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# Ministry of Justice tracks journalists who make information requests

NEW

There is also evidence that the press office and spads give final clearance before the release of data



Dominic Raab's office operated a "disclosure clearance" inbox for the head of press to review

[Ben Ellery](#) Saturday August 26 2023, 12.00am BST, The Times

The Ministry of Justice has been tracking journalists who make information requests and appears to be delaying the release of data until clearance is given by political appointees, The Times can reveal.

Ministry of Justice (MoJ) officials have compiled background profiles on journalists that make freedom of information requests, as well as

apparently giving press officers and Conservative political appointees input on whether disclosures can be made, emails show.

The documents were disclosed after a subject access request by a Times reporter. Data protection rules allow all individuals to request information about them held by any organisation.



Nigel Farage used subject access requests to find out why NatWest closed his bank accounts

ANDY RAIN/EPA

These rights were used to great effect by Nigel Farage, the former Ukip leader, whose requests for information revealed that [NatWest staff closed his accounts](#) because they had concerns about his political views.

The MoJ disclosures show officials preparing “background notes” on the Times reporter George Greenwood for a special adviser in relation to a freedom of information request about whether any of Dominic Raab’s WhatsApp messages were being retained in the national archives.

Special advisers or spads are temporary civil servants appointed by ministers to help turn political agendas of parties into policy and legislation, but also often brief the media on a minister’s behalf.

One email read: “Could you update the background note with what is already known about GG and with anything else that may be useful to spads. (A reminder — we shouldn’t carry out extra research on requesters).”

The disclosures also showed that the office of Raab, the former deputy prime minister and justice minister, requested and received a list of transparency requests made by the reporter.

Rules by the Information Commissioner’s Office (ICO) state that the identity of requesters can only be considered in deciding to release information where someone is being abusive to officials or sending large numbers of spurious requests.

The reporter was in one email described as a “well-known data journalist” who has “submitted over 70 FOI requests, internal reviews and ICO appeals to the MoJ over the past four years”.

The emails also demonstrate that press officials and special advisers appear to be given final clearance to disclose information by other authorities, rather than this decision being taken by officials in the information rights team.



MoJ officials have compiled background profiles of reporters who make frequent FOI requests

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Information officials sent requests to a specific “disclosure clearance” inbox for the head of press to review. In some cases this process led to delays, despite response times being a legal requirement for public authorities.

In one email, about a request for details of backlogs of court cases, officials said: “This will now need to go back to head of press before being passed to spads for final clearance on Monday afternoon. But this cannot happen until press office have confirmed they are content with the response.”

Another, about a request for information about how expensive some Nightingale courts that had seen few cases had been, read: “Please see amended draft, which has been cleared by head of press, however it now requires spad clearance. Will let you know once it has been cleared by the spad.”

The disclosures also reveal that special advisers and press officers were given advanced notice of some freedom of information requests, under what was called the “forward-look process”.

Martin Rosenbaum, a freedom of information expert, said: “The MoJ should abandon these objectionable measures at once and set a better example to other public authorities of proper compliance with the law.





The Cabinet Office was operating a clearance house that was accused of obstructing the release of sensitive information

ALAMY

“Compiling background notes on requesters in this way is improper and a misuse of government resources, as this information is irrelevant to how FOI requests should be handled.

“Giving special advisers and the press office authority over FOI responses enables political influence and a role for presentational considerations which should not affect the FOI process.

“It is demeaning and insulting towards the MoJ’s own information staff who should be allowed to fulfil their professional duties without such interference.”

Jake Hurfurt, head of research and investigations at the civil liberties campaign group Big Brother Watch, said: “It is alarming that the government is putting together dossiers on journalists just for doing their job.

“The Orwellian Cabinet Office clearing house was rightly condemned for its lack of transparency, showing that the government has form for hampering the release of information under FOI. It seems that lessons have not been learnt.”

The clearing house was [widely criticised](#) for inappropriately sharing details of journalists making transparency requests within government. It has been replaced with another unit after an internal Cabinet Office investigation.

