

Written evidence from Dr Emma L Briant¹ (FOI 31)

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

FOIA and the Intelligence Mosaic

Since Russian efforts to influence the results in the UK's Referendum on Membership of the European Union and the US Election of Donald Trump in 2016, concern about the role of 'strategic leaks' and truthful information algorithmically propelled within misleading influence campaigns with disinformation, as well as foreign intelligence operations, have all increasingly dominated national security concerns.

One of the reasons for growing concern over FOIA and increasing attacks on this important right of transparency is the worry that small pieces of apparently unimportant or minor information might be possible to potentially bring together in a jigsaw puzzle to undermine security. However, the idea that the UK public can no longer have transparent government because of the small risk that any seemingly un consequential piece of information might be potentially useful to the enemy is an unacceptable abandonment of democratic principles. That every small piece of information can be restricted with the justification it might one day be used by an enemy – is no less than a step toward authoritarianism. You cannot protect democracy by destroying it.

This kind of anxiety means Freedom of Information Requests made to the Ministry of Defence are being refused that would reveal little to any adversary and which would have been allowed just a few years ago. In April 2018, a written answer in the House of Lords was given by Baroness Stedman-Scott, which stated that 77th Brigade, responsible for Information Operations, was comprised of approximately 200 Regular and 270 Reserve Service Personnel. [Similar information I requested is refused today](#). The MOD admits "It is true that the UK Government has been more open about the size and composition of 77th Brigade in the past." The inconsistent deployment of FOIA is stated to be because such requests are "processed on their individual merits," merits which are argued to have changed. Changes increasingly restricting information that was once released are extremely troubling.

It is important to note why this idea of the 'mosaic' is influencing this debate over FOIA - the UK emergent threats which became central to government concerns in recent years include *unauthorized disclosures* including both national security whistleblowing resulting in critical reporting, and hacks and leaks - where documents (sometimes accurate but selective, sometimes unreliably altered) have been obtained and published by journalists or on ideological blogs. Some of the recent leaks have been [attributed to Russia](#) and promoted through Russian state outlets accompanied by analysis that is misleading within a wider information war. Importantly, government responses to this concern for the 'mosaic' have swept beyond preventing hacking into expansion of secrecy across government, particularly following the Salisbury attacks. Rather than focusing on the threat of hackers, we see sweeping measures such as crackdowns on whistleblowing, FOIA and journalism. It is absolutely unacceptable that journalists have been unfairly blacklisted and singled out for inconsistent refusals of FOIA and press inquiries resulting in their profiling.

¹ Dr Emma L Briant, American University

That such attacks on transparency have doubled down during a year of substantial UK Military failures is not just horribly ironic, it should focus our attention on how undermining FOIA will make it harder for journalists to publish on national security failures. Notably, this year, amid government efforts to block FOIA and journalism, we have seen [secret documents left on a bus stop](#) containing plans for military activities in Afghanistan and the [data breach disclosing emails of dozens of Afghans who had worked with British forces](#). Concerns over disclosures circulating in Russian propaganda heightened following UK attribution of the Salisbury poisoning to Russia, but were *by no means new*. Indeed due to the company's poor security there was a leak from NATO workshops run in Latvia by SCL Group (parent company of Cambridge Analytica) which I spotted on several Russian blogs in Spring 2015. The document had been [slightly doctored](#) before publishing on several Russian promoted ideological blogs online. Employees from the same contractor which ran the workshops then cited the leak in a report for National Defence Academy of Latvia Center for Security and Strategic Research and [NATO Stratcom COE](#) as evidence for arguing militaries extend their use of the same kinds of services the contractor sold.

Without journalistic scrutiny, the open government which enables it and the public debate that results, lessons from military operations are not learned. Including those that result from faulty procedures, incompetence and poor training. Public access to information should not be paying a price for a 'weaponization of information' that could be better addressed by protecting sensitive systems from hackers and training personnel properly.

Defending Our Right to Know

It is vital to see the threats to Freedom of Information within the context of a wider hostility within government to openness, the public's right to know and attacks on whistleblowers and journalistic endeavour. Recent plans to also expand the Official Secrets Act are very troubling and as others have suggested would end national security journalism as we know it, along with any ability for the public to make informed judgements about the conduct of this or any future government in wartime. It is not an overstatement to say the Home Office proposed removal of 'public interest' defence for national security disclosures and onward disclosures would render impossible the vital scrutiny of activities needed to expose human rights abuses of the kind which have repeatedly occurred in our history.

