

Submarine May can't slip back under the waves. Keeping Brexit negotiations secret is impossible

 democraticaudit.com/2017/02/10/submarine-may-cant-slip-back-under-the-waves-keeping-brexit-negotiations-secret-is-impossible/

By Democratic Audit UK

2017-2-10

*The story of Brexit has been that of a would-be secretive government forced to become more open about its intentions, writes **Ben Worthy**. Pressure from select committees, the media and freedom of information requests – compounded by a stream of leaks – means we now know what kind of Brexit we will have. But he warns that Theresa May's instincts are still to hide the UK's 'negotiating hand'. She will soon come to realise this is going to be impossible.*



The submarine HMS Tireless surfaces in 2012. Photo: [Royal Navy Media Archive](#) via a [CC BY-NC 2.0 licence](#)

Political leaders often loudly support greater openness while in opposition, or because a scandal needs to be solved (or to appear to be solved). However, their early enthusiasm very quickly sours: compare Tony Blair's [pronouncements in 1996 on FOI with his views 14 years later](#). Most politicians, most of the time, are caught between the wish to be more secretive and the need to be more open.

Some politicians are born to be open, some achieve openness by accident and some have openness thrust upon them. Theresa May is a perfect example of a politician having been forced to be open. In her six years at the Home Office, May claimed to have been a trailblazer in transparency, forcing the police to [publish stop and search data](#), opening up the Police Federation and publishing [her own tax returns during her campaign to be leader](#) (though the link to the actual returns [no longer works](#)).

Unfortunately, like many politicians, she's keener on other people's openness than her own. During those same six years as Home Secretary her department was among the consistently poorest performers in [answering FOI requests](#). She sought to hide [Border Force cuts from Parliament in 2016](#) and, more famously, [deflected blame onto officials](#) in 2011 during a career-threatening crisis. [Theresa May 'survived as home secretary for six years partly because she held a tight grip over information flows'](#). David Cameron apparently mocked her [submarine-like behaviour during the EU referendum](#). Since becoming Prime Minister, May's government has also been [publishing less data](#) and has finally passed the investigatory powers legislation (aka 'the Snoopers' Charter') she has long

wanted.

However, in one area, May has been forced to become more open after coming under pressure from all sides. The story of Brexit so far is of a government that sought secrecy, but has been forced to commit to being more open. Brexit is not just about a 'hard' versus 'soft' Brexit but a secret versus a transparent one.

Remember in September last year Prime Minister May promised there would be [“no running commentary” on Brexit](#) – supposedly so as not to '[reveal] a hand prematurely' to the EU27. Some have argued that this secrecy was actually for domestic purposes: it [was designed to 'structure domestic expectations' and paper over deep Cabinet divisions](#). As the FT's David Allen Green explained:

Ministers know that “making a success of Brexit” is a domestic political objective. And so the lack of communication serves as a way of...structuring expectations [and] cloak[ing] the government's ongoing inability to form a settled view on which of the available outcomes is preferable.

The government is less worried about showing its hand and more worried, as [Steve Peers](#) put it, about 'being embarrassed in front of the British public, by asking for things it doesn't get'.

Yet five months later, a government that would not give a running commentary or a White Paper has now given the country exactly that – including May's rather [worrying appearance](#) before the Liaison Committee in December, [a major speech in January](#) and now [a White Paper](#). The Miller case in the Supreme Court led to a bill that has also prompted all sorts of discussion and debate.

Parliament has been key to shining more light on Brexit. Select Committees in both Houses have called various Brexiters to give evidence. Backbenchers from May's own party, empowered by her small majority, [applied pressure](#). Opposition parties have also been using what weapons they can with, for example, the SNP using the Freedom of Information Act to find out about the [deal with Nissan](#). The media and public have also joined in, with the Press Association revealing [Liam Fox's lack of interest in the EU](#). FOI requests to the Department for Exiting the EU [here](#) make interesting reading, especially the one (refused) request for [the government's negotiating position](#).

As well as formal openness there has been a stream of leaks from May's Cabinet and officials – leading to the memorable headline [‘leak inquiry into leaking of letter warning about leaks’](#). It appears even the Palace is [leaking its frustration at being kept in the dark](#). On top of this there has been, of course, a continual flow of briefings from the rest of the EU.

This is not to say Brexit is now fully open. May's answers to the Liaison Committee were either [vague or faintly hostile](#). The White Paper, published [clearly after an all-nighter](#), was described as [‘largely devoid of content because the UK government's concern about negotiating secrecy’](#) and [offered](#) ‘as few concrete positions as it is possible to imagine’. But more is known than before, and [benchmarks have been laid down](#). More importantly there are no more claims of a magic ‘having your cake and eating it’ solution. We now know it is to be a hard Brexit.

What is perhaps most surprising is that, after the experience of the last five months, May believes that such secrecy is still possible. An amendment this week to inform [Parliament every two months was rejected](#). How can the confidentiality around Brexit can be maintained for any length of time, with divided and leaky Cabinet and 27 other negotiating countries all willing and eager to inform? [Especially](#) if ‘negotiating [is] by tabling draft texts – and so the EU is bound to see what the UK is asking for, once talks start’? As the negotiations begin, the leaks and information seepage will only get worse, as [Steve Peers points out](#):

In my experience, officials from the EU and its Member States love to talk. And little birds leak a

regular flow of EU documents to the Statewatch website. Even if UK officials keep as quiet as mice, the EU side will sing like canaries.

May's secrecy will be untenable. It will not only make Brexit more difficult. It will make secrets more interesting and leaks more damaging. While FOI is no [magic bullet solution for declining trust](#), being more open can sometimes help the public feel more empowered and politicians appear responsive. Greater openness around Brexit itself may help to legitimise – and even democratise – the process, and help bind some of the splits and fractures opened by the referendum. May is unlikely to open up, but the submarine could find the water is shallower than it appears.

This post represents the views of the author and not those of Democratic Audit.

[Ben Worthy](#) is a Lecturer in Politics at Birkbeck College. His [new book](#) *The Politics of Freedom of Information: How and why governments pass laws that threaten their power* is published by Manchester University Press. You can read chapter 1 [here](#).

