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The *Freedom of Information Bill*-Lords Amendments

Bill HL 129 of 1999-2000

This Paper sets out the major amendments to the Bill, since its second reading in the Commons on 7 December 1999. The references in this Paper are to HL Bill 129, Lords report stage. Lords amendments will be printed separately and will refer to the Bill as first printed in the Lords (HL Bill 55). The Bill introduces a statutory FOI scheme for England, Wales and Northern Ireland. The Paper refers mainly to the text of the Bill as printed after Lords report stage [HL Bill 129] rather than the separately printed Lords amendments which were not available at the time of writing. Background to the Bill is given in Research Papers 99/98 *The Freedom of Information Bill* and 99/99 *The Freedom of Information Bill: Data Protection Issues* Lords amendments are due to be debated on 27 November, following a timetable motion..

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Summary of main points

The *Freedom of Information Bill* has undergone significant amendments in its passage through both Houses. There is a four stage process when a public authority is under a duty to consider the release of information:

- The authority is required to consider whether information falls into an exempt category. The Information Commissioner can review the decision and decide whether the information is within the exemption(s) claimed.
- Even if exempt, the authority is required to consider whether to release the information if the public interest in disclosure is greater than the public interest in maintaining the exemption. There is no public interest test for a minority of exemptions,
- The Information Commissioner can review the decision made under the public interest test
- An Executive override can be used where a Cabinet minister or equivalent decides not to accept the decision of the Commissioner on the public interest test.

The main changes since second reading in the Commons are:

- A new wording of the public interest test which the Information Commissioner can review and enforce, even if the authority had decided against release on public interest grounds
- A new Executive override (ministerial veto) to be used where a Cabinet minister cannot accept the decision of the Commissioner to release information on public interest grounds
- Some relaxation of the restrictions on the release of factual and statistical information
- The power to add new exemptions by order has been removed
- There is a new duty to assist as well as advise applicants.

Critics of the Bill have pressed for further changes – in particular a test of prejudice for the exemptions relating to investigations and to policy advice and further restrictions on the use of the ministerial veto. However, following agreement between Liberal Democrat peers and the Government on a number of amendments, the Bill received a third reading in the Lords on 22 November 2000.

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I Introduction

A non-statutory *Code of Practice on Access to Government Information* came into force in April 1994, and is enforced by the Parliamentary Ombudsman.[1] A statutory Freedom of Information scheme(FOI) was a manifesto commitment for the Labour party in 1997, and a white paper, *Your Right to Know*,[2] was published in December 1997. A draft FOI bill was published in May 1999 and is described in Library Research Paper 99/61 *Freedom of Information: The Continuing Debate*.

The Bill now reaching its final stages had a second reading in the Commons on December 7 1999 and the provisions are described in Library Research Papers 99/98 *The Freedom of Information Bill* and 99/99 *The Freedom of Information Bill: Data Protection Issues*.

The Bill creates a statutory right to information which will supersede the non-statutory *Code of Practice on Access to Government Information*. It also amends the *Data Protection Act 1998* and the *Public Records Act 1958*. The right to information under the FOI bill relates generally to non-personal information. Individuals who wish to obtain records held about themselves will use the data protection legislation.

Only information recorded is covered. The public authority does not need to be the originator of the information, but hold it. The Bill is intended to have wide application across the public sector at national, regional, and local level and to 'publicly owned – companies', defined in clause 6, as well as certain contractors on behalf of a public authority under clause 4.

The applicant is required to describe the information sought, but does not need to supply the reason for the request. Applicants do not need to have British citizenship or to have residence here. Fees will be payable, with details set out in regulations. They will specify that up to 10 per cent of the 'reasonable marginal costs' of complying with the request will be charged. Authorities must comply with the request within 20 working days after the relevant fee is paid. Where the cost of compliance exceeds the appropriate limit the authority is exempted from providing the information. The limits are to be prescribed by the Secretary of State. The authority is relieved from complying with vexatious or repeated requests. Under certain circumstances the obligation in clause 1 (1)(a) to confirm or deny that it holds the information does not apply.

The current Data Protection Commissioner, Elizabeth France, is due become the first Information Commissioner following royal assent.[3] The Bill received a critical reception from the main pressure group, the Campaign for Freedom of Information,[4] which remains

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1 Library Research Paper 97/69 provides background on the operation of the Code
2 Cm 3818 December 1997
3 The Research Paper therefore refers to the Commissioner throughout as 'she'
4 See www.cfoi.org.uk for the full text of the Campaign's briefings

concerned about a number of issues, despite some amendments of the Bill during its passage. A short bill history is set out in the Appendix.

II Main Issues for Debate

The *Freedom of Information Bill* has undergone significant amendments since the original version presented for second reading in the Commons on 7 December 1999. The structure of the decision-making process on the release of information as originally set out provided for public authorities was in four stages:[5]

1. The authority decided whether the information applied for was covered by one of a number of exemptions. If it was not exempt it would be released.
2. If the information was covered by an exemption, the authority was required to exercise its discretion to consider the public interest in disclosure against the public interest in maintaining the exemption. The public interest test did not apply to every exemption. If the authority decided that the public interest in disclosure outweighed the public interest in maintaining the exemption, the information would be released.
3. If the applicant appealed, the Information Commissioner could consider afresh whether the information was indeed covered by an exemption and substitute a decision for that of the authority (except in certain exemption categories, where her powers were limited to judicial review).
4. The Information Commissioner could recommend in addition that the public authority reconsider the public interest test, where applicable. She could not enforce a recommendation to disclose under the public interest ground.

The new structure is described below:

1. The initial stage remains the decision as to whether the information is exempt under a number of grounds. If not exempt, the authority is under a duty to release the information. Exemptions are divided into 'absolute' where a public interest test does not apply (personal data, security matters, court records, parliamentary privilege, information provided in confidence and statutory prohibitions on disclosure), and non-absolute.
2. If a non-absolute amendment, the public authority would then be required to consider a redrafted public interest test to decide whether to release the information. The redrafted test is designed to weight decision towards disclosure when the public interest in disclosure is balanced against the public interest in maintaining the effect of an exemption.

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[5] Appeal procedures are not considered in this simplified summary

3. As above, the Commissioner could overrule the authority as to the scope of the exemption, and substitute her decision.[6] There is no veto which can be exercised against her decision on exemption.
4. The Commissioner could require the public authority to reconsider the public interest test for exemptions which are subject to it, and make her own decision under public interest grounds, but
5. Certain public authorities would be able to use an Executive Exemption Certificate, to be exercised by Cabinet ministers, Law Officers and equivalent ministers in devolved administrations, and so prevent the Commissioner's decision on public interest grounds from taking effect.

