



**Upper Tribunal (Administrative Appeals Chamber)**

Appeal Number: GI/2146/20101; Neutral Citation Number [2012] UKUT 313 (AAC)

Comprising 7 transfers by the First-tier Tribunal of appeals from  
decision notices issued by the Information Commissioner (see Open Annex 1)

INFORMATION RIGHTS:

OPEN ANNEX 2:

Chronology to accompany the  
Decision and reasons of the Upper Tribunal, 18 September 2012  
and Open Annexes 1 and 3

Before  
Mr Justice Walker  
Upper Tribunal Judge John Angel  
Ms Suzanne Cosgrave

Between  
Rob Evans (Appellant)  
-and-  
Information Commissioner (Respondent)  
Concerning correspondence with Prince Charles in 2004 and 2005

Additional Parties:

- (1) Department for Business, Innovation and Skills,
- (2) Department of Health
- (3) Department for Children, Schools and Families
- (4) Department for Environment, Food and Rural Affairs
- (5) Department for Culture, Media and Sport
- (6) Northern Ireland Office
- (7) Cabinet Office

Upper Tribunal (AAC):  
*Evans v Information Commissioner (Correspondence with Prince Charles in 2004 and 2005)*

## Open Annex 2: Chronology to accompany the Decision and reasons dated 18 September 2012 and Open Annexes 1 and 3.

### [OA2] Introductory

[OA2] 1. None of the parties prepared a chronology for the hearing. In the course of considering our judgment we concluded that a chronology would give us a better oversight of the evidence before us, and that we should prepare one. The chronology below has been prepared after considering comments provided by the parties on a draft. With minor exceptions (for example, the date on which Prince Charles turned 18 and became a Counsellor of State) it is confined to matters which were put in evidence at the hearing.

[OA2] 2. Our main judgment discusses submissions about the reference date – the date to be used as a reference point when determining whether a public authority has complied with its obligations in respect of an information request. As we explain there, Mr Evans contended that the assessment of the test for disclosure, including the public interest balance, should be approached by reference to the position as at a particular date for each Department, namely 40 days after Mr Evans requested an internal review. The dates thus arrived at would be 30 June 2005 for NIO, 29 July 2005 for DH and the Cabinet Office, 21 November 2005 for DEFRA, 27 February 2006 for DCSF, and 28 February 2006 for DBIS and DCMS. The Commissioner and the Departments agreed that in each case the latest reference date would be one determined in accordance with this approach. Accordingly we have included events after 28 February 2006 only where they form part of the history of these proceedings or may arguably shed light on the position prior to that date.

[OA2] 3. The chronology sets out findings of fact of two different kinds. First, there are events which the chronology records as a fact. We find as a fact that each such event occurred. Second, the chronology quotes from or describes (a) reports that an event occurred and (b) commentary on an event that was said to have occurred. Unless the chronology distinctly states that the event in question is recorded as a fact, in the chronology we are simply finding as a matter of historical fact that the commentary or report in question was published.

[OA2] 4. The chronology below includes interactions between Prince Charles and central government. Some of these were public at the time. The remainder recorded in this document, while they were not public at the time, have become public since. It includes wider aspects of the role of Prince Charles in public life, including his charitable activities, and the description of charitable and other activities in annual reviews published by Prince Charles from 2004 onwards and on the Clarence House website from 1998 onwards. We were provided with a detailed account of many of these matters, for the period up to mid-1994, in extracts from the biography written by Jonathan Dimbleby and published in November 1994. There is no reason to doubt that Prince Charles co-operated with the preparation of the biography and checked its factual accuracy – although it was Mr Dimbleby, not Prince Charles, who decided what went into the biography and how it should

be portrayed. Other evidence provided to us includes information from the annual reviews and website mentioned above, along with developments that occurred as regards transparency of governmental decision-making. It also includes oral evidence and material, including press reports, adduced as part of the oral evidence.

[OA2] 5. Open information about closed material was provided by the Departments. This open information included Corrected Annex A to the Departments' Summary of Closed Witness Statements ("the Departments' open annex"), which provides dates and certain other information about documents produced in conjunction with the closed witness statements. In particular the Departments' open annex asserts that certain of the closed documents are concerned with Prince Charles's preparation for the time when he would be king. The chronology below notes, at appropriate stages in the history, what is said in the Departments' open annex in that regard. It should be stressed, however, that the closed material does not purport to give a full account of all matters concerned with Prince Charles's preparation for the time when he would be king. Accordingly an absence in the account below of any mention of such preparation during a particular period carries no implication that it did not occur.

[OA2] 6. A similar point arises as regards the biography: below we include a selection of material from it. With the same minor exceptions as are mentioned earlier, the material we have included is taken from the extracts provided to us. We do not seek to provide a comprehensive account of Prince Charles's activities. Indeed the biography itself does not seek to do so.

[OA2] 7. Further points should be noted:

- (1) This chronology has been prepared specifically and solely for the purposes of this case. Mr Evans is content for it to be treated, and the Commissioner has no comment on it being treated, as an uncontentious account of events. They must be regarded as having reserved their right to contest that account in any other proceedings.
- (2) The Departments had numerous objections to the draft, and in the light of those objections declined to agree that anything in it was uncontentious. In our view, despite the Departments' objections, it is helpful to have the milestones and key events in the history set out in a chronology, along with what must necessarily be a selection of commentary and reports. We have carefully considered each relevant objection before making the findings below. In the light of that consideration, (a) where the chronology below records something as a fact, we are satisfied on the balance of probabilities that it did occur; and (b) where the chronology below records what was said in a report or commentary, we are satisfied on the balance of probabilities that it was said.

## **[OA2] The period prior to 1975**

[OA2] 8. We record as a fact that Prince Charles turned 18 on 14 November 1966, and took his place as a Counsellor of State. As Counsellor of State he was one of the four members of the royal family nearest to the succession authorised to act for the Queen when she is abroad, and were the Queen to become disabled to the extent that she could not carry out her duties he would become Regent.

[OA2] 9. In 1967 the Departments' open annex tells us that Prince Charles received a personal letter from a government minister with whom he had had a private and confidential discussion about his preparation for the time when he would be king. We record as a fact that later that year he started university at Trinity College Cambridge, attended the State Opening of Parliament for the first time, and undertook his first foreign visit on the Queen's behalf.

[OA2] 10. Documents disclosed under the 30 year rule show, and we record as facts, that in 1969:

- (1) Prince Charles had a discussion with the Prime Minister (Mr Wilson) at the Finnish Embassy expressing concern about Atlantic salmon. He later raised the topic publicly in a speech to the London Welsh Association, drawing attention to a disease affecting Atlantic salmon and also to the netting of salmon on the high seas by "modern methods of fishing which gave it no chance." The speech attracted press interest, which in turn led Mr Wilson to seek a note on the matter. When the note was available Mr Wilson forwarded it to Prince Charles, with a covering letter noting that "on the question of the High Seas Fishery, although full scientific evidence is not likely to be available for some years, we are pressing for immediate action before damage is done to the stocks." The letter added:

If you would like any further action on this question or if you would like the Minister and his Officials concerned to wait upon you to discuss the whole question in more detail, I should, of course, be happy to arrange this.

- (2) Prince Charles replied in September 1969:

... people are notoriously short-sighted when it comes to questions of wildlife and several species have been wiped out because no one has woken up in time to the danger. ...

You may not have fished yourself, but to do so for salmon is immensely exciting. This sport, and fishing in general, has a huge following in this country and as a result I would have thought that there is great value to be gained from rod-fishing; particularly when let to Americans and other foreign fishermen.

The main problem at the moment seems to be that if everyone waits for scientific research into the salmon netting etc the stocks will be severely depleted before any regulations are imposed. And this would be tragic for netters and fishermen alike. When you come up here [the letter was written from Balmoral Castle] next weekend I shall attack you on the subject again! ...

- (3) Two months later, without any apparent prompting, Mr Wilson wrote to Prince Charles:

Knowing of your great interest and concern about wild-life problems I thought you might like to have the latest information about the recent deaths of an unusually large number of sea-birds in the northern Irish Sea. I therefore enclose a short note on this problem based on the latest information

available along with a press notice issued by the Natural Environment Research Council following their recent meeting.

I will let you know of any significant further developments but as you will see from the press notice fortunately the casualty rate has now declined considerably.

[OA2] 11. Prince Charles replied a few days later, on 11 November 1969:

... it was most kind of you to send ... the information on the deaths of these sea birds on the West Coast. What with oil pollution and chemicals the birds have had a terrible time recently and I think this must show what care we ought to take of our effluence and other products in order to avoid slaughtering larger numbers of these very vulnerable creatures. As much as anything, they are all part of our general environment and worth caring about.

[OA2] 12. The letter of 11 November 1969 continued:

I see that you have been attempting to quieten down the extra-ordinary excitement over the Queen's Civil List today. It is amazing how the newspapers can blow something up like that and create controversy for its own sake. When you see what Prince Philip said written in cold print it looks very different from what it was originally intended to be in a 'live' TV interview. I hope people do not become carried away with irrational enthusiasm one way or the other. ...

[OA2] 13. We record as facts that in February 1970 Prince Charles was formally introduced into the House of Lords, and that later that month in a paper delivered in his capacity as founding chairman of the Countryside in 1970 Committee for Wales he referred to "the horrifying effects of pollution in all its cancerous forms", and advocated costly abatement technology and new regulatory standards.

[OA2] 14. We record as facts that in April 1970 Prince Charles attended his first Privy Council, and in the summer he sat his history finals in order to complete his university degree.

[OA2] 15. We record as facts that in May 1970 Mr Wilson wrote to Prince Charles with an update in developments relating to Atlantic salmon fishing, and that Prince Charles replied on 28 May 1970:

... I am delighted that the North East Atlantic Fisheries Commission have decided to impose certain restrictions off Norway. At least it is a step in the right direction. Obviously a total ban is out of the question and probably unnecessary, but I hope the Greenland fisheries will consider limitations that will be for their own good in the long run.

I would also like to thank you for your interest and for the trouble you have taken in following up our conversation.

## [OA2] 1975 to 1978

[OA2] 16. We record as facts that on 25 June 1975 the House of Lords held a debate on voluntary service in the community, and that Prince Charles spoke, saying (among other things):

It seems to me that the problems we suffer from in society, as a result of violence, mugging and general anti-social behaviour on the part of younger people, are partly due to a lack of outlets into which pent-up energy and frustration and a desire for adventure can be properly channelled.

[OA2] 17. We record as a fact that in 1976 Prince Charles launched The Prince's Trust. It would go on, in its own words, to become "the UK's leading youth charity, offering a range of opportunities including training, personal development, business start-up support, mentoring and advice."

