

Written Evidence from Iain Overton (FOI 01)

Public Administration and Constitutional Affairs Committee The Cabinet Office Freedom of Information Clearing House inquiry

The word ‘obfuscation’ first appeared in the English language in the early 15th century. Then it referred to ‘the darkening of a sore’. Today, that word is used more widely, but it could specifically apply to the wilful way by which this current government seeks to hide its deeds from the public gaze.

Politics by obfuscation: an approach towards transparency that is a black sore on the body politic of this nation.

At least, this is the conclusion I have reached after spending over 659 days - 1 year, 9 months and 20 days – attempting to get this government to answer one simple question: does its Special Advisors use the encrypted software WhatsApp to conduct business of government?

It’s a question that has led to over 50 different Freedom of Information requests, five internal reviews and an ongoing complaint with the Information Commissioner. It’s a question that goes to the heart of accountability in political life. Asking how a special breed of civil servants – Special Advisers – communicate, brief and leak the work they do as public servants. And it’s a question that is met with a bewildering array of reasons for not answering.

My first request to the Cabinet Office asking about their Special Advisers’ WhatsApp communications was rejected on cost grounds. The second, a honed-down request, was rejected too. It did not “constitute a valid request for information as outlined in the Freedom of Information Act”. I challenged this, and received an apology from No 10; they suggested I rephrase my question in a way they deemed acceptable. So, I did. And, they replied saying “the information you requested is not held.”

This was concerning. Did the Cabinet Office not hold any records of WhatsApp messages at all? After all, as Richard Ovenden, the president of the Digital Preservation Coalition, has written: “the world of encrypted communications ... leaves the work of officers of the state, whether ministers, senior civil servants or special advisers, unable to be scrutinised by the public who they are employed to serve.”

So, I asked the National Archives what records they held about this form of communication. They came back confirming they, too, did “not hold records that originated on WhatsApp, Text, Signal or any other form of encrypted phone message communication.” Perhaps historians will look back on this decade and shake their heads, confused at the absence of political correspondence of our age.

But this isn’t just a matter for archivists. It’s a concern for those tasked with national security. So, I asked the Ministry of Defence. Surely they were not allowing their Special Advisers to communicate on a platform owned by Facebook? They reassured me that, indeed

they did monitor their Special Advisers' communication. And that the only platform "using devices issued by the MOD" by their Special Advisers was Microsoft Outlook. They claimed that their "SPADs did not send out any work-related messages using other platforms" on a specified date.

Importantly, this response showed one thing: the MOD accepted that asking about communication platforms constituted a valid request. Then something changed.

When I asked No 10. what platforms the Prime Minister communicated on, they said they could "neither confirm nor deny what those secure electronic channels" Boris Johnson was on. "Even stating what channels are not used," they said, "would provide useful information to hostile actors on what to target." Such security concerns echoed the Home Office's claim that "WhatsApp is not a Home Office accredited application".

But the Cabinet Office's concerns fail to reflect the fact the Prime Minister's personal mobile phone number was available online for 15 years. Nor that it was reported Boris Johnson refused to change his phone number despite concerns he was being petitioned by lobbyists. No 10's denial, though, seemed to create two more reasons to reject my wider inquiry into government messaging platforms.

The first was when I sent a widespread request to ministries asking what platforms their Special Advisers communicated on in March 2021. These requests were repeatedly rejected on grounds of cost.

I reduced the dates and asked instead: "can you please tell me how many WhatsApp messages that Special Advisors working in your department sent as part of their work as civil servants on the 26th May, 2021." This was the day Dominic Cummings gave evidence to Parliament and I imagined Special Advisers would be messaging madly.

That approach also did not work. Repeated refusals said "a confirmation or denial" of whether Special Advisers use WhatsApp would potentially assist "those with malicious designs in the planning of cyber-attacks on the Departments."

The Cabinet Office have previously claimed that "it does not direct departments on what they should do with individual FOI cases, nor does it direct departments to block FOI requests." But the fact that the Cabinet Office, the Treasury, and the Department of Work and Pensions all replied with the same answer suggests this refusal was, indeed, orchestrated.

Others like the Foreign, Commonwealth & Development Office, have said they needed more time to answer.

From my request not being valid under the Freedom of Information Act, to it being too expensive, to Ministries not holding the information, to disclosure being a security risk, to delaying their response, this government has fought – at every turn – to prevent a simple question being answered: do their Special Advisers use WhatsApp?

The answer, of course, is yes. They do.

Ex-Special Adviser Dominic Cummings has tweeted screen grabs of WhatsApp of Boris Johnson calling Matt Hancock 'totally fucking hopeless'. Theresa May's Brexit Plans were leaked via WhatsApp. The Scottish Government has released a list of the titles of WhatsApp groups their Special Advisors are in. One political gossip column admitted to getting WhatsApp messages from nine serving Special Advisors on just one night in November 2020. And ministers also stand accused of using private Gmail accounts.

But the government will not admit to such private messaging systems being used. Why? Because if they acknowledge that they scheme and plot on such platforms, they would be forced to open up such messages to scrutiny. And this would cause untold embarrassment, not to mention expose their patronage of donors and lobbyists.

Embarrassment, though, is no excuse for obfuscation. Indeed, transparency is demanded in political life because it forces public servants to be held to the highest account, and so stops them doing embarrassing (code for corrupt) things.

This government already stands accused of cronyism, corruption, bullying and lying. But perhaps its most egregious fault is its refusal to be held to account. And such a refusal to let messages be scrutinised and actions recorded is really the darkest sore that exists in British politics today.

July 2021