The major changes are therefore:

- A new clause 2, replacing the old clause 13, which redefines the public interest test in a way calculated to weight the decision towards disclosure. The significance of the change has been disputed by critics such as the Campaign for Freedom of Information. A further amendment requires the authority to estimate the time it will take to reach a decision on the public interest test.
- A veto, or Executive exemption certificate, designed to ensure that the Commissioner's decisions as to the public interest test cannot be enforced where a Cabinet minister or Law Officer remains convinced that the information in question must be protected.[7] The veto is set out in clause 53 and is exercisable for central government departments, both ministerial and non-ministerial and including the Northern Ireland departments, the National Assembly for Wales and any public authority designated by order. Local authorities are not expected to be designated as such. It will only be exercisable for non-absolute exemptions as absolute exemptions are not subject to the public interest test. Reasons for the veto must be set out in response to the applicant. The Ministerial Code is to be amended to include guidance on the use of such Executive Exemption Certificates and the need to consult Cabinet colleagues, other than on quasi-judicial decisions. The veto could only be challenged by judicial review.
- Some amendments to clauses 35 and 36 in relation to the release of factual information. The new drafting of clause 35 states firstly that 'regard shall be had to the particular public interest in the disclosure of factual information which has been used, or is intended to be used, to provide an informed background to decision-taking' and secondly that statistical information, once a policy decision has been taken, is not to be considered

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6 But note clause 36 where she has a more limited judicial review role. See comments by Lord Falconer at Lords report stage HL Deb 14 November 2000 c240

7 In Wales, the First Secretary is the accountable person and in Northern Ireland the First Minister and Deputy First Minister acting jointly. The Bill does not apply to Scotland

as part of the policy formulation or ministerial communication exemption. Amendments to clause 36 (effective conduct of public affairs) remove the term 'in the reasonable opinion of a qualified person' in relation to statistical information.

- The power to add new exemptions by order has been removed.
- There is a new duty to assist an applicant, as well as to advise, which can be discharged by adherence to the code of practice on implementation of the Bill.

Freedom of Information campaigners remain concerned about other areas of the Bill. These include:

- The investigation exemption in clause 30. It is considered too broad-ranging in effect as it will include health and safety investigations where there is a possibility of prosecution, and no harm test applies. In a number of other exemption areas there is a requirement that some form of prejudice would be caused by the release of information' known by shorthand as a 'harm test'[8]
- The policy formulation exemption for central government in clause 35, which is considered to require a harm test indicating the prejudice which would result if information in this category were released.
- The 'catch-all' exemption of prejudice to the conduct of public affairs in clause 36, where the use of the term 'the reasonable opinion of a qualified person' is considered to prevent the Commissioner from substituting her own decision for that of the authority on appeal.[9] This exemption applies to all the public bodies affected by the Bill. It is worth noting that, for the three exemptions outlined above, information can still be released on public interest grounds and authorities must consider the weight of the public interest in disclosure.
- The existence of a ministerial veto and the absence of a specific statutory requirement to report its use to Parliament in clause 53 or to achieve Cabinet approval for the decision.

The Bill had only one day on report in the Lords, following a deal made between Liberal Democrat peers and the Government.[10] Its third reading was on 22 November. There have been differences of opinion about the importance of the amendments secured by the Liberal Democrats; the Campaign for Freedom of Information has condemned the agreement.[11]

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8 For background see Research Paper 99/98, Section IV, C

9 The Commissioner can however reassess the decision when considering disclosure under the public interest test

10 *Guardian* 'Liberal Democrats agree pact on information bill'11 November 2000

11 *Guardian* 'More information on Liberal Democrat sell-out'17 November 2000. See their website at www.cfoi.org.uk for their latest briefing. See also the response from Lords Lester and Goodhart *Guardian* 21 November 2000 'More information'

III Major Amendments to the Bill in Commons and Lords Stages

This section gives more detailed information about the amendments made to the Bill, but does not offer a comprehensive guide to the changes.[12] Significant amendments are as follows:

A. Public Interest Disclosures and Enforcement Powers of the Commissioner

There were major government amendments on Commons report, summarised by the Home Secretary, Jack Straw, as follows:

> Originally under clause 13, we proposed that the commissioner would have a power to make a recommendation for disclosure, but not an ability to order it. The disclosure test, which is first on the public authority, is one of balancing the public interest in disclosure against the public interest in the information not being disclosed. As a result of many representations, not least those made on Second Reading by my hon. Friend the Member for Stoke-on-Trent, Central(Mr. Fisher) and many other hon. Members, I recognised the concern in the House about the fact that in the scheme of a statutory right to know it looked slightly odd that there should be provision only for the commissioner to make a recommendation. It was up to the public authority whether to accept it. Two objections were made to that: the first was that only a recommendation could be made and the second, which flowed from that fact, was that the level at which a decision would in practice be taken by the public authority as to whether to accept the recommendation might be quite low.
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> As a result of the representations, we have in many ways fundamentally changed the structure of clause 13, except in one respect. We have strengthened the tests--that is a matter for another debate in respect of factual information--but we have made it a duty, not a discretion, on the public authority to consider whether the public interest in disclosure outweighs the public interest in the matter not being disclosed. Where the public authority decides that the balance of public interest is in favour of disclosure, it is under a duty to disclose. If it comes to a contrary view, the matter can go to the commissioner and he can order disclosure….
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> We have broadly--although not in every particular, for good reasons--adopted an [Executive override] scheme under new clause 6 and the other amendments. We have moved away from discretionary disclosure: we have placed a duty on the Minister to release the information if he or she judges that public interest is in favour of disclosure, not against it; and we have given the commissioner the power to order disclosure.

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[12] The Campaign have several briefings on their website for the various stages of the Bill

The issue remains of what happens if, notwithstanding the commissioner's order, the public authority continues to believe, for sound reasons, that the information should not be disclosed. Most regimes that we have surveyed have some sort of Executive override of one sort or another, and we propose to have one. In the Bill, new clause 6 and the other Government amendments, we propose that the decision in respect of any public authority, other than a local government authority, should be made by a Minister of the Crown.

That category of public authority would include central Government Departments, national health service trusts and police authorities, which are partly local authority and partly not. Any Executive override decision in respect of such bodies would have to be made by a Minister of the Crown; but, in respect of a local authority, it would be made by designated local councils or council committees. That designation would be made by order because the precise form of local government organisation is currently in a state of flux, and arrangements have to be provided that take that into account.

However, I have received representations to the effect that decisions in respect of the Executive override both by central Government and, separately, in respect of local government, would not be made at a high enough level. Where central Government is concerned, I accept the burden of the argument that has been put to me. Therefore, I propose--it will have to be done in the other place, but it will be done--that those parts of the amendments that speak of Ministers of the Crown will be replaced by a definition of a Cabinet Minister; the House will readily recall that such a definition is already, for quite separate reasons, set out in clause 23(3) of the published Bill. In future, such decisions will be made by a Cabinet Minister or the Attorney-General, rather than by any Minister of the Crown.

The second issue relates to collective responsibility. Ministers make two sorts of decisions. The vast range of decisions are made collectively and Ministers are collectively responsible for them in any event. However, some decisions are, by legal expectation and practice, made not collectively but in a quasi-judicial role; it happens that most of those decisions fall to be made individually by the Home Secretary of the day, but I make no claim as to the quality of the decision making. Each year, the Home Secretary has to make many decisions on, for example, setting tariffs for mandatory life sentence prisoners and their final release date, extradition matters, and other matters on which I could speak at length.

It is neither possible nor necessary to write into the Bill that the decisions made by a Cabinet Minister must be made only after consultation and agreement with all of his or her Cabinet colleagues--not least because some of the decisions are quasi-judicial. In practice, it would be an extremely unwise Cabinet Minister who chose to issue an exemption certificate amounting to a veto of a decision made by the commissioner to order disclosure without consulting his or her Cabinet colleagues. That might lead to that Cabinet Minister's speedy demise and the receipt of his or her P45 by return of post.

To reinforce those arrangements, I propose that there should be written into the ministerial code--which is a published document available in the Library of the House and, I believe, on the internet--guidance on how decisions relating to Executive exemption certificates should be made and the way in which other colleagues should be consulted, other than on quasi-judicial decisions. I hope that

> those two changes, one that will be written into the Bill and one that will be made public, are to the approbation of the House. [13]

He said that it was important that Executive override was taken only by elected officials, but due to changes in the system of running local authorities, it would be necessary to provide that the level at which the decisions will be made by councillors would be set out in secondary legislation.[14] He promised to consider whether local authorities should have the power of Executive override at all.[15] It has since been indicated that local authorities will not be covered by the override at all.[16]

Mr Straw was pressed to include within the Bill a reference to collective responsibility. In response to Giles Radice, he promised to reflect further on the feasibility of such a definition:[17] There has been no such amendment to the Bill. No text is publicly available on the proposed changes to the Ministerial Code.[18]

When the Bill came to the Lords in October and November, several government amendments were passed, which changed the structure of the Bill. In particular, old clause 13 became new clause 2, with significant redrafting, as follows:

- The amendments expressed more clearly the effect of exemptions in terms of public interest by distinguishing between those provisions which confer an absolute exemption (where no public interest test arises) and those still subject to the test. In particular old clause 34(6) which applied a certification procedure to protect policy advice within Parliament has been simplified in favour of a complete exemption from a separate public interest test. Aspects of clause 39 which related to data subjects' rights under the Data Protection Act 1998 will now be subject to the public interest test.[19]
- The term 'it appears to the public authority' has been removed from the public interest test. The Government minister, Lord Falconer of Thoroton, however denied that this had meant that the Commissioner had no more than a judicial review power to apply the test; he said: 'We say that the position has always been that the commissioner could substitute her own view for that of the authority.'[20]
- A new wording of the balancing test in applying considerations of public interest:

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13 HC Deb 4 April 2000 c918 and c921
14 c928
15 c929
16 Information from Home Office officials
17 c926
18 The Code is available from the Cabinet Office website at http://www.cabinet-office.gov.uk/central/1997/mcode/index.htm. See Library Research Paper 97/5 *The Accountability Debate: Codes of Guidance and Questions of Procedure for Ministers* for further background
19 HL Deb 17 October 2000 c902. See below p7 for further details on the data protection implications
20 HL Deb 17 October 2000 c907

'…in all the circumstances of the case, the public interest in disclosing the information outweighs the public interest in maintaining the exemption…'

Lord Falconer denied at committee stage that this raised burden of proof issues.[21] However, at Lords report a Liberal Democrat amendment was accepted which was designed to give greater precedence to public interest considerations. In introducing the amendment, Lord Lester of Herne Hill said: 'The burden of proof, as lawyers would say, is placed upon the public authority to show that there is some pressing need for non-disclosure and that the restriction on the public right of access is necessary in the sense of being a proportionate way of meeting that need'.[22] Others, such as the Campaign and Charter 88, have queried the importance of the amendments, noting that it simply improved the emphasis on disclosure in the position of a tie-break. Lord Falconer said that they would 'put beyond doubt the Government's resolve that information must be disclosed except where there is an overriding public interest in keeping specific information confidential.[23]The Campaign have pointed to comments by Lord Goodhart at committee stage on a similar amendment:

> "It is fair to say that I doubt whether, in practice, this will make an enormous difference. In most cases, it will be possible for whomever is adjudicating to come to a decision on whether one interest does in fact outweigh the other. But the fact that the statute calls for maintaining the exemption in cases of equality sends absolutely the wrong signal.'[24]

- The term in old clause 13(5), which related to clause 33 (policy advice) 'the public authority shall have regard to the public interest in communicating to the applicant factual information which has been used, or is intended to be used, to provide an informed background to decision-taking' was omitted when clause 2 was added to the Bill. However, Lord Falconer said that the omission was in error and that similar wording would be re-inserted at report stage.[25] Another Liberal Democrat amendment achieved this on report, as part of the bargain struck with the Government over the passage of the Bill.[26] Lord Falconer said that the amendment would 'shift the burden of proof...that factual information has to be disclosed unless there is a good reason not to do so'.[27] The amendment appears in clause 35.
- Amendments to impose a definite time limit by which public authorities would make a decision on the public interest test were unsuccessful, but a Liberal Democrat amendment agreed by the Government will now require a public authority to give an estimate of the time it will take to reach a decision under

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[21] HL Deb 17 October 2000 c903
[22] HL Deb 14 November 2000 c137
[23] HL Deb 14 November 2000 c143
[24] HL Deb 17 October 2000 c908
[25] HL Deb 17 October 2000 c901 and 915
[26] HL Deb 14 November 2000 c148
[27] HL Deb 14 November 2000 c156

clause 2.[28] Lord Bassam of Brighton said, for the Government, that failure to comply with the estimate would render the authority liable to a practice recommendation from the Commissioner under clause 47.[29] This amendment is to the text of clause 10.