[OA2] 18. At the start of 1976 the Government published the Report of the Committee of Privy Counsellors on Ministerial Memoirs (better known as the "Radcliffe Report"). The committee was chaired by Viscount Radcliffe and included Lord Franks and Lord Windlesham among its members. Its remit (prompted by the publication of the Crossman diaries) included consideration of the publication by former ministers of works relating to their experience as ministers, and the rules governing the publication of similar works by former members of the public services. The committee thought that the first duty of the intending author was to make sure that the full text of what was proposed to be said was submitted in advance, so as to give time for clearance on reserved subjects, discussion of objections, mediation and, where appropriate, advice. The committee identified a general conception that the author was free to use ministerial experience for the purpose of giving an account of the author's own work and not for the purpose of discussing or criticising the policies and opinions of other ministers who had been colleagues. Certain separate categories of subject, however, called for restriction: national security and secret information, disclosures which would be injurious to relations with other nations, and "information the publication of which would be destructive of the confidential relationships ... which may subsist between minister and minister, ministers and their advisors, and between either and outside bodies or private persons." As regards the latter category the concern was expressed in this way in paragraph 51:

... Those who are to act together in pursuance of a policy agreed in common do require and expect the observance of confidence as to what they say to each other; and unless they can be assured of the maintenance of that confidence they will not speak easily or frankly among themselves. Opinions, perhaps unpopular, perhaps embarrassing, will be muted or suppressed if they are known to be liable to future disclosure at the whim of some retired colleague. Business which should be discussed by the whole body will tend to be settled by two or three in a corner. Given our system of Cabinet and Parliamentary government, the interests of the State will suffer if policy cannot be formed on a basis of mutual confidence. We realise, of course, that this depends on a very sweeping generalisation about the likely conduct and responses of a succession of very diverse public figures. We do not suppose that they will all react in the same way. But the history of the development of the tradition of confidentiality as well as the experience of the present leads us to accept the generalisation as a working principle.

[OA2] 19. Turning to those who advise ministers, the committee adopted observations by Lord Bridges that if the adviser's tasks were to be done fearlessly and frankly, those concerned must have confidence that their advice will not be disclosed prematurely. Disclosure would be premature, the committee thought, if it attributed individual attitudes to identifiable persons, at least during the remainder of that person's life in the civil service.

[OA2] 20. At paragraph 57 the committee strongly rejected the notion that these principles might apply differently if the provider of information consented to disclosure:

These obligations of reticence are not owed merely or even primarily to the individuals whose opinions, advice or qualifications are involved. They are public duties. They cannot therefore be released by the consent of such persons. The rules themselves and the general principle of which they are only the exponent are far-reaching and their application to the needs of particular sets of circumstances will often prove to be matter of debate and will call for sympathetic adjustment. ...

[OA2] 21. Annexed to the Radcliffe Report was the oath of a privy counsellor, including that the counsellor:

... will, in all things to be moved, treated, and debated in Council, faithfully and truly declare my Mind and Opinion, according to my Heart and Conscience; and will keep secret all Matters committed and revealed unto me, or that shall be treated of secretly in Council ...

[OA2] 22. The Departments' open annex states that in late 1976 a discussion took place between the Cabinet Office and the Queen's Household about Prince Charles's preparation for the time when he would be king, that on 20 November 1978 a letter from the Prime Minister's Office to the Queen's Household on this topic detailed what was discussed at a meeting between Prince Charles and the Prime Minister, and that on 19 December 1978 the Prince of Wales's Household sent Prince Charles a personal minute on this topic.

## **[OA2] 1979 to 1985**

[OA2] 23. We record as a fact that in 1979 Prince Charles established The Prince of Wales's Charitable Foundation, a trust which was to use income earned from its commercial ventures to support charitable causes.

[OA2] 24. We record as a fact that in February 1979 Prince Charles attended a meeting of the Ministerial Committee on Economic Strategy.

[OA2] 25. The Departments' open annex describes documents in late 1979 concerning discussions between the Cabinet Office and the Prince of Wales's Household, and between the Foreign Office and the Prince of Wales's Household, the subject matter of both being described as the heir to the throne's preparation for the time when he would be king. It also states that a minute from the Prime Minister's Office to the Cabinet Office dated 5 November 1979 set out the Prime Minister's personal views on an aspect of Prince Charles's instruction in the business of Government. A minute between officials in the Cabinet Office dated 14 March 1980 is described in the Departments' open annex as detailing a discussion between Prince Charles and a Cabinet Office official on the subject of Prince Charles's preparation for the time when he would be king.

[OA2] 26. We record as a fact that in 1981 Prince Charles wrote a full page article in *The Observer* lauding the objectives of the Intermediate Technology Development Group. This group had been set up to provide practical forms of technology in Third World countries compatible with their state of economic development, and not simply imported from the West.

[OA2] 27. We record as a fact that Prince Charles as President of the British Medical Association (“BMA”) on 14 December 1982, the 150th anniversary of its foundation, made a speech in which he

- (1) urged that ‘healing’ should be reincorporated into the practice of medicine.
- (2) stated that ‘through the centuries, healing has been practised by folk-healers who are guided by traditional wisdom that sees illness as a disorder of the whole person, involving not only the patient’s body, but his mind, his self-image, his dependence on the physical and social environment, as well as his relation to the cosmos’.
- (3) said that he was ‘a powerful supporter of modern methods in medicine’,
- (4) warned of the nation’s ‘frightening’ dependence on drugs as a ‘universal panacea’ and
- (5) stated that ‘the whole imposing edifice of modern medicine, for all its breath-taking successes, is, like the celebrated Tower of Pisa, slightly off balance’.

[OA2] 28. We record as facts that developments which followed Prince Charles’s speech on 14 December 1982 included:

- (1) a dinner arranged by Prince Charles to facilitate discussions among the leading figures on both sides: modern medical practice on the one hand and “healing” on the other;
- (2) colloquia organised by the Royal Society of Medicine;
- (3) a negative reaction printed in the London *Evening Standard* by a participant in one of the earlier colloquia, in the form of comments by the Professor of Surgery at King’s College Hospital School of Medicine, Michael Baum, that ‘fringe’ practitioners who collected no more than ‘anecdotal case reports’ formed part of an historical process which was littered with ‘the tragic consequences of adopting therapeutic revolutions on the basis of a plausible hypothesis in advance of its scientific testing’, and that some but not all of the alternative therapists at the colloquia were ‘guilty of the most extreme intellectual arrogance, or more charitably, of confusing faith with fact’.
- (4) an interview in which Prince Charles stated:

It was unbelievable, ... I have never, ever had so many letters. I was riveted by this because while I was pretty sure I was going to stir up a hornet’s nest – which I did I think – I also realised there was a great deal more interest in and awareness of this aspect than I’d imagined. ... people often remain silent about what they really think ...they are terrified of saying something in case



“everyone” should think they are mad ... I find I feel this about a lot of things.

[OA2] 29. We record as a fact that on 8 January 1983 Prince Charles sent a message of support to the organisers of the national organic food production conference at the Royal Agricultural College in Cirencester in which he stated:

For some years now, modern farming has made tremendous demands on the finite sources of energy which exist on earth. Maximum production has been the slogan to which we have all adhered. In the last few years there had been an increasing realisation that many modern production methods are not only wasteful but probably also unnecessary ... I am convinced that any steps that can be taken to explore methods of production which make better and more effective use of renewable resources are extremely important. Even if it may be some time before they are commercially acceptable, pioneer work is essential if our planet is to feed the teeming millions of people who live on it by the twenty-first century.

[OA2] 30. The biography commented that the speech to the BMA in 1981 and the message to the national organic food production conference in 1982 differed in character from previous initiatives by Prince Charles, among them his speech in 1970 on the horrifying effects of pollution and his full page article in *The Observer* earlier in 1981 lauding the objectives of the Intermediate Technology Development Group:

But although all of these initiatives were unfashionable, none of them overtly challenged conventional opinion where it really hurt. The Prince's message in 1983 was different.

Like his speech to the BMA, his attack on modern production methods in agriculture posed a threat not only to established practice but to powerful vested interests – in this case the agrochemical industry, whose multi-billion-pound production of herbicides, pesticides and fertilisers was dependent precisely on the systems of production which the Prince had selected for rebuke. Likewise, it raised issues that seemed peripheral to outsiders but which in reality identified core questions of public policy that went far beyond the small change of inter-party politics. In both cases, the Prince's decision to take a stand had an immeasurable impact – first on the debate between the specialists, and later on public opinion, policy-makers and legislators. In both cases, more by chance than intent, he began not only to discover a purpose for himself but to redefine the role of the Prince of Wales, giving it a prominence in the constitutional hierarchy which surpassed that of any of his predecessors.

[OA2] 31. We record as a fact that Prince Charles delivered a speech at a banquet to celebrate the 150th Anniversary of the Royal Institute of British Architects (“RIBA”) on 30 May 1984, in which he:

- (1) stated that some planners and architects were “ignoring the feelings and wishes of the mass of ordinary people”;

- (2) criticised current projects, and famously described a proposed extension to the National Gallery as:

like a monstrous carbuncle on the face of a much loved and elegant friend ...

- [OA2] 32. The biography noted that on this occasion and other occasions in 1985 when Prince Charles called for the “unleashing” of community spirit in architecture and stressed the need to give the inhabitants of inner cities the means to help themselves create their own environment, it was interpreted as part of a concerted campaign which, although motivated by compassion, was underpinned by an implied rebuke to policies of the current government. On 23 October 1985 the *Manchester Evening News* published an account of Prince Charles being concerned about inheriting a “divided nation” and being “prepared to force his way through parliamentary red tape to ensure that his country is not split into factions of the ‘haves’ and ‘have-nots’ ...”. The biography notes reports that the Prime Minister (Mrs Thatcher) was so angered that:

she rang Buckingham Palace, where it is said that she was told that Prince Charles had not at any stage or in any way sought to criticise the government. Certainly, the Prince’s office was left in little doubt that Margaret Thatcher did not approve of the heir apparent’s intervention.

- [OA2] 33. We record as a fact that in 1985 Prince Charles wrote a letter to Nicholas Soames in which Prince Charles complained that newspaper reports attributed to him:

overtly political phrases of a kind I would never, ever use because I know exactly what the political reactions are likely to be.

- [OA2] 34. Meanwhile the media recalled the concern for the Welsh miners of Prince Charles’s great uncle and predecessor (later to become Edward VIII) and his famous remark, “something must be done.” Under that headline, a leading article about Prince Charles appeared in *The Times* on 25 October 1985:

He is heir to the throne, not on it... He is not precluded from noticing large matters affecting the welfare of the nation, even if these matters attract party political controversy. In doing so, however, he has to be careful not to give the appearance of political partiality. He must not borrow party arguments. He must beware of party code-words. He must avoid personalities. But those limitations do not impose silence upon him or confine him to pious platitude. Our language is not so deformed and our politics are not so penetrating as to make it impossible for an important personage to say something important and influential about a large aspect of public life without sounding partisan.

- [OA2] 35. The biography commented:

It was by now clear to all that the Prince was not to be diverted from using the authority of his position to speak out across a range of public issues – to an extent that none of his predecessors had even contemplated .... In this resolve, he had set a disconcerting precedent for which there were no explicit guidelines in the commentaries on Britain’s unwritten constitution.

## [OA2] 1986 to 1993

[OA2] 36. We record as facts that by 1986 the Prince's Trust

- (1) had grown into a national organisation involving more than 50 regional committees and over 1,000 committed volunteers;
- (2) was disbursing more than £300,000 a year, much of which came from royal film premières and rock concerts.
- (3) had begun to receive co-funding from the government.

[OA2] 37. We record as facts that in 1986 the Prince's Youth Business Trust ("PYBT") was established, and that on 16 November 1987 Prince Charles wrote to Mrs Thatcher explaining why he had established the new trust:

"I felt very strongly that there was a great deal of hidden and wasted talent in the less prosperous parts of the UK and also that it was important to encourage the formation of new enterprises which could, in due course, become some of the major companies of the future."

[OA2] 38. We record as a fact that during 1987 Prince Charles had private meetings with 10 government ministers and three shadow ministers, and wrote more than 1,000 personal letters including letters to cabinet ministers about government policy in relation to (among other matters) the disabled, South Africa, the Gulf and Romania.

[OA2] 39. We record as a fact that Prince Charles made a further speech on the built environment in 1987 at the Mansion House in London in which he expressed concern at what had happened as regards development around St Paul's Cathedral.

