

State interest v public interest

The contradictions of the Official Secrets Act are in the media spotlight again, says **Julie-ann Davies**

Two men, David Keogh and Leo O'Connor are, at the time of writing, being tried under the Official Secrets Act (OSA) at the Old Bailey in London. Both deny the charges.

Keogh, a civil servant in the cabinet office, is said to have passed a memo containing details of a talk between Tony Blair and George Bush to O'Connor, a political researcher.

It is alleged that O'Connor, motivated by his opposition to the Iraq War, slipped the four-page memo into papers belonging to his boss, the Labour MP for Northampton South, Anthony Clarke.

The court heard that Keogh and O'Connor hoped the document, dated 16 April 2004, would enter the public domain. But, when Clarke, who voted against the Iraq War, found the memo he contacted the police.

Prosecutor David Perry QC, told the jury that the OSA exists not to prevent Governmental embarrassment but to protect the interests of the state. He said: "We are not talking about what may be embarrassing, a betrayal or an act of disloyalty. Even in the age of mass communication, something remains sacred."

But who decides when, or if, the public interest outweighs the state interest?

The most recent major overhaul of the OSA came in 1989 after several high-profile leaks and trials rocked the Thatcher Government. One of these cases, the 1985 trial of Clive Ponting, hinged upon the issue of the public interest.

Ponting, who worked in the Ministry of Defence, was charged under Section 2 of the 1911 OSA for disclosing information about the sinking of the *General Belgrano*, an Argentinean warship, during the Falklands War.

His revelations debunked a Government cover-up of the facts behind the incident, but prosecuting Ponting was a high-risk strategy for Thatcher.

Ponting pled "not guilty" arguing that, although he had committed a criminal act, he had done so in the public interest. He cited Section 2 of the 1911 Act which held a slim provision for such a defence.

The judge, Mr Justice McCowan, disagreed. He said: "The public interest is what the government of the day says it is." He added that the only legal way to communicate information was via authorised channels.

He denied Ponting a public interest defence and indicated that the jury should convict. However, despite the direction of the judge, Ponting was acquitted of breaching the OSA. His victory meant remedial action was necessarily to prevent more whistleblowers arguing the public had a "right to know".

Section 2 of the 1911 OSA, complete with its splinter of hope for a public interest defence, was removed. The 1989 OSA also introduced a new offence of secondary disclosure.

This criminalised further dissemination of material gained from unauthorised disclosures and placed the media, for the first time, squarely in the line of fire.

A whistleblower could no longer claim they made their disclosures in the public interest. Moreover, the media could be prosecuted for publishing, or otherwise disseminating, such revelations.

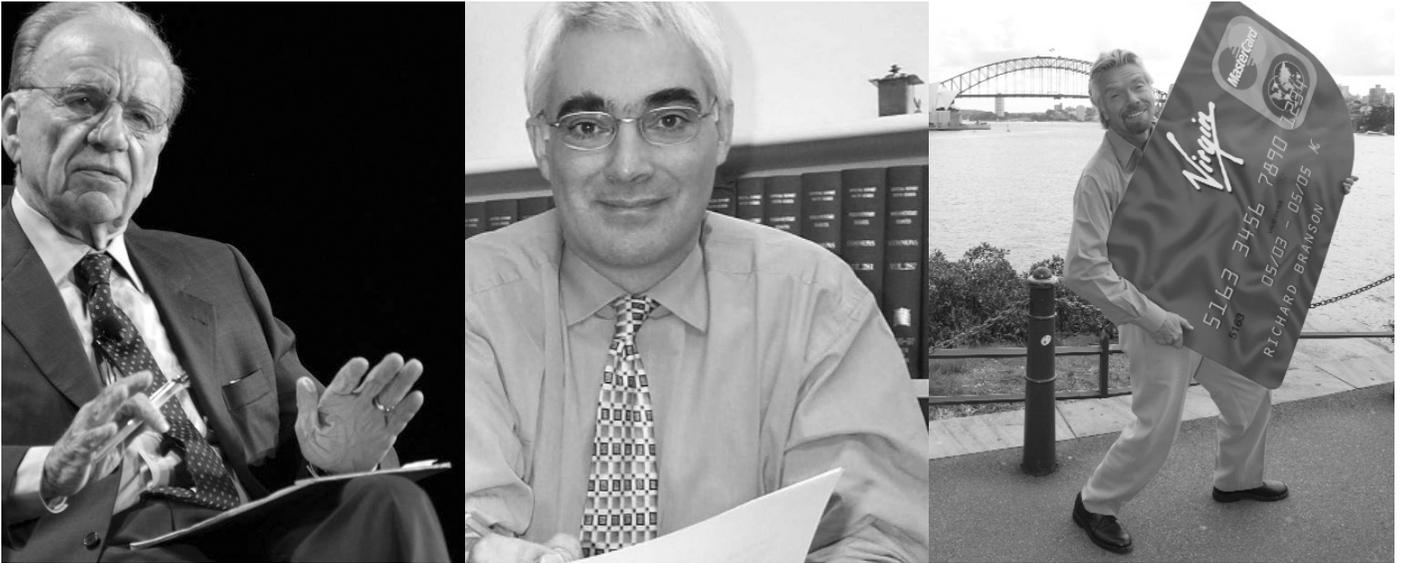
It was argued the lack of a public interest defence in the OSA made it incompatible with the Human Rights Act. MI5 whistleblower David Shayler relied on this discrepancy when he was prosecuted under the OSA.

