

## [Response to points raised in openDemocracy article, 08/02/21](#)

openDemocracy has accused the government of establishing a 'Secretive Cabinet Office "Clearing House" for Freedom of Information (FOI) requests'. There is also a letter from newspaper editors regarding the Clearing House expressing concerns about the way FOI legislation is interpreted and implemented.

In fact, as has been made clear, including in Parliamentary [reports](#), statements and questions, a Clearing House function has existed in different forms since 2004, before the FOI Act came into effect in 2005. David Lammy, then Parliamentary Under Secretary for Constitutional Affairs referred to the function in April 2005, [explaining](#) that the Department for Constitutional Affairs 'has provided support to Freedom of Information (FOI) practitioners in government Departments...[and the] Access to Information Central Clearing House provides daily support to all Whitehall departments'. On 15 June 2005, the Minister of State in that department, Harriet Harman, [set](#) out that 'since the Freedom of Information Act came into force on 1 January [2005], 2,080 cases have been referred to the Clearing House, including Internal Reviews and appeals to the Information Commissioner's Office'. [Evidence](#) submitted by the Department of Constitutional Affairs to Parliament sets out details of the function's operation and an academic [book](#), *The Impact of the Freedom of Information Act on Central government in the UK (2010, Palgrave Macmillan)* by Professor Robert Hazell and others, includes an entire section on the Clearing House function.

Responsibility for FOI policy has moved between the Department of Constitutional Affairs, the Ministry of Justice, and now sits in the Cabinet Office, as part of the FOI and Transparency team and wider Cabinet Secretary Group. There is no stand alone Clearing House team. Coordination functions are carried out by a small number of staff members, all of whom have a range of other wider responsibilities.

The Clearing House function helps ensure there is a consistent approach across government to requests for information which impact or go to a number of different government departments (so-called round robins) or where requests are made for particularly sensitive information, including relating to national security or personal data. This is especially important for complex FOI requests where we are obliged to balance the need to make information available with our legal duties under the FOI Act to protect sensitive information. A coordination function ensures there is a consistent approach so all those submitting FOIs are treated in a similar and fair manner by departments.

The government remains fully committed to our transparency agenda. We routinely disclose information well beyond our FOI obligations, and release more proactive publications than ever before. For instance we publish details on spending over £25,000 by departments, KPIs for the government's most important contracts, as well as details of Ministerial meetings and salaries

of senior officials. We have also been transparent about our approach to COVID-19, including through regularly publishing SAGE minutes on gov.uk, and sharing relevant findings at regular government press conferences.

With regard to our FOI obligations, government resources have inevitably been stretched by COVID-19, but in a three month period between July and September 2020 departments received more than 8,000 FOI requests and responded to almost 90% of them within 20 working days or with a permitted extension, in line with ICO targets. This reflects the government's commitment to fulfill its FOI obligations despite the pressures of responding to COVID-19.

We disagree with openDemocracy's claims about the Clearing House and have set out our position below.

**CLAIM: The British government has been accused of running an 'Orwellian' unit in Michael Gove's office that instructs Whitehall departments on how to respond to FOI requests and shares personal information about journalists. [openDemocracy article 08/02/21]**

RESPONSE: As set out above and detailed in Parliament, a Clearing House function has been in existence since 2004. It is now part of the FOI & Transparency team within the Cabinet Secretary Group. It is not in Michael Gove's office. It does not share personal information about journalists.

**CLAIM: 'It is also said to have blocked the release of sensitive FOI requests.' [openDemocracy article 08/02/21]**

RESPONSE: The Cabinet Office – including the Clearing House function – provides advice. It does not direct departments on what they should do with individual FOI cases, nor does it direct departments to block FOI requests.

**CLAIM: A shadow cabinet minister has accused the unit, known as the 'Clearing House', of 'blacklisting' journalists. [From openDemocracy article 08/02/21]**

RESPONSE: This is false – no such blacklist exists. The consideration of FOI requests is, and remains, applicant-blind. All FOI requests are treated exactly the same, regardless of who the request is from and their occupation. It would be unlawful for the Cabinet Office, or other departments, to blacklist enquiries from journalists and their requests are not treated differently to anyone else who sends FOI requests. It is appropriate for departments to prepare for possible media interest in information released under FOI, but this is separate from a decision on whether or not to release information.

**CLAIM: This government is set on making it more difficult to make FOI requests and is being untransparent in its handling of cases.**

**[Paraphrased from openDemocracy article 08/02/21]**

RESPONSE: This is untrue. We are committed to our transparency agenda, to improving our FOI performance and to make the process for requesting information smoother. The Cabinet Office is streamlining many of the processes involved in FOI handling, to speed up how quickly we can process requests for information. We anticipate a marked improvement in Cabinet Office performance in the next quarter, despite an increase in the number of requests and the pressures of responding to COVID-19. Inevitably, given its position at the centre of government, the Cabinet Office handles many of the most sensitive and complex FOI requests. Other departments continue to work to improve their FOI performance to ensure government meets its FOI obligations despite the impact COVID-19 has had on the ability of public authorities to respond to requests, as the ICO has acknowledged in recently published guidance.

**CLAIM: David Davis MP described the Clearing House as ‘certainly against the spirit of the (FOI) Act – and probably the letter, too’. [Quoted in openDemocracy article 08/02/21]**

RESPONSE: The Clearing House function is not against the spirit or letter of the FOI Act. In fact, the Clearing House’s round robin process has been explicitly discussed with the Information Commissioner’s Office to ensure it is fully in line with data protection law. The Clearing House plays a role in ensuring compliance with the FOI Act across government, while also making sure sensitive information, including that related to national security, is handled appropriately.

**CLAIM: The letter calls on government to: ‘Open an inquiry into the operation of the Clearing House, which comprehensively investigates whether its operation is GDPR-compliant, whether journalists and other users of the Act are being monitored and/or blacklisted, and whether this is illegal and/or undermines the applicant-blind principle of the Act’. [Letter from openDemocracy to the DCMS Select Committee and the Public Administration and Constitutional Affairs Committee [08/02/21]**

RESPONSE: There is no blacklist and our approach to FOI requests is applicant-blind. We take our obligations under the Act, the General Data Protection Regulation, and the Data Protection Act 2018 seriously and our processes for handling requests made under the FOI Act, comply with relevant obligations concerning personal data. We are happy to set out further details to Parliament, as appropriate but do not accept that our approach undermines the FOI Act or the statutory rights of journalists to inquire into the action of government.