The full text of new clause 2 is as follows:

2. - (1) Where any provision of Part II states that the duty to confirm or deny does not arise in relation to any information, the effect of the provision is that where either-
(a) the provision confers absolute exemption, or
(b) in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the public authority holds the information, section 1(1)(a) does not apply.
(2) In respect of any information which is exempt information by virtue of any provision of Part II, section 1(1)(b) does not apply if or to the extent that-
(a) the information is exempt information by virtue of a provision conferring absolute exemption, or
(b) in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
(3) For the purposes of this section, the following provisions of Part II (and no others) are to be regarded as conferring absolute exemption-
(a) section 21,
(b) section 23,
(c) section 32,
(d) section 34,
(e) section 36 so far as relating to information held by the House of Commons or the House of Lords,
(f) in section 40-
(i) subsection (1), and
(ii) subsection (2) so far as relating to cases where the first condition referred to in that subsection is satisfied by virtue of subsection (3)(a)(i) or (b) of that section,
(g) section 41, and
(h) section 44.

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[28] HL Deb 14 November 2000 c188

[29] HL Deb 14 November 2000 c190 A practice recommendation is issued under clause 48when the Commissioner considers that the public authority's practice does not conform with the codes of practice under clauses 45 and 46. See below under Part IV for details

B. Executive Override

This power has been commonly described as the ministerial veto. The power can be used only when the Commissioner has decided in favour of disclosure on public interest grounds; it is not available where a Commissioner has decided that the information is not covered by an exemption. Government amendments have limited the veto to information relating to government departments, the National Assembly for Wales and any public authority designated by order.[30] The order is subject to the affirmative resolution procedure and is likely to cover bodies such as police authorities, security and law enforcement bodies. Local authorities are not expected to be included within the definition.

In Lords committee, there were attempts to examine the possibility of a judicial review challenge against a veto. The reasons why the exemption would apply to all non absolute exemptions was also debated. In response, Lord Falconer said that the exercise of the veto would only occur after consultation within the Cabinet, although this could not be written into the Bill.[31] A minister would be required to inform the applicant of the reasons for the decision to use the veto, and would be accountable to Parliament for the decision.[32] Finally he said that the courts would need to develop procedures to examine decisions by ministers to use the veto. There were consequential amendments relating to the power of authorities to appeal against the Commissioner's decisions on public interest grounds.[33]

At Lords report, Opposition amendments to introduce a serious harm test to the exercise of the veto and to enhance parliamentary scrutiny were not accepted.[34] Lord Falconer said that a minister signing an exemption certificate would have to give public reasons for his decision and the Commissioner would report any shortcomings in the decision-making procedure to Parliament.[35]

C. Exemptions and Harm Tests[36]

Attempts in Lords committee to apply harm tests to exemptions such as security matters or to increase the harm test to substantial harm for certain exemptions were not

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30 HL Deb 25 October 2000 c443

31 HL Deb 25 October 2000 c441

32 The Campaign for Freedom of Information have argued that the level of parliamentary accountability envisaged will not be sufficient, since there is no requirement on a minister to make a report to Parliament when a veto is used. However, the veto will be communicated to the applicant and made public and so questions etc to ministers could be expected

33 HL Deb 25 October 2000 c445

34 HL Deb 14 November 2000 c258 There were similar debates on Lords third reading HL Deb 22 November 2000 c842

35 HL Deb 14 November 2000 c259

36 The term 'harm test' refers to the need to demonstrate some form of prejudice as a justification for withholding information under an exemption. Some exemptions do not have harm tests. See Research Paper 99/98, Part IV, C for further details

successful.[37] At Lords report stage, Government amendments were passed to include the Regulation of Investigatory Powers Tribunal within the scope of the security matters exemption.[38] The need for a separate exemption to deal with relations with devolved governments was queried, given the existence of policy advice exemptions, but there were no amendments in this area.[39] There were Government amendments in Lords committee to deal with the provisions of the *Armed Forces Discipline Act 2000*, to ensure that it was covered in clause 28 [now 30].[40] Attempts to amend the exemption for information provided in confidence were unsuccessful,[41] as were amendments concerning commercial interests.[42]

D. Investigations Exemption

The class exemption for investigations under clause 30 [previously clauses 28 and 29] was discussed again in Lords committee. Lord Falconer initially said that clause 29(2) did not give a blanket exemption as regards non-criminal investigations, but provided an exemption in respect of information provided in confidence. Lord Falconer qualified his comments on the following Lords committee day, where he noted that class exemptions also applied to investigations which might lead to a criminal prosecution under clause 29(1). He promised to reflect further on the issue.[43]

There was further debate at Lords report on the desirability of a harm test, but no amendments were passed. Lord Goodhart, for the Liberal Democrats, argued that this was unnecessary, since the clause was subject to a newly strengthened public interest test in clause 2.[44] Lord Falconer set out the Government interpretation of clause 29 [now 30]:[45]

> Clause 29(1), first, provides an exemption in respect of material held by an authority which is investigating whether a criminal offence has occurred. Secondly, it provides an exemption in respect of an authority which is conducting an investigation that might lead to a criminal prosecution, even though the purpose of the investigation may be broader. Thirdly, it covers a public authority which is in the course of investigating existing criminal proceedings.
> The purpose of the exemption, with which most people would agree, is that witnesses and people under investigation should not feel inhibited in relation to the material they provide. They should not feel that in addition to the risk of having to give evidence in court there may be an additional risk in relation to trial by press or whatever.

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37 HL Deb 19 October 2000 c1256
38 HL Deb 10 November 2000 c205
39 HL Deb 19 October 2000 c1276
40 HL Deb 24 October 2000 c273
41 HL Deb 25 October 2000 c415 and HL Deb 14 November 2000 c174
42 HL Deb 24 October 2000 c273
43 HL Deb 24 October 2000 c274
44 HL Deb 14 November 2000 c218
45 HL Deb 14 November 2000 c219

> However, Clause 29(1) is subject to Clause 2, the public interest test. If an authority comes within any of the subsections of Clause 29, which is not to disclose under Clause 2, as I have said and as a result of amendments advanced by the Liberal Democrats, there must be a good reason for not disclosing. The noble Lord, Lord Brennan, rightly identified the health-and-safety-at-work-type situation where, for example, the body was not necessarily considering prosecution but might prosecute if it found something. It would therefore be covered by Clause 29 and would receive information about standards of care and safety in every case.
>
> Jenny Bacon[the former director general of the Health and Safety Executive], balancing the public interest and disclosure in Clause 2 against any harm that may be done, is perfectly entitled under the provisions of the Bill as it is presently drafted to say that the public interest is plainly in favour of disclosure. But, as a result of the amendments tabled by the Liberal Democrats, it goes further than that. There must be a good reason for Jenny Bacon not to disclose the information. That good reason must be, for example, prejudicing an existing prosecution; deterring witnesses; or making it harder for them to obtain information subsequently in relation to investigations of important matters.