His case led to a 2001 House of Lords ruling that a "defence of necessity" should be available under the OSA. But Shayler's hopes were shattered when the Lords added this defence was not available in his case.

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The Old Bailey: setting for Official Secrets Act trial of David Keogh and Leo O'Connor



Key players: left to right, News corporation boss Rupert Murdoch, trade secretary Alistair Darling and Virgin boss Richard Branson

A waiting game

The wrangle over BSkyB's purchase of ITV shares could be the beginning of the end for Murdoch, writes **Barry White**

Friday 27 April could be the date that signals the first major setback in the Murdochs' relentless invasion of the British media scene. On that day both Ofcom and the Office of Fair Trading (OFT) will report to the Secretary of State for Trade and Industry, Alastair Darling. Ofcom will analyse the wider public interest issues of BSkyB's November 17.9 per cent acquisition of ITV shares, and the OFT is to examine the competition grounds that may arise. The secretary of state is due to respond by 26 May.

Following BSkyB's purchase of £940m worth of ITV shares by Rupert Murdoch's son James, Lord Puttnam called on politicians to question "any further extension of Murdoch's tentacles. It is my personal belief that BSkyB and therefore Rupert Murdoch, has unquestionably acquired 'material influence' at ITV and this can only lead to a further and unprecedented erosion of plurality within the British media" he said.

When Alistair Darling made his "intervention" announcement in Parliament on 26 February, he was immediately denounced by Sky, who insisted that the decision, "contradicts the Government's

published guidance, which clearly sets out the circumstances in which intervention will be considered." The big guns were being rolled out! Now the period of consultation has ended, Darling must decide whether a Competition Commission inquiry is needed on either public interest or competition grounds.

Sky is also under pressure from the regulator in other areas. In March, Ofcom announced it was launching an investigation into the payTV market, following complaints from a number of media companies. Virgin Media, BT, Setanta and Top Up TV all asked the regulator to investigate and consider making a "market reference" under the Enterprise Act 2002. Following this assessment Ofcom will decide whether to make a reference to the Competition Commission.

The investigation came after a bitter row between Virgin Media (formerly NTL) and BSkyB when, following a dispute over carriage pricing, the satellite broadcaster pulled a range of basic channels from over 3.3m Virgin subscribers. It now seems likely that this dispute will end up in a costly court battle in the high court as Virgin Media has filed legal proceedings to challenge what it calls the "anti-competitive behaviour" of its rival.

In the coming period Darling is likely to be under intense pressure from Murdoch, who is not known for coyness when dealing with Labour ministers. The Blair/Murdoch connection has had a malign influence on Government policy for the past decade. The spotlight could also fall on Blair's likely successor, Gordon Brown, who would not relish a dispute with the powerful media tycoon within weeks of taking office.

Running counter to all this is intense

public concern over Murdoch's UK media dominance. A concern expressed in the letters pages of national newspapers and political magazines last November and in Parliament, where 67 MPs signed an Early Day Motion on the subject earlier this year. Now is the time to put pressure on MPs and the Trade and Industry Secretary to make sure the full extent of Murdoch's media interests comes under serious public scrutiny and leads to the break-up of his media empire.

