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# TOWN HALL TRANSPARENCY?

THE IMPACT OF FREEDOM  
OF INFORMATION ON LOCAL  
GOVERNMENT IN ENGLAND

BEN WORTHY, JIM AMOS,  
ROBERT HAZELL AND  
GABRIELLE BOURKE



# **Town Hall Transparency? The Impact of the Freedom of Information Act 2000 on Local Government in England**

**Ben Worthy, Jim Amos, Robert Hazell and Gabrielle Bourke**

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Department of Political Science  
UCL (University College London)  
29-30 Tavistock Square  
London WC1H 9QU  
Tel: 020 7679 4977 Fax: 020 7679 4978  
Email: [constitution@ucl.ac.uk](mailto:constitution@ucl.ac.uk)  
Web: [www.ucl.ac.uk/constitution-unit/](http://www.ucl.ac.uk/constitution-unit/)

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## **Executive Summary**

### **Transparency**

- Local government was already very open. FOI has further increased transparency but as an ‘add on’ to existing mechanisms.
- As with central government, FOI has increased proactive disclosure, despite the failure of the Act’s publication schemes, and helped a more open culture to develop.
- FOI works with the continuing development of new websites and applications such as Openly Local or hyper local sites.
- Use of the £500 spending data to date has been uneven. Some authorities have had a great deal of interest from the local press and some virtually none. It does not appear to have had an impact on FOI request numbers.

### **Accountability**

- FOI has increased accountability at local level but in ways officials and politicians don’t always see, either as part of building up a ‘bigger picture’ (e.g. a jigsaw effect) or alongside other mechanisms, especially the local media, consultations, and campaigns by NGOs.

### **Decision-making, Public Understanding and Participation**

- FOI has not improved the quality of decision-making but a chilling effect can be seen in a few politically sensitive cases.
- FOI has increased public understanding of decision-making in a ‘picture building’ way at a very low level such as a decision around the granting of a licence for one particular shop. Generally, few people are interested in local government except for when there is a controversy e.g. a local leisure centre or amenity is closed.
- FOI has been used by NGOs and for particular campaigns but has had little general impact on public participation because few participate.

### **Trust**

- FOI has not increased or decreased trust in local government. National media reporting of FOI stories has been largely negative (e.g. on salaries, wasting money). The local and regional press is variable in terms of use, angle and topic.
- Assessing the impact for local government is different because not all FOI information from the council is actually about the council e.g. some information is about schools, others about local restaurants.
- A number of officials felt local government trust was influenced by authority performance and ‘community visibility’ rather than openness.

## **Leadership, Service Delivery and Partnership**

- FOI has not impacted upon how local government works. Despite the focus on senior salaries local leadership has not changed due to FOI
- Service delivery has been largely unaffected as requests are rarely made about it.
- The two areas of tension are media use and reporting of FOI and partnership with private companies.
- Analysis of media use shows that a small proportion of requests cause most of the problems, i.e. those that get into newspapers and make headlines.
- Authorities have had varied experiences with the private bodies they work with passing information in response to requests. Some of the more 'public facing' ones are happy to share information whilst others are nervous and resistant.

## **Requests and Requesters**

- There is heavy use of FOI by a wide range of businesses at local level
- Rising request levels appear to be driven by increased awareness of FOI and media stories in the national press (especially MPs' expenses) but also local stories. Requests can also come in waves around a particular issue (e.g. RIPA).
- Requests from the public are often niche and of private interest to the person, which makes proactive disclosure ineffective as a means of reducing the number of FOI requests.
- Finally, high profile cases aside, FOI rarely obtains a 'smoking gun' and requests are often used as part of a wider information gathering campaign, like a jigsaw, or as a lever to obtain influence in a campaign.

## **Why Does Local Government Vary?**

- Local authorities are all open but to different degrees. Political support, resources and the pre-existing interaction between the local authority and the media can all shape how FOI impacts.

## **Leadership**

- Leadership is crucial to FOI. FOI is dependent on senior relationships, such as those between the Chief Executive and political leader.
- Support for openness from senior figures allows FOI officers to improve internal co-operation, to innovate and mitigate internal resistance. By contrast, nervousness or misunderstanding may lead to defensiveness and a lack of internal cooperation.
- The leadership issue also feeds into the administrative culture. In general, authorities spoke of how they had moved towards more openness with publication, consultation and open meetings. Although the starting point was the same, different authorities felt they had always been open or others felt they were improving from a low base.

## **Resources**

- How much FOI 'costs' is a difficult issue, with competing methodologies offering competing answers. There may also be bias in measuring cost as the benefits are more difficult to measure.
- The combination of cuts and rising FOI request numbers may leave FOI officers unable to cope as many feel they are now at capacity or over-capacity.

## **Politics**

- Political balance can be crucial. A 'one party state' with a large majority can survive a damaging FOI request in a way that a party with a small majority cannot.
- The local politics of an area may also determine how FOI works. High levels of activism from local groups or long running controversial issues over, for example, parking or particular planning issues, would often involve FOI.
- Other environmental factors could also make an impact: naming contractors or salaries in a small rural area where 'everyone knew each other' could have a direct impact unlikely in a big city.
- The media are a further crucial influence both in their use and reporting of stories. Pre-existing relations seemed to shape how they worked. Some authorities experienced heavy and aggressive use of FOI while others experienced none.

## **The Unpredictability of FOI**

- FOI introduces two levels of unpredictability. The first is what may be asked. As one interviewee said 'it's strange the things you get pulled up about'.
- The second element is how authorities react. A number of interviewees pointed out that 'it takes something to wake up' senior officials and politicians to FOI (Interview). An FOI scandal can lead to politicians and officials embracing openness or resisting with a bunker mentality developing.

## **The Future**

- All authorities are open but some are more open than others. The future of transparency may depend on how political, financial and technological factors interact.
- Politically, the new localism agenda offers the possibility of more power and increased participation that could involve increased FOI use. The Big Society, and increased interest in service performance, could also drive up use.
- For technology, it is not yet clear who is using the new information published online. Although it may take time and is likely to focus on 'micro-political' use the new innovations will undoubtedly help to further develop transparency.
- However, spending cuts will have a severe impact on FOI, which is likely to suffer. Increased use of contracting out could also increase problems of information sharing with private organisations working on behalf of local authorities.



## **1. Methods**

Measuring the impact of FOI is challenging. The objectives of FOI are themselves complex and multi-faceted and academics are not agreed on how to define or measure, for example, levels of transparency or trust.

The Constitution Unit's previous work on measuring FOI in a range of settings (central government and the UK Parliament) has looked at FOI's ability to improve not only transparency and accountability, but improve decision-making, increase public participation in decision-making, public understanding of decision-making and increase public trust. These two 'core' and four 'secondary' objectives of FOI are attempting to tackle difficult and complex democratic deficits. It also looked at the possible impact of FOI on some of the 'core' functions of local government namely local leadership, service delivery (by the authority or others) and partnership work (see Stoker 2007, Jones 2008).

The present study used a range of methods suitable for measuring different objectives, but each has limitations. The findings below need to be viewed with these limits in mind.

### **1.1 Official Documents**

Compared with central government, there is very little data on FOI and local government. The government does not collect statistics on levels of use. The analysis drew upon the Unit's own surveys of FOI and local government, data published by councils themselves, ICO case law and official statistics.

### **1.2 Interviews**

Given the complexity and diversity of types of authority in England, a total of 17 case study local authorities were interviewed of varying size, location and political make up. Parish councils were excluded as previous research pointed to no use of FOI (Hunt 2010). Numbers interviewed in each authority varied between four and 12 and included FOI officers, senior officials and politicians.

The interviews were semi-structured and examined individual experiences and wider impressions of FOI. They may have been influenced by bias and subjective views depending on the experiences of different authorities.

### **1.3 Survey of FOI Officers**

An annual survey of FOI officers across local government has been undertaken since 2005, gathering information about request numbers, requesters and topics. In 2009 additional questions were asked about the objectives of FOI and in 2010 about why the number of requests was increasing. Each survey obtained views from around 30 per cent of local authorities, offering a good insight but one that may be missing more rounded views.

### **1.4 Survey of Requesters**

The members of the public directly involved with FOI are the requesters. There were around 165,000 FOI requests in 2009 to local government. We collated responses through online survey software linked to authorities' websites and on FOI responses and correspondence, as well as on a number of non-government websites.

