

# Britain: Parliament votes to exempt itself from Freedom of Information legislation

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With tacit support from the Labour government and Conservative front bench, a bill has been tabled that would exempt Parliament and MPs from Freedom of Information (FoI) legislation.

Former Conservative whip David Maclean was recently able to reintroduce his private member's bill removing parliament's obligations under the Freedom of Information Act.

Maclean's bill had failed to pass through the House of Commons on its first reading, as a coalition of Labour backbenchers and Liberal Democrats had talked it out before a formal vote could be tabled. This usually spells the end for most private member's bills.

However, in January, Maclean was able to gain a second reading for his Freedom of Information (Amendment) Bill, whose full title is: "A bill to amend the Freedom of Information Act 2000 to exempt from its provisions the House of Commons and House of Lords and correspondence between Members of Parliament and public authorities."

*Guardian* parliamentary correspondent David Hencke described how, "On the day Westminster was convulsed by the revelations surrounding the dawn arrest of Ruth Turner, the senior Downing Street aide, in the cash-for-honours investigation, MPs approved on the nod the second reading of a bill to exclude parliament from the Freedom of Information Act."

Maclean was quoted saying, "I am showing some of the younger hands how you can get a bill through Parliament after long experience as a whip in both getting and blocking bills through Parliament."

This meant the bill could proceed through the parliamentary system and be put to a formal vote, which then happened on Friday, May 18.

While in opposition, the Labour Party had promised it would introduce Freedom of Information legislation once it took office. After winning the 1997 election, it then

took Tony Blair's government five years before what one expert described as a "much watered-down version finally reached the statute book."

A plethora of exemptions were included in the FoI Act, offering ministers and civil servants opportunities to block requests for information on such grounds as "commercial privilege" and "international relations." Moreover, ministers retain a blanket veto over the disclosure of any information where this might "prejudice the effective conduct of public affairs."

The result has been to severely limit the number of successful applications for information to be released under the FoI Act.

In a recent article for the *Index on Censorship*, founded in 1972 to defend the right of free expression, *Guardian* investigations editor David Leigh noted that of nearly 63,000 applications for information from central government under the FoI Act, only 36,558 had been granted, with seven departments, including the Justice Ministry, refusing over half the requests.

Not content with its wide existing powers to keep information from public scrutiny, the government has been seeking ways to further emasculate and restrict the scope of the FoI legislation.

While officially describing its position on Maclean's bill as "neutral," behind the scenes the government had been pushing for Labour MPs to support the legislation. An email to all backbench Labour MPs from the Parliamentary Labour Party's Parliamentary Committee said the bill was "worthy of support." Those signing the email also included Socialist Campaign Group member Ann Cryer and former Campaign for Nuclear Disarmament chair Joan Ruddock.

When it came to the vote on the bill, which passed by 96 votes to 25, a total of 26 government ministers could be found in the "Yes" lobby, including some of the closest allies of the prime minister in waiting, Gordon

Brown.

Conservative leader David Cameron abstained from the vote, and there was no order to Tory backbenchers to oppose the bill. Only a handful of Labour MPs and the Liberal Democrats voted against.

Maclean and those supporting his bill argue that it is necessary to preserve the confidentiality of MPs' correspondence, particularly when it involves their constituents. However, there are already protections in place to protect the privacy of letters concerning individual constituents. Moreover, in the two-and-a-half years since the FoI Act has been in force, there has not been a single complaint to the Information Commissioner from an MP or a constituent about the improper disclosure of such correspondence.

The press criticism that accompanied the passage of Maclean's bill stretched across the official political spectrum. The pro-Labour *Guardian* called it "an insult to open government and democracy"; the *Independent* led by calling it "cynical and slippery behaviour" and the pro-Conservative *Telegraph* opined that "the Lords must throw out this hypocritical bill."

Much of the press comment pointed to the fact that if enacted, the bill would prevent access to information about the expenses and allowances paid to MPs for their official duties. These can dwarf their already substantial £60,000 annual salaries; for example, Maclean himself was paid nearly £130,000 in expenses last year.

Public responses on news web sites were almost universally hostile, with many scathing comments being directed at MPs for seeking to exempt themselves from legislation that applies to all other public bodies.

The bill has now passed to the House of Lords, where it is thought unlikely to pass through intact. Liberal Democrat peers will oppose it and the right-wing *Daily Mail* wrote that Tory leader Cameron had performed a "u-turn" and was now seeking to block the legislation in the Upper House. Chancellor Gordon Brown was also said to favour the bill being rewritten to make explicit the publication of MPs' expenses and allowances.

Maclean has sought to head off this widespread criticism by tabling an amendment to include a statutory requirement for details of MPs' expenses to be published annually.

What has also gone largely unreported in the press is the fact that a major result of the bill would be to keep secret the lobbying of public authorities that MPs undertake. An article on the *Index on Censorship* web site by the *Guardian*'s David Leigh notes that as well as enabling

MPs to keep "less salubrious interests" secret, "The real effect of the bill would be to enable politicians not only to misspend the taxpayers' money but also to lobby under cover."

Whatever the fate of Maclean's bill in the Lords, the government is seeking to further curtail access to information under the guise of limiting costs and cutting down on so-called "serial requesters"—mainly news and media outlets that engage in investigative journalism.

Last summer, the Lord Chancellor, whose justice ministry has overall responsibility for FoI issues, circulated a private paper to his cabinet colleagues that proposed relatively minor changes in the fine print of the legislation that could then be used to limit the number of requests from a single organisation, such as a broadcaster like the BBC, to just four a year per government department.

A further ruse to ensure that an already prohibitive £600 maximum cost per request was reached and then exceeded is the proposal to include a charge not just for extracting but for "perusing" the material that has been requested, with the cost of a minister's time being billed at £300 an hour!

In a letter dated May 8 to the Lord Chancellor, Trade Secretary Alistair Darling has called for even more restrictions, writing that "we are increasingly concerned that in a number of respects the demands of the Freedom of Information Act are placing good government at risk."

Darling calls for a speedy review of FoI regulations covering the correspondence between MPs and ministers, the policy advice given to ministers by civil servants and for closer coordination between different government departments that receive requests for similar information.

The trade secretary concludes by saying consideration should be given in future to changes to the legislation "needed to redress an apparent imbalance between the 'right to know' and the protection of private space where necessary for good governance."

A government that has flagrantly lied to the public in order to justify launching an illegal war of conquest in Iraq has much need of a "private space" where it can continue to hatch up further dirty deeds.



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