Writing in the *Observer* on 17 December, Henry Porter in his "radical manifesto to revitalise Britain" said: "No foreign company or individual should be allowed to own a controlling interest in more than two national newspapers. Ownership of both a national newspaper and a broadcasting organisation would not be possible for such a person or company. Those foreigners wishing to benefit from the British media will only do so by paying full rates of income tax and establishing at least a part-time residency in the UK, thus demonstrating a stake in the affairs and future of the country. The use of a newspaper or broadcasting organizations to threaten Government or any political party with a view to gaining commercial advantage would be illegal and in some cases subject to criminal penalty."

Sound thinking for Messrs Darling and Brown to ponder.

● *The Campaign for Press and Broadcasting Freedom and the NUJ made a joint submission to Ofcom in March on the public interest issues relating to BSkyB and ITV. You can view a copy on the CPBF web site at: www.cpbf.org.uk*

Commodity or public asset?

How the radio spectrum is allocated is not just a subject for techie nerds, says **Patricia Holland**

How to allocate the radio spectrum may seem an obscure, technical question – but it is one that has become a hot political topic – and those who see broadcasting as a public service are seeing an once in a lifetime opportunity being snatched away from them.

The radio spectrum is made up of those invisible wavelengths which carry terrestrial broadcasting around the globe – from high-definition television to radio mikes in taxi cabs. It is a limited resource – we all know the problem of interference on the airwaves.

However, as UK television gradually switches from analogue, which takes up a lot of spectrum, to digital, which takes up far less, some of the high quality, high-frequency wavelengths will be freed up, and we will have what is described by the communications regulator Ofcom as a “digital dividend”. This brings the potential to expand many different types of communications, including broadcasting. Ofcom are in charge – and the question they are posing, is how to deal with this precious resource.

Ofcom, as we know, has two faces. One, which is relatively benign, resembles the Department of Culture Media and Sport (DCMS); the other looks remarkably like the steely-eyed Department of Trade and Industry. The first looks kindly on concepts such as public service broadcasting; the other sees all communications as a business opportunity. Away with namby-pamby ideas like “public” and “service”. “Value” means monetary value, and market forces rule.

This approach is uncompromisingly spelt out in Ofcom’s “Digital Dividend Review”.

Historically the radio spectrum has been controlled by various regulatory bodies that have had the power to grant access to it – and, in return, to lay down conditions. For example, commercial ITV has been required to carry “non-commercial” programming, including current affairs and children’s programmes. But now Ofcom state that such regulation is “highly intrusive” and “not fit for the modern age”. The Digital Dividend Review proposes that the right to broadcast on the spectrum should be put up for auction, and access to each of the newly available bandwidths should go to the highest bidder. In this approach, content is irrelevant, protection no longer appropriate.

Ofcom commissioned the umbrella organisation, Public Voice, to review the “civil society” aspects of the digital dividend. Public Voice has gathered together representatives from a variety of community media, local media, voluntary organisations and campaigns, including the CPBF. At their first public meeting,

● **Ofcom’s Digital Dividend consultation paper can be found at:**
www.ofcom.org.uk/consult/condocs/ddr
 ● **Comments from Public Voice at:**
www.public-voice.org.uk
 ● **Information about the spectrum and European policy**
ec.europa.eu/information_society/policy/radio_spectrum/index_en.htm
 ● **The CPBF’s response to Ofcom:**
www.cpbp.org.uk

campaigners met Ofcom and Government representatives – and there was a stark clash of cultures. It became clear that services with immense social value, such as local television, disability access services and citizen centred broadcasting could never compete with the media moguls who are likely to buy up spectrum space.

“Do you see the radio spectrum as a commodity or a public asset?” A questioner asked Keith Smith, senior civil servant at the DCMS, who heads the digital switchover team. There was a long, and rather embarrassed, pause, then a mumbled reply: “I don’t know.”

Others who are unhappy about this situation are the terrestrial broadcaster, especially the BBC, who would like to see their services on new, super-quality High Definition Television (HDTV) in the digital future. The problem is that HDTV takes up lots of spectrum, and Ofcom are not prepared to reserve for this purpose.