Nik Williams, policy and campaigns officer at Index on Censorship, said: “Without a trustworthy FOI regime, governments can act beyond the scrutiny of journalists and the public it is meant to serve.

“If requests for information are not treated applicant-blind, we have no way of knowing whether the decisions have been made for political, partial or opaque reasons. The revelations in this report,

including the profiling of journalists, also show how little the government has learnt from the clearing house revelations.”

“The government must treat FOI as a guarantor of openness and transparency, not something to game for political advantage or to protect their reputation.”

The Ministry of Justice said: “The MoJ fully complies with its FOI duties including the ‘applicant blind’ rule. The Information Commissioner’s Office says requesters’ identities can be relevant, while it is common practice for press offices to see FOI requests which could attract media interest.”

It denied that the background notes were used in decisions about whether information should be released, said that the forward-look process was not a means to determine what can and cannot be disclosed and denied that the press official or special advisers had been obstructive to the FOI process or had the final say on disclosure.

An ICO spokeswoman said: “FOI requests should be considered without reference to the requester’s identity or motives.”

### **Chilling to see how the state keeps tabs on reporters like me**

Freedom of information rights are a core part of our democracy, allowing the governed to see what is done in their name and with their taxes. But it is constantly under threat (George Greenwood writes).

The government can talk a good game on how much it values these rights.

Lucy Frazer, the culture secretary, boasted in a speech in May that the government was “taking steps to [increase press freedoms](#) and make sure journalists can do their jobs effectively”.

But it is hard to square this assertion with revelations about government tracking of the transparency requests of journalists, departments’ repeated breaches of statutory response timescales, incredulous claims made about what is in the public interest to withhold, and the apparent influence of press officers and party-political special advisers in what should be an independent process.

I’ve used [subject access requests](#) (SARs), which anyone can make for their own information, to monitor whether departments are complying with transparency law. It is shocking how key principles of open government are flagrantly being breached.

“Applicant blind” rules, meant to ensure requests are handled on their merits and not on the basis of who is asking, are routinely circumvented.

As part of my SAR response from the Ministry of Justice, I was disclosed in an email entitled “George Greenwood requests in last year”.

I was amazed to see that the private office of Dominic Raab had demanded and received a list of recent requests I had made from the department’s disclosure team.

Why political appointees should need to know what a named reporter has been asking for is not clear.

The emails about how my requests were handled also gave a sense of the hierarchy within government departments when it comes to transparency.

Information officials at the department often appeared to have to wait for approval by the press office and special advisers before making final disclosures.

Those whose job it is to massage the reputation of the department were also being given advance notice of what freedom of information requests had been made to the department.

All this raises the risk of a quiet phone call or WhatsApp message asking officials if it was at all possible that a certain request could be delayed. Such interventions would be hard, if not impossible, to uncover.

As a reporter simply trying to do my job, it is chilling to see how the resources of the state have been deployed to keep tabs on me and I fear this is just scratching the surface.

We are lucky to have reasonable press freedoms in the UK, but the distance to autocracy is always closer than we might like to admit.

Such close monitoring doesn’t just frustrate journalists, it costs us all money. This was understood at the birth of UK transparency law, with the white paper that introduced the Freedom of Information Act stating that “unnecessary secrecy in government leads to arrogance in governance and defective decision-making”.

One need only look to the case of Thurrock council, in Essex, which recently declared itself bankrupt after making [disastrous green energy investments](#), to see this in practice. The council had resisted transparency requests for details of its investments for years. Had transparency law been more robustly enforced and the investments subject to proper scrutiny earlier, the taxpayer losses may not have been quite so great.

The organisation tasked with holding the government to account, the Information Commissioner’s Office, is chronically underfunded, and

one might question whether this state of affairs is rather convenient for those in power.

ICO rulings can take years, despite recent improvements. And the courts are even slower. If you want to challenge a decision by the ICO, its shortage of legal staff is so great that courts are giving it an automatic three-month delay in proceedings to respond. By the time information is eventually released, all too often it is too old to be of use.

Good government needs strong public scrutiny, something that the existing transparency system far too often delivers too late or not at all.

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