He also noted that the informer protection[46] under clause 30(2) went wider than criminal matters and covered other forms of investigation. The Campaign for Freedom of Information has noted in its briefing for Lords report stage that the exemption applies to all leading safety authorities, including the Railway Inspectorate, Nuclear Installations Inspectorate, Civil Aviation Authority, Maritime & Coastguard Agency, Environmental Health Officers, Drinking Water Inspectorate and even MAFF, which retains some prosecution functions in relation to BSE.[47] The briefing continued:

> The danger of this exemption is that it would protect evidence of hazards which safety authorities observe, but fail to act on. Complacent authorities would be shielded from scrutiny. The Health & Safety Executive's former director general, Jenny Bacon, has said her agency did not require this exemption, and that "a prejudice tested exemption would provide sufficient protection".

E. Clauses 35 and 36: Policy Advice and Formulation of Government Policy

In the Commons, the Government was pressed to remove factual information from the scope of these exemptions and to reconsider the whole scope of the exemptions. There were Government amendments to clause 13 [now clause 2] designed to strengthen the importance of the public interest test, but critics commented that this did nothing to diminish the wide-ranging nature of the exemptions. In response, Mr Straw said that clause 13 would ensure that there was a significant route for the release of factual and

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[46] That is, the protection afforded to those proffering information to investigations

[47] *FOI Report stage briefing* available from www.cfoi.org.uk website

background information.[48] He emphasised the difficulties of defining factual information, but was challenged by critics who considered that New Zealand, Ireland and other states had devised satisfactory drafting in this area.[49]

Further amendments promoted by the Liberal Democrats enabled discussion on the issue of the drafting of clause 34 [now 36] where information was considered exempt 'in the reasonable opinion of a qualified person'. Critics argued that the reasonableness of decisions in this area could only be challenged under judicial review criteria by the Information Commissioner.[50] There were no Government amendments in this area in the Commons; in the Lords committee the phrase was removed in relation to the release of statistical information.[51] There was also another Government amendment to clause 35 on statistical information which ensured that it would not be regarded as relating to government policy or ministerial communications, once a decision had been taken on the overall policy.[52]Lord Falconer continued to resist amendments to restrict the scope of the exemptions in Lords committee.[53] There were no amendments on Lords third reading.[54]

On report, Lord Goodhart argued that the clause was subject to the public interest test in clause 2, and therefore that the Commissioner would be able to exercise her powers to weigh up the prejudice considered to have been caused against the public interest in disclosure.[55] Lord Falconer said that the Information Commissioner would not be able to interfere in the exercise of the decision by the qualified person other than on judicial review grounds, but that under clause 2 the Commissioner would be able to substitute her view for that of the public authority in balancing the exemption and the public interest in disclosure.[56] Liberal Democrat amendments on report had reinserted the requirement that public authorities were to have regard to the public interest in the disclosure of factual information. Lord Goodhart argued that the effect of the new public interest clause was to insert a harm test into the operation of these clauses.[57]

At Lords third reading the issue of scientific data was discussed, and the issue of public interest test versus harm test was debated, but no amendments resulted.[58] Lord Archer of Sandwell expressed concern that the public interest test might exclude from the right to disclosure information, the disclosure of which would cause no specific harm, because there was a public interest in maintaining the principle of exemption.[59]

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48 HC Deb 5 April 2000 c1021
49 HC Deb 5 April 2000 c1027
50 HC Deb 5 April 2000 c1079
51 HL Deb 24 October 2000 c305
52 HL Deb 24 October 2000 c287
53 HL Deb 24 October 2000 c282
54 HL Deb 22 November 2000 c833
55 HL Deb 14 November 2000 c234
56 HL Deb 14 November 2000 c240
57 HL Deb 14 November 2000 c227
58 HL Deb 22 November 2000 c820-
59 HL Deb 22 November 2000 c823

F. Honours

At Lords committee, there was a Government amendment to reduce the duration of the honours exemption to 60 years.[60] Under the previous Government's 1993 white paper *Open Government* a guideline of 75 years had been set for the release of information about honours, and this limit had been adopted when the Bill was originally been drafted.

G. Data Protection

Under Clause 40, certain personal data is exempt from the FOI regime. This is an absolute exemption: the public interest test does not apply. Therefore, if someone requests personal data about themselves this is treated instead as a "subject access request" under the *Data Protection Act 1998*.[61] This aspect of the FOI/data protection interface should be relatively unproblematic: an individual has extensive rights to see information about themselves under the 1998 Act, so the FOI exemption should not present a barrier to obtaining such data.[62]

If someone requests information which includes personal data about a third party, on the other hand, Clause 40 (2) to (6) provides that this can only be disclosed under the FOI regime in certain circumstances. There is no general provision under the 1998 Act to make a request to see data about a third party, so an applicant may find that they cannot see the information in question under either regime. Third party personal data are exempt from the FOI regime, and therefore cannot be disclosed, if one or more of three conditions apply:

1. the disclosure would breach one of the 1998 Act data protection principles, whether or not they actually apply to this kind of information;[63]
2. the information falls into one of the categories in part IV of the 1998 Act under which it would be exempt if a subject access request were being made; or
3. the third party has used their right under section 10 of the 1998 Act to require the data controller to stop processing their personal data on the ground that this is causing unwarranted damage or distress.[64]

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60 HL Deb 24 October 2000 c313

61 Part VII of the Bill extends the types of data held by public authorities which are covered by the 1998 Act.

62 The rights of the individual under the 1998 Act are less strong, however, in relation to personal data held in policy files (Clause 69). Here, the individual will have to describe the data in question in order to make a valid subject access request.

63 Only the fourth data protection principle and part of the sixth data protection principle will apply to personal data held on paper in policy files, for example. When deciding whether the disclosure would breach a data protection principle, this is to be disregarded and the decision made as if all the data protection principles applied.

Where condition 2 applies, the exemption is absolute, but where conditions 1 or 3 apply, the public interest test in Clause 2 comes into play, so the information must be disclosed where the public interest in disclosing the information outweighs the public interest in maintaining the exemption.

