

Access to Public Information Response

September 8th 2018

REQUEST UNDER THE CODE OF PRACTICE FOR ACCESS TO PUBLIC INFORMATION

Request sent on September 8th 2018:

Recently a UK Tribunal judgement was reached in respect of disclosure of disputed documents involving the Crown Dependencies.

The case record for this is EA/2017/0281 and the Home Office have requested leave to appeal against this judgement.

A letter signed by three Crown Dependencies' Civil Servants dated 31st August 2018 is a key part of this appeal.

Could you please state who initiated the idea of this letter with relevant dates?

Was it an official from one of the UK government departments or was it a Guernsey, Jersey or Isle of Man Civil Servant or Crown Officer?

Who composed the bulk of this letter and who else, if anyone, contributed to the writing of this letter?

Did all those signing the letter play a part in writing it?

Did any local politician suggest the writing of the letter, and if so, who?

Who authorised the putting together and participation in the joint letter?

Who authorised the sending of the letter?

Which local politician/s, if any, saw and authorised the letter to be sent out?

Was the issue of sending out a letter ever discussed and approved by any senior local politicians?

Was there any political contact on the subject of this letter by the senior responsible politicians of the respective Crown Dependencies?

In respect of all of the above, please disclose all records of all forms of communications on the subject.

In respect of the letter itself, why was it signed by three Civil Servants rather than three politicians? This was this was an intensely political letter.

Why did it use such threatening language in respect of the relationship/communications with the UK?

This was a letter effectively representing the States of Guernsey, and as such was an embarrassment.

Why did the letter state untruths such as being unaware of the Tribunal until its decisions were announced?

Why did the letter give the impression that the Crown Dependencies are foreign governments, when they are clearly not?

The Crown Dependencies do have a great deal of autonomy but they are definitely British and to insinuate otherwise is very misleading.

Do not those responsible for the letter accept that Crown Dependencies' citizens are British citizens and that ultimately the UK Parliament can, and has, legislated on Crown Dependencies' matters, or do they want to pretend otherwise? The British Islands are a UK Parliamentary legal entity.

The Crown Dependencies are clearly not like local authorities constitutionally, but in terms of terms of powers very similar to those of the Scottish government.

Why did the letter use the smokescreen of constitutional issues to attempt to justify keeping secret documents which an independent Tribunal had unanimously decided should be made public?

This is not a constitutional issue, it is an openness and transparency one.

Why do those behind the writing of the letter want to keep documents hidden from the public?

The Tribunal has seen the documents. There are no security issues at stake.

Why do those behind the letter writing want to have secrecy for secrecy's sake, and not for any reason other than to serve the interests of government behind closed doors?

Did those behind the letter not consider that acting to prevent disclosure would undermine confidence in having an open government system?

Did they also consider the reputational damage which could be caused to the Crown Dependencies, giving the impression that they are secretive governments?

With all the pressures for the Crown Dependencies to further improve the conduct of their financial services sectors, did they do see that their secretive attitude could cause reputational harm?

Will there be a swift decision to either withdraw from this letter and inform the other parties accordingly, or to put this letter to the politicians for authorisation?

Will there also be a decision for the UK government and the Tribunal to be informed, that notwithstanding the decision of the UK Tribunal for the disclosure of the documents, that there is no longer any objection to their disclosure and there is respect and consent for this decision?

Finally, did not those behind the letter consider that in this late objection to the disclosure, that they were not just preventing non-disclosure to their own citizens, but those in the other Crown Dependencies and the UK as well?

Have those behind the letter decided that their own self- interest is more important than the public interest? And remember that the Tribunal ruled that it was in the public interest for disclosure.

States of Guernsey response sent on October 1st 2018:

Further to your request made under the Code of Practice on Access to Public Information, please see the below response from Policy & Resources.

The question of an appeal in this matter is one for the Home Office. Officials from the Office of the Policy & Resources Committee were consulted on the outcome of the tribunal and asked to provide their comments. The views expressed by officials on behalf of the States reflect current practice in handling communications between our Governments. These comments were supported by the Policy & Resources Committee.

In light of the ongoing legal proceedings in respect of this matter, we are unable to comment further at this stage.

Request sent on September 28th 2018:

Further to my previous email, I have the following new access to information request:

In your brief response earlier, it was said that the comments (in the letter) were supported by the Policy and Resources Committee.

On which date did this take place, and was there a properly constituted meeting, and if so, who attended, was there a vote taken, and if so, who voted to support the contents of the letter ?

Was there any discussion about the issue of civil servants sending off important policy letters without political authority?

Was there discussion about the implications of involving the States of Guernsey in legal processes to prevent the people of Guernsey having access to the disputed information.

Did anyone excuse themselves or was anyone asked to be excused from the meeting/discussion process (both public servants and politicians) because they had a conflict of interest?(In other words that they had an involvement in the work and decision making regarding the Syrian refugee decision making process).

States of Guernsey Response October 16th 2018:

Further to your request below, made on the Code of Practice on Access to Public Information, please see below for a response from Policy & Resources.

As stated previously, the letter was supported by the Policy & Resources Committee, as such officers had political support. We remain unable to discuss any further details at this stage due to the ongoing legal proceedings in respect of this matter.