authority failed to make such a guideline public, and an individual suffered some disadvantage which could have been avoided had he or she known of the contents of the guideline, the person would be able to apply to seek compensation in court and have the unfavourable decision set aside.

REVIEW OF DECISIONS

The bill would be enforced by a Commissioner and Tribunal similar to the Data Protection Registrar and Tribunal.

A Commissioner and Tribunal would provide a cheaper and less intimidating remedy than the courts. It should also permit a consistent body of case law to be built up more quickly than would happen with the courts.

However, the first stage in challenging a decision would be to ask the authority itself to

"A Freedom of Information Act should have pride of place in a citizens' charter. It is essential to good government and to individual liberty."

The Rt. Hon Paddy Ashdown MP, leader of the Liberal Democrats.

conduct an internal review of its decision.

In Australia, such internal review has led to more information being released in about a third of all cases. If an authority failed to complete the review within 14 days the applicant would be free to complain to the Commissioner.

The Commissioner

The Commissioner would have the power to examine any record including one containing exempt information. He or she could make enforceable orders requiring authorities to comply with the bill. Failure to comply, or obstruction of an investigation, could be referred to a court and dealt with by it as contempt of court. This could lead to the fining or imprisonment of an offender.

If an authority is found to have acted unreasonably the Commissioner could also waive any photocopying fees for access that the applicant would otherwise have to pay.

The Tribunal

The Tribunal would be made up of a chairman and deputy chairman, who would be lawyers, appointed by the Lord Chancellor. The Lord Chancellor would



"When the FDA started pressing the case for freedom of information the idea was new, and full of unknowns. Now the need for this change has become urgent and the benefits clearer... (We need) a statutory right — easily and cheaply enforced if needs be — to that vast mountain of information which is kept by government and other public bodies. Not just their private files about each of us as individuals, but also that host of information which affects us as members of our community."

Michael King, president of the Association of First Division Civil Servants, 1991.

also appoint the ordinary members of the Tribunal.

An applicant or an authority could appeal to the Tribunal against an order of the Commissioner, or the failure to make an order. Third parties who believed an authority was about to disclose exempt information damaging to their commercial or professional activities would appeal directly to the Tribunal.

Each party to an appeal would normally pay its own costs. But the Tribunal may order the authority to pay the applicant's costs where an appeal has raised an important issue of principle. Any party which had been responsible for frivolous, vexatious, improper or manifestly unreasonable action or delay could be ordered to pay the costs of other parties. This may help deter pointless appeals by applicants or deliberately obstructive behaviour by authorities or third parties.

Defamation etc.

An authority or its employees could not be sued for defamation, breach of confidence or breach of copyright for disclosing information under the bill.

However, a person who obtains a record under the bill and publishes it would have no special protection against action for defamation.

Reprinting an official record released under the bill would not infringe Crown copyright.

But a third party who supplied a document to an authority retains copyright even if it is released under the bill. This prevents an applicant commercially exploiting someone else's material. The normal "fair dealing" defence under copyright law would allow the applicant to publish reasonable extracts, or the whole document if it is short, for the purpose of criticising it or reporting on current events.

An official who mistakenly disclosed information in good faith in the belief it was required under the bill would not commit an offence under the Official Secrets Act or any other statute.

gn's proposals

No explanation until the year 2018

In July 1940 a ship carrying Italian and German citizens who had been interned in Britain at the outbreak of the war was torpedoed by a German submarine. Hundreds drowned in the Atlantic. For 50 years one man who should have been on board has been trying to find out why he was prevented from making the journey at the last moment. But official secrecy has prevented him learning anything about the decision that probably saved his life.

Valerio Bogazzi has lived in England since arriving from Italy with his family in 1924 at the age of two. He was one of thousands of Italians interned within days of Italy joining the war in 1940. The arrests were indiscriminate, plans to pick up only known sympathisers of the fascist regime being abandoned on Churchill's instruction to "collar the lot".

Mr. Bogazzi was taken to an internment site at a derelict cotton factory in Bury, Lancashire. Conditions were so unpleasant that he was delighted when his name was read out in a list of those to be transferred. But when he attempted to join the group, to his dismay, he was turned away and told that he was *not* on the list. He was later moved to a camp on the Isle of

Man where he remained till Italy's surrender in 1943.

The group he had nearly joined was put on the cruise liner the *Arandora Star*, to be deported to Canada in an attempt to remove any potential "fifth column" from British soil. Days later the *Arandora Star* was sunk by a U-boat. Two-thirds of the 700 Italians on board were drowned.

Ever since Mr. Bogazzi has wondered how he came to be left out of that ill-fated group: "All I know is that my name was called out and then I didn't go. I have no idea of why I was put on the list, or why I didn't go. That's why I wanted to look at the file."

After reading a book about wartime internment Mr. Bogazzi realised that many of the relevant documents had been placed in the Public Record Office. He went there hoping to find something that would explain why he had not been allowed to sail. He was told that documents about living individuals were not placed in the PRO but that he could ask the Home Office if they would show him any relevant file.

He wrote to the Home Office, whose departmental record officer told him: "I am able to confirm that a file exists on the period of your internment." But he added that the file was "the

subject of extended closure for 75 years".

Unlike normal records, which are made public under the "30-year rule", this file would be withheld until the year 2018. The period of 75 years is used to prevent information about individuals being released during their lifetime.

Mr. Bogazzi's MP took up the matter. But in 1985 he was told by the then minister David Mellor: "Records of this nature come under a category which is closed to public inspection for a period of 75 years because the material they contain could cause embarrassment or distress to the individual or their family. It is, therefore, not our policy, because of the personal sensitivity issue, to allow the individuals concerned, or others, access to these personal files. I am sorry, but I cannot make an exception in favour of Mr. Bogazzi."