[OA2] 40. The architectural correspondent of the *Daily Telegraph* complained that Prince Charles had acquired such influence behind the scenes that hardly any new development of significance could be advanced unless it was presented to him for his approval. According to the biography this complaint reflected the views of the modernist tendency to which the architectural correspondent belonged, and was made "in the absence of firm evidence".

[OA2] 41. We noted earlier, in the context of the Prince's Youth Business Trust, the letter sent on 16 November 1987 by Prince Charles to Mrs Thatcher. It dealt with a number of other matters. Prominent among them was the work of Business in the Community ("BITC"). The biography explains that this was a charity which sought (among other things) to break through the barriers of class and race which separated the leaders of British industry from the leaders of the black community. We record as facts that

- (1) in 1985 Prince Charles had been invited to become its president, and had accepted.
- (2) in that capacity he stressed the importance of involving a good community architect to co-ordinate regeneration projects.
- (3) his letter of 16 November 1987 championed the idea of

a partnership approach towards regenerating the local economy, rehabilitating old buildings, restoring confidence ...

[OA2] 42. The biography comments that in this way Prince Charles:

... became the catalyst for a fundamental shift in government thinking. The process might have occurred in any case; but it is unlikely that it would otherwise have acquired the rapid momentum which made BITC the pioneer of an approach that later became an established feature of government policy. ... [BITC's] success ... encouraged the government to set up the first Training and Enterprise Councils ... in private it was conceded [by ministers] that the Prince's own involvement had played a significant part in establishing what, in the nineties, came to occupy an important place in the fabric of Britain's economic and social life.

[OA2] 43. We record as facts that as regards environmental matters in 1987, 1988 and 1989 Prince Charles:

- (1) on 24 November 1987 made a speech to the North Sea Conference urging stricter controls on dumping.
- (2) on 23 February 1988 made a speech as patron of the European Year of Environment urging the government to act with greater conviction and attacking the Central Electricity Generating Board ("CEGB") in relation to acid rain.
- (3) sought, in a letter to the Secretary of State for the Environment (Mr Ridley) dated 20 June 1988, that the free market be restrained in favour of the environment.
- (4) by early 1989 had started to form around him a core of environmental advisers, which he described in a letter dated 30 January 1989 as:

a small team of knowledgeable people who can help me put as much pressure on international agencies, governments, and so on, ... Whether anyone will listen to me is another question but I feel I must try to make my own contribution towards stirring people's consciences ...

- (5) on 6 March 1989 gave a speech to the Saving the Ozone Layer World Conference in which he made a call for the total elimination of CFC gases.
- (6) in relation to the speech of 6 March 1989 wrote in a letter to Jonathan Porritt the same day:

"I have just heard that Nicholas Ridley has seen the speech and wants to cut out two pieces. I'm afraid I'm not going to!"

[OA2] 44. The biography commented:

The Green movement was delighted [by Prince Charles's speech to the North Sea Conference] as, more significantly, were one or two senior civil servants within the Department of the Environment, who were deeply frustrated by Ridley's apparent indifference ... The declaration by the Prince of this 'precautionary principle' not only broke new ground in the public debate but

helped to shift opinion within the government. By tacitly rebuking Ridley, he gave powerful ammunition to those who were trying to nudge and bludgeon the Prime Minister towards a more sympathetic stance ...

...

Were there any lingering doubts about the shift in public opinion, they were dispelled at the Conservative Party Conference in October 1988. To the astonishment of the environmentalists, the Prime Minister informed her audience, ... 'No generation has a freehold on the earth. All we have is a life tenancy with a full repairing lease.'

...

Some ministers found the Prince's speeches infuriating, and one or two of them muttered that he had overstepped his constitutional bounds. Yet not one of them had the temerity to voice this resentment in public.

...

Convention demanded that his speeches were sent to the relevant minister for comment. Often, they suggested minor alterations or requested that a passage be omitted, but, in general, he found their advice helpful. Usually he complied, although on occasion he refused...

[OA2] 45. We record as facts that:

- (1) early in 1989 Prince Charles wrote to the Foreign Secretary (Sir Geoffrey Howe) expressing concern that the situation in Romania should be an urgent priority for the European nations to address.
- (2) Prince Charles wrote a follow-up letter on 30 March 1989;
- (3) on 27 April 1989 at the *Building A Better Britain Exhibition* Prince Charles made a speech condemning the tyranny of President Ceausescu.

[OA2] 46. We record as facts that

- (1) in the summer through to the autumn of 1989 there was a series of letters between Prince Charles and Mr Peter Morrison, the Minister of State at the Department of Energy;
- (2) Mr Morrison, having originally been in favour of continuing to allow farmers to burn stubble, acknowledged that a letter from Prince Charles had prompted him "to some constructive work and thought".
- (3) Later that year, the Government announced a ban on stubble burning in England and Wales.

[OA2] 47. We record as a fact that in 1989 Prince Charles wrote to the Secretary of State for Energy (Mr Wakeham) reproaching him for the government's grudging response to the

Commons Energy Select Committee report on the “greenhouse effect”, and asking what proposals were in hand for developing renewable sources of energy as alternatives to coal.

[OA2] 48. The biography describes an ensuing exchange of correspondence, adding:

Ministers thus bombarded by the heir to the throne, and more particularly their civil servants who had to draft a defence, might have been forgiven for wondering who might rid them of their turbulent Prince. For his part, he believed that as a Privy councillor, a member of the House of Lords, and, more especially, as heir to the throne, he had a right to warn, protest and advise.

[OA2] 49. At this point the biography inserted a footnote:

The Prince's interpretation of the constitution in this respect is open to question.

[OA2] 50. The biography continued:

For their part, ministers felt obliged to furnish a considered response in terms that were respectful of his unique position and sensitive to his concerns, even when there was a profound gulf of attitude between them. Over the course of the eighties, the Prince had become ever more convinced that government had a direct ‘enabling’ role, not only by financing R & D in the public and private sectors but by creating an effective regulatory framework that would compel both sectors to satisfy the most exacting environmental standards. To this extent, his approach put him at odds with the prevailing ideological assumptions of the government. The Prince was under no illusions about this, nor did it inhibit him, and, although one or two ministers ground their teeth in irritation, most not only accepted his prerogative but seemed to welcome it. ... Disposed, in any case, to honour his peculiar status as heir to the throne, they found themselves drawn to his seriousness of purpose, his modesty and his humour. Despite their frequent differences, ministers usually emerged from their encounters with him encouraged, even on the rare occasions when they were gently chastised. Obligated to hear him out, they went away reassured that even though he had entered the fray he was, in a deeper sense, also above it.

[OA2] 51. We record as a fact that that on 7 December 1989 Prince Charles wrote a letter to Mr Major to offer congratulations on his election as leader of the Conservative Party, a letter in which he stressed the vital importance of partnerships between government, industry and the community for the regeneration of Britain, and urged that ‘the role of the state’ should be one of ‘strategic co-ordinator’.

[OA2] 52. The Departments’ open annex states that on 22 December 1989 a note was prepared by the Prime Minister’s Office. The Departments’ open annex describes it as being concerned with the subject of the heir to the throne’s preparation for the time when he would be king, and states that the note details what was discussed at a meeting between Prince Charles and the Prime Minister.

[OA2] 53. We record as a fact that Prince Charles's letter to Mrs Thatcher of 16 November 1987 described an organisation, the Prince of Wales' Community Venture, which had been set up in 1985, and described its aim as:

... to try and find a way by which young people from all walks of life – those from state schools and private schools – could be brought together for a short period in their lives in order to live and work as a team, making a contribution to their communities in various ways. The important element of this project is that it involves several voluntary organisations agreeing to co-operate, together with the active participation of the Fire Service, the Ambulance Service and the Police, to whom the young people are attached...

[OA2] 54. The biography explained that in relation to this particular scheme Prince Charles's ambition outran the available finance, and it was finally phased out in 1991. Commenting on this, the biography continued:

This setback did not deter him. Although he sensed that it was a lost cause, he continued to argue the case for compulsory community service. A succession of government ministers and Whitehall officials grew familiar with his obdurate opinions on the matter, which were generally prefaced with a self-deprecatory, 'I'm sorry, I just happen to believe, for what it's worth, that...'

[OA2] 55. We record as facts that in 1990 the Prince's Trust Volunteers programme replaced Community Venture, that this programme grew rapidly, and that by 1994 the government committed itself to providing matching funds for the scheme.

[OA2] 56. The biography commented that the provision of matching funding occurred:

after much lobbying of ministers, spearheaded personally by the Prince, ... A Whitehall working party involving twelve departments was set to find ways in which government employees might participate in the scheme. The Labour Party's Commission on Social Justice also adopted key aspects of the programme; its proposals for 'Citizens Service' bear a very close resemblance to the objectives and character of the Prince's Trust Volunteers programme. Although the Prince had not lost his enthusiasm for compulsory community service, he had the satisfaction of knowing that the principles of voluntary service which he had originated through the Prince's Trust had seeped into the thinking of Britain's two main political parties.

[OA2] 57. We record as facts that as regards the teaching of English in schools Prince Charles

(1) in 1989 made remarks about the poor teaching of English at what he thought was a private gathering:

...all the people I have in my office, they can't speak English properly, they can't write English properly. All the letters sent from my office I have to correct myself. And that is because English is taught so bloody badly."

- (2) when these remarks became public, was mortified at the distress he had caused his own office, was swift to express his regret, and confessed that he had exaggerated to make his point;
- (3) in a speech he delivered as patron of the Thomas Cranmer Schools Prize at the end of 1989, expressed concern about the way English was used in popular papers, radio and television programmes, and even in schools and theatres, adding:

Our language has become so impoverished, so sloppy and so limited... we have arrived at a wasteland of banality, cliché and casual obscenity.

- (4) in 1991 at the Shakespeare Birthday Lecture in the Swan Theatre at Stratford upon Avon, noted that several GCSE English literature courses prescribed no Shakespeare at all, and continued:

As we move towards a National Curriculum for our schools – sometimes known as an entitlement curriculum – I find myself wondering why the students of our schools are not as entitled to Shakespeare as to other parts of the syllabus. Do those who disapprove of Shakespeare, arguing for some *extraordinary* reason that he is elitist, wish to prevent those not already familiar with his work from acquiring an understanding of it or of other great literature? The marginalising of Shakespeare seems to be symptomatic of a general flight from our great literary heritage...

Are we all so frightened and cowed by the shadowy 'experts' that we can no longer 'screw our courage to the sticking place' and defiantly insist that they are talking unmitigated nonsense? You forget – I have been through all this before with the architects! I've heard it all over and over again, and it is high time that the bluff of the so-called 'experts' was called...

- (5) wrote a letter to the Education Secretary (Kenneth Clarke) apologising for not giving adequate notice of what he intended to say, stated in the letter that he had not completed the speech until the early hours of Sunday morning, and added:

My office got in touch with yours first thing on the Monday morning to try to ensure that you had a copy of my speech without further delay, so that you did not find yourself wholly unprepared for the door-stepping inquisition of the media! I am sorry if, in the event, logistics prevented you seeing the text before I read it out. ...

The speech was very much a personal statement about Shakespeare and the deeper values that underlie a study of our great literary heritage. I tried my best to minimise anything which could be construed as 'party political' and I consulted very widely indeed. I have certainly been encouraged by the positive letters I have received from all sides - Labour and Conservative, teachers and university lecturers, pundits and 'experts', academics and members of the public. The last thing I wanted to do was to make your life any more difficult than it already is, but at the same time I believe there are profound values at stake which I feel it is my duty to emphasise.



