



The UK Freedom of Information Act 2000 and its effect on the Westminster Parliament

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The Freedom of Information Act 2000

- Came into force 1 January 2005
- Applies to England, Wales and Northern Ireland (Scotland has its own Act under devolution)
- Applies to “public authorities”



Profound change in information culture

- **Before...**

- Private unless a public authority decides to disclose

- **Now...**

- Public unless there is good reason to keep private Similar arrangements in....50 other states including the US, Canada, Australia, New Zealand, most EU countries



Publication schemes

- What you routinely make available?
- What do you put in?
- Parliament's schemes



Things that aren't in the publication scheme: the basic Fol principle

- **Section 1 of the Act says:**

- *Any person making a request for information to a public authority is entitled*

- (a) *to be informed in writing by the public authority whether it holds information of the description specified in the request, and*

- (b) *if that is the case, to have the information communicated to him*



How it works

- Requests must be in writing
- with a return address
- do not have to mention the FoI Act



Responding


- Public authority has 20 days to reply
- In the form acceptable to the applicant
- Duty to assist — what does it mean?



Simple so far?

- Wait ... here are THE EXEMPTIONS



- 
- information intended for future publication
 - national security
 - defence
 - international relations
 - relations within the UK
 - the economy
 - investigations and proceedings by public authorities
 - law enforcement
 - audit functions



Wait, there's more

- formulation of government policy
- effective conduct of public affairs
- communications with the Queen and honours
- health and safety
- environmental information
- protected personal information
- legal professional privilege
- commercial interests



But these are all subject to a public interest test

- Which means.....
 - *the public interest in disclosure is greater than the public interest in maintaining protection*



Not subject to the public interest test...

- information accessible by other means
- information supplied by security bodies
- court records
- parliamentary privilege
- conduct of public affairs (House of Commons or House of Lords)
- information provided in confidence
- prohibited by another Act



How is all this enforced?

- The INFORMATION COMMISSIONER
 - independent public official
 - approves publication schemes
 - gives advice
 - enforces



Refusing information: what happens?

- application for information
- public authority refuses, giving reasons
- requester asks for internal review
- still refused
- requester goes to Information Commissioner
- enforcement notice
- **contempt of court**





But...

- Appeal to the Information Tribunal
- Appeal to the High Court



- Cabinet Minister's veto (public criticism?)
- report by the Information Commissioner





So how does this affect Parliament?

- As a seeker after information?
- As a steward of information?



As a seeker after information

- An additional weapon in the hands of Members
- Cannot be used to pursue Parliamentary Questions
- But Ministers will find it more difficult to refuse an answer



As a steward of information

- We are in the information business
- But when needed, two key exemptions for Parliament:
- Parliamentary privilege
- Effective conduct of public affairs



Requests so far

- 4,000 to Government
- 50 to Parliament
 - Members' expenses claims
 - Security
 - Staffing matters
 - Catering (the price of drinks)

