Freedom of Information

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Landmark case scrutinising use of AI under FOIA

The First-Tier Tribunal has heard a Freedom of Information Act appeal against the Department for Work and Pension's ('DWP') refusal to disclose information about its use of Artificial Intelligence ('AI') to detect fraud and error in the benefits system.

The appeal, heard on 30th May 2024, challenged a decision by the Information Commissioners Office ('ICO') to uphold the DWP's refusal to disclose the information. It is understood to be one of the first times the use of AI by a major government department has been scrutinised under FOIA.

The appellant, Jake Hurfurt, a researcher at campaign group Big Brother Watch, requested disclosure under FOIA of any data protection impact assessments ('DPIAs') prepared by the DWP's Integrated Risk and Intelligence Service relating to any use of profiling, machine learning or artificial intelligence.

The DWP refused that request initially and following an internal review, decided that it could disclose redacted copies of the requested DPIAs.

The DWP withheld the remaining information under section 31(1)(a) of FOIA, on the basis that disclosure would prejudice the prevention and detection of crime.

The appellant complained to the Information Commissioner, who upheld the DWP's refusal. In considering the public interest balancing test, the Commissioner acknowledged Mr Hurfurt's arguments regarding DWP's use of personal data and the potentially devastating impact on individual claimants when an incor-

Major political parties silent on FOI before and after General Election

Reporter for openDemocracy's investigations team, Jenna Corderoy, has called for the new Labour government to recognise the necessity of FOI.

Following a new report from openDemocracy (see page 17), Ms Corderoy wrote that "whoever comes into power must recognise that FOI is essential in a democracy, and that it needs protecting and strengthening to urgently reverse the wor-

rying trend of FOI requests being refused." She highlighted in particular the following which Keir Starmer wrote in 2021:

"Where the current Tory government has muddied the waters of transparency on the money it spends or the things it does, I want to make it easier to hold government to account. That means everything from ending the outrageous way government

departments refuse freedom of information requests to ensuring the next Labour government gives updates on our progress delivering on our key promises."

The Labour party (like the other major political parties) did not make any explicit mentions of FOI in its manifesto. FOI author Martin Rosenbaum said this was "very disappoint-