[OA2] 58. The biography commented:

The speech was at once denounced by the National Association for Teachers of English as ‘nonsense’ but the headline writers sensed that the public was with the Prince, sharing his sense of outrage and applauding his intervention. The government, in the person of the Education Secretary, Kenneth Clarke, was less pleased. Bombarded by journalists for a reaction to what almost every commentator and editorial writer interpreted as a severe rebuke to his department, Clarke was forced onto the defensive, although as a consummate politician he was adroit enough to identify those passages from the Prince’s critique which could have been interpreted – out of context – as offering royal support for the government. In private, Clarke expressed his irritation at the speech in the bluntest language, asserting that, on this occasion at least, the Prince had offended against constitutional propriety. As the Prince’s own staff at once recognised, the cabinet minister had a right to be affronted. Embarrassingly for them, the convention by which the Prince invariably sent a draft of his speeches to any government minister likely to be affected by what he intended to say had, in this case, been inadequately honoured. As Clarke’s office did not receive a copy of the speech until the very morning on which it was to be delivered, he had no time to read it, let alone to suggest any ameliorative alterations to it. This apparent discourtesy compounded the irritation of a busy minister who had been caught out by the controversy and he did not hesitate to make St James’s Palace aware of his feelings.

A month later (following official visits to Brazil and Czechoslovakia, where, respectively, he made powerful and widely reported speeches about the environment and communism), the Prince wrote to apologise, ...

However, he was unrepentant about the content ...

The speech had indeed been endorsed as he described. Congratulations poured into St James’s Palace, ... the Warden of Wadham College, Oxford, Sir Claus Moser... enthused, ‘I should like to say how moved and thrilled we were by what Your Royal Highness said about Shakespeare, about English, and about education in general. As you will have seen your brilliant lecture has had a most galvanising effect, and everyone I have spoken to in the educational world is enormously grateful for your forceful remarks. I have no doubt that they will have an immense impact on our educational future.’

Moser judged correctly. Almost certainly as a result of the Prince’s speech, Moser secured the private funds needed to establish his own National Commission on Education, which was to challenge many of the precepts of the educational establishment and the Department of Education’s policies which flowed from them. More broadly, the tortuous debate about the National Curriculum (which, at government level, was inherited from Clarke in 1992 by John Patten, who openly endorsed the Prince’s views) was directly influenced by what he had said in the Stratford-upon-Avon speech. The final version of the National Curriculum reflected a popular opinion which he had articulated to greater effect than even he had perhaps expected; Shakespeare was, after all, to be taught in all schools to all children. If, as Clarke supposed, the Prince had indeed trespassed across a constitutional

dividing line, he had done so to remarkable effect and emerged from the experience virtually unscathed.

[OA2] 59. We record as a fact that in April 1991 Prince Charles returned to the topic of environmental protection, making a speech in Madrid to the EC Conference on the Urban Environment in which he advocated a higher priority for waste recycling.

[OA2] 60. We record as facts that in the autumn of 1991 Prince Charles wrote to the Prime Minister expressing anxieties about proposed armed forces cuts, and wrote again on this topic in May 1992, this time to Mr Rifkind, the Defence Secretary. The biography commented that Prince Charles's stance was vindicated by an announcement of increases in February 1993 after British forces were sent to Bosnia and there had been a critical Commons Defence Committee review.

[OA2] 61. Sir Stephen Lamport told us that it was in 1993 that Prince Charles established his Foundation for Integrated Medicine (which would in 2002 change its name to become the Prince's Foundation for Integrated Health, often abbreviated to "FIH"). Sir Stephen also provided us with a copy of what appeared on the Clarence House website between July 2005 and November 2006. This recorded that in 1993 Prince Charles wrote to the Director of The Prince's Trust, Tom Shebbeare:

For the past 15 years I have been entirely motivated by a desperate desire to put the "Great" back in Great Britain. Everything I have tried to do – all the projects, speeches, schemes etc. – have been with this end in mind.

[OA2] 62. We record as a fact that in a conversation with Mr Dimbleby prior to publication of the biography Prince Charles said:

I like to think that I haven't strayed into party politics, ...

I look at each situation as I think it is. I don't come armed with a lot of baggage ... I understand the parameters in which I can operate but at the same time I'm quite prepared to push it here and there because I happen to be one of those people who feel very strongly and deeply about things ... I don't see why politicians and others should think they have the monopoly of wisdom ...

[OA2] 63. We record as facts that during 1993, in separate meetings with the Environment Secretary, John Gummer, the Agriculture Minister, Gillian Shepherd, the Employment Secretary, David Hunt, and the Trade Minister, Richard Needham, Prince Charles pressed the causes of the environment, organic farming, the long term unemployed, and the need for greater collaboration to exploit royal visits overseas.

[OA2] 64. We record as facts that

- (1) in October 1993 there was an exchange of letters between Prince Charles and the Prime Minister, Mr Major;
- (2) in that exchange Prince Charles commented on a debate in the media about public services:

It seems to me so incredibly sad to hear people nowadays denigrating those whose careers are in public service as people having 'jobs for life' or who are somehow 'wasting tax-payers money' ...

- (3) Mr Major replied, welcoming Prince Charles's letter and making it clear that he agreed with him about the importance of public services.

[OA2] 65. The biography described the exchange in this way:

In the middle of October 1993, exercising for himself 'the right to be consulted, the right to encourage, the right to warn' ascribed by the Victorian commentator Walter Bagehot to the sovereign and extended by informal convention to the Prince of Wales, he wrote to the Prime Minister, covering as usual a range of issues about which he had doubts and questions – 'a few of the points', as he would put it, 'I would like to raise with you when we next meet.' His tone was rarely combative and he was careful to avoid any expression which might be interpreted as a statement of political dogma, but in his self-deprecatory style – which his own staff labelled 'art-naïve' – he commented, in this case, on the contentious debate in the media about the public services ...

...

The extent to which the Prince has had any impact on the evolution of policy is impossible to gauge, but within the political establishment it always became known when he 'had a view', and his opinions were by now regarded invariably as a matter of more than passing interest. For his part, the Prince had convinced himself that to refrain from involvement at this level and in this form would be a dereliction of duty that he could not countenance.

[OA2] 66. Two further documents mentioned in the Departments' open annex relate to the period prior to publication of the biography. The first is a letter dated 19 November 1993 from the Prime Minister's Office to the Department of Trade and Industry, HM Treasury, the Ministry of Agriculture, Fisheries and Food, and the Office of Public Service and Science. Its subject matter is said to be the heir to the throne's preparation for the time when he will be king. The basis for treating the document in confidence is said to be that it details a private and confidential discussion between Prince Charles and the Prime Minister. The second is said to have the same subject matter, and comprises a minute from the Prime Minister's Office to the Prime Minister dated 11 March 1994. The basis for treating the document in confidence is said to be that it details attendees at, the format of and topics for discussion at a private meeting.

## **[OA2] November 1994 to December 1999**

[OA2] 67. We record as facts that:

- (1) in November 1994 the biography was published;
- (2) during its preparation Prince Charles gave Mr Dimbleby access to his papers, including his correspondence with ministers, on terms which left to Mr Dimbleby the final decision as to the contents of the biography;

- (3) prior to publication the government learnt that this had happened, and was able to make representations objecting to the inclusion of certain material.

[OA2] 68. In the preface to the biography Mr Dimbleby said of items which included Prince Charles's correspondence with ministers:

In respect of some of these, I have been persuaded that the verbatim publication of the material might have a deleterious effect either on the conduct of British diplomacy or on the confidential nature of communications between the monarchy and Whitehall or Westminster; in these cases I have either withheld information or paraphrased the relevant documents or correspondence. However, when it was obvious that only the culture of secrecy which pervades Whitehall was under threat and not the conduct of good governance, I have not complied with requests to delete pertinent material.

[OA2] 69. The Departments' open annex describes a letter dated 16 November 1994 from the Prime Minister's Office to the Foreign Office. The subject matter of the document is said to have been the heir to the throne's preparation for the time when he will be king. It is said that the document should be treated in confidence because it is a personal letter between officials detailing private and confidential discussions between ministers.

[OA2] 70. In May 1995 the Committee on Standards in Public Life, chaired by Lord Nolan, produced its first report. It observed that conduct in public life "is more rigorously scrutinised than it was in the past, that the standards which the public demands remain high, and that the great majority of people in public life meet those high standards." It considered however that there were weaknesses in the procedures for maintaining and enforcing those standards. By way of remedial action it identified, among other things, seven principles of public life. They included:

Objectivity: in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for awards and benefits, holders of public office should make choices on merit.

Accountability: holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness: holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

[OA2] 71. The committee's statement of the seven principles concluded:

... These principles apply to all aspects of public life. The committee has set them out here for the benefit of all who serve the public in any way.

[OA2] 72. Also in 1995 an article was published by Professor Brazier entitled "The constitutional position of the Prince of Wales": see [1995] *Public Law* 401.

[OA2] 73. On 2 May 1997, following defeat of the Conservative government in the general election, a Labour government took office with Mr Blair as Prime Minister. The incoming government had made a manifesto commitment to introduce legislation to incorporate the European Convention on Human Rights into United Kingdom law. It had also made what was later described as a “key pledge” – to legislate for freedom of information, bringing about more open government.

[OA2] 74. On 24 October 1997 a White Paper *Rights Brought Home: The Human Rights Bill* was published, along with the Bill that it referred to. The Human Rights Act 1998 was in due course enacted on 9 November 1998 and brought into force on 2 October 2000.

[OA2] 75. On 11 December 1997 the government published a White Paper entitled *Your Right to Know*. The preface by the Prime Minister (Mr Blair) said that the White Paper explained proposals for meeting the “key pledge”, noted above, to legislate for freedom of information.

[OA2] 76. We record as a fact that on Thursday 28 May 1998 Prince Charles made a speech to the Integrated Healthcare Conference in London in which he urged mainstream medicine to forge a closer relationship with complementary therapies.

[OA2] 77. The Departments’ open annex describes a minute between officials in the Cabinet Office dated 3 November 1998. The subject matter is said to have been the heir to the throne’s preparation for the time when he would be king. The basis for treating the document in confidence is said to be that it details a private and confidential discussion between the Cabinet Office and the Prince of Wales’s Household.

[OA2] 78. On 24 May 1999, nearly 18 months after the White Paper *Your Right to Know*, the Government published a consultation paper with its proposals for freedom of information legislation, including a draft Bill. The Freedom of Information Act 2000 received the royal assent on 30 November 2000. Certain initial provisions came into force shortly afterwards, but it would be nearly a year before the Lord Chancellor announced an implementation plan for the Act, setting out a lengthy timetable for bringing into force the individual right of access to information held by public authorities.

[OA2] 79. Meanwhile on 25 June 1998 the United Nations Economic Commission for Europe adopted a Convention on Access to Information, Public Participation in Decision-Making and Access to Justice on Environmental Matters, known as the “Aarhus convention.” The United Kingdom and the European Community were each signatories to the convention. The first “pillar” of the convention was to provide a right for everyone to receive environmental information held by public authorities.

