



10 DOWNING STREET
LONDON SW1A 2AA
020 7930 4433

From the Private Secretary

10 February 2006

Dear Mr Cookson

Thank you for your e-mail of 15 January “requesting a copy of the report written by the Prime Minister’s former special advisor Lord Birt which considers the future of nuclear power in the UK”. Your request has been handled under the Freedom of Information Act.

I can neither confirm nor deny whether the Cabinet Office holds information relevant to your request.

Section 35(3) of the Act provides that the duty to confirm or deny does not arise in respect of information which is or would be exempt under section 35(1)(a) (whether recorded or not), if the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether or not the Cabinet Office holds the information. This should not be taken as confirmation either that such information exists or does not exist.

Ministers, including the Prime Minister, should be able to commission advice either from their advisers in confidence, and without concern that the subject or timing of advice sought from one particular adviser is disclosable. Disclosure of such information would inhibit the commissioning and provision of free and frank advice; this would be detrimental to the public interest.

I attach at Annex A the exemption in full.

Yours sincerely

NIKHIL RATHI

Mr Rich Cookson

Annex A

35 – Formulation of government policy

(1) Information held by a government department or by the National Assembly for Wales is exempt information if it relates to -

- (a) the formulation or development of government policy
- (b) Ministerial communications,
- (c) the provision of advice by any of the Law Officers or any request for the provision of such advice, or
- (d) the operation of any Ministerial private office

(2) Once a decision as to government policy has been taken, any statistical information used to provide an informed background to the taking of the decision is not to be regarded-

- (a) for the purposes of subsection (1)(a), as relating to the formulation or development of government policy, or
- (b) for the purposes of subsection (1)(b), as relating to Ministerial communications

(3) The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1)

(4) In making any determination required by section 2(1)(b) or (2)(b) in relation to information which is exempt information by virtue of subsection (1)(a), 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.

(5) In this section-

"government policy" includes the policy of the Executive Committee of the Northern Ireland Assembly and the policy of the National Assembly for Wales;

"the Law Officers" means the Attorney General, the Solicitor General, the Advocate General for Scotland, the Lord Advocate, the Solicitor General for Scotland and the Attorney General for Northern Ireland;

"Ministerial communications" means any communications-

- (a) between Ministers of the Crown

(b) between Northern Ireland Ministers, including Northern Ireland junior Ministers, or

(c) between Assembly Secretaries, including the Assembly First Secretary and includes, in particular, proceedings of the Cabinet or of any committee of the Cabinet, proceedings of the Executive Committee of the Northern Ireland Assembly, and proceedings of the executive committee of the National Assembly for Wales;

"Ministerial private office" means any part of a government department which provides personal administrative support to a Minister of the Crown, to a Northern Ireland Minister or a Northern Ireland junior Minister or any part of the administration of the National Assembly for Wales providing personal administrative support to the Assembly First Secretary or an Assembly Secretary

"Northern Ireland junior Minister" means a member of the Northern Ireland Assembly appointed as a junior Minister under section 19 of the Northern Ireland Act 1998.



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If you are unhappy with the level of service you have received from this office in relation to your request, you may ask for an internal review.

You should contact the Managing Director:

Colin Balmer
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Cabinet Office
70 Whitehall
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colin.balmer@cabinet-office.x.gsi.gov.uk

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner's Office for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF