

Challenges for FOI researchers

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The issues for FOI and researchers in Higher Education

- Access – When? To whom?
- Practice – Do academics *know* about FOI? How do they feel about it?
- Academic Freedom – under threat?

What's the problem?

The broader confusion about how FoI legislation should be applied to scientific research must be resolved. The Information Commissioner's Office has made some progress, but this should now be pursued as a matter of urgency.

Science and Technology Committee, 2011

Access – when?

- Scottish and Irish FOI allow withholding on the basis of a ‘programme of research’. This did not work for QUB who relied on regulation 12(4)(d) of the EIRs: information that is unfinished or in the course of completion
- Muir Russell review and UEA want a similar exemption
- Most Research Councils support or insist on archiving and sharing at completion of research programme
- ICO: ‘further discussions may also be useful to elaborate what is covered by s. 22 of FOIA (‘intent to publish’) within the academic context.’ (Roundtable meeting with HE Sector, 29 Sep 2010)

Access – to whom?

- FOI is requester blind. Researchers feel ownership of data is threatened by FOI
- RIN Life sciences survey: ‘they see data as a critical part of their ‘intellectual capital’, generated through a considerable investment of time, effort and skill. In a competitive environment, their willingness to share is therefore subject to reservations,’ (RIN et al 2009).
- Prof Mike Ballie: “We measured the ring patterns. Each ring pattern therefore has strong claims to be our copyright. Now, for the price of a stamp, [the requester] feels he is entitled to be given all this data.” (quoted in the Guardian, 20 April 2010)

Access – to whom?

- Controversial subjects attract opponents
- Prof Phil Jones: ‘Why should I make the data available to you when your aim is to try and find something wrong with it?’ (reported in the Times, 27 Jan 2010)
- Against Animal Testing; MMR and Dr Andrew Wakefield; Homeopathy courses
- Charlesworth – what would have happened if Sir Richard Doll’s (smoking), or Herbert Needleman’s (lead poisoning) research was covered by FOI?

An Example: Birkbeck, University of London

- Academic journal costs
- Authorship of a published report
- Expenses of a visiting professor
- Date of appointment of visiting professor
- Funding and operation of the centre for New Zealand Studies

An Example: Academic FOI.com

- No scrutiny, gagging clauses, funding, links to commerce. Would like to become 'that website'
- Tribunal cases
- Permission for TV interviews
- Bullying and harassment

Whole range of other requests that may impact indirectly

- Links to non-democratic regimes
- Travel costs or expenses
- Degree result criteria
- Who is teaching tutorials
- Submissions on university funding

Practice

- Many UK academics have little understanding of their responsibilities under the Act (RIN and NESTA 2010; Nelson 2010).
- Prof Phil Jones of CRU ‘it takes away your research time’ (*Nature*, 486, 2010)
- Following climate-gate: East Anglia University ‘needs to re-assess how it can support academics whose expertise in FOI requests is limited.’ (Science and Technology Committee, 2011)

“What’s in it for me?”

- **Career** There are no career-related rewards for publishing datasets
- **Time:** Answering can be time-consuming, especially if detailed methodology is needed
- **Confusion:** Lack of expertise in data management
- **Concern** : Commercial confidentiality or exploitation. They fear exploitation and misuse of data (RIN, 2008).
- ‘The relationships between such restrictions and the requirements of the Freedom of Information Act are not well-understood in the research community.’ (RIN et al 2010)

Academic freedom?

- Cases in the US and Canada of ‘political harassment’
- **Historian Bill Cronin.** Wisconsin Republican party had filed an open-records request for emails sent to and from his university account mentioning the state’s recent labour dispute and prominent Republican politicians.
- **Law professors Errol Mendes and Amir Attaran,** University of Ottawa. Details of the professors’ employment, expenses and teaching records, following their criticism of the Harper government.

What's happening now?

- Working group with ICO and HE sector
- IPR
- Section 22
- the 'unique global competitive context' universities operate in

Conclusions

- FOI has had a high profile impact but there is also a low level of continuous interest (set to increase)?
- Academics are in need of more guidance and help
- FOI is part of a wider shift in attitudes and ideas towards research and raw data.

Questions and discussion points

- What requests have you received, how did you deal with them?
- How do you feel about sharing data, when and to whom?
- How can academics be better supported in dealing with FOI?
Whose responsibility is this?
- Has FOI changed what you research, or the data you collect? Is privately-funded, non-HE research 'more attractive'?
- Are Scottish or Irish researchers unfairly advantaged? Do their exemptions make a difference?
- Any examples of 'threats to academic freedom' in the UK?