## **[OA2] January 2000 to March 2005**

[OA2] 80. In April 2000 the Cabinet Office published the *Directory of Civil Service Guidance 2000* (the “2000 Directory of Guidance”). In a foreword Sir Richard Wilson (the Cabinet Secretary) explained that it sought to give access to the principles and practice which guide the way in which the civil service does its work. Among other things, it included guidance on contact with lobbyists, stressing that civil servants should not offer, or give the impression of offering, a lobbyist preferential access to ministers or their officials. The focus of the guidance was on professional lobbyists “who earn their living by providing their clients with contacts, information and advice about how to persuade the government

and other public sector bodies to do or give them what they want.” It was important, however, for civil servants to bear in mind that they may meet a lobbyist in other roles, for instance as a journalist or consultant. The guidance on contact with lobbyists concluded:

15. Lobbyists are a feature of our democratic system. There is no ban on civil servants having dealings with them where this serves a proper purpose and is conducted in a proper manner. But the need for propriety is crucial. ...

[OA2] 81. We record as facts that:

- (1) on 17 May 2000 Prince Charles introduced a special BBC programme to mark the end of that year's Millennium Reith lecture series;
- (2) there had been 5 Reith lecturers that year, and in the programme they pooled their thoughts on what could be done to keep the world safe for the generations still to come;
- (3) in his introductory remarks Prince Charles said:

... we will need to dig rather deeper to find the inspiration, sense of urgency and moral purpose required ... on the long road to sustainable development. So, although it seems to have become deeply unfashionable to talk about the spiritual dimension of our existence, that is what I propose to do. ...

Fundamentally, an understanding of the sacred helps us to acknowledge that there are bounds of balance, order and harmony ... we are beginning to comprehend the full, awful consequences of pumping too much carbon dioxide into the earth's atmosphere. Yet the actions being taken to halt the damage known to be caused by exceeding nature's limits ... are insufficient to ensure a sustainable outcome. In other areas, such as the artificial and uncontained transfer of genes between species of plants and animals, the lack of hard, scientific evidence of harmful consequences is regarded in many quarters as sufficient reason to allow such developments to proceed.

The idea of taking a precautionary approach, in this and many other potentially damaging situations, receives overwhelming public support, but still faces a degree of official opposition, as if admitting the possibility of doubt was a sign of weakness ...

[OA2] 82. On 2 October 2000 the Human Rights Act 1998 came into force. As noted above, later that year the Freedom of Information Act 2000 received the royal assent on 30 November.

[OA2] 83. In July 2001 the Cabinet Office issued the Ministerial Code (“the 2001 Ministerial Code”), described as “*A code of conduct and guidance on procedures for Ministers.*” Annexed to the 2001 Ministerial Code were the seven principles of public life identified in the Nolan Committee's first report. In section 1 of the 2001 Ministerial Code principles of Ministerial conduct were set out, including:

- iv. Ministers should be as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in

the public interest which should be decided in accordance with the relevant statutes and the Government's Code of Practice on Access to Government Information.

[OA2] 84. In section 5, entitled "Ministers and civil servants" it was stated:

Contacts with outside interest groups, including Lobbyists

63. Ministers receive deputations from many outside interest groups which Ministers will wish to consider as part of the formulation of Government policy. The basic facts of formal meetings between Ministers and outside interest groups should be recorded, setting out the reasons for the meeting, and the names of those attending and the interests represented.

[OA2] 85. Section 8 was entitled "Ministers and the presentation of policy". It included:

Books

107. Ministers may not, while in office, write and publish a book on their Ministerial experience. Nor, while serving as a Minister, may they enter into any agreement to publish their memoirs on leaving their Ministerial position, without the agreement of the Prime Minister. Former Ministers are required to submit their manuscript to the Secretary of the Cabinet and to conform to the principles set out in the Radcliffe Report of 1976 .... Ministers may not receive payment for a book written before becoming a Minister if the decision to publish was taken afterwards.

[OA2] 86. It was on 13 November 2001 that the Lord Chancellor announced an implementation plan for the Freedom of Information Act 2000. Under the timetable in the plan the individual right of access to information held by all public authorities, including government departments, would come into force in January 2005.

[OA2] 87. The Departments' open annex describes a fax from the Prince of Wales's Household to the Prime Minister's Office dated 3 April 2002. The subject matter is said to have been a meeting between Prince Charles and the Prime Minister. The basis for treating the document in confidence is that it is said to detail the topics to be discussed at a meeting between Prince Charles and the Prime Minister.

[OA2] 88. We record as a fact that in June 2002 in a speech to environmentalists in Germany Prince Charles said that GM crops posed an acute threat to organic farmers, and added:

The extent of the problem of contamination is becoming clearer and clearer.

[OA2] 89. In September 2002 it was reported that the Lord Chancellor, Lord Irvine of Lairg, had been corresponding with Prince Charles during the period June 2001 to February 2002. Three alleged letters in particular were eventually published in full in the press. The alleged letters as so published are set out below. In relation to them, and in relation to other reports of alleged interaction between Prince Charles and government, it should be noted that Sir Stephen Lamport's unchallenged evidence was that as far as he is aware no correspondence between Prince Charles and ministers has ever been published or quoted in the press with

Prince Charles's approval, and that the Royal Household does not confirm or comment on leaked information, including commenting on the authenticity of such information.

[OA2] 90. The first of the three alleged letters was written by Prince Charles on 26 June 2001. As published in the Guardian on 27 September 2002 it said:

My Dear Lord Chancellor,

I just wanted to thank you for all your kindness last week in showing me something of your splendid apartments and the wonderful paintings which you have managed to prise out of various collections!

It was a delight to see how much care you have taken to restore and respect the very special nature of that part of the Palace of Westminster.

I hope you will forgive me if I also take this opportunity to follow up part of the discussion we had over tea, as it reflected a particular concern of mine and, I know, of many other people.

It does seem to me that, over the last few years, we in this country have been sliding inexorably down the slope of ever-increasing, petty-minded litigiousness.

This is not only a matter of individuals mounting challenges to institutions in a way which often seems to overlook the realities of life or public service - and I am thinking, for example, of recent cases affecting the police, the Armed Forces and, increasingly, the medical profession - but I am also struck by the degree to which our lives are becoming ruled by a truly absurd degree of politically correct interference. The famous case of the avenue of chestnut trees in Norwich is just one of the most recent, and most depressing.

And I have to say that I also worry, despite your reassurances to me, that the longer term effect of the Human Rights Act will be to provide opportunities which - whatever the sanity and reasonableness of our own judges - will only encourage people to take up causes which will make the pursuit of a sane, civilised and ordered existence ever more difficult.

As I said to you some months ago I, and countless others, dread the very real and growing prospect of any American-style personal injury "culture" becoming ever more prevalent in this country.

Such a culture can only lead, ultimately, to the stultification of human relationships, to an atmosphere of mistrust and suspicion, let alone the real fear of taking decisions that might lead to legal action.

On top of that, it will be debatable as to whether many people will choose to join public services such as the police, Armed Forces or medical profession, if they are to be confronted by working conditions based on such a culture.

Lawyers, of course, will be in a different position!

I realise, of course, that these developments reflect, in part, the changing nature of aspects of our society, and not least the degree to which we have become too often a society of rights rather than responsibilities.

But I also believe that government can play a role in both encouraging and discouraging such a trend.

I just fear that too little is being done to stem the remorseless obsession with rights without there being any corresponding requirement or obligation.

I would be enormously interested to have your thoughts on what I do believe to be an important and worrying issue for the future.

I dare say you will not agree with me, but I am merely trying to take a long



term view based on the old question of balance ...

With kind regards, as always,  
Charles

[OA2] 91. The second of the three alleged letters was written by Lord Irvine on 10 August 2001. As reproduced in the Daily Mail of 3 March 2006 it read:

Your Royal Highness

Thank you for your letter of 26 June about litigiousness.

There is in fact scant hard evidence that people overall are more litigious. There has been no upward trend in the work of the civil courts over recent years.

I agree that people need to be encouraged to accept and fulfil their duties in society. However, I do not see how discouraging people from enforcing their rights could result in a more responsible society, as doing so would encourage people who owe duties to others to ignore those duties. My view is that rights and responsibilities march hand in hand and I find it difficult to conceive of a society that is at the same time both more conscious of individual rights but less conscious of individual responsibility.

That said, if a particular obligation is regarded as too onerous, I am sure we would agree that, in a democratic society, the proper response is to change the law through the legislative process. Nothing in my view is more corrosive of civil society than conferring rights or obligations on people that cannot be realised in practice. The Human Rights Act, whose impact you mention in your letter, is a case in point. The citizens of the UK have theoretically enjoyed the rights conferred by the European Convention on Human Rights for decades. I say "theoretically", however, because citizens who wished to enforce those rights faced an obstacle course in bringing their cases before the Court in Strasbourg. Hence, very few were able to do so. What the Human Rights Act has achieved essentially is to make the rights more accessible by allowing our own Courts to apply the Convention. I can think of no justification for obstructing citizens' rights to challenge public authorities when they infringe fundamental rights such as those to a fair trial or to family life.

More generally, there is, I believe, no convincing evidence that an increased consciousness of responsibilities and rights is necessarily socially or economically harmful. For example, the European Convention on Human Rights has been part of German domestic law for a generation or two and German citizens have a high uptake of legal expenses insurance which enables them to enforce their rights more widely. Yet Germany over the last half century has been regarded as a remarkably cohesive society. And, if litigation American-style were economically detrimental, how would we explain the economic success of that country?

[OA2] 92. Alleged annotations by Prince Charles on the letter were also reproduced, and were said by the Daily Mail to have been addressed to his equerry William Entwistle, a Royal Navy Lieutenant Commander. Those that are visible as reproduced in the newspaper appear to say:

Show this to Stephen – but I want to return to the charge over Human Rights legislation as it affects the Armed Forces in particular. Could you

collect evidence of all the problems now afflicting them via the C.O.s of my regiments and your colleagues running ships etc. Lord Irvine should know of the aspects of this legislation which are causing unnecessary problems etc.

He may find it difficult to conceive but it is becoming a society that is becoming less conscious of individual responsibility!

Increases consciousness of responsibilities?

[OA2] 93. The Daily Mail report says that the annotations continue:

Rubbish – we're a society based on rights alone.

[OA2] 94. The third of the three alleged letters was written by Prince Charles on 13 February 2002. As published in the Guardian on 27 September 2002 it read:

My Dear Lord Chancellor,

I was most grateful for your letter of the 10th of August and read, with interest, the points you made about the concerns I had expressed to you over the increasing litigiousness of our society. You will not be surprised to learn that I am afraid I do not agree with them all!

The more I have thought about this group of issues, the more convinced I am that we are heading for increasing difficulty in many walks of life.

In this respect my letter of 26th June was perhaps too narrow; it only referred to the individual difficulties caused by the more extreme examples of litigation brought to exploit legislation which, itself, has been laudably designed to protect people from exploitation by others.

But I believe that these individual cases have to be looked at also in terms of the underlying attitudes they may reflect and in terms of their cumulative effect.

And this effect is multiplied, in my view, by other issues relating to the passing of ever-more prescriptive laws - for example, health and safety at work legislation, the blame culture they can in practice encourage, and the bureaucratic red tape which accompanies new rules. The more I talk to people, the more convinced I am that this cumulative effect has the potential to be deeply corrosive to the fabric of our society. The reason is because human society is surely about human relationships, which are infinitely varied in tone and hue, and attempting to legislate for them in all circumstances (with which we seem increasingly obsessed) frequently produces unintended consequences which can eat away at the institutions and relationships these rules are designed to protect.

I would not want you to think for a moment that I would argue against sensible ways to protect the interests of individuals and society from harm, irresponsibility and unfairness.

Nor would I want you to tell me that I am simply exaggerating isolated examples into an argument which cannot be sustained by hard fact.