The reply astonished Mr. Bogazzi. "I would not want other people to be allowed to see my file" he says, "but I cannot understand why I should not be allowed to see it. What possible distress could it cause me?" He stresses that he has no interest in pursuing any kind of complaint or legal action. He is simply looking for an explanation of a decision 50 years ago which probably saved his life.



The Arandora Star

Deflecting select committees

"While Select Committees should not press for internal advice to Ministers to be revealed they are less likely to accept without argument a refusal to reveal a report from a department committee containing outside members, and even less likely to accept a refusal in the case of a wholly external committee. In particular, they will be understandably reluctant to accept a refusal where the establishment of the committee in question has been announced, together with its membership and terms of reference, and where its report is known to exist. These implications need to be taken into account in deciding how much publicity should be given to the establishment of committees of this kind."

Extract from the Cabinet Office's Memorandum of Guidance for Officials Appearing Before Select Committees (the 'Osmotherly Rules'), March 1988. The memorandum advises officials on how to deal with embarrassing questions which their ministers may not wish them to answer. The above extract hints that the best way of avoiding questions about the work of departmental committees is to make sure no one knows they exist.

No consultation on tunnel safety

Safety decisions about the Channel Tunnel are being taken in secret — without public consultation or access to the safety data involved. One of the most serious problems is the risk of fire, particularly as passengers will stay with their cars on the train. This may increase the risk — for example, if passengers smoke — whilst also making evacuation more difficult.

Consumers' Association has repeatedly asked for safety studies into such problems to be made public. But the Channel Tunnel Safety Authority has refused to do so, saying that studies will only be released after final decisions have been taken. And it has rejected calls for public consultation on the issues, claiming that this would only help "vested interests" to criticise the proposals. Meanwhile Eurotunnel, which will own and operate the tunnel, is suffering increasing financial problems. If these are affecting the safety decisions now being taken no one will know until it's too late.

Repairing the roads

The names of road building firms whose shoddy design and workmanship have cost the taxpayer millions of pounds are being kept secret to protect the reputation of the companies, the Public Accounts Committee has revealed. Enormous sums of money are spent repairing defective roads, but the PAC reported in 1990 that the Department of Transport had done little to systematically investigate the causes and costs of this problem — though they are known to result from poor workmanship and supervision by contractors and consulting engineers. In some cases the Department had taken legal action to reclaim some of the costs of repairing defects. Occasionally it had given formal warnings to contractors and said it would be prepared to ban firms from tendering.

But the Department would not name the firms involved, saying a ban would be sufficient penalty. The PAC were given the names only on condition the information was treated as "Commercial in confidence".

The Committee commented: "We note that despite the Department's reliance on the sanction of banning contractors or consulting engineers from tendering, this has been imposed only once in recent years; and that very few warnings have been issued. The continuing problems with poor workmanship suggests that these sanctions have not yet proved an effective deterrent." (*Quality Control of Road and Bridge Construction*, July 1990).

NHS Trusts

The Government has refused to disclose assessments of the financial viability of hospitals which have applied to become self-governing trusts.

The assessments were commissioned by the Department of Health at a cost of £500 million and carried out by Cooper Lybrand Deloitte. In a Parliamentary Answer the Health Minister, Virginia Bottomley, declined to place copies in the House of Commons library stating: "These appraisals are confidential documents prepared in order to help inform my right hon. Friend the Secretary of State's assessment of proposed national health service trusts" (16.11.90, col. 245).

It has been widely reported that Cooper Lybrand Deloitte regarded only some 14 of the hospitals as economically viable. But of the 66 which applied, 57 were given trust status in the first year.

Tiara appeal

"Please urgently ship to Algiers all available diamond tiaras normally worn by embassy-wives when received by your royalty"

Extract from a cable sent by the US Ambassador in Algeria to the US Ambassador in Morocco in September 1977 after learning that Prince Philip was due to visit Algiers the following month "in his capacity as chairman of some international equestrian federation whose exact name I did not get". The cable was released under the American Freedom of Information Act in 1989.

How to support the Campaign

The Campaign does not have a formal membership scheme.

On the other hand, it welcomes help and support, particularly from volunteer workers during the daytime and evenings.

All those who contribute a donation of £12.50 or more, automatically receive the *Secrets* newspaper for one year. If you would like to receive the *Secrets* newspaper, please fill in the coupon.

Campaign for Freedom of Information

Hon. President: Godfrey Bradman

Co-Chairmen of Council: James Cornford, Christopher Price

Co-Chairmen of Campaign: Archy Kirkwood MP, Richard Shepherd MP, Chris Smith MP

Chairman of Parliamentary Advisory Committee: Jonathan Aitken MP.

Treasurer: Neil McIntosh

Director: Maurice Frankel

Campaign Researcher: Emily Russell

Administrator: Karen Williams

The Campaign is a coalition of more than 60 national voluntary organisations, trade unions and professional bodies. The Campaign is funded by: Consumers' Association, the Joseph Rowntree Charitable Trust, Mr. Godfrey Bradman, its supporting organisations and individual donations.

To: Campaign for Freedom of Information
88 Old Street, London EC1V 9AR.

Tel: 071-253 2445.

I/We (individual or organisation)

of

.....

.....(address)

• Enclose a cheque for £.....

• I am interested in volunteering: Please tick if appropriate

If so, please give your phone number

All cheques should be made payable to: The Campaign for Freedom of Information.