- The response rate was low, with 60 completed surveys. While this has provided a unique insight, the survey is not statistically significant nor, indeed, representative and should not be regarded as such. To reflect this, the figures given are rounded up or down and figures and views given are intended for illustration only. The survey was supported by selected interviews of around 15–20 minutes with selected requesters.
- To gain a further idea of requests, local authority disclosure logs and records of requests were coded. The sites chosen were three that attempted to identify ‘type’ of requester. The requests were analysed for subject, topic and on a five point scale to measure the extent to which the information was ‘specialised’ or wide or ‘niche’. Though crude, it offers a first insight into the specificity of requests.

### **1.5 Media Analysis**

The media plays a key role in FOI as user and defender (see Hazell, Worthy and Glover 2010). More importantly, as less than one in a thousand members of the public ever makes an FOI request, the media is also the primary means through which the public perceives FOI and information disclosed by it. There exists a filter whereby the small percentage of requests that become stories are thus given a disproportionate prominence: what a study of FOI in New Zealand called the ‘iceberg’ effect (White 2007, Hazell et al 2010). Our study examined a range of articles that either used information gained through FOI or reported about the operation of FOI in the national, regional and local press between 2005 and 2010.

- Each article was coded according to a set range of questions. When coding for impressionistic attributes such as trust, the key concern was that of bias. To mitigate this, a tight set of guidelines were created, coders were asked to give a ‘gut’ instinct and code on ‘first impression’ and were cross-checked for inter-coder reliability.
- The media analysis was supplemented with a short survey with open ended questions for journalists about their views and experiences. Twenty local journalists filled out the survey in the week it was posted. We also interviewed three journalists.

## 2. FOI and Local Government: A Special Case?

Three factors particular to English local government are important in understanding FOI: rising request levels, variability across local authorities and past reforms, both generally and relating to openness.

### 2.1 Rising Request Levels

FOI requests have been climbing steeply compared with central government (see Table 1). This raises issues about resources and the benefits and costs of FOI. Requests have also become more complex over time, with requesters ‘asking for detailed breakdowns, cross directorate information or for answers in a particular way, such as in tables’ (Interview). Scottish and Irish local government appears to show a broadly similar rise (Dunion 2010, McDonagh 2010a: 82).

*Table 1: Numbers of requests to central and local government in the UK 2005-2009*

Year	Requests to local government	Request to central government
2005	60,000	25,000
2006	72,000	30,000
2007	80,000	33,000
2008	118,000	35,000
2009	165,000	40,000

(Source MOJ 2007, 2010 and Constitution Unit 2010)

Our interviews and survey of officers asked why request volume had increased. Respondents answered as follows

- Increased awareness and interest in FOI (35 per cent).
- Professional FOI requests (journalists, businesses, researchers) (31 per cent).
- Media coverage/publicity of FOI (16 per cent).
- Interest in local government proceedings (nine per cent).
- Other (nine per cent).

A majority of interviewees argued that the rise was not due to any particular group. Some officials felt that journalists and businesses had driven up the numbers. One particular source of frustration was ‘round robins’ from the media or NGOs, which ask all authorities the same question to obtain a national overview. Many officials resented the work as they felt that only a small proportion of the information was ever used.

Others made the point that FOI requests arrive in ‘waves’ around a particular issue or controversy in the media, from local authorities’ surveillance powers to officials’ salaries. Many felt the MPs’ expenses controversy had raised awareness of FOI generally.

Business use of FOI features very little in requests to central government but was a significant presence at local level, with one authority claiming businesses accounted for 70 per cent of all requests. Users included multi-national organisations, ‘single person businesses’ or lawyers. They sought information about computer systems, and frequently,

details about potential or past tenders as well as more unusual information such as, in the case of lawyers, details of those dying without traceable heirs. Use by business has even forced policy change, leading to a revision of local government policy over charging for information about land. Officials felt that use by business of FOI for commercial advantage constituted a breach of the ‘spirit’ of the Act.

Also notable was lack of use by local opposition politicians. One opposition member read the log of new FOI requests each week to get an overview of matters of public interest or pertinent local issues that they had not noticed. However, most authorities reported very low use, with members only using FOI to obtain something they knew already existed (Interview).

*Table 2 and 3: Requester type to English local government 2005-2009 compared with Irish local government 1998-2009*

Year	Individuals (%)	Business (%)	Media (%)
2005	43	29	11
2006	46	27	17
2007	41	25	21
2008	40	22	31
2009	37	22	33

(Constitution Unit 2010)

Requester type (Ireland)	%
Others (public)	62
Business/Interest groups	16
Journalists	9
Clients	7
Staff	4
Public representatives	3

(McDonagh 2010a)

## 2.2 The Varieties of Local Government

Local government in Britain is traditionally viewed as one of the most centrally controlled and hence uniform local government systems, subject to stringent fiscal constraints and legal limitations. Yet control does not equal uniformity. Traditionally the UK local government system has consisted of county, district and (sometimes) town or parish level councils with independent authorities for cities and particular towns. Successive waves of unfinished reforms have left Britain with a hybrid model. Scotland now has a separate Parliament and Wales an assembly, which is why they were excluded from the study.

Within this structural variety are a plurality of political groups, power relations and arrangements for governing. These ‘widely varying characteristics’ are exacerbated by geographic, social, spatial and political differences, creating a ‘microcosmos’ (Wilson and Game 2011: 8). This variety may mean that FOI works very differently in different authorities.

## 2.3 Local Government Reform

Local government has been in a constant state of reform and upheaval for the past 30 years. The 13 year LGMA (Local Government Modernisation Agenda) of the Labour governments was one of the most radical, moving local government from committee based decision-making, whereby all parties and politicians took part, to one where a small group of elected executive councillors led by a Mayor or Cabinet Leader made decisions (John and

Gains 2010: 457). However, the new coalition government has pledged to allow authorities to choose to return to the old system if they wish (Wilson and Game 2011: 112).

The coalition government has also promised ‘radical devolution’ and financial autonomy’ for local government (Wilson and Game 2011: 395). Proposed reforms include increased autonomy, more elected mayors in selected cities and new powers for local community involvement in decision-making (DCLG 2011: 17). This has coincided with a shift towards governance and partnership, away from the previous model of local government providing services directly.

Unlike central government in the UK, local government has also been subject to statutory access legislation since the 1960s (Chapman 2010: 15). A succession of Local Government Acts, particularly in 1972 and 1985, granted successively greater degrees of access to meetings and associated background papers and agendas. Successive audit regulations have allowed access to accounts and background data. This also includes the European Environmental Information Regulations which we counted with FOI.

### **Legislation Enabling Access to Local Government Information**

Before FOI a whole range of legislation enabled access to local government whether through documents, attendance at meetings or through specific areas and records. These include:

- Local Government Act 1960, 1972 and 2000.
- Local Government (Access to Information) Act 1985.
- Access to Personal Files Act 1987 and Data Protection Acts 1984 and 1998.
- Environment and Safety Information Act 1988, Environmental Information Regulations 1992, Audit commission regulations.

### 3. FOI and Local Government: the Objectives

#### 3.1 Has FOI Increased Transparency?

The first two objectives, transparency and accountability, are the core objectives of FOI. FOI has met the objective of increasing the transparency of central government. FOI has 'led to more pro-active disclosure of information across a range of issues' and government is now culturally more 'open'. Yet it is also 'uneven [with] different departments transparent to different degrees' and exists 'in a mutually reinforcing relationship with the information revolution' (Worthy 2010: 548).

At local level, authorities felt that they were very open before FOI and the legislation only had a slight impact. One senior politician explained that FOI had 'a marginal impact' and receipt of an FOI was viewed as 'a failure' of the authority's proactive policy (Interview). FOI was frequently viewed as part of a wider process of increasing transparency:

*We have gone from an authority where a small number of people took decisions in a not terribly open way, to one where it was felt decision-making should be made in public. The culture of openness was changing anyway.* (Interview)

Other officials felt that openness was still not fully accepted. One spoke of how there was 'a culture of caution' especially after the local press had caused 'discomfort over salaries' through FOI. The difficulties may have been more acute in a small rural area where officials and others could be easily identified (Interview).

There were divergent views as to whether FOI had promoted proactive disclosure. Local officials cited a range of information disclosed including contract details, salaries and planning information, though not all systematically did so with many simply placing information on the website on an ad hoc basis (Interview). As with central government, most officers felt that the publication scheme was, as one put it, 'a waste of time' because it was 'too unwieldy' (Interview). More importantly a number pointed out that the scheme had been superseded by the website search engine.