I can only set before you examples, however anecdotal, based on the many people to whom I talk in all walks of life, which ring for me huge warning bells which our instincts cannot ignore. It is not always a matter of direct cause and effect, but more a matter of discerning links which need careful exploration - in just the way that while no one has yet been able to prove a causal link between commercial fish-farming on the West Coast of Scotland and the loss of wild salmon stocks, there are issues at stake here which we

must not responsibly ignore.

I am a patron of a considerable number of hospices and residential homes. Some of them rely on volunteers. They need, of course, to be carefully regulated if they are to perform their responsible tasks properly. But there ought to be sensible limits.

For example, the law now prevents volunteers cooking meals in old people's homes unless they have undertaken a food hygiene course.

Yet many of these sorts of volunteers are middle-aged ladies who have cooked for their families for forty years without poisoning anyone.

In order to protect the elderly from a tiny, but theoretical, risk a whole section of volunteers is in danger of being alienated.

These sorts of people will not volunteer if they are patronised or if regulation makes it impractical. More importantly, the lives of residents themselves risk being impoverished because, instead of the variety of food and human contact favoured by the older system, they are increasingly subjected to a more institutionalised system in which that vital civilising element of human relationships will be so much harder to achieve.

As another small, but significant, example, I heard recently of a case where the springs on resident's room doors in a residential home were replaced with stronger ones to comply with fire regulations (even though the old ones held the doors shut).

Unfortunately the new ones are so strong that some of the old people are unable to open their doors, and one seriously damaged his back attempting to do so.

I tell this story - and you will probably say I am being woolly and imprecise! - because, whilst fire regulations are obviously important, it shows how easily we can lose our sense of proportion.

I would entirely understand if the rules, in this case, had been enforced to the letter because, in a litigious society of absolute rights, it is understandable for a fire inspector to have in the back of his mind that he personally will be blamed and liable if someone dies because a fire door was not shut properly.

No one will prosecute him for sticking to the letter of the regulations, even if, as a result, a resident dies in a fire if he or she is not physically strong enough to open a door.

I am in little doubt that, in the broadest sense, the proliferation of rules and rights makes people over-cautious, stifles initiative and acts as a brake on creative thinking.

The armed forces are an important example. Armies fight as they train. If you wish to do well in high intensity war-fighting, you must also train at a high level of intensity. But because modern safety precautions are so strict, live-firing exercises happen with much less frequency than they used to, soldiers are not pushed as hard as they used to be, and the boundaries of training are a risk of being set more and more within a comfort zone that already questions, for example, the use of barbed wire on exercises. No one can yet measure the effect of such rules.

But even to be considering the possibility - as I am not told is the case - in which a soldier will be able to sue his superior if the latter makes a poor decision in the heat of battle which results in him being wounded, reveals the extent to which existing trends may lead us.

Human Rights legislation carries both important benefits and equally

serious costs. I simply do not accept, as you suggested in your last letter, the rights and responsibilities are marching forward hand in hand.

The Human Rights Act is only about the rights of individuals and this betrays a fundamental distortion in social and legal thinking.

This is made worse because the litigious society is a vicious circle; the more people become litigious, the more government legislates to proscribe those occasions which might lead to a third party having just cause to enter into litigation!

Of course, I do not attach all the blame for such trends to the Human Rights Act. There are much wider issues here. Laws which aim to protect the dignity and well-being of the individual human being are right and necessary. But an approach, increasingly enshrined in law and regulations, which seems to apotheosise the individual and his rights in almost all circumstances, can only be a threat in the longer term to the ability of a society to function in the balanced way which alone can safeguard truly civilised values.

Charles

[OA2] 95. We record as a fact that, in response to reports of this and other correspondence, a spokeswoman for Prince Charles made statements to the media which included the following:

I think it is the Royal Family's role to take an active interest in British life and it is part of their role to highlight problems and represent views which are in danger of not being heard... That role can only be fulfilled properly if complete confidentiality is maintained. ... He [Prince Charles] does have a track record of representing minority views but that's one of the very strong roles of the Royal Family to do that. The Prince's Trust, for example, is the result of minority concerns. ... It's proper and right that he should take an interest in British life. It's not about exerting undue pressure or campaigning privately.

...

It's part of the Royal Family's role to highlight excellence, express commiseration and draw attention to issues on behalf of us all. ...

[OA2] 96. Sir Stephen Lamport's second statement commented on assertions by Mr Richards. At paragraphs 5 to 11 Sir Stephen described some of the work of Prince Charles's Foundation for Integrated Health during the period 2000 to 2004. This included work with central government and work funded by central government:

5. The Prince's Foundation for Integrated Health was established as the Foundation for Integrated Medicine in 1993 at the personal initiative of The Prince of Wales, who was its President until its closure earlier this year. The name change occurred in 2002.

6. In 2000, the Foundation gave oral and written evidence to the House of Lords Committee on Science and Technology. The Foundation was referred to in the Committee's report, as well as the Government's response, as a lead organisation in the provision of advice on education and training in the field of complementary and alternative medicine.

7. In response to the Committee's recommendation for better self-regulation of complementary and alternative medicine practitioners, the Foundation established a five-year programme of work, the objective of which was to encourage the establishment, with the different complementary professional bodies, of either statutory self regulation or voluntary self regulation for each major complementary health profession.

8. The Lords Committee had also noted a need for statutory regulation for herbal medicine and acupuncture practitioners. During 2002, the Department of Health, together with the Foundation and the professional associations for acupuncture and herbal medicine, established two independent regulatory working groups to develop recommendations for the statutory regulation of these two professions. The two working groups published reports in September 2003 (*The Statutory Regulation of the Acupuncture Profession* and *Recommendations on the regulation of herbal medicine practitioners in the UK*). A Department of Health consultation document, '*Regulation of Herbal Medicine and Acupuncture - Proposals for Statutory Regulation*', followed this in March 2004 and a report on the consultation was published in February 2005.

9. On 22 December 2004, the Department of Health published a press release noting that £900,000 would be made available to the Foundation over three years as a Section 64 Grant (specifically, on 2 August 2005, 1 April 2006 and 1 April 2007), "to support the Foundation's work in developing robust systems of regulation for the main complementary healthcare professions".

10. The Foundation had already received funding from the Department before this point [Footnote 3: In 2003 it received £28,000 in Department of Health funding for diverse activities: operating the Integrated Health Awards; writing a Student's Guide to [Complementary] Courses; and running the Acupuncture Regulatory Working Group, but it would seem to be this Section 64 Grant, relating specifically to the Foundation's regulation work, and subsequent funding of £214,461 (which was also received in three batches, on 13 June 2008, 13 October 2008 and 2 April 2009) to which Mr. Richards is referring in his witness evidence.

11. The 'Section 64 General Scheme of Grants', through which the specific funding that Mr. Richards refers to was made, is named after section 64 of the Health Services and Public Health Act (1968), which gives the Secretary of State for Health the power, with the approval of the Treasury, to make grants to voluntary organisations in England whose activities support the Department of Health's policy priorities. Organisations applying for such funding must meet a number of criteria before the Department will consider the application on its merits. ...

[OA2] 97. Prince Charles published his first *Annual Review* in July 2004. The introduction explained that it was intended to give an overview of his official and charitable activities, and to provide information about his income and official expenditure for the year to 31 March 2004. The introduction added:

While there is no established constitutional role for the Heir to The Throne, The Prince of Wales seeks to do all he can to use his unique position to make a difference for the better in the United Kingdom and internationally. The way in which His Royal Highness does so varies over time and according to circumstances, but it can, in simple terms, be divided into three parts.

(i) Undertaking royal duties in support of The Queen. This involves supporting The Queen in her role as a focal point for national pride, unity and allegiance and bringing people together across all sections of society, representing stability and continuity, highlighting achievement, and emphasising the importance of service and the voluntary sector by encouragement and example.

(ii) Working as a charitable entrepreneur. The Prince of Wales has been prescient in identifying charitable need and setting up and driving forward charities to meet it, and his 17 core charities alone require His Royal Highness to assist directly or indirectly with raising around £100 million a year.

(iii) Promoting and protecting national traditions, virtues and excellence. This includes helping to ensure that views held by many people which otherwise might not be heard receive some exposure. His Royal Highness does this through letters to and meetings with Government Ministers and other people of influence, by giving speeches, writing articles and participating in television programmes. In doing so, he is always careful to avoid issues which are politically contentious.

[OA2] 98. In a section entitled “Charitable Entrepreneur”, the 2004 Annual Review recorded that:

The Prince’s core charities make up the country’s largest multi-cause charitable enterprise, the work of which focuses on seven main areas: Youth Opportunity, Health, Education, Responsible Business, the Natural Environment, the Built Environment and the Arts.

[OA2] 99. Also in that section the review went on to describe the work of Prince Charles’s charities in each of these areas. Among other things, it stated under the heading “Health”:

The Prince of Wales has long been involved with a wide variety of healthcare organisations which he helps with personal support, funding and regular visits to hospitals and hospices.

At the heart of his approach is the concept of integrated healthcare. This is a system where patients, protected by a sound regulatory environment and the support of the National Health Service, have access not just to conventional medical treatment but to a wide range of complementary care and therapy, such as acupuncture, homeopathy, massage and herbal medicine.

To help put this theory into practice, and after nearly 25 years of interest and involvement in the field of holistic medicine, eight years ago His Royal Highness set up The Prince of Wales’s Foundation for Integrated Health

(FIH). Its main aim is to help provide safe, effective and efficient forms of medical treatment to patients and their families by supporting the development and delivery of integrated healthcare, especially by encouraging conventional and complementary practitioners to work together.

The development of the FIH's work comes at a time when public interest in complementary medicine is growing (surveys show that 75 per cent of people would like complementary treatments to be available on the NHS), and the Government is taking an active approach to the issue. For example, the Government last year published its consultation document on the regulation of acupuncture and herbal medicines in the UK.

The consultation document was a result of the efforts of two working groups established by the FIH and the Department of Health, and will lead to proposals for regulation of these two important areas being brought forward by the Government this year. To emphasise his support for integrated healthcare, The Prince last year visited a leading integrated GP Practice in Devon, where patients have access to a range of complementary approaches, a clinic in Waltham Forest offering massage and homeopathy alongside conventional treatments, and an acupuncture and Chinese herbal medical centre at the Gateway Clinic in Lambeth.

[OA2] 100. The *Annual Review 2004* recorded that Prince Charles's income and funding during the year ended 31 March 2004 amounted to £11.9 million from the Duchy of Cornwall, £3.856 million by way of grants-in-aid and £292,000 from government departments. As regards the Duchy of Cornwall, the 2004 Annual Review explained that this is a landed estate which includes agriculture commercial and residential property, and also has a financial investment portfolio. It continued:

The Prince of Wales does not own the Duchy's capital assets, and is not entitled to the proceeds or profit on their sale, and only receives the annual income which they generate (which is voluntarily subject to income tax). Because of the importance of the beneficiary, the Duchy's 'trust provisions' have, over the years, been set out in legislation, with the financial security of the Duchy overseen by HM Treasury.

His Royal Highness chooses to use a large proportion of the income from the Duchy of Cornwall to meet the cost of his public and charitable work. In 2003-04, the income due to The Prince of Wales's Office from the Duchy amounted to £11.913 million, compared with £9.943 million in 2002-03.

For a number of years, following the major purchase of the Prudential agricultural property portfolio, the Duchy has been restructuring its property portfolio of commercial, agricultural and residential properties. The 20% increase in the surplus this year is a combination of increased rental income from commercial properties newly acquired in line with this policy, and rent reviews on existing properties.