Under the present proposals, this will be a once-and-for-all auction. Once space on the spectrum has been sold, its owners can do what they like with it.

They can leave it empty, develop some new, hitherto unthought-of use, or trade it to make money out of it. They will have no obligation to provide any sort of service that will benefit the public.

Ofcom claims that it is following Government policy in going for a “market-based” approach to the digital dividend rather than an “interventionist” one, and that this approach is Europe-wide. However, in the UK, it is Parliament that takes the final decision and a significant number of MPs have shown concern. In Europe, the parliament has rejected a one-sided market model of spectrum management.

In their responses to Ofcom’s document, the CPBF and Public Voice have argued that the radio spectrum should be recognised as a public asset and protected from those who only see it as a way of making money.



Regulator-in-chief: Ofcom boss Ed Richards has a problem

Visions of the online age

Faced by the challenge of the internet, many newspaper proprietors are panicking and sacking journalists. But the picture is not entirely bleak, writes **Granville Williams**



On the way out? Print faces an uphill struggle for survival – but don't write it off

In the intense debate about the future of newspapers and the role of journalism in the online world there are two distinct visions on offer.

The first is dire, conjured up in *EPIC 2014*, a heavily-promoted video which envisages *The New York Times* being driven out by Google, Amazon, and an army of bloggers within seven years.

It is a variant of Dan Gilmour's *We The Media* which argues that grassroots and "citizen" journalists will challenge and marginalise the traditional business model and cost structure of newspapers – as the former *Boston Globe* publisher, Ben Taylor, said, "no trucks, no trees".

The response by desperate newspaper owners, under pressure from short-term, short-sighted shareholders, has been to cut costs by sacking journalists, thus hastening the spiral of decline.

There is a lot of evidence to support this perspective. In the USA and UK newspaper circulations are in free-fall, advertising revenue is declining, and people are losing the habit of reading print and drawing their news, information and exposure to online advertising from the web.

The second, more optimistic, vision paints a different future for newspapers, where they make the transition to a hybrid form of journalism with a readership which is part print and part web. This is the strategy that newspaper groups are fervently embracing – but it has its problems.

Many groups want to have it both ways: cutting back on journalists while expanding their web operations. The result of this policy is an increased workload for the remaining journalists and an inevitable decline in the quality of journalism produced.

An important new study gives us a revealing insight into the impact of this strategy on one UK newspaper group. Trinity Mirror, apart from owning national newspapers like the *Daily Mirror*, *The People* and *Sunday Mirror* is also, with 232 titles, the biggest of the local and regional newspaper groups.

The 120-page study, *Turning Around the Tanker: Implementing Trinity Mirror's Online Strategy*, by Dr Andrew Williams and Professor Bob Franklin of Cardiff University, is an extremely valuable addition to our knowledge about what is happening in the group's newsrooms.

It would be fascinating to discover how far the same evidence of management strategy portrayed in this report applies to other regional newspaper groups.

The main focus of the report is on Trinity Mirror's Welsh titles. It is sharply critical of the groups short-sighted policy to "minimise costs while maximising revenues" as it extends its

Swiss trio cleared by military court

By Barry White

Three Swiss journalists accused of "violating military secrecy" have been exonerated by a military court.

Christoph Grenacher, editor of the Zurich-based *SonntagsBlick*, and two of his journalists, Sandro Brotz and Beat Jost, were charged after publishing a leaked document that revealed the existence of secret prisons run by the CIA and the transport of CIA prisoners in Europe. But on 17 April, the court decided they were innocent and awarded each of them 12,000 (£8,100) in compensation.

Earlier the European Federation of Journalists (EFJ) condemned the Swiss military for using legal proceedings to threaten and intimidate journalists who

uncovered proof of secret transfers and prisons used by US agents in Europe.

The EFJ was concerned that Swiss military justice was regularly used to charge civilians, especially media workers who have critically reported about procedures in the Swiss defense department and in the army.

The special status of the Swiss military justice system and its ability to try civilians is unique in Europe and also contravenes the United Nations Human Rights Pact, which was ratified by Switzerland five years ago.

