

A deeply insidious culture of secrecy is growing in New Labour Britain

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Freedom of information has been one of this government's proudest policy platforms. The Lord Chancellor, the minister in charge of making information publicly accessible, has loudly trumpeted "a presumption of openness" bringing "greater accountability" and "a radical and lasting change in the relationship between citizen and government".

Yet the habit of secrecy seems to die very hard. Only this week, the British Board of Film Classification (BBFC) refused to reveal the identities of its censors who have given the new Steven Spielberg blockbuster, War Of The Worlds, a controversial 12A rating.

And nowhere is secrecy more entrenched, it seems, than in Lord Falconer's own bailiwick. This week, he declared that the new Judicial Appointments and Conduct Ombudsman would ensure "the transparency of the new framework for judicial appointments".

Oh dear. For it instantly became clear that the new Office for Judicial Complaints would keep secret the identities and misdemeanours of the judicial figures arraigned before it.

The judges' disciplinary system is already highly secretive. Last year, it was revealed, about 250 allegations of misconduct by judges or tribunal members were investigated, of which 11 were referred for judicial investigation, plus about 40 investigations into allegations of misconduct by magistrates. Disciplinary action followed in 68 cases.

Conspiracy

But what exactly happened to them - and who were they? At this point, Lord Falconer's transparency suddenly turned distinctly opaque. No names, no pack-drill became the order of the day.

This, said the Lord Chief Justice, Lord Woolf, was necessary because public confidence would be harmed if any judge who was named after being disciplined continued sitting in judgment.

This is precisely the kind of hidebound instinct to protect error or wrongdoing which the new climate of openness was supposed to consign to history. It reflects an instinct for selfpreservation that acts as a conspiracy against the public and gives professionals a bad name.

For if a judge has done something that might undermine public confidence, then the public surely has every right to know - indeed, in the circumstances, a particular right to know - what that fault might be.

Lord Woolf views with horror the prospect that judges who have been named and shamed might not enjoy full public confidence. But why should a judge expect that confidence if he hasn't earned it? Our system requires that justice is done in public. So why should the judges be exempt from this principle?

The system requires the public to place its trust in the unquestionable ability of the judges and the Lord Chancellor to ensure every judge is beyond reproach.

But how can this inspire public confidence when Lord Falconer himself is hardly a shining light of transparency, having never been voted into office but shoehorned into the House of Lords as First Friend of the Prime Minister - and now presiding over a culture of institutionalised judicial secrecy while proclaiming his commitment to openness at every turn?

The days of such blind faith in the Establishment to police itself have long since gone. Indeed, no other profession keeps its disciplinary proceedings secret in this way. Doctors, teachers or police officers cannot take refuge behind such a shield of anonymity. Yet the damage to their authority from such proceedings is equally grave.

Lord Woolf says the judges are different. Why? This just sounds suspiciously like professional special pleading and a recipe for short-changing the public.

This is a judicial world, after all, in which a former Lord Chief Justice, Lord Widgery, had to be literally propped up by judges sitting alongside him because he was suffering from senile dementia - a fact not publicly acknowledged until after he died.

More recently, Mr Justice Harman resigned only after the Court of Appeal found that he had lost documents and forgotten evidence in a case in which he had taken more than 20 months to deliver his judgment.

Transparency and accountability are indissolubly stitched together. Lack of transparency means that people cannot be held to account for their actions. But our culture of secrecy is so ingrained that people in official positions can still deploy the most sanctimonious excuses to avoid public scrutiny.

Menace

Take our film censors, who play a huge role in shaping our cultural attitudes by grading films according to criteria of taste and decency. The 12A rating that the BBFC has given to War Of The Worlds means young children can see it if accompanied by an adult, while 12-year-olds and above can view it on their own.

This is even though it contains 'sustained menace, threat and moderate horror', and experts have warned that its scenes of violence could make children aggressive or disturbed.

Yet the BBFC refuses point blank to release the names of the examiners who decided to give it this rating - or, indeed, the identities of any of its 30 examiners who classify films. We are not even entitled to know whether they have children of their own.

The BBFC maintains that its examiners work on the principle of "collective responsibility", that they have no obligation to account for themselves since they are not paid out of taxpayers' money, and that they have to be protected from "outrageous stalking campaigns by the Press".

On the contrary, it is such secrecy that is outrageous. The BBFC censors play a key role as arbiters of what is acceptable in the cinema. The public are entitled to know, therefore, what prejudices and attitudes they bring to the exercise of this role.

In the past, our film censors have been drawn disproportionately from those who have ultraliberal views and who, by their anything-goes approach, have coarsened and brutalised our cultural values. So why should these individuals not be held to account for the attitudes they bring to the job?

Why should they not be exposed to robust questioning and comment about the controversial decisions they take, which may have such damaging effects on children and on our society?

Complaints

Isn't their anonymity simply another example of the sadly all-too-predictable instinct to avoid public

scrutiny - the very virtue that was supposed to be fostered by Lord Falconer's new culture of openness? And aren't those who scuttle for cover in this way generally people who feel that they have something to hide?

True, the Freedom of Information Act has enabled thousands of pieces of otherwise hidden information to be made available. Nevertheless, most requests for data are still being thrown out. Only 44 per cent of all applications for information from Whitehall departments and other bodies are granted in full.

Almost 1,000 complaints concerning failure to disclose material are being investigated by the freedom of information watchdog. Yet Lord Falconer's department has been unable to say how many such requests have been rejected. So much for the freedom of that particular piece of information.

Yet while we are being prevented from finding out what we should be entitled to know about public bodies, officialdom is finding out more and more about us.

A huge amount of irrelevant information is to be stored on the proposed identity cards, intimate medical records are to be put onto an electronic government database, and there are now smart cards in every walk of life encrypting a huge range of sensitive personal data, raising the ever greater risks of centralised abuse of personal information.

Not so much a transparent society, therefore, as a surveillance society - where, as our privacy goes to the wall, the prospect of holding properly to account those who control our public life still seems as far away as ever.