

Using Freedom of Information Requests in Research- Part 1

Hello, my name is David White, and I work in the University of Liverpool, and one of the things I do here is I teach a course on the use of freedom of information request to generate data for research projects. And I teach that course to masters students, to PhD students and to sometimes to other organisations. And this is really just a very short introduction to the course that I would I would teach, which looks at the pitfalls and the advantages of, of using freedom of information requests and the process that you go through to generate data for research.

And I'm going to start by looking at some of the limitations on that process and just think about what I'm talking about here as structural challenges. So the challenges that that are there in the kind of power structures, and we're talking about a system based around an Act of Parliament, which gives us all the right to request information from public authorities. So very often we're asking info, but we're asking for information that's not in the public domain. Sometimes it's not particularly controversial. Sometimes it's it's information that simply been overlooked. But sometimes, it is information that tells us something about the way that public authorities work, the way that governments work. So sometimes it is about questioning the way that those power structures work.

And one of the things I won't say but the legislation as it applies, and as a separate act that applies to Scotland, but the act as it applies to England and Wales and Scotland is they only apply to public authorities, they don't apply to private organisations to private companies, corporations, to businesses, and so on. And this is an issue that is a bit of a problem in a system of government where there are a plurality of different forms of administrative organisation. So we know that the prisons, for example, which used to be solely in the public domain, are now partly run, some of them are run by private companies. Public communities, like water or telecommunications are now fully privatised. So they're in the hands of, of private companies. And that tells us that our access to information might change depending on the type of organisation that we that we are served by in terms of that that public service, or those public amenities, or indeed the more general public function. And it also tells us that these things change over time. So that structural pluralism as Ackerman, Sandoval-Ballesteros that was put it basically means that you have a plurality of different power structures delivering different forms of public service and, and public provision. And that means that it can be quite, it can see my actually, you know, quite random the idea of of how we get information and where we get information and the fact that we're, we're governed by an act, which only gives us partial access seems to be problematic. There are countries, this is actually the case in most advanced capitalist states, most liberal democracies around the world that have freedom of information, legislation, only provide citizens access to public authorities in the same way, as the legislation does here.

There are some examples South Africa is always a well cited example of a different approach, which recognises that structural pluralism and says well, that private corporations also are duty bound to

provide information and citizens can ask, I have the right to ask for information from private as well as public bodies. And there's a contradiction here because actually, in this country, corporations, private businesses, companies are in a legal sense persons, they are their legal citizens, if you like, or they have the same status as you or I in terms of their access to information. So corporations can apply, private profit making corporations can apply using the Freedom of Information Act, and they can they can apply for disclosures in the same way that you like. So that's the contradiction. Private profit making corporations have access to information in the same basis that we do, but we don't have access to the information that they hold, even though it may well be information or a very similar function to the function that a public authority might fulfil.

And those kind of issues around networks of power are kind of deepened if we think about the intentions of the act, the intentions of the act were to, to improve public hygiene. To quote one of the consultation documents around the 2000 Act. The idea was that democracy would be healthier that there would be more checks and balances that individuals would want to be more involved in democratic processes if they had more access and if they had more to, to, to gain from their understanding or deeper insights into the way that the power works, because they had more access to information. That's the basic rationale, behind the reform of legislation.

It was a reform, which Tony Blair very famously said, was his biggest mistake. So not the Iraq war, and not the failure to overturn years of conservative anti-trade union legislation, not the failure to reduce the poverty gap. No, the Blair regarded, and says it's very explicitly in his autobiography that his biggest mistake was introducing the Freedom of Information Act. And there's an interesting kind of tension, which I want to develop here by I don't do this very often, I'm just going to read directly from Tony Blair's autobiography. And this is what Blair had to say about the Freedom of Information Act, freedom of information, three harmless words, I look at these words as I write them, and I feel like shaking my head till it drops off my shoulders. You idiot, you naive, foolish, irresponsible, nincompoop. There is really no description of stupidity, no matter how vivid, that is adequate, a quake at the imbecility of it.

He's not mincing his words. And the reason he's saying that is because he felt that what happened after the Act was introduced, civil servants and senior politicians refrain from making more controversial decisions, they refrain from making decisions, because they were afraid that subsequently information about those decisions might emerge because of Freedom of Information requests.

