

# Research outside the Freedom of Information Act: A critique of 'privileged access' practices in government

*'Freedom of Information: what's in it for researchers?'* Research Information Network, 14<sup>th</sup> September 2009

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# *'The Impact of Policy: The Freedom of Information Act 2000'*

An Economic and Social Research Council/The National Archives Internship,  
March-May 2009



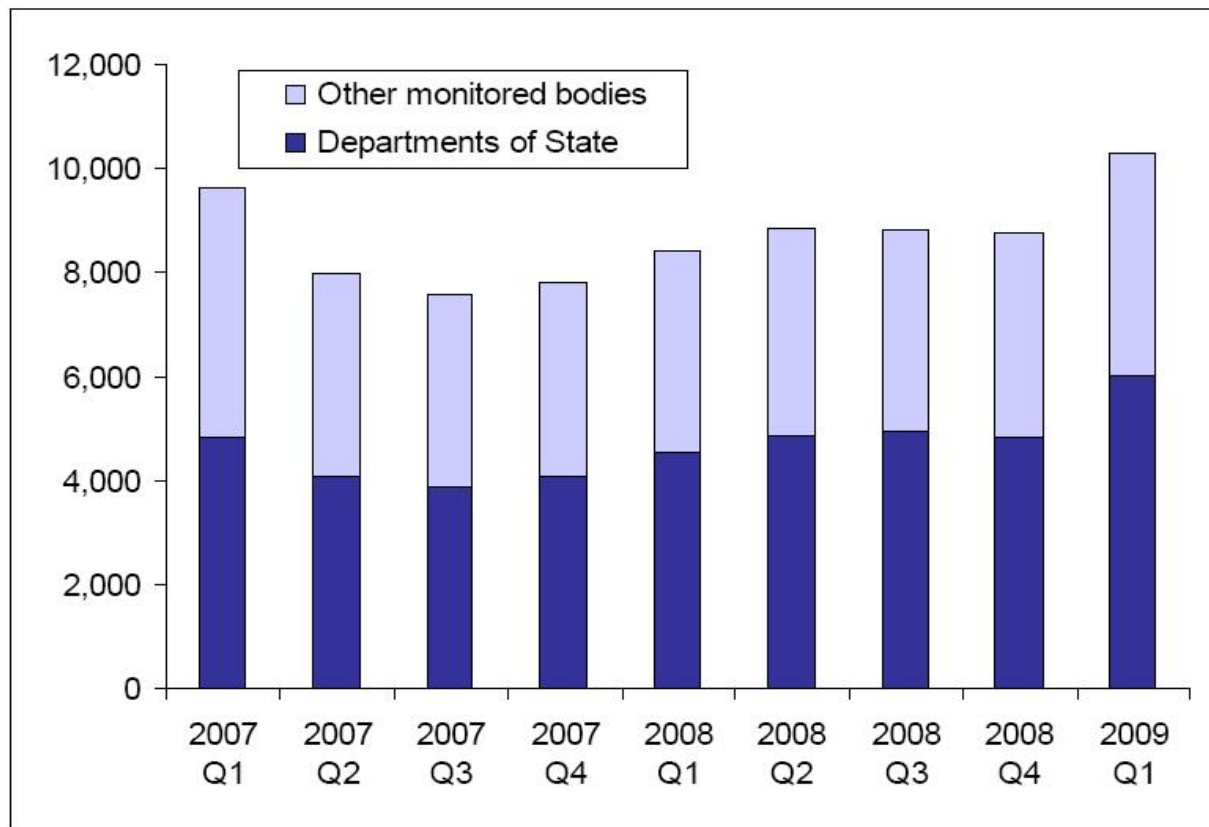


## Public Records Act 1958: 4.4: Privileged Access:

- **‘Subsection (1) of this Act shall not make it unlawful for the Keeper of Public Records to permit a person to inspect any records if he has obtained special authority in that behalf given by an officer of a government department or other body, being an officer accepted by the Lord Chancellor as qualified to give such an authority.’**

