

## Welsh Anti Nuclear Alliance Response to Consultation on Freedom of Information Regulations 2007

Public cynicism about the way that we are governed is an accurate reflection of official cynicism about the public.

Any administration that claims to be governing in an open and transparent way should balance this against the impulse to employ tactical considerations to restrict access to information that belongs in the public domain.

Critical issues identified in the 2003 Energy White Paper were revisited by the 2006 Consultation Document (on Energy), but consultees were merely told that fossil fuel prices had risen sharply, that the review would examine the impact of recent price rises on the desirability or otherwise of new nuclear build, that comments were invited on the assumptions for fossil fuel prices summarised in Annex B, and that the analysis in Annex B showed that "cost estimates for new nuclear build vary significantly."

The Freedom of Information Act had to be used by Greenpeace in order to obtain (from the DTI) copies of the papers that were used to support the case for nuclear power stations but were not made available to consultees.

Mr Justice Sullivan's judgement (CO/8197/2006, February 15th 2007) on this matter was scathing.

"the contrast between the paucity of the information provided to consultees on the issue of economics in the 2006 Consultation Document and the wealth of highly-detailed information on the critical issue of cost-benefit analysis considered by the defendant but not published until after (and in some cases well after) the consultation period had closed, could not be more striking."

In that case there was held to be "a breach of the claimant's legitimate expectation to fullest public consultation; that the consultation process was procedurally unfair; and that therefore the decision in the Energy Review that nuclear new build "has a role to play ..." was unlawful."

There will be a price to pay for yet further restriction on our access to information.

The powers conferred by the 2004 Regulations, allowing a public authority to include in its appropriate limit calculation the costs of determining whether information is held, and then locating, retrieving and extracting it, are entirely appropriate and should not have other costs included.

The grounds for maintaining the present appropriate limit calculation are that

- (a) all Information that is legitimate for the public to see and understand is already 'owned' by the public.
- (b) the idea of limiting the public's right to see that information by including time spent by a civil servant reading the files is both pernicious and anti-democratic. It can only be included in the proposed regulations in order to keep public information secret, and the motives in so doing are highly questionable. Ascertaining the nature or content of the information sought should be restricted to establishing that no personnel records of named individuals are included, and that should be obvious in any half decent filing system without reading the file.

The Welsh Anti Nuclear Alliance has used FoI to gain access to the nuclear regulators correspondence with the operator of the ageing nuclear reactors at Wylfa. There exists a degree of trust in way that the nuclear industry is regulated precisely because of our ability to see the safety issues about which we are concerned raised in the way that they are. The existing cost limit would have been exceeded if we had insisted on seeing the replies to the safety issues raised. The correspondence from the regulator over a period of years revealed sufficient information without this.

There is a balance to be struck between Freedom of Information and the administrative cost incurred. It is our view that the right balance is struck by the powers already conferred by the 2004 Regulations.

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