In contrast to officials, as with central government, requesters on our survey felt strongly that FOI had increased local authority transparency. Seventy per cent of requesters who filled out our survey felt FOI had made authorities more transparent. One NGO spoke of how 'the vast majority of councils are really good at FOI' and only a couple of 'persistent' offenders are not transparent and are 'obstructionist'. Others spoke of the variety, observing there was 'no consistent approach' to FOI with 'different bodies having very different attitudes' dependent upon leadership and another requester spoke of how 'the quality of service between different local authorities varies dramatically' (Interview). Those making requests also spoke of resistance. All the journalists in our small survey had encountered resistance in roughly a quarter of cases, citing delay. Others experienced 'deliberate obfuscation' and 'a reluctance to be open'.

#### The New Transparency Agenda

The project coincided with new reforms by the coalition government that asked every local authority to publish all spending over £500 on their website by January 2011. It hoped this would prompt an 'army of armchair auditors' to hold local authorities to account (Cameron 2010, DCLG 2011). To date the impact has been variable with some authorities finding

little public interest in the data and some more so. There is no sign of an army of auditors but the data has launched several interesting third party innovations.

Halonen (2011) surveyed 168 local authorities in the summer of 2011. Seventeen per cent felt the online publication had been ‘very successful’, 13 per cent felt it had been ‘somewhat’ successful, 17 per cent ‘good in theory but not in practice’ and 23 per cent did not know. Thirty-eight per cent felt it had increased transparency, 25 per cent accountability and 13 per cent trust (6). Although many did not know what proportion of the public had viewed or downloaded the information, 15 per cent felt use had been in line with predictions and around a quarter felt use and interest had been less than expected (10).

The policy was rolled out as the study was conducted. Authorities have had mixed experiences to date. One authority claimed to have had ‘very little use of the £500’, recording ‘180 visits and one [related] FOI request’ in 3 months (Interview). A second authority had some initial local media interest in ‘electricity and phone bills’ but this had now ‘settled down’ (Interview). Few authorities found it had led to more FOI requests, with a selection reporting one, two and four FOI requests specifically following up a piece of spending data in the several months after the policy was implemented (Interview).

Others found higher levels of interest in the data, particularly from the local press and some ‘small use by trade unions’ as well as from a few interested members of the public. Local and regional newspapers, for example, focused on particularly extravagant spending, such as re-branding or consultations, or interesting or controversial uses of money (see below).

One officer spoke of how the main benefit had been internal: ‘Around a third to 50 per cent of entries on the budget used to mean nothing to anyone but accountants but now authorities are forced to look into it, which is especially useful for members’ (Interview). Some had followed up from local press over particular spending, such as local taxi use and ‘odd effects’ with a local business investing in a vehicle the Chief Executive could not obtain locally (Interview).

#### **A Sample of Stories Based on the £500 Publication**

- ‘Council bosses in Brighton and Hove spend £300k to save money’ (The Argus 16 August 2010).
- ‘Funerals and Body Armour Revealed in Council Spending Breakdown’ (Oxford Mail 22 November 2010).
- ‘Oldham council's £100,000 frozen food bill’ and ‘Bolton council spent more than £850 on beer for one of its bars – in just one month’ (Manchester Evening News 1 February 2011).
- ‘Burnley One of Top for Credit Card Spending’ (Lancashire Telegraph 24 August 2011).

Although there is some evidence of the new data being used by ‘traditional’ accountability mechanisms, such as the media, there has been little sign of a new army of armchair auditors. In June 2011 the local government Minister praised a group of bloggers who had held a flagship Conservative authority to account over its contractual procedures (Guardian 8 July 2011). Other sites have emerged with names such as ‘armchair auditor’ and ‘reluctant armchair auditor’ but the latter auditor felt the data was ‘not yet’ of good enough quality or

accompanied by sufficient context to be useful (Guardian 24 November 2011). The UK government has also described adoption by different authorities as ‘inconsistent’ and ‘haphazard’ (Cabinet Office 2011a: 14). Nor is it clear what mechanisms auditors should use, whether to pass information to the media or the authority itself (E-democracy 24 November 2010). Such ‘crowd sourcing’ is unlikely to replace established mechanisms. It often magnifies biases, as most analysis is done by ‘a tiny subset of the crowd’ and work is often ‘inconsistent’ and fragile (Clark and Logan 2011: 31, 26). It is more likely to complement than replace existing accountability mechanisms.

The moves towards Open Data are supported by new sites that enable analysis of the spending data, such as ‘Spotlight on Spend’, ‘Where Does My Money Go?’ and ‘Openly Local’ that scrapes local authority sites for ‘democratic data’. The future course of transparency points to an interaction between FOI, online publication and new ‘spin off’ sites, all of which are useful for ‘micro-political’ data. For example Openly Local now links spending data to requesting website WhatDoTheyKnow so users can create a request at the push of a button. As with FOI, authorities’ attitudes to these new sites are very different: ‘Some don’t like it, some really like it, some tolerate it and some make it quite difficult with, for example, one council putting up all the information in PDFs’ (Interview).

It is too early to conclude on the impact. Officials were concerned that the public were not keen on raw data and that the level of £500 was too low and fed existing prejudices that local government is ‘wasteful’. However, both Open Data advocates and officers felt publication and new sites will serve to mutually reinforce one another as ‘methods of analysing are developed’ (Interview). As one innovator pointed out ‘when ten or 20 councils have spending published that is quite interesting’ but when linked data can show payments by 200 authorities to particular companies ‘that is something else’ (Interview).

### **3.2 Has FOI Increased Local Accountability?**

As with transparency, most officials felt that FOI had only increased accountability slightly, if at all, because of the multitude of pre-existing accountability mechanisms at local level. The evidence points towards FOI working with other mechanisms such as the media.

#### **Existing Accountability Mechanisms**

Local government has been subject to increased accountability through a range of central reporting mechanisms and inspections, known as Best Value and then CPA (Wilson and Game 2011: 375). Recent reforms created a new scrutiny function for non-executive councillors, though it is not clear how well this has worked (Stoker et al 2007: 12).

Yet there may be a counter tendency at work. Local government ‘has been bypassed by quangos, single-purpose, ad hoc boards or nominated boards’ and ‘when local authorities operate within a confusing network of appointed and nominated boards problems of accountability arise’ (Jones 2008: 4-5).

Our previous work on FOI and central government found FOI increased accountability when used alongside a range of other tools, though often on a small scale. FOI works ‘when circumstances, information and opportunity converge’ and when it ‘feeds into existing accountability mechanisms, often Parliament and the media’ (Worthy 2010: 570).

When asked about accountability most local authority members felt that accountability has been increased by a whole range of factors: ‘Accountability has increased significantly, driven by increased public demand and creation of inspection, assessment and targets’



(Interview). It is now embedded in organisational practices: ‘We never do anything that we wouldn’t be comfortable with on the front page of the local paper’ (Interview).

### **Unpredictability**

However, FOI did introduce unpredictability as ‘you end up being accountable for funny things such as away days or visits. It is little things that give you the hassles’ (Interview). FOI appears to work on a small scale, on particular focussed issues, especially when working with the local media. A number of officials mentioned small scale accountability over staff training days, expenses or a particular policy such as car parking fines. FOI also works indirectly when others ‘pick up’ information. Information was used by the local media in 30 per cent of cases, councillors and national media in 16 per cent and local groups in 13 per cent of cases.

FOI had increased authorities’ accountability for requesters with 70 per cent feeling it had increased accountability and only 15 per cent feeling it had not. Media analysis showed that across a diverse range of subjects, from spending on taxis to traffic wardens and tree policy, FOI had been used to obtain an explanation.

#### **Birmingham Post: ‘Birmingham City Council pays union officials £1m a year’**

‘Trade union officials at Birmingham City Council are costing taxpayers more than £1 million a year in wages. The bill, amounting to £1.4 million, is met by council taxpayers. But with hidden costs added, including the value of office accommodation, phone calls and stationery, the total is likely to be far higher.

The cost was described as “alarming” by city councillor Martin Mullaney, who uncovered the figures through a Freedom of Information Act request. Councillor Mullaney (Moseley & Kings Heath, Lib Dem), wants a scrutiny committee to quiz union representatives to see whether they give value for money’ (Birmingham Post 6 October 2008).

In Ireland FOI at local level has increased accountability in a very high profile way, leading to a councillor being imprisoned for obtaining money by false pretences and to the exposure of corruption regarding avoidance of wheel clamping fines by an entire authority (McDonagh 2010a: 86-87). However, these examples (or the MPs’ expenses scandal in the UK) may be misleading. Accountability is more about FOI working with other instruments, such as the media, to obtain a piece of information to build a picture, in a way that officials and politicians may not see.

### **3.3 Has FOI Improved Local Decision-making?**

Local decision-making has been the focus of recent reforms, which have improved the speed at which a decision is made (Stoker et al 2007: 8-12). At central government there was little interest in decision-making processes and little use by FOI requesters. Similarly few at local level felt FOI had any bearing on decision-making. Neither requesters nor the public were interested in decision-making processes except in particular controversial instances or in specific cases, as shown below (Interview). Nor had the changes to the governance arrangements had an impact on FOI or vice versa, not least because meetings are public and many documents available; most felt the change from committee to cabinet

had streamlined an unwieldy system but at the expense of democracy and discussion (Interview). Some officials felt that FOI had no impact because the business of politics would always take place in a particular way: 'there is a lot done behind closed doors and always will be' (Interview).

### **Does FOI Have a Chilling Effect?**

One possible unintended consequence of openness is to create a 'chilling effect', where FOI means moving 'real' decisions to unrecorded oral briefings, or sanitised records (Hood 2007: 207). Local government is not new to this discussion, as access to document laws led to councils being 'accused of evading the law by forming informal working parties and secret panels' driving 'informal discussions ... deeper underground' (Stewart 2000: 84).

Given the difficulty of proving a negative action or something not happening, interviewees' reluctance to give concrete examples and, most importantly, the multitude of other factors that affect record keeping 'it is difficult, if not impossible, to make simple cause-effect statements when dealing with such a complex issue' (Badgley et al 2003: 17). Numerous studies have looked into this (Hazell 1989: 204, AIRTF 2001). A study of local government record keeping concluded that it was very difficult to find clear evidence (Shepherd et al 2009).

However, the former head of the Swedish National Audit Office, Inga Britt Ahlenius, identified what is known as the 'empty archives' phenomena in Sweden, home to the world's oldest openness legislation, whereby 'most of what is of the greatest interest is not written down' and 'important issues are discussed orally, by telephone or in some other way' (in Eriksson and Ostberg 2009: 118-119). Tony Blair also claimed FOI had led to more caution over decision-making and records (Guardian 1 September 2010).

The central government study concluded that 'changes in recording were due to other factors, notably the use of electronic communications, fewer resources to keep "full" records, and the changed pace of decision-making'. A number of interviewees 'pointed out that the dangers of not having a decision outweighed the dangers of having one and it being released' (Worthy 2010: 571)

### **No Impact?**

Similarly, many local officials were more concerned by the consequences of not having a record. A further group felt FOI had a 'positive' impact on recordings by 'cleaning up' communications. No councillor asked felt that any decision-making had been pushed into party caucus.

Others pointed to the many other factors that influence how a record was kept. Anything kept on paper marked confidential was, one official said, 'inevitably leaked' (Interview). Moreover, FOI had little to do with what was written down or not as the 'politics' of a decision 'has never been recorded' and is 'always off paper' (Interview).

### **A Clear Chill?**

There was one very clear example of a chilling effect due to FOI. Following exposure of a draft report by FOI, members decided to no longer comment on drafts. Before this event minutes, notes and details of possible alterations were kept. Interestingly, this authority had a very delicate balance of power with many members on single figure majorities.

Other officers in other authorities were less specific but pointed to particular situations whereby people were more careful, such as in controversial decisions or negotiations. One authority spoke of how negotiations relating to a large private project were recorded ‘carefully’ (Interview). Most were keen to point out this was not a general tendency.

It is difficult to draw a firm conclusion. The Irish study by McDonagh showed 30 per cent of local authority respondents claiming an effect and just under 50 per cent denying it (2010: 11). There appears to be no systematic or general attempt to alter records. Changes in records are due to a wide variety of factors. FOI can also cause a ‘positive’ effect with an increasing professionalisation of records.

However, FOI can and has caused a ‘negative’ chilling effect in specific instances. The examples above offered clear proof that it can happen, particularly with difficult or controversial topics and in problematic political situations.

### **3.4 Has FOI Increased Public Understanding of Decision-making?**

FOI has had ‘little effect’ on public understanding of decision-making at central level. FOI is rarely used in this way and it rarely makes the newspaper stories (Worthy 2010: 571). At local level it is used to access some decision-making at a very low level and, as with accountability, frequently forms part of a wider examination.

Promoting access to decision-making has been an aim of local government for the past 30 years. Although 49 per cent of officials in the survey felt FOI had increased public understanding many officials felt that despite constant attempts to promote interest, the local electorate are either uninterested or perplexed by local government: ‘people on the whole are bored by local government’ (Interview) and ‘most people find the operation of local government bewildering’ were two typical comments (Interview).

There is little public involvement in decisions, as generally the public ‘aren’t interested unless the council removes a valued service, charges more for it or does something controversial or radical’ (Interview). DCLG surveys show declining interest in being involved in local decision-making (DCLG 2010a).

Those that felt FOI did have an influence on decision-making pointed to very low level decisions over the granting of a licence to a particular shop or payments to specific community groups (Interview). Around 10 per cent of stories in the local press concerned why a decision was made, over a range of issues from car-parking to costs of a concert and CCTV. The decision-making process often concerned how authorities spend money.

Officials claimed that requesters themselves were rarely interested in decision-making and often were interested in facts as requesters ‘want information rather than an outcome’ (Interview). The ‘small group who asks the questions’ were frequently challenging a decision rather than finding out about it (Interview).

When asked if FOI had aided understanding generally of council decision-making, only a fifth of requesters who filled out our survey felt their understanding had increased, a third felt it had no impact and a fifth again felt it was not applicable. This supports the idea that FOI is not used to examine wider processes.

However, when asked if FOI had helped their understanding of a particular issue, more than half felt it did. This again points to FOI being a ‘forensic’ tool useful for particular

information, sometimes relating to a decision, but not used in ways that would come to the notice of officials.

### **3.5 Does FOI Increase Public Participation in Local Government?**

FOI has not had a dramatic impact on local participation though it has enabled those already involved, often in a wider campaign, a new tool to use. More needs to be done to understand requesters and who they are.

Local government has the distinct advantage over other bodies of their proximity to the electorate. Consequently local government is 'littered with experiments in public participation and consultation' (Stoker 2004: 109). A wide range of new participatory measures are now in the pipeline (DGLG 2011).

The difficulty, as with central government, concerns the 'usual suspects' problem, where a 'few committed individuals' and 'natural joiners' dominate FOI use and participation generally (Lowndes et al 2001: 212, Lowndes et al 2001a: 447-448). DCLG surveys found recent levels of participation lower than in any previous years of the survey at between 38 per cent and 39 per cent (DCLG 2009: 2)

Most officials told of how it is 'very hard to engage people and FOI has not contributed' (Interview). Many officials claimed that requesters were frequently the 'usual suspects', a 'closed shop' or a 'small group of residents using it very often' (Interview). It was, as one put it, 'difficult to open a request without hearing the sound of an axe being ground' (Interview). Some challenged the implicit connection between FOI and participation and felt any impact would be lost amid the range of other initiatives (Interview).

The one group that did seem to be using it were national NGOs, from motorists groups to the Ramblers' Association and anti-surveillance group Big Brother Watch. In some areas local groups were also heavy FOI users. One authority found that while local groups used it 'as a lobbying tool', a few sought to hinder the functioning of the council by 'bombarding areas with requests and clogging up the system' to stop planning decisions (Interview).

#### **Use of FOI by NGOs: 'Campaign group's FOI findings on threatened Leeds libraries'**

'The number of people using some of the 20 Leeds libraries facing potential closure in the New Year has increased in the past year, a Freedom of Information request by a campaign group has revealed.

In October, Leeds council said it intended to embark on a review of the city's library services, and has suggested 20 of the city's poorly-used smaller libraries could close. It also suggests that the city's remaining libraries open longer to compensate for any loss in service and that the city's mobile library network be extended.

However, through the analysis of information provided following a Freedom of Information request, campaign group Voices for the Library has discovered that 22 of Leeds' 53 libraries recorded an increase in library visits on the previous year. Of these 22 libraries, 10 of these are libraries that the authority plans to close' (Guardian 25 November 2011).

FOI does not appear to have had much of an effect in levels of participation, except via proxy of NGOs or when used in a small scale way. There is further evidence for FOI as a 'jigsaw' tool (see example above) as both journalists and a third of requesters spoke of how they used other tools to access information as well as FOI, such as attending council meetings or reading minutes online. It is likely these users are the 'usual suspects' already involved in local politics.

### **3.6 Has FOI Increased Trust in Local Government?**

FOI has had a varied impact on trust in local government: it is dependent on how or if the local media use it and how trusted, visible or well performing the authority is. The impact of FOI upon trust is complex and cannot be viewed in isolation (Grimmelikjisen 2009, 2010, 2011, Worthy forthcoming).

