The Freedom of Information Act is a statute of great constitutional significance. The Act heralded a right to publicly held information which government had attempted to keep private. FOIA laws have their origins in the pre-digital age and any discussion of information rights must take on board the contemporary reality of the global digitization of communications via social media networks and the enhanced capabilities of state intelligence agencies to conduct surveillance over electronic communications. The General Data Protection Regulation seeks to give greater security to personal data. However, private information is harvested by private tech companies which they have obtained often ‘voluntarily’ and used by intermediaries to influence public events, public power and elections—as illustrated by recent scandals involving the practice of ‘data farming’ by social media networks and the sale of personal data to political campaign consultants seeking to pinpoint...
electors and thereby affect the outcomes of national elections and referenda. Government surveillance is age-old, but the emergence of digital power has enabled public authority to invade our private lives far more intrusively and effectively. The most recent example is the Investigatory Powers Act 2016. All this poses substantial challenges for the public regulation of information access in a growing confusion of public and private in the constitution. Courts, meanwhile, have to balance demands for privacy protection, open justice and secrecy.