# FOI Requests, Q1 2009 (1)

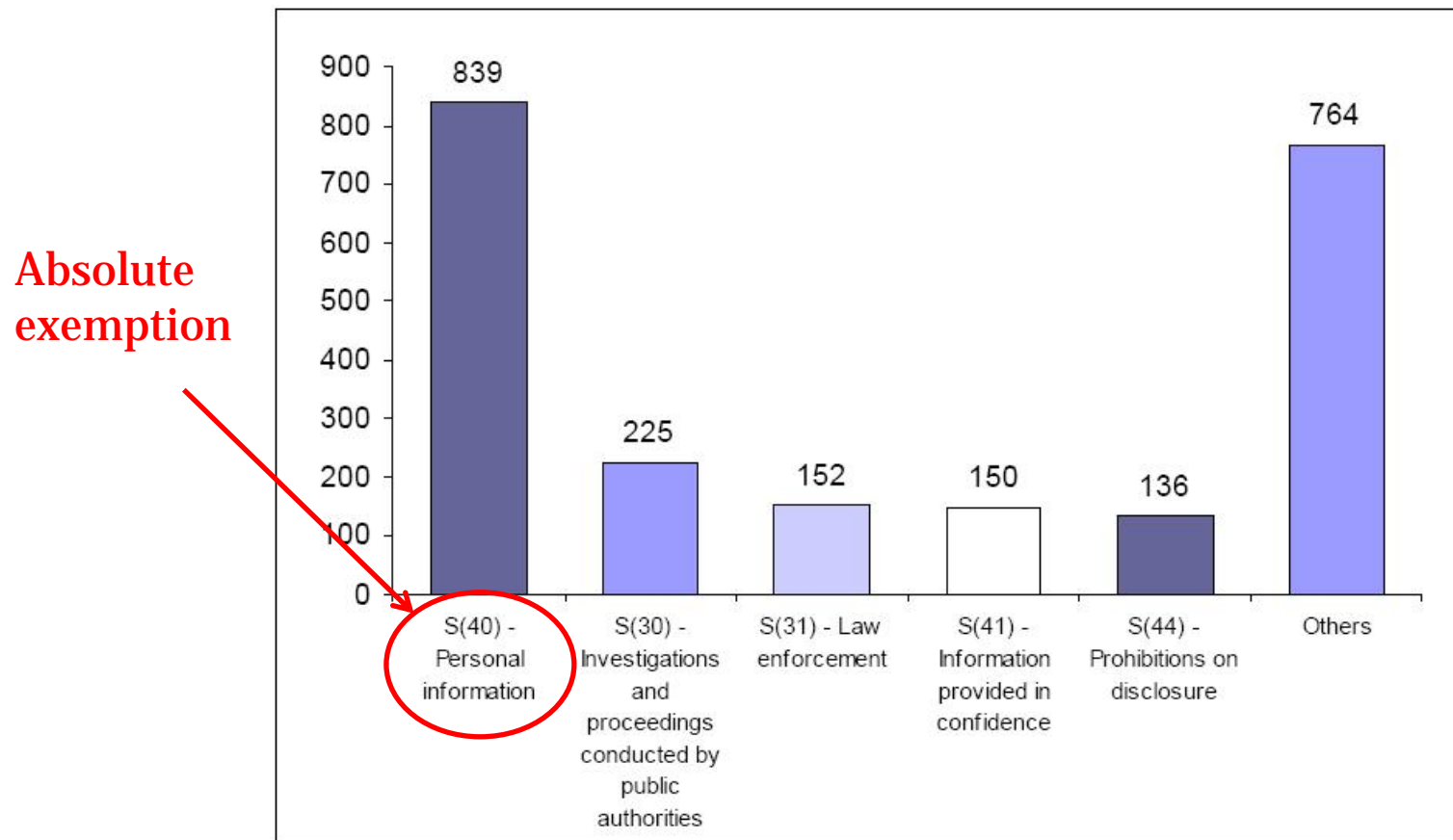
**Figure 1: Numbers of FOI requests received by Departments of State and other monitored bodies, quarterly from Q1 2007**



Source: 'Freedom of Information Act 2000 – Statistics on implementation Q1 January-March 2009, Ministry of Justice Annual Statistics Bulletin' (Available at the Ministry of Justice website – <http://www.justice.gov.uk>) (page 4)