Well, you know, here's a cynic would say, well, it didn't stop them, taking the decision to get involved in an illegal invasion of Iraq. Nonetheless, Tony Blair thinks that it restricted civil servants in a restricted government. And this is kind of really interesting, because if you look at, I'm not going to run through them, because you can do that. If you if you've, if you following up, and you're going to apply for information using the Freedom of Information Act, one of the things you should start doing is look at the exemptions that are granted to public authorities. So the boundaries, the reasons that they can give to refuse and refuse the provision of information. Those exemptions are very interesting, and they are organised around definitions of what constitutes public harm, and the public interest. So those are kind of juxtaposed with the importance of transparency, openness, on public hygiene.

Public calm is a consequence of according to the content, the way the act is framed, public harm is a potential consequence of opening up information, compromising the public interest. So, if you read through those exemptions, issues around security, around the economic interests of the nation, you see a picture of the national interest which is which is juxtaposed against the public interest. And you see a construction of the public interest, which is also reducible and reduced to the national interest.

So the public interest in the terms of the Freedom of Information Act 2000, is that the state, the government secrecy in certain domains must be held secure and the information about security issues, military issues, economic issues, ultimately, if they are of national interest, it's in the public interest to protect them right now. Obviously, that's a highly contestable and contested definition because many people would argue that the transparency generally about those kind of issues is in the public, and therefore the national interest, but that's the kind of contradiction that we see a running through all the ar if you like, like the kind of irresolvable kind of dilemma that's captured by those definitions because ultimately the argument clearly from our kind of, from the position of those framing the act is, is that if national security the national economy is compromised, and so then has issues of public health. So there are limits to the provision of freedom of information, in that sense. And those limits are always justified through this discourse of public harm and, and the public interest.

And, of course, where you stand on those questions depends very much on where you stand in this society, in the structure of society. And one of the key issues that that we face when we try to get information from public authorities is we're dealing very often with structures of power, we're dealing with powerful authorities that don't necessarily want to disclose that information. And they also, very often, we don't know what information is being held. That's another key issue and that's because we are not part of that, to use a sociological term, the term coined by the French sociologist, Pierre Bourdieu, we are not part of their habitus. We are not part of their world, their kind of their world of professional norms and professional mores and understandings, we don't necessarily see the world in in the way that the groups that we're asking for information from see the world, and we certainly don't have access to basic information about how decisions are made in that world.

So the fact that we stand outside the power structures and ask questions about those power structures, and we stand outside that habitus means something and it means something, I guess, and I'm going to shift to be much more pragmatic and practical, mean something for how we approach the questions we ask, and the way that we approach generally, our relationship with the people that we ask those, those questions. And so Walby and Larson have written a significant article which develops some of those issues in terms of what our relationship should be with those that were asking questions of and how we should shape our understandings of their world. And they basically say, look, if you think about the kind of information where we are going to get access to, you can analyse that information on three levels.

So there's going to be information that we can get, which covers the work of government, and allows us to analyse how government works, how governments do what they do, or how public authorities do what they do.

And there's another set of documents, which will most frequently have data about the populations that are being governed. And that will tell us about how governments see their role in not just controlling but

more in a more to use the software term governing how they govern populations, how they make sure that there are particular outcomes or particular social influences that they bring to bear upon populations.

And then finally, there are the the texts that are not that no one ever thought would be aimed at public circulation. I'm going to come back to talk about some of these, but I'm delivering this. I'm recording this this discussion in the week that freedom of information requests and leaked information from government is hitting the headlines, particularly two or three issues around the Prime Minister Boris Johnson, texts that he sent, which were released as part of a Freedom of Information request texts that he sent to various business leaders. When the beginning of the emergence of COVID-19 information that's been leaked about the renovation of his flats in in Downing Street, and also some, some revelations about the language that he used in front of a Tory backbench committee when he talked about bodies piling high.

So those three issues are being framed about debates around freedom of information, and they all involve text or speech, which no government official, certainly not Boris Johnson thought was going to was going to come to the top, to the surface of public debate. I never see the light of day so there's we'll talk about those in a moment. They're not all issues which emerge because of Freedom of Information requests, I think only one of them. But those are the kind of unofficial texts and forms of speech that were never aimed at public calculation that sometimes can emerge from feed field information requests,

But Walby and Larson, you know, they're not investigative journalists. So they're not thinking about how you use Freedom of Information requests in a journalistic way. And David Silverman, the research methods, author, he warns against using research approaches to research generally he doesn't write about, I mean, I think he does, but he doesn't chiefly write about freedom of information. In his discussion of research he's talking about generally. We, as social researchers take a very different approach to investigative journalists. And, and so that means that we sometimes go much deeper into aspects of the worlds that we research an less, less deeply, you know, compared with investigative journalists, so and social researchers were interested in social processes.