The Data Protection Commissioner, Elizabeth France,[65] and the Public Administration Committee expressed misgivings about the "daunting" complexity of the data protection/freedom of information interface as set out in the draft FOI Bill.[66] Those provisions are reproduced in similar form in the current version of the Bill. The Commissioner also called for a distinction to be made between information concerning the public and private lives of officials:

> It would be possible to make [a] distinction between an official's public activities ie between personal information relating to an official in the course of his duties, and his private life, ie that relating to him as a private individual. Drawing this distinction would permit different approaches towards disclosure of information related to public activities which might be disclosable, or to private life which should usually receive the same protection afforded to individuals not in the public service. This would extend the quantity of personal information potentially available to third parties.[67]

The Government argued that making such a distinction would not be possible under the EU Data Protection Directive[68], but it welcomed the Commissioner's intention of issuing guidance on this subject when the Bill became law.[69]

In standing committee government amendments were passed to clarify that the duty to consider releasing information on public interest grounds does not arise when the disclosure would contravene data protection principles. The interface between data protection and freedom of information was raised again on report and Mike O'Brien promised to consider the question.[70]

In Lords committee Government amendments were passed to include certain aspects of clause 39 within the public interest test now set out in clause 2. Lord Falconer said [71]

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64 This right will not be available in respect of certain data, such as personal data held on paper in policy files

65 Formerly the Data Protection Registrar

66 For details see Research Paper 99/99, *The Freedom of Information Bill: Data Protection Issues*, 3.12.99

67 Public Administration Committee, *Minutes of Evidence for Tuesday 22 June 1999*, HC 570-II of 1998-99, memorandum 2, p19, para 4.5

68 Directive 95/46EC, which the *Data Protection Act 1998* implements in the UK

69 *Government Response to the Third Report from the Select Committee on Public Administration (Session 1998-99) on the Freedom of Information Draft Bill*, Fifth Special Report, HC 831 of 1998-99, October 1999, Appendix

70 HC Deb Vol 347, 5.4.00, c989

71 HL Deb 17 October 2000 c903

> The disclosure to which the data subject objects under Section 10 of the [Data Protection] 1998 Act, will nonetheless be made, where it is required in the public interest, provided that making it would not breach the data protection principles. So what one has now is that even though there is a Section 10 Notice saying that substantial distress or damage would be caused by disclosure, that does not any longer automatically mean no disclosure. The public authority has to balance that against the public interest in disclosure. So it is a step towards greater openness. Of course, the public authority's decision under the public interest test clause will be reviewable by the information commissioner. If she concludes that the information should be disclosed in the public interest, her decision is enforceable, subject to the provisions of Clause 52.

The Government successfully resisted amendments to exempt the Information Commissioner from a statutory prohibition on the disclosure of certain information under data protection legislation, promising an amendment in the Lords to allow information to be shared between the Commissioner and other regulatory investigatory bodies.[72] See section under Information Commissioner below for further details.

In Lords committee Lord Falconer noted in response to a query as to whether policy papers including the names of officials would be considered personal data:[73]

> In principle, they could be personal data, but the question then becomes: would the data protection principles apply to prevent disclosure? If they did not prevent disclosure, then they could be disclosed. If they did prevent disclosure, it would still be possible to delete the name of the individual concerned and make disclosure of the rest of the document.

The operation of the Human Rights Act in relation to data protection rights was explored in Lords committee,[74] as well as the question of patients' rights to access health records.[75]

In response to queries at Lords report, Lord Bassam of Brighton noted that the draft code of practice contained advice on consultation with third parties where there was an issue of personal privacy.[76] The relevant part of the code is reproduced below:

> **Consultation with Third Parties**
> 19. In some cases the disclosure of information pursuant to a request will affect the existing legal rights of a third party such as the right to have certain information treated in confidence or the right to personal privacy. Where the consent of the third party would enable a disclosure to be made an authority

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72 HC Deb 5.4.00, op cit, c1052
73 HL Deb 17 October 2000
74 HL Deb 25 October 2000
75 HL Deb 25 October 2000 c459
76 HL Deb 17 October 2000 c990 and HL Deb 14 November 2000 c247

> should consult that party prior to reaching a decision, unless it is clear to the authority that the consent would not be forthcoming.
>
> 20. Where the interests of the third party which may be affected by a disclosure do not give rise to legal rights, the public authority should consider whether it should consult the third party. Consultation may be unnecessary where: the public authority does not intend to disclose the information relying on some other legitimate ground; the views of the third party can have no effect on the decision of the authority, due to other legislation preventing the disclosure of this information, for instance; or the cost of consulting with third parties would be disproportionate.
>
> 21. Consultation should take place where: the views of the third party may assist the authority to determine whether information is exempt from disclosure under the Act; or the views of the third party may assist the authority to determine whether to exercise its discretion to disclose information in the public interest under section 13 of the Act.
>
> 22. Where the interests of many parties may be affected by a disclosure (but not their legal rights) and those parties have a representative organisation which can express views on behalf of those parties, the authority may, if it considers consultation appropriate, consider that it would be sufficient to consult a representative organisation or a representative sample of the third parties in question.
>
> 23. An authority cannot fail to comply with its duty to disclose information under the Act, or its duty to reply within the time specified in the Act, on the grounds that the third party has not responded to consultation.[77]

Under Clause 79 of the Bill, any defamatory information disclosed under FOI which was supplied to the public authority by a third person, is privileged unless the disclosure is shown to have been made with malice.

H. Power to add exemptions by order

This power was not amended in the Commons committee stages, despite considerable criticism from the Campaign and others, but there was a Government amendment on report which required the Secretary of State to publish any written representations to him by the Information Commissioner before laying an order to add an exemption.[78] The power to add exemptions was removed entirely in Lords committee.[79]

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[77] Draft Code of Practice On the Discharge of the Functions of Public Authorities Under Part I of the Freedom of Information Act 2000, Home Office, March 2000, Dep 00/630, available at: www.homeoffice.gov.uk/foi/dftcp00.htm

[78] HC Deb 4 April 2000 c871

[79] HL Deb 17 October 2000 c903

I. Parliamentary Privilege and application of FOI to Parliament

There were Government amendments in standing committee to remove the applicability of clause 13 [now clause2] to clause 32 {parliamentary privilege exemption], so that decisions relating to parliamentary privilege are not subject to the public interest test. There was no debate in committee or report about the question of advice for the Speaker or the Clerk of the Parliaments, who will be the officials who will certificate under this exemption. Mr O'Brien suggested that the public interest should be taken into account by Parliament in making decisions on disclosure, given that a separate test under clause 13[now clause 2] would no longer apply. [80]

The parliamentary privilege exemption was made absolute in changes at Lords committee stage, as was the effective conduct of public affairs exemption [clause36], so that the public interest test can be applied to neither. Certificates are served by either the Speaker or the Clerk of the Parliaments as conclusive evidence for the privilege amendment. A certificate however could be challenged on judicial review grounds on the prejudice to effective conduct of public affairs exemption, since the decision to certify relates to the 'reasonable opinion' of the relevant officer. Decisions relating to other types of non-absolute exemptions are subject to the public interest test and are reviewable by the Commissioner.

J. Parliamentary Questions

In response to queries about the interaction between the FOI regime and answers to parliamentary questions, the minister, Lord Falconer, said that the terms of the [FOI] Act did not deal with the relations between an MP and a minister who was being questioned.[81] The ministerial responsibility resolution passed on 19 March 1997 in the Commons states:

> 3. Ministers should be as open as possible with Parliament, refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with relevant statute and the Government's Code of Practice on Access to Government Information; [82]

This wording has also been incorporated into paragraph one of the Ministerial Code, published in May 1997. Presumably the resolution will need some amendment in the light of the new statutory FOI regime.