The debate about how best to increase trust in public institutions is connected to the perception that trust has declined across the developed world, though not all academics wholly agree (Van de Walle 2008). Our central government study found similarly to Roberts (2005a) that FOI had not increased trust because public perceptions are influenced by the minority of FOI stories that achieve prominence and by pre-existing low levels of trust. FOI was thus 'subsumed within the wider conflict between government and parts of the media' (Worthy 2010: 576).

Historically, trust in local politicians has been higher in local rather than in central government (Denters 2002: 793). Studies by Dahl and Tufte (1973) and Denters (2002) appear to support the idea that 'trust in local office holders was typically (often considerably) higher than trust in national office holders' with Denters adding that smaller municipalities were most trusted (Denters 2002: 808). This may be because they are seen as 'more accessible, more subject to control, more manageable' (Dahl and Tufte 1973: 57). Research by DCLG found the percentage of people who trust local council 'a lot' or a 'fair amount' has risen from 52 per cent in 2001 to 61 per cent in 2009 (DCLG 2010a: 39).

Trust divided the officials and politicians we interviewed; some felt it had decreased, others it had increased and a third group felt FOI had little to do with it. Among those who felt trust had decreased, a majority of officials mentioned the role of national events and negative media reporting, claiming that the 'tidal wave' of the MPs' expenses scandal combined with high profile stories about local government 'wasting money' and senior salaries had overwhelmed any benefits (Interview).

#### **The Impact of the National Press**

The issue of media reporting was complex and variable. National newspapers rarely cover local government and mostly used 'Round Robins' generated by themselves or others. Of those that did, it was calculated that 75 per cent would be likely to decrease readers' trust with 25 per cent having no effect. They generally focussed on a narrow range of stories about local government wasting public money (46 per cent), behaving unethically (25 per cent) or performing poorly (25 per cent).

Stories frequently concerned 'non-jobs', training and 'away days' or senior salaries but there was some move to novel areas such as payments to celebrities for switching on Christmas lights, and the banning of particular Latin words in authority documents.

### **Use of FOI by the National Press: ‘What Councils Pay For Star Guests’**

‘Councils have splashed out at least £1.3 million on celebs in the past four years to promote campaigns or to appear at events, many of which were not even open to the public. The shocking figures were revealed after a Freedom of Information Act request by the Sunday Telegraph.

Here's a few of the famous faces employed by our town halls - and the money they were paid...

- Ex-Commons speaker BETTY BOOTHROYD got £10,000 to plug conferences in Harrogate.
- Olympic gold medal-winning decathlete DALEY THOMPSON earned £10,000 for opening a leisure centre in Enfield.
- Television presenter JOHN CRAVEN got £10,000 for supporting the Recycle for Cumbria campaign.
- Ex-Paralympian DAME TANNI GREY-THOMPSON received £8,225 for speaking at a Birmingham awards ceremony.’ (The Mirror 16 August 2010)

### **‘Bona fide phrases are banned by councils’**

‘LATIN PHRASES that are repeated *ad nauseam* and treated as *bona fide* English words have been banned by many local councils, which claim that the *status quo* is elitist and discriminatory.

Employees have been ordered to stop using the words and phrases on documents and when communicating with the public and to use wordier alternatives.

Bournemouth council (which boasts the Latin motto *Pulchritudo et Salubritas*, meaning beauty and health) has listed 19 terms it considers unacceptable. These include *bona fide*, *eg (exempli gratia)*, *prima facie*, *ad lib or ad libitum*, *etc or et cetera*, *ie or id est*, *inter alia*, NB or *nota bene*, *per*, *per se*, *pro rata*, *quid pro quo*, *vice versa* and even *via*. Salisbury council has asked staff to avoid *ad hoc*, *ergo* and *QED (quod erat demonstrandum)*, while Fife has banned *ad hoc* and *ex officio*. The details of the ban have emerged in documents obtained by The Sunday Telegraph under The Freedom of Information Act’. (Sunday Telegraph 2 November 2008)

### **The Impact of the Regional and Local Press**

The analysis of regional and local press offered more ambiguous findings. Here 51 per cent of stories decreased trust, 36 per cent had no effect and 13 per cent increased trust. FOI use by the local media depended on individual relations, as some authorities with robust relations or, conversely, a weak local media received no FOI requests. Also more ‘community orientated papers’ were less predisposed to produce controversial stories.

### **Other Views of Trust**

Some officials within this group took a more fatalistic view of trust, feeling that it was negative but will always be low. As one official put it ‘we have a culture where politicians and politics are distrusted and FOI requests are made that support this idea and so it goes on’ (Interview). This was rooted in public perceptions of local authorities as ‘faceless bodies’ and paradoxical views whereby the public supported those who worked for the council, such as ‘teachers, and carers’, but had a very negative view about ‘the council’ as an institution (Interview).

A second set of officials balanced the short term problems with the long term possibility of improvement. Some officials felt that the proof of councils' responses and proactive publication would build greater confidence. One official cited how they had been praised for publishing detailed information concerning library closures (Interview).

The final group actually felt openness had little impact on trust, being built instead by council performance and visibility. One official spoke of how better performance and a series of public events and meetings had made a real difference to levels of trust (Interview). A journalist agreed 'it depends on how well their bins were last emptied; what the roads were like or how they dealt with a planning application'. This aspect may be where local government can make a difference in a way national government cannot: on the electorate's doorstep.

Requesters revealed a similar level of uncertainty. While 15 per cent felt FOI increased trust, just fewer than 30 per cent felt it had no effect and over 30 per cent felt use of FOI decreased it. A full fifth felt the question was not applicable. Local journalists showed a similar variety of views regarding what influenced trust and FOI's role.

#### **Local Journalists' Thoughts on FOI and Trust**

- Some felt it could be **damaging**: 'FOI could ultimately damage trust in local government. The requests are subjective and often intended to expose failings'.
- Others felt it would **improve over time**: 'FOI is broadly a good thing, as it helps journalists keep public bodies in check. The scattergun 'bad FOIs' can erode some trust in public bodies. It probably erodes trust initially, but as people get used to it the public will actually trust local government more'.
- Another pointed to performance **varying the effect**: 'It makes the public more aware of how their money is being spent but this could go either way i.e. make them trust local government less if it spends money badly or more if it spends it well' (Interview).

FOI has had no general impact on trust. In those areas with poor local media relations, or badly performing authorities, FOI can exacerbate poor relations and negative FOI stories can decrease trust. By contrast, well performing authorities with visible leaders and good media relations will find FOI has little to no impact.

## 4. The impact on Local Government

As well as the objectives, the study examined how FOI may impact upon local government works, looking at three key functions of the shifting local ‘governance’ model, highlighted by successive governments as central to the future of local governance: local leadership, service delivery (by the authority or others) and partnership work (see Stoker 2007, Jones 2008).

### 4.1 Leadership

FOI has not impacted on local leadership simply because ‘a leader that changed ideas as a result of FOI would not be much of a leader’ (Interview). This is despite the fact that senior officials’ pay has dominated national media coverage and, following numerous annual ‘rich lists’ assembled by The Taxpayers’ Alliance, led to proposals for a new power giving councillors the right to veto pay above £100,000 (Guardian 16 February 2010). Other requests from the local press also focused on leadership, particularly uses of allowances or trips abroad, with one newspaper using FOI to uncover apparent high level political interference in FOI responses (Huddersfield Examiner 28 March 2011). This is not to say leaders have not noticed FOI. Most leaders are copied into particular requests, though for information only. Their views may be shaped by this small portion of potentially controversial or ‘politically difficult’ requests they see. This helps to explain the sometimes conflicting views between senior officials and politicians at the top of an organisation and FOI officers.

At a broader level leadership is crucial to making (or breaking) FOI and openness. Support for FOI by leaders sends out a strong signal to the organisation to take FOI seriously, provides support to FOI officers and eases co-operation while mitigating resistance. Hostility from the leadership can also percolate an organisation and embolden resistance and create nervousness. One FOI officer spoke of the tremendous difference the arrival of a new pro-FOI Cabinet member had made, both in terms of signals but on a practical level, as the member was prepared to chase up uncooperative officers.

#### **A Voice from the Top: Ken Thornber Leader of Hampshire County Council on FOI**

‘When is a Freedom of Information (FOI) inquiry a legitimate question and when is an inquiry an outright waste of public money – as well as a trying test of the patience of those of us working in the public sector?’

When the Freedom of Information Act was passed five years ago, the council embraced the new legislation and learned a lot about the sorts of things the public want to know – much of which we now routinely make available.

But I boil over with rage when my staff are tasked with identifying the number and cost of Fairtrade teabags that have been immersed in hot water on council premises in the previous financial year (0.2p per council taxpayer per annum), and the number of biscuits (plain and chocolate) that were supplied at council meetings.