Several journalists have been fined up to 700 Swiss francs by military courts in recent years for critical articles they published and in 2006 a journalist was sentenced to 20 days in jail by a military court after he reported on a bunker's construction weakness.

presence from print to the web.

The report states: "Trinity Mirror faces a stark choice as it moves online. It can continue to make cuts with an eye on maintaining short-term profit margins and watch the quality of its news decline over time, or it can invest in journalism with the aim of producing quality print and digital news products with a view to creating sustainable long-term profits."

The report also provides striking testimony from journalists who describe how they have been given additional work producing online video and podcasts but have not received a pay increase or proper training.

The report described Trinity management as "bullish" in its insistence on forcing through change against the concerns of the staff and without adequate resources. Michael Hill, Trinity Mirror's regional head of multimedia, is quoted as saying that the move to online was

like "turning round an oil tanker [...] some staff will never get it, but they will do what they are told to do".

The future of journalism as media converges was the hot topic at April's centenary conference of the NUJ in Birmingham.

One packed meeting discussed the Cardiff report, and the experiences of journalists at the BBC and on nationals like *The Guardian*.

Another newspaper sector meeting gave prominence to the breakthrough deal between the NUJ and Johnston Press, the owners of Yorkshire Post Newspapers.

The arrangement provided clear guidelines for training and increased pay in recognition of the extra skills and responsibilities inevitably involved with changing working practices at the titles.

One issue at the heart of the debate about journalism in the online era was

dramatically illustrated by coverage of the shootings of Virginia Tech students by Cho Seung-hui.

The agonising emotions surrounding the tragedy were powerfully captured through eyewitness accounts, photos and videos posted, almost instantaneously, on the internet.

However, good journalism – whether on the printed page or online – sifts through the deluge of conflicting information and provides readers with context and understanding. It is no coincidence that the best material on the internet comes from web sites run by news organisations which still have journalistic values at the core of their operations.

● You can access the Trinity Mirror report by going to the NUJ website: www.nuj.org.uk/inner.php?docid=1664

Islamist extremists 'are using media to promote hatred'

By Nicholas Jones

A group of journalists and academics from across the Middle East have given their support to calls for a greater awareness about the way Islamic fundamentalists have begun to manipulate the European news media.

Radical Muslims were said to have become adept at exploiting the demand for repressive and often violent images which only created fear in host communities and harmed the moderate Arab majority.

"Does the western media understand the Islamic world?" was the question posed at a workshop held in Lugano by the European Journalism Observatory and the Swiss School of Journalism.

In my own presentation I explained how the portrayal of women wearing the veil was used by some British newspapers to generate an atmosphere of suspicion. In

recent months such pictures had often been accompanied by lurid captions.

When three young mothers wearing the niqab were photographed in Birmingham, one made a two-fingered gesture which encouraged menacing comments.

The *Daily Express* called it, "...an image of veiled defiance". The *Daily Mail* said it was: "...a chilling insight into the minds of many of our young Muslims...hungry for the harshness of Sharia law".

Needless to say neither newspaper acknowledged that it was probably the provocation of being photographed in the street without their permission which prompted the women's defiant attitude.

I pointed out that given the news media's appetite for negative images it was noticeable how some of Britain's leading Muslim politicians had realised that the slightest provocation from within their own communities could be perceived by some newspapers as a threat, triggering further hostile coverage.

Nevertheless despite appeals for restraint, Muslim fundamentalists had continued to promote demands that schoolgirls and female teachers should be allowed to wear the niqab in class.

Kai Hafez, head of media and communication at the University of Erfurt, Germany, urged journalists to realise

Islamic extremists were determined to attract attention and would "use and abuse" the western media to reinforce negative images which gave "an even harder time to moderate forces in the Arab world".

Flag burning and similar protests by a handful of demonstrators carrying hostile placards and wearing veils were the "artificial reality" which the media craved; these were the images which went round the world.

Farag Elkamel, dean of the faculty of mass communication at Ahrm Canadian University, Egypt, described how alarmist news stories about women wearing headscarves illustrated a wider failure to understand the Muslim world: the western media portrayed the hijab as an Islamic symbol when in fact it was often a reflection of socio-economic factors and had nothing to do with religion as such.