So Walby, and Lawson, argue that you have to think about how you give meaning to the text that you obtain from freedom of information request, and you have to understand two dimensions really, you have to understand dimensions of how those texts are given meaning, you have to understand how they are made real through the work that government employees do. So you have to think about what government employees are doing when those texts are produced. And you have to think also about how their organization's give meaning to the text. So how does the form that the organisation takes and the way that the organisation works? And is structured? give meaning to those texts? And indeed, how are organisations themselves given meaning through the production of particular texts?

And so the these are really deep questions about how we read the data that we get from Freedom of Information requests, and how we have to have a deeper understanding actually, of the sources of that information, and where they come from. We have to know how organisations work and how individuals within those organisations work, if we're going to contextualize the information that we get.

So I mean, I'm going to give an example of that before I move on to thinking about the kind of specific uses of FOI freedom of information, data and research. So for years, I compiled a database, which looked at health and safety, workplace health and safety inspectors and what they were doing in response to deaths and injuries at work. So I used freedom of information request to comply with my colleague, Steve Tombs, to compile a database of prosecutions investigations and other forms of enforcement action that were used, whether there were breaches of the law in relation to workplace safety.

Now, in order to understand what that data meant, you have to also understand very precisely what inspectors do and what those figures mean, what does a figure that records an investigation mean?, you have to understand the difference between an inspection and in an investigation. To understand the prosecution data, you have to understand if the data relates to the number of offences prosecuted, or the number of subjects prosecuted, the number of individuals are indeed employers who are being prosecuted. So you need to understand something about how officials are working to process that data. And in order to know what's not there. So the types of investigation that may be recorded that don't get included, and indeed, some of the prosecutions or other enforcement actions that aren't included in those figures, you need to know something about how the organisation works.

Okay, I'm going to move on to look at how Freedom of Information data is used in, in research. And look, this is not exhaustive, but just thinking from the outset about how we shape research using the kind of data that we might get from those sources, I think is very rare. And that's the question is asked at the end of the slide. But I think it's very rare that a researcher builds a project entirely on freedom of information, data, and that's partly because we, we never really know what they are. And I'll come on to this in more detail. The points I've just made, really, we never really know how it's fully know how it's constructed. We're never in control of the, of the methodology or the ways in which that data is, is produced and created.

So at best, we're probably using it to triangulate the phrase that the social scientists use to indicate the process of making data valid by testing it using other sources of data. So I think that's most commonly what we would, what we would be using data that we get from public authorities to do, to either validate other research findings, all we would use other forms of research and the example that I've just given, you know, in the past, I've had to do interviews with public officials to know how those processes of investigation prosecution work. So I think you're always using a triangulation process, which means just using more than one source of data to validate what your research findings are going to be.

You may want to if you, you know, if you discover a source of data, and the example I just gave you, you know, prosecutions over time, if you want to compare what's happening over time, you may want to book to use Freedom of Information requests, to place regular requests for the same data so that you can build a dataset over time, and that's something that researchers do quite commonly.

And finally, just enough kind of illuminate, to illuminate other findings or to, to kind of find that kind of headline, illustration for something that you've already virtually completed for another, for research projects based on other data. It's not uncommon for researchers to ask Freedom of Information requests about particular fine-grained details of the research they've already done. Not, really okay to

give to give a headline, but really just to illustrate the more general trends that they're finding, in, in the data.

So I think those are, those are kind of those are not exhaustive, as I say, but three major uses for free of information data, there are problems that I alluded to earlier, particularly method, methodological problems, if you don't know the data, and we never know how that data is gathered, ultimately, we, we can discuss it and indeed, the people that we asked to data from have a public duty to help us understand the data that they provide, we can, you know, discuss that and we can we can find out some basic information about how the data is gathered, but we're never really, you know, we're not the ones doing the gathering. We're never, we're never gonna know how complete or how accurate it is. And we, you know, we get it in different different forms of presentation. And that may distort how we read the data. Ultimately, it's not uncommon to receive, particularly these if you're asking about government processes, where individuals identities might be redacted or particular, details of decisions might be redacted. That's very common to get to get official documents back that have that have words effectively screened out. So sometimes we never see the full picture.

Wilby and Larson who I cited earlier, they talk about the Hawthorne effect, which happens when you start conducting this kind of research, then it may shape the results you get, particularly if you ask repeat questions to repeat individuals, it may affect the willingness to, to reveal particular aspects of the research. But more generally, the they argue that public agencies dealing with repeated fear of information requests does change the way in which they respond either positively or negatively. So there is what researchers call the Hawthorne effect. So the boomerang effect that the results you do affects ultimately the results that you that you generate.