The Prince of Wales is actively involved in running the estate, which is required to be operated on a commercial basis by its parliamentary legislation. However, the long history of the Duchy of Cornwall and The Prince's own commitment to pass down to his successors an estate in a better and stronger condition than when he became the beneficiary also requires a long-term stewardship approach.

With this in mind, The Prince of Wales ensures that environmental and agricultural best practice, and working in partnership with its tenants and local communities, are at the heart of the Duchy's management approach. He has shown that preserving and sustaining rural communities, as well as supporting traditional craftsmanship and architecture, are not incompatible with achieving a satisfactory financial return. Both the Duchy's income and the value of its capital assets have increased significantly in recent years.

[OA2] 101. The *Annual Review 2004* added that grants-in-aid and money from government departments are provided to Prince Charles by way of funding for official costs and expenditure incurred in support of the Queen as Head of State.

[OA2] 102. An open letter to Prince Charles was published in the 10 July 2004 edition of the *British Medical Journal*. The letter was entitled:

PERSONAL VIEW: An open letter to the Prince of Wales: with respect, your highness, you've got it wrong.

[OA2] 103. The open letter was written by Professor Emeritus Michael Baum. It said:

Twenty years ago, on the 150<sup>th</sup> anniversary of the BMA, you were appointed its president and used your position to admonish my profession for its complacency. You also used this platform to promote "alternative" medicine. Shortly after that I had the privilege of meeting you at a series of colloquia organised to debate the role of complementary and alternative medicine (CAM). Of course, you won't remember me but the event is indelible in my memory. I was the only one of my colleagues unequivocally to register dissent.

A few days later you had a four page supplement in the London *Evening Standard*, promoting unproven cures for cancer, and the paper invited me to respond. I requested the same space but was only allowed one page, ... . Furthermore, the subeditors embarrassed me with the banner headline, "With respect your Highness, you've got it wrong" (13 August 1984). As I have nothing more to lose I'm happy for that headline to grace the *BMJ* today.

Over the past 20 years I have treated thousands of patients with cancer and lost some dear friends and relatives along the way to this dreaded disease. I guess that for most of my patients their first meeting with me was as momentous and memorable as mine was with you.

The power of my authority comes with a knowledge built on 40 years of study and 25 years of active involvement in cancer research. I'm sensitive to the danger of abusing this power and, as a last resort, I know that the General Medical Council (GMC) is watching over my shoulder to ensure I respect a code of conduct with a duty of care that respects patients' dignity and privacy and reminds me that my personal beliefs should not prejudice my advice.

Your power and authority rest on an accident of birth. Furthermore, your public utterances are worthy of four pages, whereas, if lucky, I might warrant one. I don't begrudge you that authority...but I do beg you to exercise your power with extreme caution when advising patients with life threatening diseases to embrace unproven therapies. There is no equivalent of the GMC for the monarchy, so it is left either to sensational journalism or, more rarely, to the quiet voice of loyal subjects such as myself to warn you that you may



have overstepped the mark. It is in the nature of your world to be surrounded by sycophants (including members of the medical establishment hungry for their mention in the Queen's birthday honours list) who constantly reinforce what they assume are your prejudices. Sir, they patronise you! Allow me this chastisement.

Last week I had a sense of *déjà vu*, when the *Observer* (27 June) and *Daily Express* (28 June) newspapers reported you promoting coffee enemas and carrot juice for cancer. However, much has changed since you shocked us out of our complacency 20 years ago. The GMC is reformed and, as part of this revolution, so has our undergraduate teaching. Students are taught the importance of the spiritual domain but also study the epistemology of medicine or, in simpler words, the nature of proof.

... The scientific method is based on the deductive process that starts with the humble assumption that your hypothesis might be wrong and is then subjected to experiments that carry the risk of falsification. This approach works. For example in my own specialism, breast cancer, we have witnessed a 30% fall in mortality since 1984, resulting from a worldwide collaboration in clinical trials, accompanied by improvements in quality of life as measured by psychometric instruments.

...

I have always advocated the scientific evaluation of CAM using controlled trials. If "alternative" therapies pass these rigorous tests of so called "orthodox" medicine, then they will cease to be alternative and join our armamentarium. If their proponents lack the courage of their convictions to have their pet remedies subjected to the hazards of refutation then they are the bigots who will forever be condemned to practise on the fringe.

I have much time for complementary therapy that offers improvements in quality of life or spiritual solace, providing that it is truly integrated with modern medicine, but I have no time at all for "alternative" therapy that places itself above the laws of evidence and practises in a metaphysical domain that harks back to the dark days of Galen.

...

[OA2] 104. We record as a fact that Prince Charles wrote an article, published by the *Independent on Sunday* on 11 July 2004, which was concerned with nanotechnology, and warned of the need to ensure that proper attention is given to the risks that may ensue. An article on this topic appeared in *The Times* on 12 July 2004. It cited "a stinging rebuke" from the scientific community and asserted that Prince Charles's article was viewed as a pre-emptive strike prior to publication of a study commissioned by the government to educate the public and prevent scare-mongering.

[OA2] 105. It was reported in the *Mail on Sunday* on 26 February 2006 that Prince Charles had sent a 4-page document to then Prime Minister (Mr Blair) in April 2001 offering advice on how to handle the foot and mouth crisis. The report described a spokesman for Prince Charles as saying:

It has always been clear that the Prince can write privately to Ministers including the Prime Minister. But we would never comment on private correspondence.

[OA2] 106. We noted above that the first “pillar” of the Aarhus convention was to provide a right for everyone to receive environmental information held by public authorities. This was given effect in European law through Directive 2003/4/EC, implemented in England and Wales by the Environmental Information Regulations 2004 which were made on 21 December 2004 and came into force on 1 January 2005, the same day that the provisions enabling individuals to have access to information under the Freedom of Information Act 2000 were brought into force.

## **[OA2] April 2005 onwards**

[OA2] 107. On 8 and 11 April 2005 Mr Evans made the requests which gave rise to the present appeal.

[OA2] 108. Prince Charles’s *Annual Review* for the year to 31 March 2005 was published in July 2005. It stated in the introduction, under the heading “Promoting and protecting national traditions, virtues and excellence”:

This includes supporting Britain’s rural communities, promoting tolerance and greater understanding between different faiths and communities, and highlighting achievements or issues that, without his support, might otherwise receive little exposure. In this regard, His Royal Highness often acts as a catalyst for facilitating debate or change through letters to, and meetings with, Government Ministers and other people of influence, and by giving speeches and writing articles. In doing so, he is always careful to remain separate from party political debate, and communicates with Ministers as a member of the Privy Council and to report matters raised by people during his visits round the country.

[OA2] 109. In relation to the Duchy of Cornwall the 2005 Annual Review repeated the final two paragraphs quoted earlier from the 2004 Annual Review (about Prince Charles’s active involvement in running the Duchy, and his demonstration that preserving and sustaining rural communities, as well as supporting traditional craftsmanship in architecture, are not incompatible with achieving a satisfactory financial return). The 2005 Annual Review noted that income from the Duchy had increased in the year ending 31 March 2005 to £13.275 million, compared with £11.913 million in 2003-04. Factors leading to the increase included income from commercial property and from investment in bonds rather than equities. The majority of rents from agricultural properties had declined in real terms.

[OA2] 110. Prince Charles’s *Annual Review 2005* included, in a section describing his role as “charitable entrepreneur”, the following:

Since the establishment of The Prince’s Trust in 1976, His Royal Highness has founded or become President of 16 organisations which focus on areas that are central to how people live: homes and communities, health, education, work, the environment and the arts.

Their activities range from pioneering work with young people, to restoring and nurturing a healthy environment, and promoting social and environmental responsibility among the world’s business leaders. In addition to the core operating organisations, there are two funding charities, the UK Charitable Foundation and the US Foundation, both managed by The Prince of Wales’s Office. The Prince of Wales supports his charities from his

charitable foundations and particularly from Duchy Originals. One of the UK's leading organic and natural food and drink brands, Duchy Originals gives all its profits to the UK Charitable Foundation.

While all the charities are independent entities with separate boards, they have been working closely together to take advantage of their common links and generate synergies for the benefit of the communities they serve. Over the past year, the senior teams of the 16 charities have come together under the auspices of the newly-created Charities Office, headed by Sir Tom Shebbeare, to work together on matters such as corporate governance, fundraising, planning and communications.

Together the charities have adopted a voluntary code of conduct with regards to these issues. They have also adopted a group name, The Princes' Charities, and have articulated their collective purpose . . . . The Charities Office also works on new initiatives, such as The Prince of Wales's Initiative in India, and the growth and development of existing enterprises, such as the Education Summer School.

As well as his core charities, The Prince is President or Patron of 352 other charities in which he takes an active interest.

[OA2] 111. Also in the "Charitable Entrepreneur" section, the review stated under the heading "Health":

The Prince of Wales has long been involved with a wide variety of healthcare organisations which he helps with personal support, funding and regular visits to hospitals and hospices. At the heart of his approach to health matters is the concept of integrated healthcare – a system where patients, protected by a sound regulatory environment and the appropriate support of the National Health Service, have access not just to conventional medical treatment but also to a comprehensive range of complementary care and therapy.

The Prince of Wales's Foundation for Integrated Health (FIH) was set up nine years ago to help provide safe, effective and efficient forms of medical treatment to patients by supporting the development and delivery of integrated healthcare, especially by encouraging conventional and complementary practitioners to work together.

One of FIH's main aims is to improve the information available to patients to allow them to make better choices, which is why one of the key developments of 2004-05 was the launch in February of a guide for patients to complementary healthcare. Part-funded by the Department of Health, the guide provides practical information for the increasing number of people across the country who are visiting complementary practitioners.

The 50-page booklet details 16 of the most popular complementary therapies including acupuncture, aromatherapy and herbal medicine. It lists general precautions and points to be aware of before having treatment as well as further sources of information, including those on the Internet. Importantly, the guide emphasises the need for all patients to discuss any potential complementary treatment with their GPs.

[OA2] 112. A boxed feature under the heading “Health” stated as follows:

Setting standards

In December, the Department of Health announced that it was awarding a grant of £900,000 to the Prince of Wales’s Foundation for Integrated Health to support its work in setting standards in complementary healthcare. The money will help fund research into ensuring that the public has access to safe, competent, and regulated practitioners.

There are currently about 47,000 complementary practitioners in the UK, many of whom are unregulated, and Jonathan Coe, chief executive of The Prevention of Professional Abuse Network, said the government funding was good news for both the public and practitioners. He said: “The Foundation for Integrated Health is the single, most important agency in developing proper approaches to public protection in complementary therapies. The department’s grant will mean that progress towards effective regulation is maintained.”

Steve Catling, the head of professional standards and pensions at the Department of Health, said at the announcement of the award that FIH had already made a significant contribution to the development of better professional regulation. He added: “It is increasingly vital that people trust both healthcare practitioners and the bodies that train, licence and regulate them.”

[OA2] 113. The Ministerial Code was reissued in July 2005 (the “2005 Ministerial Code”). In accordance with a recommendation of the Committee on Standards in Public Life it was split into two parts: a Ministerial Code of Ethics, and Procedural Guidance for Ministers. A foreword by the Prime Minister (Mr Blair) noted that the Code of Ethics set out responsibilities of Ministers, including responsibilities under the Freedom of Information Act 2000. In that regard, what had appeared in the 2001 Code as principle iv was reformulated in “Part I – Ministerial Code of Ethics” at paragraph 1.5 as:

- d. Ministers should be as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest which should be decided in accordance with the relevant statutes and the Freedom of Information Act 2000.

