

# Freedom of Information in Britain is being subtly (but perceptibly) eroded

By Democratic Audit

*The Freedom of Information Act has become a central part of British political life, with citizens increasingly relying on its provisions to ensure a greater degree of transparency is brought to bear on politicians and government. Likewise, journalists increasingly use it as a source of material for stories. However the recent direction of travel by the current Government suggests a subtle watering down the public's freedom to access government information, according to **Bilal Ghafoor**.*

It is no accident that in the classic series, Yes Minister and Yes Prime Minister, the first episode is about open government. I remember reading the diaries in the late 80s and thinking that it was funny and entirely impossible that we would ever have a Freedom of Information (FOI) Act in the UK. But an Act was passed in 2000 and came into force in 2005 (actually, we have two, as Scotland has its own).

In brief, this gives anyone the right:

- to ask any public authority (including dental and GP practices, universities, NHS organisations, local and central government, this amounts to possibly 60,000 such bodies)
- for any recorded information (it covers any record – audio, the Post-it note that a civil servant slaps on a document, the notebooks kept by a school administrator, as well as the usual emails and working documents) and,
- unless an exemption applies (there are about 20 exemptions in the FOI Act, but for most of them, you have to explain your reasons as to why they apply),
- to receive that information in 20 working days.

If you don't like the service, you have a right in law to complain and then to go to the Information Commissioner's Office for it to arbitrate on whether the reply was appropriate and timely. You can even go to the Information Tribunal or Court, as some cases have ended up.

Blair famously called himself an idiot for introducing the Act (see [here](#)). There have been silly FOIs asking local councils for their plans in case of a zombie invasion; high profile FOIs, such as those asking about MPs' expenses (which made duck houses so famous); and the quiet but effective ones, such as those that asked Whitehall departments how much money they were spending on bottled water – the figure was so high that Gus O'Donnell wrote to permanent secretaries asking them to switch the departments to tap water, which has probably saved several million pounds by now.

More and more often we see that news stories are the results of carefully crafted FOI requests from intelligent journalists. More often, citizens are holding their local councils and NHS to account by using FOI to get to the information that the organisations do not routinely publish.

I got my local council to confess that it had lost £30,000 of lighting and sound equipment while it refurbished our local library. We need to remember that this is not the sort of information that we would have dreamt about getting in the 80s or 90s. But the fight is still not over.

There are two main threats to FOI: the Government's response to the Justice Select Committee's review of FOI; and, the current push towards open data.

In 2012 the Justice Select Committee undertook a post legislative review of the FOI Act. Several Whitehall mandarins tried to explain to the Committee that FOI had brought about a chilling effect and that discussions in government had been harmed. While the review saw off this challenge and was positively received by most

people, the government response seemed to ignore most of the Committee's recommendations (see [here](#) for analysis) and focused on the burden of FOI.

The most troubling aspect of this focus is the government's proposal that unrelated requests from groups to the same public authority received within three months should be aggregated for the purposes of cost. At the moment, for example, if a journalist from Manchester Evening News FOIs a local council about proposals to close a park, and another journalist FOIs the council a week later about violence against social workers, these two will be dealt with totally separately. The new proposal is that, because the two FOIs originated from the same group, that they should be aggregated and if together they cost more than £450 to comply with, that they can be refused. In practice, this means that local groups (such as those fighting fracking or changes to the NHS) and local newspapers will be able to submit only a very small number of FOIs before they have to wait three months for the aggregation period to elapse. Will this help democracy?

Francis Maude, the Cabinet Office Minister, has been pushing open data and has gone so far as to say that he would like to make FOI redundant by making open data effective. Sounds pretty good to me. Unless we start thinking about the nature of FOI requests. Minutes of meetings discussing the closure of my local library are not going to be published as part of a data set on <http://data.gov.uk/> or on the ridiculous new <https://www.gov.uk/> which, despite having won an award, is empty of content (health policy statements from five years ago are nowhere to be found and have to be requested under FOI). The Cabinet Office's drive towards open data did not publish the fact that it had no project plan to populate it with the same content that has been lost now that individual ministries' websites have shut down. I had to ask it under FOI.

The government is making the right sorts of noises about openness and transparency, such as the Prime Minister's [speech](#) at the Open Government Partnership. The trouble is, the noises are being made about the sorts of information that tell only that part of the story that the government wants you to know about. Protections for accessing the sorts of information that we want to ask for is being quietly eroded.

Freedom of Information is here to stay. Every Opposition suddenly gets interested in openness. Cameron was cooed about FOI when in Opposition as Miliband is doing now. So, government attacks on FOI must be more subtle.

I am sure that Sir Arnold, the permanent secretary in Yes Prime Minister, who remarked "Open Government is a contradiction in terms. You can be open – or you can have government", would approve of the current administration's subtlety.

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*Note: this post represents the views of the author, and not those of Democratic Audit. Please read our [comments policy](#) before posting. The shortened URL for this post is: <http://buff.ly/1dajsNf>*

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**Bilal Ghafoor** is a Freedom of Information Officer and Data Protection practitioner. Further information is available at the Campaign for Freedom of Information at [www.cfoi.org.uk](http://www.cfoi.org.uk).