There have been many other ridiculous requests. In addition to teabags and biscuits, my list of the most pointless ones so far includes what we spent on fireworks, alcohol, Christmas decorations (do people really expect us not to put them in



residential care homes or children's homes?); how many premises across the county are licensed to sell puppies and kittens; the number of mortuaries set aside for swine flu deaths; and a list of every piece of art we have commissioned in the last five years, including from schools.

I no longer believe that my staff should be spending their precious time on such spurious requests. I believe we should explain to the inquirer at the outset the lengths to which we will have to go to get the information and, if they persist, we should have the courage of our convictions and refuse to answer the inquiry. It should be left to the information commissioner to adjudicate as to whether the inquiry is a legitimate cost on the public purse and in the public interest' (Guardian (blog) 20 January 2010).

## 4.2 Service Delivery

Similarly, very few officials felt service delivery was effected by FOI except on the few occasions where it may have produced feedback or some review or reconsideration, such as after a long running campaign over parking or when there had been a review of a service or controversy (see below). This was because FOI was used to obtain facts or information more generally or for a matter of private interest, rather than drilling down into a service area. On the whole there were relatively few requests for information about partner bodies or attempts by requesters to find out information to close the 'accountability gap' described above.

### **Librarygate: 'Lambeth Council Opened "Ghost Libraries" to Fool Government Inspectors'**

'Scheming Lambeth Council conned Government inspectors to protect its position as London's most improved council, then tried to cover it up. The council opened up three "ghost libraries" a week before a vital inspection into the quality of the council's cultural services so officers could boost failing performance figures.

It had panicked about what a poor inspection could mean for its overall rating. When the Streatham Guardian contacted the council about the scandal - dubbed Librarygate - in October, the local authority strongly denied it.

But a Freedom Of Information (FOI) request to obtain all council documents surrounding the mysterious opening of the three book-lending, "cultural information hubs", has uncovered the council's plot' (Guardian 7 December 2008).

## 4.3 Two Areas of Tension: Private Companies and the Media

Officials and politicians at different levels held rather different views on the key difficulties FOI faces. FOI officials and others involved with FOI at service level were particularly concerned with private companies, both their use of FOI but also authorities ability to access information held by them. Senior officials and politicians were more concerned with media use.

### **Private Companies**

One area of tension highlighted by FOI officers was around partnership, particularly the transparency of private companies working on behalf of the authority. Requesters sought

information from companies that covered a particular service but also from the authority about monitoring and enforcing contractual agreements. One authority spoke of how private companies' attitudes varied. Newer partners were less likely to be 'nervous' than more established partners and more public facing and experienced companies were more cooperative (Interview). Some nervous businesses instinctively asked for non-release on the grounds of commercial confidence and, in one case, threatened to sue (Interview). The issue will continue to cause concern as local authorities increasingly contract out or share services with other bodies (DCLG 2010).

Despite this resistance, online innovations look set to drive greater transparency in this area. For example, the 'Scores on the Doors' website rates restaurant ratings based on FOI requests for hygiene inspection reports from local authorities. The website Openly Local also allows viewers to examine company and charity suppliers across councils.

### **Private Companies and FOI**

'Computacenter has prevented Bristol City Council from publishing details of a consulting project that has been overshadowed by allegations of anti-open source bias. Bristol refused to release advice received from Computacenter concerning the choice of infrastructure to support the council's 7,000 PCs and the allocation of more than £8m of public money. Computer Weekly requested details about the pilot project under the Freedom of Information (FOI) Act after MPs investigating the relationship between government and IT suppliers were told by a key expert witness that Computacenter had skewed its parameters to favour Microsoft, thereby undermining Bristol's seven-year campaign to replace proprietary computing platforms with open source software.

But Stephen McNamara, head of legal services at Bristol City Council, said "Disclosure of these documents constitutes a breach of confidence actionable by Computacenter," "Disclosure could only be given by their consent. They do not consent to these documents being disclosed at this time." (Computer Weekly 'Computacenter gags Bristol City Council over anti-open source 'bias', 10 August 2011).

### **The Media**

The second area of tension often highlighted by politicians and senior officials was the media. The national media's focus on local government 'wasting money' and salaries caused concern that FOI was being used to create negative stories. Although the local and regional media covered a far wider range than the national press, and in some areas there was little to no use of FOI, a number of authorities expressed concern about regional and local journalists' use of FOI. However, not all authorities experienced the same level of FOI requests from the media. Some authorities with good relations with the media or with a non-existent local press experienced very few requests. Others with a more aggressive press had many more.

Local press stories covered the council itself (costs of staff sick days, the cost of phone bills) as well as local planning or development controversies, school and library closures and, a very common issue, parking fines. FOI was also used to cover a whole range of local bodies, not only schools but also theatres and football stadiums. The interaction between local

providers and local government has also been a source of media interest, with articles using FOI to find out information held by authorities about bus and mobile phone companies.

### **Tony Blair on FOI and the Media**

Tony Blair's journey from transparency evangelist to cynic concluded with his 2010 memoirs highlighting the 'abuse' of FOI by journalists:

The truth is that the FOI Act isn't used, for the most part, by 'the people'. It's used by journalists. For political leaders, it's like saying to someone who is hitting you over the head with a stick, 'Hey, try this instead', and handing them a mallet (Blair 2010: 517)

But is this the case? The evidence points to the largest group of FOI users being members of the public. Only a small group of journalists use FOI and an even smaller group of politicians. FOI is used by journalists to expose and they can focus on the seemingly trivial and will decontextualize information. But FOI is also used to expose corruption or actual wrong doing, from extraordinary rendition in the UK to the dodging of fines in Ireland. At central government level stories revealed by FOI are often negative but at local level it is more variable. The exact impact is uncertain, not least because trust is a mysterious area and measuring how, why or if the public trust politicians is fraught with difficulties and paradoxes. For example, the 2009 MPs' expenses scandal in the UK appeared to be a classic distrustful 'revelation', yet latter research indicated it was for many less a revelation and more a confirmation of pre-existing public perceptions of politicians.

## **4.4 The Requester (see also Appendix 1)**

- **Rising request levels** are driven by increased awareness of FOI (especially post MPs' expenses) but also local stories. Requests can also come in waves around a particular issue (e.g. RIPA).
- **The public use FOI** because they are already politically engaged or are using it for a issue of personal interest, though the two are not wholly distinct. Our survey revealed a wide variety of motivations from 'politics' to 'curiosity' and 'search for a new home'.
- The majority of requests from the public focus on **local or 'micro-political' issues** such the as location of speed bumps, allotments and 'street level' matters. Alongside this are common areas e.g. parking fines. The 'private' nature of many requests makes it very difficult to predict. They are often niche and of private interest to the person (see below).
- When used on political issues, high profile cases aside, **FOI rarely obtains a 'smoking gun'**. Instead, it is often used to find a 'jigsaw piece' in wider information puzzle or as a lever to obtain influence in a campaign.

### **A Sample of FOI Requests From Kent County Council Disclosure Log**

- ‘The number of clocks that the Council has responsibility for and maintains and the annual cost of maintaining them.
- Provide a copy of any opening notices (street works) KCC may have received in respect of any utility at the Capstone Road, Medway, Kent ME5 7NJ at any time between January 2003 and April 2009
- Public Health Funerals where the estate has been referred to the Treasury Solicitors in the last 6 weeks
- Provide copies of any correspondence between Jim Woolridge and Jonathon Collins after 12/11/10.
- Do Jacobs have a licence to transport Japanese Knotweed?’

## **5. Conclusion: The Future**

The FOI Act has made councils more open and transparent. Each year more and more questions have been asked. Underneath the media headlines about senior officials' salaries and junkets, FOI is being used more quietly, day-to-day, by the public to find out about things that matter to them; allotments, parking, speed bumps etc. Businesses are using it to keep one step ahead of the competition and national and local pressure groups are making FOI requests on all sorts of topics from zoo licences to libraries.

Some councils are more open and more at ease with FOI than others. A few have resisted and played games. Many are concerned it is being 'abused' by business and journalists. Most of all officials are worried about how they will cope with rising request numbers with fewer resources.

Since January 2011 councils have published all their spending over £500 on their websites. The government hopes this will motivate 'armchair auditors' to check where and how councils are spending and misspending our money. The response has been mixed. Some councils have had no interest, some areas local newspapers have exposed controversial spending on string quartets or crematorium costs. One official said it has allowed councillors to understand their own budgets. It is also working more and more closely with new online innovations that allow data to be 'mashed' and shifted, and hyper local sites that serve as a platform for residents to talk about local issues.

Three intertwined issues are likely to shape the future of FOI and local government; political reform, technological change and financial limitations.