"Most Egyptian women who cover their heads do so because of social, not religious demands, and because many of them could not afford more fashionable clothes or have their hair done regularly. Many were recent migrants from the countryside where this is a normal dress code or were influenced by the dress codes in Arabian Gulf cultures where millions of Egyptians worked over the last few decades".

Other debates at the workshop focused on the

influence of the Arabic satellite television station Al Jazeera and the impact of the internet. Yassin Musharbash, a journalist on Germany's largest political news website Spiegel Online, spent four hours a day monitoring Arab websites and he had been struck by the degree to which terrorist groups hated Al Jazeera.

Al Jazeera was dubbed al-khansira (the swine) by al-Qaeda and was accused of following CNN and Fox News in giving an American view of the world. The station had been denounced for broadcasting only extracts of Osama Bin Laden's tapes; on one occasion Al Jazeera transmitted only four minutes of an 80-minute tape.

Maha Taki, of the University of Westminster, outlined the findings of her study into the growth of websites in Lebanon, Syria and Jordan. While Arab weblogs were still a marginal activity, they gave a unique glimpse into the struggles of a predominantly young elite.

Many new blogs were created during the 2006 Lebanon war and Israel responded by training young diplomats to become cyber soldiers and tasking them with adding aggressive comments to the sites.

Maha Taki believed this showed how seriously the Israeli Government viewed the power of Arab weblogs and their ability to challenge the supremacy of the established news media.

Signs of cabinet U-turn on Fol...

By Barry White

The Campaign for Freedom of Information and other campaigners have welcomed a recent announcement, which suggests that the Government is no longer committed to introducing major restrictions to the Freedom of Information Act. Instead it has announced a further consultation, asking whether changes to the Act are needed at all.

Maurice Frankel, director of the Campaign for Freedom of Information, said: "This raises the strong possibility that the Government will eventually decide to leave the current arrangements untouched. If it does decide to make any changes they are likely to be far more limited than the highly damaging restrictions which had been proposed."

He added: "The decision will now be deferred until after Tony Blair stands down. It is extremely unlikely that Gordon Brown, who is promising to 'renew' the Government, would attempt to do so by neutering the FOI Act in the way that had been proposed."

The new consultation period runs until 21 June and the Government says it may take up to a further three

● *The Campaign for Freedom of Information's response to the previous consultation can be read at: www.cfoi.org.uk/pdf/CFOI_fees_response.pdf*

● *The new consultation document issued by the Department for Constitutional Affairs today can be found at: www.dca.gov.uk/consult/dpr2007/cp2806.htm*

● *The DCA press release on the new consultation can be found at: www.gnn.gov.uk/environment/fullDetail.asp?ReleaseID=275094&NewsAreaID=2&NavigatedFromDepartment=True*

months to decide what to do. Tony Blair is expected to leave office at the end of June.

Last year the Government announced it intended to make two changes to the fees regulations under the Freedom of Information Act, making it significantly easier for requests to be refused on cost grounds. In December it consulted about draft regulations to implement these changes. The consultation was limited to technical questions about the fine-tuning of the proposals. It did not ask whether they were needed at all. Today's decision means the Government is now considering, and seeking views on, this key issue.

In its response to the previous consultation, the Campaign for Freedom of Information expressed its "serious concern not only about the proposals themselves, but also about the way in which they have been developed. Neither requesters nor public bodies have been asked about their experiences of the legislation, about any problems they may have encountered, whether any changes to address them are necessary and, if so, what these might be... The absence of public involvement or consultation on the wider issues is not merely procedurally unfair; it has distorted the exercise itself."

A massive campaign of opposition to

...but the battle goes on

By Barry White

Despite the backing of senior Government ministers, including Culture Secretary Tessa Jowell, and Tom McNulty (Home Office) the controversial bill to exempt Parliament from the Freedom of Information Act was not debated in the Commons on 27 April.

The bill had already been "talked out" by a cross-party coalition of Labour, Conservatives, Liberal Democrats and Nationalists a week previously. But, as if by magic, the bill had re-appeared for an early debate on the 27th.

It is unusual for private members' bills to make such a rapid return to the chamber. But on the 26 April, the night before it was due to be discussed, it was withdrawn from the order paper by the sponsor, David Maclean. It has been rescheduled for discussion on Friday 18 May.