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[80] SC Deb 18 January 2000 c45

[81] HL Deb 19 October 2000 c1270

[82] For further information see PCC briefing note on the ministerial responsibility resolution and Library Research Papers 97/4 and 97/5

K. Duty to Assist

There were government amendments on Commons report to clarify the role of public authorities in assisting applicants, but these did not extend to a general duty to assist..[83] A number of amendments were tabled in Lords committee to create such a duty but were withdrawn after debate.[84] A Liberal Democrat amendment was accepted by the Government amendment on report which added a duty on public authorities to provide assistance as well as advice. This would become a statutory duty, which could be discharged by compliance with the code of practice issued under clause 45 of the Bill.[85]

L. Information which is reasonably accessible

There were government amendments to clause 19 on Commons report to clarify that information meets the reasonably accessible test only if the information is reasonably accessible to the person seeking it.[86] In response to questions at Lords committee stage about the accessibility of data in electronic form, Lord Falconer emphasised that the Commissioner would have to decide whether denial of information in electronic form meant that it was not reasonably accessible.[87] At present the Bill allows applicants to express a preference for the type of form in which to receive the information, but the Government resisted amendments to allow the applicant to specify the form.[88]

M. Information Commissioner

The Opposition spoke to amendments in the Commons to create a separate information ombudsman and parliamentary information committee, arguing that there needed to be clearer parliamentary accountability in the arrangements, and that the position of Information Commissioner and Data Protection Commissioner should not be held by the same individual.[89] These arguments were repeated in Lords committee stage,[90] but were not accepted by the Government. The ability of the Commissioner to share information was also discussed, but the Government was not prepared to delete the application of s59 of the Data Protection Act to the Commissioner's FOI role. Government amendments will however enable her to share information with certain investigatory bodies.[91] There was an amendment in Lords committee to allow her to share information with specified public sector ombudsmen.[92]

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83 HC Deb 4 April 2000 c856
84 HL Deb 17 October 2000 c942-7
85 HL Deb 10 November 2000 c194
86 HC Deb 5 April 2000 c1035
87 HL Deb 17 October 2000 c925 This matter was also debated at Lords third reading HL Deb 22 November 2000 c818
88 HL Deb 17 October 2000 c1007
89 HL Deb 17 October 2000 c1039
90 HL Deb 19 October 2000 c1210
91 HL Deb 19 October 2000 c1225
92 HL Deb 25 October 2000 c468

N. Application of FOI in Northern Ireland and Wales[93]

In standing committee Mike O'Brien noted that the Bill covered all Northern Ireland public authorities, as at the time of drafting no devolved government operated there. However, freedom of information was a devolved subject in the province and it was for the devolved administration there to consider whether authorities dealing with wholly devolved matters should be subject to UK legislation or to legislation specific to Northern Ireland.[94] These comments were made before the return to direct rule in February 2000, but became applicable with the restoration of devolution in May.

In October there was a series of Government amendments. On the request of the First Secretary of the National Assembly for Wales, the Assembly is no longer subsumed within the definition of government department and there were consequential amendments.

For Northern Ireland, there were technical amendments to ensure that FOI could be applied consistently. With the agreement of the Northern Ireland Assembly and Executive, the Bill's provisions will apply there. It will be within the power of the Assembly to establish a separate FOI scheme at a future date.

O. Bodies covered by the Bill

In Lords committee Government amendments made some minor changes to the public authorities included within the scope of the Bill.[95] The Secretary of State has order making powers to amend the list in Schedule 1. Further minor amendments were made at Lords report stage.[96]

P. Public Records

In Lords committee, Government amendments inserted a new clause to deal with the relationship between the Public Record Office and originating departments that handle requests under the Bill.[97]This replaced original clause 65. The Lord Chancellor's draft code of practice on records management was placed in the Library on 14 July 2000.[98]

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93 The Scottish Executive is developing its own proposals. See the Scottish Parliament Information Centre's Research Paper 00/19 *Freedom of Information in Scotland* for further details at http://www.scottish.parliament.uk/whats_happening/research/pdf_res_papers/rp00-19.pdf. There is a briefing on the Scottish proposals from the Campaign website www.cfoi.org.uk

94 SC Deb 11 January 2000 c9

95 HL Deb 17 October 2000 c947

96 HL Deb 14 November 2000 c180

97 HL Deb 17 October 2000 c1017

98 HL Deb 20 July 2000 c104WA

Q. EU Documentation and Environmental Access Regulation

The interaction of the draft EU public access regulations with the FOI regime was discussed in Lords committee.[99] There was further discussion of the regulations under clause 73, which will implement the environmental access regulations required under an EU directive. Even if information need not be disclosed under the regulation, the public interest test will apply. A consultation paper on the revised public access arrangement has been placed in the Library.[100]

IV Implementation

A draft Code of Practice was issued by the Home Office on 4 April 2000, as required under clause 45.[101] The Code is intended as general guidance to public authorities on the discharge of their duties under FOI legislation. The main principles were set out as follows:[102]

> The main features of the Freedom of Information Act 2000 are:
> i. a general right of access to information held by public authorities, subject to certain conditions and exemptions;
> ii. a requirement placed on public authorities to consider the exercise of any discretion that they may have to disclose information, notwithstanding that an exemption applies to the information, having regard to all the circumstances of the case, and the desirability of:
> a. informing the applicant whether it holds information, and
> b. communicating information to him, wherever the public interest in disclosure outweighs the public interest in maintaining the exemption in question;
> iii. a duty on every public authority to adopt and maintain a scheme which relates to the publication of information by the authority and is approved by the Information Commissioner and to publish information in accordance with the scheme. An authority may adopt a model scheme which may have been prepared by the Commissioner, or others;
> iv. a new office of Information Commissioner with wide powers to enforce the rights created and to promote good practice and a new Information Tribunal;
> v. a duty on the Secretary of State and the Lord Chancellor to promulgate Codes of Practice for guidance on specific issues.

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99 HL Deb 19 October 2000 c1272 See Lords European Communities Select Committee report on the regulations. Sixteenth report 1999-2000

100 HL Deb 25 October 2000 c408 Dep 00/1504

101 Dep 00/630

102 The text was written in April 2000, before later changes to the public interest test, detailed above

The draft is available from the Home Office website.[103] A separate draft Code of Practice on public records and records management was issued in July, available on the Public Records Office website.[104]

Each public authority is given a duty to adopt and maintain a publication scheme, to be approved by the Commissioner. These schemes are intended to be guides to an authority's publications and policy. A school, for example, would indicate what policy documents it held.

