

Freedom of Information Needs Urgent Freeing, by [Peter Geoghegan](#), [Jenna Corderoy](#) and Hasan Pandor (15th Feb 2021)

The UK's [Freedom of Information Act 2000](#) must be upheld in both letter and spirit: **British democracy depends upon the public's right to information held by public authorities.** With FOI response rates in Whitehall [at their lowest level since the Act was introduced](#), the FOI 'Clearing House' in the Government's Cabinet Office must be disbanded, **and impediments to the flow of information to the public - who pay for and own the information - must be cleared.** More broadly, for democracy to work, countrywide, the '[current culture of opacity](#)' found in evasive public authorities **must be replaced with a positive culture around FOI.**

It is the duty of Parliament to examine the [likely breaching of data protection legislation](#) by the Government. Since the FOI Act was actually applied in 2005, a 'Round Robin List' has been shared between Government departments whereby the names of persons making FOI requests are circulated and discussed. This 'processing' of personal data probably falls foul of General Data Protection Regulation (GDPR) which stipulates that the sharing of personal data must be done lawfully, fairly and transparently. However, the Cabinet Office is the only Government department that informs users at all [that their data will be shared](#) when they submit FOI requests. Moreover, sharing names as general practice completely ignores the Cabinet Office's own stipulation that it will only be done when 'necessary': interference with fundamental GDPR rights can only be justified by 'a pressing social need' when its exercise is 'both proportionate as to means and fairly balanced as to ends'. **Neither of these conditions are being met by the Government's current approach to FOI requests made by the public.**

The extent of subverting the spirit of the FOI Act and democracy is exemplified by the case of David Davis MP: after the Cabinet Office refused the information he sought concerning public opinion at the start of the pandemic, Davis [commented](#), '**Few things can be more public than a taxpayer-funded opinion poll, but they seem to think it is a great secret.**' He appealed to the Information Commission Office (ICO). Grenfell requesters too were [stonewalled](#) by the Royal Borough of Kensington and Chelsea, and thus sought a legally binding decision notice through the ICO. **However, despite a 70% rise in complaints in five years about FOI requests being stonewalled, the Information Commissioner has failed to act;** rather, in 2018, the ICO [stopped publishing](#) regular lists of authorities it had concerns about, **and itself contributed to impeding the flow of information** instead of clearing it. It is profoundly unhelpful that the ICO's budget has been cut in real terms by 41 per cent [over the last decade](#), while its FOI complaint caseload has increased by 46 per cent.

To ensure democratic accountability through the FOI Act's provisions, Government must:

- Disband the FOI 'Clearing House' and ensure in-house practices are GDPR compliant
- Fully fund the ICO
- Empower the public to use the Act responsibly through countrywide education initiatives
- Extend the FOI Act to private companies.

The latter is especially important in light of the National Audit Office report **finding '[widespread accountability failures](#) in Whitehall's pandemic procurement spending'**.

Restoring confidence and trust in our public authorities and private companies is fundamental to Britain uniting and prospering in post-Brexit and post-pandemic Britain.

Visit <https://blogs.soas.ac.uk/cop/> and [@SOASICOP](#) for further briefings. Please contact Professor Alison Scott-Baumann and her team for access to other experts (email: as150@soas.ac.uk).

The views expressed in SOAS ICOP Briefings are those of the authors and do not necessarily represent those of SOAS.