[OA2] 114. In “Part II - Procedural Guidance for Ministers”, paragraph 8.16 of the 2005 Ministerial Code was in the same terms as paragraph 63 of the 2001 Code. Paragraph 9.17 was in the same terms as paragraph 107 of the 2001 Code.

[OA2] 115. In September 2005 DEFRA informed Mr Evans that it had decided not to disclose the information requested, and that it was withheld under regulation 12(5)(f). During the period May to November 2005 other departments stated that under s 37(2) of the Act they neither confirmed nor denied holding the information requested. In each case Mr Evans asked the department to reconsider.

[OA2] 116. In December 2005 DEFRA informed Mr Evans that after review it had concluded that the information was correctly withheld under regulation 12(5)(f), but added that as

regards non-environmental information under section 37(2) of the Act it neither confirmed nor denied holding the information requested. During the period June 2005 to April 2006 other departments stated that after review they maintained their previous decision under s 37(2) of the Act that they should neither confirm nor deny holding the information requested. In each case Mr Evans complained to the Commissioner.

[OA2] 117. Between July 2005 and November 2006 the Clarence House website stated under the heading “Promoting and protecting national traditions, virtues and excellence”:

This includes helping to ensure that views held by many people which otherwise might not be heard receive some exposure. His Royal Highness does this through letters to and meetings with Government Ministers and other people of influence, by giving speeches, writing articles and participating in television programmes. In doing so, he is always careful to avoid issues which are politically contentious.

[OA2] 118. Under the heading “Raising Issues” it said:

When issues become a matter for party political debate or the subject of Government policy, The Prince stops raising them publicly.

[OA2] 119. We noted above that the Clarence House website from July 2005 to November 2006 included a quotation from Prince Charles’s letter to Tom Shebbeare in 1993: “For the past 15 years I have been entirely motivated by a desperate desire to put the ‘Great’ back in Great Britain. Everything I have tried to do – all the projects, speeches, schemes etc – have been with this end in mind.” The website continued:

In this rare statement of his vision and aims, The Prince of Wales makes it clear he has no ‘political’ agenda. His aim is a long-term one, drawing on the nation’s talents and traditions to help people achieve their potential in all aspects of their lives.

[OA2] 120. The Departments’ open annex describes a minute from the Prime Minister’s Office to the Prime Minister dated 6 September 2005. The subject matter is said to be a meeting between Prince Charles and the Prime Minister. The basis for treating the document in confidence is said to be that it details the topics to be discussed at a meeting between Prince Charles and the Prime Minister.

[OA2] 121. All parties agree that 28 February is the latest possible reference date (see the introduction above, and section F of the main judgment). Subsequent events are included below where they relate to the present proceedings or may arguably shed light on the position prior to 28 February 2006.

[OA2] 122. A television documentary entitled, “Charles: the Meddling Prince” was broadcast as part of the Dispatches series on 12 March 2007. The tenor of the documentary, and Prince Charles’s reaction to it, were described in an article in the Sunday Express on 11 March 2007:

PRINCE Charles has vowed to stop “meddling” when he becomes King and has given the first revealing insight into how he will reign as monarch.

In a lengthy document drafted by Charles’s right-hand man Sir Michael

Peat, he reveals how the heir to the throne will “change when he becomes King”.

The dossier – compiled in defence of the way the Prince lives and runs his affairs – reads: “It hardly needs saying that the Prince of Wales, of all people, knows that the role and duties of the heir to the throne are different to those of the Sovereign and that his role and the way he contributes to national life will change when he becomes King.

In other words, it is misconceived and entirely hypothetical to suggest that problems will result if the Prince of Wales fulfils his role in the same way when King. He will not.”

Sir Michael, Charles’s principal private secretary, drafted the rebuttal in response to a documentary due to be aired tomorrow night which questions Charles’s fitness to be King.

...

Furious at the allegations, Clarence House last week sent two letters to David Henshaw, executive producer of Hardcash Productions Ltd, which made the documentary, copying in Channel 4’s chairman Luke Johnson.

They were released on request to the Sunday Express in the “interests of openness and completeness.”

The dossier, which runs to 21 pages, excluding appendices, counters the claim that the Prince’s “interference” in policy matters could lead to a constitutional crisis when he becomes King.

Praising the Prince’s “remarkable achievement” of remaining “politically neutral” during the past 35 years, Sir Michael justifies Charles’s desire to have a role while his mother is on the throne, insisting he “cares deeply about the well-being of the UK and everyone in it”.

...

Denying Charles is “driven by self-interest”, Sir Michael argues the examples cited in the documentary of the Prince “interceding in political issues” are not political at all. The design of the National Gallery [which Charles famously called a “monstrous carbuncle”], modern farming methods, Atlantic salmon, foot-and-mouth disease, badgers and alternative health, are not, I believe, regarded as ‘political’ by the vast majority of people,” he writes.

He also denies that Charles has a secretary specifically to deal with letters to heavyweights. “He does not write letters to influential people on a daily basis,” he writes.

[OA2] 123. The Departments sent substantive responses to the Commissioner during the period May to August 2007.

[OA2] 124. In March 2008 representatives of the Royal Household, Cabinet Office and Commissioner’s Office met. Thereafter on 7 July 2008 the Commissioner wrote to the Royal Household, in particular as to the refusal to confirm or deny.

[OA2] 125. In November 2008 the Commissioner received a reply from the Royal Household to his letter of 8 July 2008, and in December 2008 representatives of the Royal Household, Cabinet Office and Commissioner’s Office met again.

[OA2] 126. On 5 January 2009 the House of Commons Public Administration Select Committee published its first report of the session 2008-09, entitled Lobbying: Access and

influence in Whitehall (“the PASC Lobbying Report”). Part 1 of the report, entitled “Introduction”, stated under the heading “Scope”:

10. ... we have been asked to define what we mean by lobbying. But there is no neat way of defining what is generally acknowledged to be a porous concept. ...

11. Multi-client public affairs companies (‘lobbyists for hire’) were an initial focus ... [but] would fail to capture a large number of those involved in attempting to influence decisions within the public sector ...

...

13. Because of these porous boundaries and difficulties of definition, we came to the conclusion that a broad look is needed at contact between those working in the public sector and those attempting to influence their decisions.

[OA2] 127. In section 2, entitled “What is the problem?”, paragraph 22 noted a recent survey indicating that there was a noticeable public perception of ministers:

[not] being in touch with what people think is important.

[OA2] 128. In the same section at paragraph 38 the committee stated:

... We do not and cannot have insight into the thought processes of those taking decisions, but this is what would be needed in order to know for certain whether a decision has been unreasonably influenced. What this suggests is the need for a balanced and rational assessment of information on meetings, rather than the automatic assumption of undue influence. It is not, however, an argument against making this information available. Secrecy simply feeds the fantasies of those conspiracy theorists who attribute policy decisions they do not like to the nature of the process that produced them.

[OA2] 129. Part 6 of the report put forward proposals for reform, stating:

144. What is clear to us is that reform is necessary. Lobbying the Government should, in a democracy, involve explicit agreement about the terms on which this lobbying is conducted. The result of doing nothing would be to increase public mistrust of Government, and to solidify the impression that Government listens to favoured groups – big business and party donors in particular – with far more attention than it gives to others. Measures are needed:

To promote ethical behaviour by lobbyists, with the prospect of sanctions if rules are broken.

To ensure that the process of lobbying takes place in as public a way as possible, subject to the maximum reasonable degree of transparency, and

To make it harder for politicians and public servants to use the information and contacts they have built up in office as an inducement to other potential employers.

[OA2] 130. In late January 2009 the Commissioner advised the Departments that a recent letter from the Royal Household indicated a change of position in relation to Mr Evans's complaints. On the basis of that letter the Commissioner's understanding was that the Cabinet Office was no longer relying on sections 37(2) and 41(2) of the Act to neither confirm nor deny holding the information requested. In each case the Commissioner asked that the department write to Mr Evans no later than 6 February 2009 informing him whether or not information was held, and if the department sought to withhold information explaining in sufficient detail to enable Mr Evans to have a clear understanding of the basis upon which it was withheld.

[OA2] 131. In March and April 2009 letters from the Departments to Mr Evans stated that in response to the Commissioner's investigation they had carried out a further public interest test, and that they now believed that the balance of public interest fell in favour of confirming whether or not information within the scope of the request was held. The author of each letter then continued: "I can therefore confirm that the department does hold information." The letters identified provisions that were relied upon, by DEFRA under the Regulations, and by other departments under the Act, for refusing to provide both the information and the lists and schedules that had been requested. The letters gave brief reasons for concluding that the information was not disclosable under those provisions.

[OA2] 132. We record as a fact that on 12 May 2009 Prince Charles gave a further speech to the Royal Institute of British Architects, in which he recalled his 1984 speech, and said:

I am sorry if [in 1984] I somehow left the faintest impression that I wanted to start some kind of "style war" between Classicists and Modernists ... All I asked for was room to be given to traditional approaches to architecture and urbanism ... that earlier speech addressed a much more fundamental division ... namely the one between "top-down" and "bottom-up" approaches to architecture ... there still remains a gulf between those obsessed by forms ... and those who believe that communities have a role to play in design and planning.

[OA2] 133. On 23 October 2009 the Government Response to the PASC Lobbying Report was published. At an early stage in the response the Government stated:

... it is ... important to set out the context ... While the Committee's Report focuses mainly on the relationship between the lobbying industry and Government, it must be remembered that lobbying goes much wider than this. Lobbying is essentially the activity of those in a democracy making representations to government on issues of concern.

[OA2] 134. In that context, the Government stated that it:

... accepts that it needs to consider whether there is more to do to provide the public with greater reassurance that lobbying takes place within a framework which upholds high standards of propriety ...

[OA2] 135. On 15 and 18 December 2009 the Commissioner issued the decision notices. In January 2010 Mr Evans gave notice of appeal.



[OA2] 136. In his third witness statement to us dated 13 January 2011 Sir Stephen Lamport acknowledged that the wording which had appeared on the Clarence House website from mid-2005 onwards under the heading "Correspondence and Meetings" could give rise to ambiguity. What it had said was:

As well as raising issues publicly to bring attention to matters that might be overlooked, his Royal Highness also privately corresponds with and meets with Government Ministers, business leaders and other people of influence on a variety of subjects that have been brought to his notice or which concern him.

In doing so, The Prince is always careful to avoid party political issues.

[OA2] 137. Sir Stephen noted that the first paragraph referred to private correspondence with both ministers and "business leaders and other people of influence". He said that it was with regards to the latter rather than the former correspondence that Prince Charles would be careful to avoid party political issues. At paragraph 8 he continued:

For the sake of clarity and to make clear the distinction between The Prince's public speeches and articles on the one hand and his private correspondence with Government Ministers on the other, the wording on the Clarence House website under the heading "Correspondence and Meetings" has been amended to read:

"As well as raising issues publicly to bring attention to matters that might be overlooked, His Royal Highness also privately corresponds with and meets business leaders and other people of influence on a variety of subjects that have been brought to his notice or which concern him. In doing so, The Prince is always careful to avoid party political issues.

His Royal Highness also privately corresponds with and meets Government Ministers and officials in his role as Heir to the Throne as well as a Privy Counsellor."

[OA2] 138. Sir Stephen added that no comparable wording had appeared on the website from 1998 to 2002, but it had not been possible to confirm the wording in April 2005 when the requests were made.

[OA2] 139. At paragraph 10 Sir Stephen said that he understood from Clarence House that a version of the amended website wording would also now be used in the *Annual Review* so as to ensure clarity.