### **5.1 Political Reform**

The coalition government has promised new powers for local government and more participatory mechanisms for the public (DCLG 2011, Wilson and Game 2011: 395). The 'Big Society' agenda aims to enable civic groups, NGOs and others to take control of local services, raising questions about public accountability (Jones et al 2010, 16). Transparency and accountability remain at the heart of all these reforms. Local Government Minister Eric Pickles highlighted his lack of concern for how authorities governed 'I don't mind as long as it's accountable, transparent and open. That's all I need to know' (Wilson and Game 2011: 112).

### **5.2 Open Data and Technology**

Open Data and technology is a key component of the reform process: 'it is only by publishing data on how public services do their jobs that we can wrest power out of the hands of highly paid officials and give it back to the people' (Cabinet Office 2011: 5). This change will help power increased transparency and encourage innovative sites. As with FOI, it may be at the level of 'micro-politics' where it has the most telling impact. Yet the reforms will require political will and resources and depends, again as with FOI, very much on what use is made of it.

### **5.3 Financial Restrictions**

These two factors lie under the shadow of a third. Local government faces cuts that would 'almost certainly destroy' less efficient bodies (Jones et al 2010: 20, 8). Councils are considering a number of 'familiar methods' including reducing backroom staff, eliminating bureaucracy, increasing efficiency, introducing fees and charges and sharing staff and

service delivery through other organisations (13-15). Such methods are almost certain to involve reductions in information management capacity.

#### **5.4 The Impact of the Changes**

The danger is that power is given but resources are taken away. The political changes may mean an increase in the use of FOI. More powerful councils, with more avenues of involvement or higher visibility politicians, are likely to attract more requests. The Open Data push is also likely to drive increased transparency and provide support and impetus for FOI officers and transparency advocates within organisations.

However, FOI is not yet seen as a 'frontline' service and is likely to suffer in favour of 'vital' council services, all the more so in councils where support for FOI is 'lukewarm'. The contracting out of service delivery may also further widen the accountability gap (Interview). FOI is already facing growing numbers with officers feeling they are at, if not over, capacity. A lack of resources may lead to a slowing down or, in the worst case scenario, a 'stagnation' of FOI operations.

## Appendix 1: Requesters and Requests to Local Government

Very little is known about one of the key groups involved in FOI: the requester. Yet many of the aims of FOI are dependent on the action of this one group. The information below highlights what the project has discovered. It is based on our survey of requesters, our annual survey of FOI officers and our analysis of three disclosure logs. The findings need to be read with the limitations of each of these methods in mind.

The annex intends to point towards some possible answers to some of the key questions

- Who is the requester?
- What topics are they interested in?
- What are their motivations?
- What do they do with the information?
- How can we define their requests?

### Who is the Requester?

One of the problems that hinders analysis of openness is the lack of knowledge about requesters and their motivations (Hazell, Worthy and Glover 2010: 275). Table 1.1 compares local government requester groups with those at central government and EU level.

*Table A1.1: Who is the Requester? Comparing English local government, UK central government and the EU*

	Local Government	Central Government	The EU
Member of the Public	37%	39%	32%
Journalist	33%	8%	3%
Business	22%	8%	8%
Academic	1-2%	13%	23%

Looking specifically at local government level, each year our survey has asked for an estimate of the percentage of requests from particular groups. Officials' answers indicate a general shift with a small drop in business and public use and a trebling of use by journalists. This probably means a minority of journalists are using it more, as the general tendency with journalists is for a small group to use it heavily.

*Table A1.2: Requesters to English local government from 2005-2009*

Year	Private individuals	Business	Media
2005	43%	29%	11%
2006	46%	27%	17%
2007	41%	25%	21%
2008	40%	22%	31%
2009	37%	22%	33%

However, our analysis of a sample of requests from three local authority disclosure logs that recorded requesters (based on the name where given and the nature of the request) offers a rather different breakdown, with the public very much the majority.

Table A1.3: Requester types from a sample of three authority disclosure logs

Requester Group	%	Number
Private individual	57	172
Business	20	59
Journalist	18	53
Political organisation-local	3	10
Community	1	3
Politician-local	1	3

### What Information Do They Want?

Officials described how requests rise and fall over particular issues and come in ‘waves’ around salient issues in the media. Analysis of officials’ categorisation of requests over time shows both constants and fluctuations. Finance and planning have remained constant (if not rising) areas of interest. Personal information, possibly as a result of increased interest in ‘allowances’ after the 2009 MPs’ expenses, have risen sharply. Both ‘local issues’ and contracts have fallen.

Table A1.4: What information are requesters interested in?

Year	Finance, costs and expenses	Local issues	Contracts and business	Planning, policy decisions, minutes	Environmental. Information	Public services	Personal info of staff
2005	24%	21%	20%	16%	Not listed	5%	5%
2006	19%	15%	18%	11%	14%	11%	6%
2007	31%	2%	7%	29%	3%	10%	7%
2008	26%	1%	11%	17%	10%	25%	8%
2009	31%	3%	9%	11%	11%	11%	22%

### What Are Their Motivations?

Requests are shaped by motivations and our analysis points towards a wide variety of motives. We asked requesters in our survey to explain why they were using FOI. Requesters who were asked gave a huge variety of reasons for using FOI, from private or personal ‘concern about wasted money’ to ‘curiosity’, ‘general interest’ and personal campaigns against ‘corrupt’ local government. There were also some non-political uses ‘to gather information to inform my decision about buying a property’.

Table A1.5: Is it ‘Public’ or ‘Private’? Requesters’ Motivations

Motivation	Number of respondents	%
Council problems they want to identify or solve	18	29
Grievance (some aspect of it being personal)	17	27
Professional/for their job	12	15
General interest or curiosity	9	19
Personal but not necessarily a ‘grievance’	4	8
Other	1	2
Total	62	100



## What was the Information Used for Once Received?

Another area that we know very little about is what requesters do with the information. Although a few requests find their way into campaigns or newspapers, the vast majority are very difficult to trace. Requesters gave us some indication, with the top five motivations being:

1. Research
2. 'Other'
3. Voice disagreement with a local government policy or decision
4. Took no further action
5. Submitted another FOI request

The subject of 'research' stretched over a very broad area, from 'political' topics to 'private' or both:

- 'The information will be used in a national report of allotment waiting lists
- Asbestos in schools campaign
- Collated information into wider enquiry about significant local planning application
- To help in my submission against the license application for a music festival'.

## Problems with FOI

Although the problems as perceived by officials and politicians are reasonably well known, requesters' difficulties are hidden. Our central government study found that officials and requesters shared a similar view of FOI: both supported it in principle but found it difficult to use. Requesters' top 4 difficulties were:

1. **Resistance** e.g. the use of delaying tactics or evasiveness
2. **Practicalities** e.g. Such as dealing with large amounts of information, time consuming nature, lack of resources etc
3. **Incompetence** of those processing requests
4. **Lack of awareness** e.g. what appeared to requesters to be staff's lack of awareness of FOI legislation

## Benefits

We asked requesters what the single biggest benefit of using FOI was. Requesters even from our small sample did not have a wholly negative view. They frequently commented on the benefits of the legislation, even when their experience was not a positive one. The top four benefits were:

1. Accountability of local authorities
2. Enabling access to information
3. Discouraging poor behaviour/making local government better
4. Responsiveness of the local authorities

We also asked to what extent requesters felt FOI had met some of the objectives in the last request they had made. Ability to participate appeared to be the most strengthened objective with trust the least.

*Table A1.6: Have the objectives of FOI been achieved based on the most recent response you received?*

As a result of the response my	Understanding	Trust (in Local Authority)	Participation	Accountability (of Local Authority)
Neither increased nor decreased	35%	23%	23%	30%
Increased	31%	13%	48%	27%
Decreased	15%	47%	6%	22%
No opinion	19%	17%	23%	21%
Total	100%	100%	100%	100%

### **Categorising Requests and Requesters**

The variable impact of FOI is also down to the variability of requester motivations. The public consists of a small group of politically engaged or a large group pursuing issues of ‘micro-politics’ of private importance.

A working hypothesis was to divide FOI requests into the ‘public’ (i.e. wide) and ‘private’ (i.e. personal) interest. There was a clear rise and fall of public interest topics with the news agenda and ‘perennial topics such as the number of taxi licenses’ (Interview). However, ‘private’ interest requests or issues of ‘micro-politics’ far outweighed them (see table 4). Many requests were ‘quite niche’ or ‘specialised’, which disclosure log analysis below supports (Interview). To most officers the ‘public/private’ distinction was meaningless as issues, for example, over planning or parking fines would be both personal and of wider public importance. Similarly in Ireland ‘many non-personal requests can disguise the true nature of requests’ (McDonagh 2010a: 82).