Publication schemes by authorities may be approved from royal assent, under clause 17, and the Commissioner may issue model schemes, but public authorities will not be under a duty to prepare them after that date.

An implementation timetable is being prepared by the Home Office. Government departments and Non Departmental Public Bodies currently within the jurisdiction of the Code of Practice on Access to Government Information will be in the first tranche of public authorities to be included within the scope of FOI. Currently this is planned for April 2002, followed by local authorities and other public bodies at six month intervals thereafter.

The Commissioner has a major role to play in issuing guidance on the operation of the legislation and making good practice recommendations in clause 46 of the Bill. The Data Protection Commissioner is renamed the Information Commissioner two months after royal assent.[105]

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[103] http://www.homeoffice.gov.uk/foi/dftcp00.htm

[104] Dep 00/1207 http://www.pro.gov.uk/recordsmanagement/FreedomofInformationdefault.htm

[105] The relevant website is http://www.dataprotection.gov.uk/

Appendix The Bill's Passage through Parliament[106]

FREEDOM OF INFORMATION BILL 1999/2000

18.11.99 339 c124	Presentation and first reading (Bill 5 1999/2000).
18.11.99 Bill 5 1999/2000	(Explanatory Note Bill 5-EN published).
30.11.99 HC 78 1999/2000	Public Administration Select Committee first report with minutes of proceedings.
03.12.99 HC Research Paper 99/98	House of Commons Library Research Paper 99/98.
03.12.99 HC Research Paper 99/99	House of Commons Library Research Paper 99/99.
07.12.99 340 c714-98	Amendment negatived on division (377 to 138). Main question agreed to on question. Motion that the Bill be committed to a Committee of the Whole House negatived on division (327 to 178). Committed to a standing committee. Money resolution agreed to on question.
21.12.99 SCB	Committee stage first sitting. Sittings motion agreed to.
11.01.00 SCB	Committee stage second sitting (morning). Order of consideration agreed to. Clause 1 under consideration. New clauses considered.
11.01.00 SCB	Committee stage third sitting (afternoon). Clause 1 to 7 agreed to. Schedule 1 agreed to.
18.01.00 SCB	Committee stage fourth sitting (morning). Clauses 8 to 10 agreed to. Clause 11 under consideration.
18.01.00 SCB	Committee stage fifth sitting (afternoon). Clauses 11 to 13 agreed to, clause 13 as amended.
20.01.00 SCB	Committee stage sixth sitting (Part I). Clauses 14 to 16 agreed to. Schedule 2 agreed to. Clause 17 under consideration.
20.01.00 SCB	Committee stage sixth sitting (Part II). Clauses 17 to 23 agreed to.
25.01.00 SCB	Committee stage seventh sitting (morning). Clauses 24 and 25 agreed to. Clause 26 under consideration.

[106] compiled from POLIS Bill History

25.01.00	SCB	Committee stage eighth sitting (afternoon). Clauses 26 and 32 agreed to.
27.01.00	SCB	Committee stage ninth sitting (afternoon) (Part I). Clause 33 agreed to. Clause 34 under consideration.
27.01.00	SCB	Committee stage ninth sitting (afternoon) (Part II). Clauses 34 to 37 agreed to. Clause 38 under consideration.
01.02.00	SCB	Committee stage tenth sitting (morning). Clauses 38 to 40 agreed to, clause 38 as amended. Clause 41 under consideration.
01.02.00	SCB	Committee stage eleventh sitting (afternoon). Clauses 41 to 47 agreed to.
01.02.00	HL 25 1999/2000	Procedure Select Committee (HL) first report.
08.02.00	SCB	Committee stage twelfth sitting (morning). Clauses 48 and 49 agreed to. Clause 50 under consideration.
08.02.00	SCB	Committee stage thirteenth sitting (afternoon). Clauses 50 to 72 agreed to. Schedules 3 to 6 agreed to.
10.02.00	SCB	Committee stage fourteenth sitting. Clauses 73 to 86 agreed to. Schedule 7 agreed to. New clauses considered. Bill as amended to be reported (Bill 66 1999/2000).
10.02.00	HC 252 1999/2000	Minutes of proceedings.
10.02.00	Bill 66 1999/2000	As amended in Committee.
13.03.00	610 c1287-90	Agreed to on question. (Text printed in official report).
04.04.00	347 c830-935	Report stage first day. Adjourned.
05.04.00	347 c981-1123	Report stage second day. Concluded. Third reading debate. Agreed to on question. Passed with amendments.
06.04.00	611 c1490	Brought from the Commons. Lords first reading. (HL Bill 55 1999/2000).
06.04.00	HL Bill 55 1999/2000	Brought from the Commons. (Explanatory note HL Bill 55-EN published).(Corrigendum issued).
20.04.00	612 c823-93	Lords second reading debate. Agreed to on question. Committed to a Committee of the whole House.
03.05.00	HL 60 1999/2000	Delegated Powers and Deregulation Select Committee (HL) fourteenth report on the Freedom of Information Bill.
28.09.00	616 c959-60	Lords motion standing in name of Lord Falconer of Thoroton on instruction to Committee of the Whole House on order of clauses to be taken. Agreed to on question (formal).

17.10.00 617 c883-954,971-1020	Lords debate on motion that House resolve itself into committee, agreed to on question. Committee stage first day. Clause 1 to 12 agreed to, some as amended. Schedule 1 agreed to, as amended. New clauses considered.
19.10.00 617 c1208-300	Lords committee stage second day. Clauses 13 and 14 negatived. Clauses 15 to 27 agreed to, no 15 as amended. Schedule 2 agreed to. New clauses considered.
24.10.00 618 c273-314	Lords committee stage third day. Clauses 28 to 35 agreed to, some as amended.
25.10.00 618 c407-76	Lords committee stage four day. Clauses 36 to 42 agreed to. Clause 43 negatived. Clauses 44 to 64 agreed to some as amended. Clause 65 negatived. Clauses 66 to 85 agreed to some as amended. Schedules 3 to 6 agreed to No 6 as amended. New clauses considered. Bill reported with amendments (HL Bill 120 of 1999/2000).
25.10.00 HL Bill 120 1999/2000	As amended in Committee (HL).
31.10.00 618 c791-2	Lords motion standing in the name of Lord Falconer of Thoroton on order in which amendments for Report Stage be marshalled and considered. Agreed to on question (formal).
14.11.00 619 c134-58,173-	Lords report stage (HL Bill 129 of 1999/2000).
14.11.00 HL Bill 129 266 1999/2000	As amended on Report (HL).
22.11.00 vol 619 c817-851	Lords Third Reading