The bill, promoted by the former conservative chief whip, is partly a reaction to the fact that, while responding to FOI requests, some authorities have released correspondence sent to them by MPs,



Gordon Brown: 'unlikely to neuter act'

the proposals was launched when the Government originally announced its intention to neuter, the Act. Over 1,250 journalists signed *Press Gazette's* Don't Kill FOI petition, which it has relaunched in response to this second consultation.

A review commissioned by the Government last year showed that the total annual costs of the FOI Act, across the whole public sector, are £35.5m. It estimated that the proposed changes would save up to £10m, but allow up to 17,500 requests, which are currently answered, to be refused on cost grounds.

which may have included correspondence written on behalf of constituents.

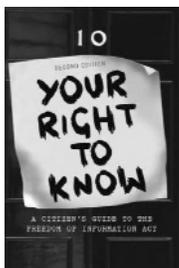
But according to a letter sent to MPs by the Campaign for Freedom of Information, if correspondence containing personal data about identifiable constituents was released then this information was already exempt under a section of the Act which prohibits disclosures that breach the Data Protection Act.

The main MPs who first blocked the bill were two Liberal Democrats, Simon Hughes and Norman Baker; Richard Shepherd, a Conservative MP with a long record promoting freedom of information issues; and Labour MP David Winnick. They were also central to stopping the bill's progress on 27 April.

Ministers known to support the bill include Andy Burnham (Health), John Healey (Treasury), Ian Pearson (Environment) and Keith Hill, parliamentary private secretary to Tony Blair.

In the meantime we need to keep up the pressure on MPs to make sure the bill is defeated when it returns to the Commons.

The truth is out there



**YOUR RIGHT TO KNOW:
A CITIZEN'S GUIDE TO
THE FREEDOM OF
INFORMATION ACT**
Heather Brooke
Pluto Press £13.99

By Julie-ann Davies

When the Freedom of Information Act (FOIA) came into effect on 1 January 2005 there was a great deal of discussion about how the media would use the Act.

The FOIA means individuals and organisations from all over the world can request previously undisclosed information from British public authorities and some private bodies.

The Act covers over 100,000 authorities at all levels – from dentists to Parliament. It is a valuable addition to an investigative journalist's workbox. But, the true beauty of the Act is that it can, and should, be used by anybody and everybody.

As Heather Brooke writes: "Contrary to expectation, FOI was not used solely by journalists in the early years, though they were first off the mark... Very quickly citizens took over to become the main users of the Act."

The FOIA is a useful tool for those

struggling to pierce through suffocating secrecy. But, sometimes, making an application can be confusing. At such moments a copy of *Your Right to Know* is your salvation.

Heather Brooke guides readers through each stage of making an application. The book provides clear guidance on who to contact for what type of information.

Addresses, contact details and other relevant information are provided for each body listed. The appendix contains model letters for requesting information and appealing refusals to release information.

The complex issue of what information is exempt from the FOIA is dealt with in an understandable fashion. The book benefits from a companion website which is constantly updated with information and advice.

The passing of the Freedom of Information Act was a step towards establishing a more accountable Government. But, as recent events have shown, some voices are already calling for the powers of the Act to be diluted.

Your Right to Know is a lively, informative and empowering handbook written for anyone who has ever used, or may ever use, the Act. The FOIA was a small but seismic shift in the balance of power between the Government and the public.

As Heather Brooke says, it is up to us to "use it or lose it".

New threat to media freedom

By Barry White

The right to report comes under further pressure following the Government's recent announcement of a review of the Police and Criminal Evidence Act.

The review, currently being undertaken by the Home Office, could give the police new powers to seize journalistic material. Currently their powers to seize such material are limited.

The consultative document suggests the part of the law giving journalistic material special protection may need to be "updated" "to meet the 21st (century) challenges in tackling crime."

At the moment, if they wish to obtain journalistic material, the police must apply to a senior judge and prove it relates to a serious arrestable offence.

They also have to show they have tried all other methods of obtaining it. Journalists have the right to argue against the order.

At the end of March the Northern Ireland version of PACE was amended giving the police increased powers to take and withhold documents.

The closing date for responses to the Home Office review being undertaken by Tony McNulty the Counter-Terror Minister, is 31 May.

