



**UK OPEN**  
**GOVERNMENT**  
CIVIL SOCIETY NETWORK

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The Rt Hon Matthew Hancock MP  
Minister for the Cabinet Office and Paymaster General  
70 Whitehall  
London SW1A 2AS

13 August 2015

Dear Mr Hancock,

**Concerns regarding Freedom of Information Commission and Tribunal Fees**

We, the undersigned organisations, who are all involved in the Open Government Network, are writing to express our deep concern about two recent developments which seriously threaten the Freedom of Information (FOI) Act. We regard the Act as a fundamental pillar of the UK's openness arrangements. So too did the coalition government which stated that the Act had been "successful in achieving its core aims of increased openness, transparency and accountability". We do not believe that the Act's important rights should be restricted and consider that attempts to do so would be likely to undermine the Open Government Partnership (OGP) process itself.

First, we are concerned at the nature of the inquiry to be undertaken by the Freedom of Information Commission announced on July 17th. Its terms of reference indicate that it is designed to focus solely on the case for restricting the FOI right of access. It will consider whether 'sensitive information' is sufficiently protected; whether the 'safe space' for policy development is properly recognised; and whether measures are needed to moderate 'the burden of the Act on public authorities'. There is no suggestion that the Commission will

consider improving the Act, for example, by enhancing the right of access, increasing the number of organisations subject to the Act or removing unnecessary obstacles to disclosure. We note that the FOI Act was fully reviewed by the Justice Committee in 2012 which reported that the Act had been “a significant enhancement of our democracy” and concluded “We do not believe that there has been any general harmful effect at all on the ability to conduct business in the public service, and in our view the additional burdens are outweighed by the benefits.” The Justice Committee review took seven months during which time it considered 140 pieces of evidence and heard oral evidence from 37 witnesses. By contrast the FOI Commission is due to report by the end of November, has a composition which overwhelmingly reflects the interests of government and an extremely limited remit which does not suggest that a thorough, open-minded and properly considered inquiry is likely.

**We ask the Government to publish its reasons for limiting the Commission’s remit solely to measures that would restrict the right of access while omitting any consideration of what might be needed to enhance access under the Act.**

Second, and in relation to ‘the burden of the Act on public authorities’, the Government has just published proposals to introduce new Tribunal fees including those for appeals to the First-tier Tribunal against the Information Commissioner’s FOI decisions. Unlike other tribunal proceedings, which typically involve the appellant’s *private* rights, FOI appeals generally seek to promote the *public interest* by making information publicly available. The introduction of fees for appeals to the Employment Tribunal has severely cut the number of unfair dismissal claims. It seems highly likely that introducing fees for FOI appeals will have a similarly drastic impact, affecting the provision of information to the public as a whole.

Proposals that limit the scope and function of the FOI Act, as these appear designed to do, are fundamentally incompatible with the Government’s wish to become and claim to already be “the most transparent government in the world”. The purpose of the OGP, in

which the signatories are all involved, is to help make government more open: these proposals would have the opposite effect. They are entirely contrary to the spirit and purpose of the OGP.

We strongly urge you not to undermine this important legislation.

Yours sincerely,

Alexandra Runswick, Unlock Democracy  
Anne Thurston, International Records Management Trust  
Anthony Zacharzewski, Demsoc  
Brendan O'Donnell, Global Witness  
Cathy James OBE, Public Concern at Work  
Chris Taggart, Open Corporates  
David Miller, Spinwatch  
Deborah King, Disability Politics UK  
Dr Andy Williamson, Democratise  
Jacqui McKinlay, Centre for Public Scrutiny (CfPS)  
Jim Killock, Open Rights Group  
Joe Taylor, National Community Activists' Network (NatCAN)  
Jonathan Gray, Open Knowledge  
Joseph Stead, Christian Aid  
Julian Tait, Open Data Manchester  
Karl Wilding, NCVO  
Lucas Amin, Request Initiative  
Maurice Frankel, Campaign for Freedom of Information  
Miles Litvinoff, Publish What You Pay UK  
Nim Njuguna, Kenya Diaspora Bureau (UK)  
Penelope Gibbs, Transform Justice  
Phil Booth, medConfidential  
Robert Barrington, Transparency International UK  
Rupert Simons, Publish What You Fund  
Sid Ryan, Centre for Investigative Journalism  
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