# FOI Requests, Q1 2009 (2)

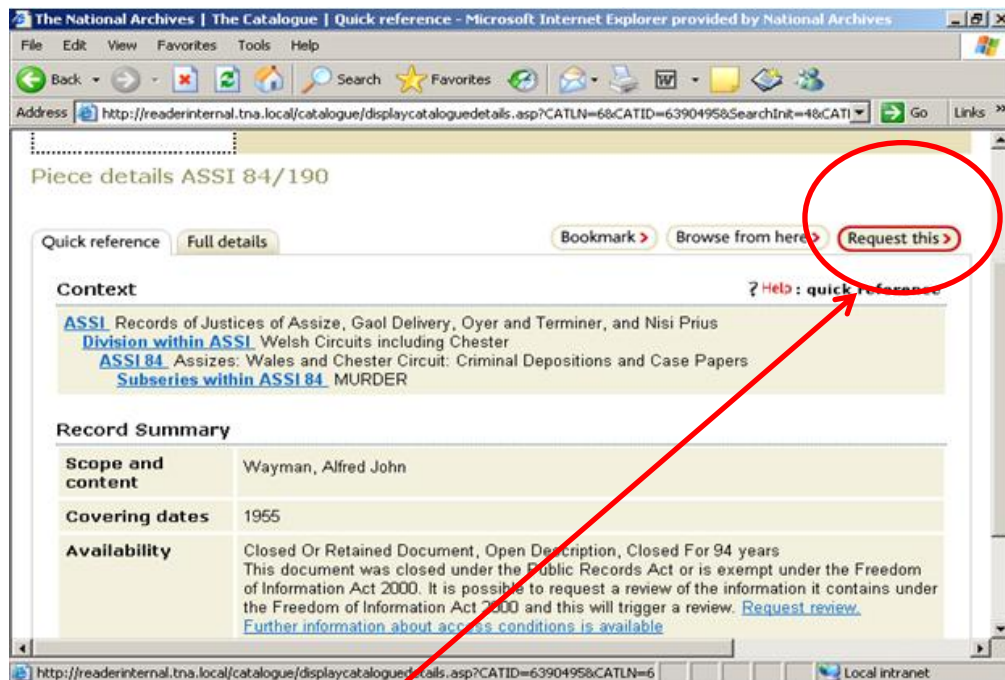
Departments of State and other monitored bodies on requests received in Q1 2009



Source: 'Freedom of Information Act 2000 – Statistics on implementation Q1 January-March 2009, Ministry of Justice Annual Statistics Bulletin' (Available at the Ministry of Justice website – <http://www.justice.gov.uk>) (page 8)

# FOI Requests at The National Archives

- Of the approx. 6m records TNA stores, the rolling average of closed records is in the region of 200,000, all of which are listed on the TNA catalogue



File requested on TNA's Catalogue

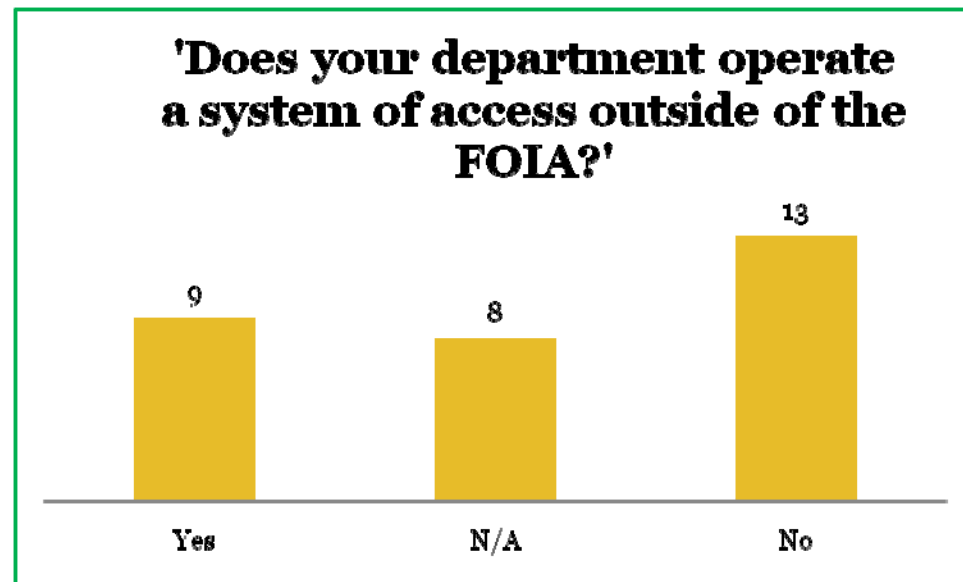


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Review process: assessment of content and potential redaction work

# Some empirical findings...

- Series of e-mails sent to Departmental Records Officers (DROs) across government
- 15% responded (30/206)
- 8 responses from the 'top 23 departments'
- 9 departments confirmed a Privileged Access Arrangement (30%)



## Examples of current 'Privileged Access Arrangements' in Government:

- **HM Prison Service**  
(<http://www.hmprisonservice.gov.uk/resourcecentre/research/>)
- **CAFCASS**  
([http://www.cafcass.gov.uk/news/2008/research\\_strategy.aspx](http://www.cafcass.gov.uk/news/2008/research_strategy.aspx))
- **Her Majesty's Court Service** ([http://www.hmcourts-service.gov.uk/infoabout/information\\_for\\_researchers/index.htm](http://www.hmcourts-service.gov.uk/infoabout/information_for_researchers/index.htm))



# Discussion

- What constitutes a ‘bone fide researcher’ or academic?
- Is further legislation needed?
- How long should a Privileged Access Agreement remain valid?
- How should digital records be managed?
- How might academic practices change to incorporate this e.g. increased collaboration with other requesters (e.g. the media, non-governmental organisations), shortened peer review processes etc?

# References

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