It might seem counter-intuitive to those worried about the damage of authorized – or unauthorized - disclosures but the best response to much of the disinformation and hack and leak campaigns that have targeted the UK in recent years is to extend open government both through FOIA as well as through a public affairs team that has been sufficiently empowered to actually assist and support more, and better-informed journalism. This would address a vacuum in serious national security reporting that has emerged, which is being exploited by Russia.

Particularly in the last few years, RT has capitalized on a) a hesitance by other media to report on leaked documents and b) a close down of FOIA and other ways of obtaining information. The attack on transparency is the wrong response to damaging leaks and critical and even sometimes misleading reporting. Rather than allowing oxygen for strong journalism that will bring an audience back from foreign outlets, the UK is helping create an environment in which

a foreign actor can set the tone for critical reporting. This is dangerous - the UK government's hostility to journalism and open government means in many cases, such outlets as RT and Sputnik become the only lens through which some national security activities and documents have been analyzed. This is a time of rapid change and innovation to respond to emergent military threats, and as such this is when strong journalistic scrutiny and access for researchers is most vital. New developments in information warfare for example, should not be happening without public debate and it is deeply concerning if the only debate the public will be able to access is on ideological blogs or foreign media.

With every roll-back of UK Government transparency and increasing refusal to engage with and tolerate journalists reporting on damaging releases the UK Government is allowing Russian-linked or just ideological outlets to lead with ill-informed and inaccurate framing on British activities and restricting the ability for outlets that do care about the public interest to provide accurate analysis. British citizens want to understand what their government is doing and *will* go to whatever outlet is discussing document releases. Accepting this might be critical and building a reputation among journalists for trust-worthy and transparent public affairs will lead to better journalism and improve public understanding of what will inevitably come out. Efforts to suppress information and close down transparent government drive paranoia and conspiracy theories among the very groups most vulnerable to foreign propaganda efforts. Government needs to build trust, the only way to do that is by being transparent and supporting reliable (and critical!) journalism.

Extending Our Right to Know

FOIA and information rights should be accessible to every citizen. Yet our new Information Commissioner John Edwards, has even [suggested](#) charging requesters to meet the cost of digging out the relevant information. 'Stonewalling' has become a common practise preventing access. The costs of taking a FOIA request to tribunal and exercise ones rights should be supported by Legal Aid. These costs are prohibitive to most ordinary citizens and you cannot build such a case without counsel.

Rather than an important source of public accountability that can help build trust in government, I have observed a tendency for government to treat FOIA requests as a tool of PR. Even requests for the most basic information about 77th Brigade, the group responsible for information operations in the UK, are refused on the grounds the MOD does not see the value in 'promoting' their activities anymore: "there has been a necessary shift from generating public interest in 77th Brigade and promoting this new UK capability, to protecting the brigade and its personnel in order to protect and preserve its operational effectiveness." FOIA — and indeed journalism — are not there to 'generate public interest' or 'promote' UK military activities — they are there for the public's *right to know*.

What is most disappointing as a British researcher, is finding the FOIA mechanisms in other countries are far more willing to release information than my own country. The UK Government should be bringing us into line with other democracies' FOIA standards. US citizens' rights for example are far stronger – FOIA rights need expanding in the UK so that FOIA includes our intelligence agencies. There is no reason FOIA Britain is any more vulnerable to these 'mosaic' intelligence threats than the United States – a country which permits its citizens such rights. Most importantly, FOIA needs to be extended to include

government contractors, this modernization is needed as most of the activities of government are now privatised which effectively hides most activity from public scrutiny.

FOIA is not a threat to the UK. Strong processes of open government and robust journalism people can trust are vital both to undermining the grasp of foreign state media on audiences, and to building back trust of citizens in communications from coronavirus to national security. By undermining FOIA our government is giving British citizens only one option for viewing information. In an environment where hackers will continue apace feeding foreign state media, it is they who most benefit from policies that reduce the ability for good journalists to get access to information.

FOIA makes Britain stronger not weaker. This government will not undermine hostile actors influence operations by undermining transparent government, whistleblowing and journalism.

September 2021