Labour's missed opportunities



**LABOUR AND THE
PRESS: FROM NEW
LEFT TO NEW LABOUR**
Sean Tunney
Sussex Academic Press
£17.95

By Tom O'Malley

During the passage of the 2003 Communications Act, senior News Corporation employees met six times with Government officials.

The secretary of state, Tessa Jowell dutifully assured them "there was no intention" that a proposed public interest clause in the Act obliging ministers to maintain plurality when considering newspaper takeovers, "could be used to block a takeover". The par-

ties agreed the Act amounted to a "significant deregulation" of the rules on newspaper mergers.

From the late 1980s the Labour leadership increasingly sought better press representation at the expense of policies designed to promote diversity in the industry. Jowell's understanding with News Corporation was a natural outcome of this process. Sean Tunney's account of shifts in Labour policy on the press since the early 1970s places New Labour's current position firmly in its medium-term historical context.

Tunney details the emergence, in the 1970s, of pressures from trade unions and party members for reform of press ownership and control. These culminated in the radical proposals of the 1974 discussion document, *The People and the Media*, elements of which influenced the 1983 election manifesto. Differences existed between those who wanted to promote diversity and oth-

ers concerned with getting Labour a voice in the national newspaper market.

A succession of electoral defeats (1979-1992) and the accommodation of the Labour and trade union leaderships with the neo-liberalism of the Thatcher years, left progressive policies on ownership, diversity and right of reply behind.

This book is a record of failure, despite tremendous efforts of analysis, time and imagination by reformers, to democratise mass communications.

Yet it is also an account of the complexities of trying to change press policy and a rich record of the proposals devised to improve the media. To influence the future we need to understand our past. *Labour and the Press* provides readers with an indispensable aid to understanding and a platform for reflection on future strategies for change.

Official secrets

From page 1

This precedent, sometimes referred to as the defence of “duress of circumstance” was the first time such a defence had been clearly established in law and was considered by many to be a landmark ruling.

However, it is now believed the current Government wishes to restrict, or remove totally, access to this new – and as yet untried – defence.

Last week, Sir Nigel Sheinwald, Blair’s foreign policy advisor, gave evidence at the trial of Keogh and O’Connor. He told the jury that conversations between political leaders must remain confidential – even if their content was immoral or illegal.

The contents of the Bush-Blair memo have not been discussed in open court. Certain parts of the trial are held “in camera” and the media are asked to leave.

Justice McCowan’s ruling during the Ponting trial indicated that it is for the Government to decide what should be kept secret and what the electorate can be permitted to know.

The existence and protection of a public interest defence in the Official Secrets Act does not represent a threat to public or national security. It represents a healthy and positive check and balance on power.

A public interest defence allows a court to decide, based on the merits of each case, whether state secrecy is outweighed by the public’s right to scrutinise the actions of their Government.

The case of Keogh and O’Connor continues.

Journalist freed after seven months in jail

By Julie-ann Davies

An American reporter was released from a federal detention facility in California on 23 April. Joshua Wolf had served 226 days in jail. His sentence was the longest served by a journalist for refusing to hand over information in US history.

Wolf, an independent journalist and filmmaker was incarcerated in July 2006. Despite being served with a subpoena he refused to surrender his footage of the 2005 San Francisco rally against the G8 Summit which was being held in Scotland.

A police officer suffered a fractured skull during the protest and a car was set alight. Wolf’s website states that he

offered, on more than one occasion, to show the tape to a judge – but was always refused.

His release was finally secured when a deal was brokered with the authorities and the footage was posted on Wolf’s website. As he had consistently maintained, the recording contained no evidence of criminality.

Martin Garbus, Wolf’s lawyer, told the BBC: “Josh has released the videotape on his website and a copy has been sent to the district attorney. He had refused to identify anyone in the videotape.”

Throughout his imprisonment Wolf voiced the concern that his case was merely a “fishing expedition” designed to identify activists.

Advance Notice

CPBF AGM

10am Saturday 14 July 2007

The formal AGM business will be followed by a panel-led discussion on ‘Unravelling Convergence’ (to 1pm)

National Union of Journalists HQ
308 Gray’s Inn Road, London WC1X 8DP

Registration from 9.30am

Free Press is edited by Julie-ann Davies on behalf of the National Council

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