*Table A1.7: Sample of FOI Requests Analysed by Level of Specificity*

Level of specificity of request	%
Very general (very broad overview)	2
General (covers a broad/overarching issue, event or group)	13
If contains multiple questions, a mixture of both broad and specific	10
Specific (broader question but with a focus on a single issue/event/location)	55
Very specific (a particular incident/place)	20
Total	100

### **Portrait of a Requester**

One officer spoke of how FOI was a ‘thoroughly middle class activity’ but little is known about the profile of the requester. Of the respondents, 27 per cent were female and 73 per cent male. Women were more likely to make FOI requests as part of their job, compared to men who were more likely to act as private individuals.

With regard to education, 68 per cent of requesters had either a degree, degree-level vocational qualification or Post-graduate degree, compared to 32 per cent who had GCSE/CSEs (or equivalent) or A-Levels. This is a significant difference.

Therefore, based on the findings of the survey, the ‘average’ FOI requester:

- acts as a private individual
- is male
- is over 50 years of age
- has a degree or higher qualification (A-levels)

### **Key Findings**

- The biggest group of requesters appears to be the public. Particularly interesting is heavy use by a **wide range of business** at local level.
- **Rising request levels** are driven by **increased awareness** of FOI and media stories in the national press (especially MPs’ expenses) but also local stories. Requests can also come in waves around a particular issue (e.g. RIPA).
- However, **motivations vary** between the ‘political’ and ‘private’ (though the two overlap).
- Requests are **often niche and of private interest to the person focusing on** ‘micro-politics’.

## Appendix 2: What Does FOI Cost?

Any attempt to measure the cost of FOI is fraught with difficulties. Below is a brief summary of what different studies have concluded based upon a longer report available [here](#)<sup>1</sup>. However, two points need to be borne in mind:

- **The costs of FOI are very difficult to measure** and calculate. Different studies have used different methods and, unsurprisingly, have come to very different results. While you can simply multiply hours by time taken this may fail to catch, for example, the ‘opportunity costs’ of involving other staff or time spent in discussions.
- **The cost of FOI is a political issue.** From the view point of politicians and officials FOI introduces ‘concentrated costs and dispersed benefits’ (Fung et al 2007: 117). It is easy to see the resource and, for politicians, the political costs but much more difficult to quantify or see the benefits flowing from FOI, such as transparency. This means there is a hidden bias in any discussion of FOI which tilts discussion in a negative direction.

### What Does FOI Cost?

Before FOI came into force, it was estimated it would cost an average £350 cost per request with a forecast of 190,000 annual requests, and a £10 flat rate fee for all requests that would cost less than £500 to respond to.

In 2006 a Frontier Economics report commissioned by the Blair government suggested that the average FOI request cost £293 and advised introducing charges to reduce the ‘expensive’ burden that requests had begun to impose. It was, however, heavily criticised.

The table below summarises a range of FOI costs produced by different countries. One very interesting variable is how long the average request takes, stretching from seven hours in Scotland to 56.2 hours in Australia. To further complicate matters, many of the studies used different methods to calculate the time taken and costs.

*Table A2.1: Costs of processing FOI requests around the world*

Country	Year	Total Number of Requests per year	Total Cost of FOI per year	Average time taken to complete request	Average Cost per FOI request
UK	2005	121,000	£35.5 million	7.5 hours	£293
Scotland	2009	-	-	7 hours 22 minutes	£189
Ireland	2009	14,290	6.9 million euros	-	€ 425
Canada	2000-2001	20,789	\$28.8 million (*In1999*)	38 hours	\$1,035
Australia	2008-2009	27,561	\$30,358,484	56.2 hours	\$1,208
US	2009	557,825	\$382,244,225	-	\$685

Just to put this into perspective, and illustrate the varying nature of the figures, here are all the costs per request converted into sterling.

<sup>1</sup> <http://www.ucl.ac.uk/constitution-unit/research/foi/countries/cost-of-foi.pdf>

Table A2.2: Cost per FOI request in British Pounds

	Cost in £GBP
England	293
Scotland	189
Ireland	364
Canada	637
Australia	748
US	428

### Cost of FOI: Local Government Estimates

Different local authorities have also tried to quantify the cost of FOI. Below are two attempts.

#### Cornwall Council

Cornwall Council has spent more than £300,000 answering Freedom of Information (FOI) requests. Since the Unitary Authority was set up in April 2009, it has had to deal with more than 2,000 questions.

An investigation by BBC Radio Cornwall has revealed the cost of following up the FOI requests has been £340,000. Questions have been raised on topics including hauntings, exorcisms and séances. Of the 2,264 FOI requests, less than 10% have been from the media. The average cost of responding to a FOI request is **£150** (BBC 6 April 2011).

#### Bexley Council

Bexley council estimated the cost of FOI requests over a limited time period. They found that it cost around £7,000 and calculated the average cost to be **around £36** with most requests costing **around £19** (See Bexley MBC Overview and Scrutiny Minutes April 2007, section 12).

## Appendix 3: FOI in Irish Local Government

Professor Maeve McDonagh, University College Cork

This is a summary of research undertaken in late 2009 into the attitudes of Irish local government FOI decision makers towards the operation of access to information legislation, in particular the Freedom of Information Act.<sup>2</sup> It built on work previously undertaken by the author with FOI Officers of local authorities.<sup>3</sup>

*Table A3.1: Level of FOI requests made to Irish local authorities*

Year	1999	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Requests	1870	2398	2809	2861	2668	1481	1311	1371	1300	1657	1510

Table 28 above shows that the number of FOI requests submitted to Irish local authorities rose from an initial level of 1,870 in the first full year of operation of the Act (1999) to a peak of over 2,800 per annum in 2001 and 2002, before declining to a low of approximately 1,300 per annum between 2005 and 2008. An increase in requests occurred in 2009 but the numbers declined again somewhat in 2010.

The steep decline in local authority FOI requests after 2002 mirrored a similar decline in FOI requests generally<sup>4</sup> and coincided with the introduction of the FOI (Amendment) Act 2003 which amongst other things introduced a €15 FOI request application fee.

### Benefits and Challenges

The research was based on a survey of local government FOI decisions makers, who along with their normal work load, are responsible for making decisions on FOI requests.

The aim of the research was to identify the benefits and challenges of FOI from the perspective of the officials concerned. All 324 local authority FOI Decision Makers in the country (as identified by the FOI Officers of each local authority) were invited to participate in the survey, of whom 184 submitted responses constituting a response rate of 57 per cent.

Two types of question were posed: those with a range of suggested answers; and open-ended questions.

In terms of the benefits that arise from FOI, those identified by respondents from a list of potential benefits set out in the survey, in order of the proportion of respondents identifying them as such, were:

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<sup>2</sup> M. McDonagh (2010), 'Access to local government information in Ireland: Attitudes of decision makers', *Open Government: A Journal on Freedom of Information*, 6(1), 1–20.

<sup>3</sup> See M. McDonagh (2010), 'The Impact of Freedom of Information on Irish Local Government' in R. Chapman and M. Hunt eds., *Freedom of Information: Local Government and Accountability*, (London: Ashgate), 73.

<sup>4</sup> The number of FOI requests made to all public bodies declined by 42% between 2003 and 2007: Office of the Information Commissioner (2004) *Review of the Operation of the Freedom of Information (Amendment) Act 2003*.

*Table A3.2: Benefits of FOI for Irish local government (suggested answers)*

Greater openness in dealings with the public	85%
Greater accountability to the public	79%
The provision of a framework for making decisions on access	76%
Improvements in record keeping	65%
Engendering a change in local government culture	64%
Better communications with community and customers	49%

- Respondents were neutral with regard to improvements in internal communications
- In response to the open ended question asking them to identify the greatest benefit brought by FOI, the following were selected by respondents:

*Table A3.4: Benefits of FOI for Irish local government (open-ended answers)*

Openness & transparency	53%
Improved accountability	13%
Better record keeping	9%
Provides a framework for access decisions	6%
Improved decision-making	5%

The challenges associated with FOI identified by respondents from a list of potential challenges set out in the survey were, in order of the proportion of respondents identifying them as such:

*Table A3.5: Challenges of FOI for Irish local government (suggested answers)*

Frustration with the approach to FOI of some requesters	84%
The administrative burden imposed on Council staff	83%
Confusion re interaction of various access regimes	80%

- Respondents were largely neutral with respect to the effect of inadequacies in training: roughly similar proportion agreed as disagreed that this hampered the realisation of the benefits of FOI and resource inadequacies: again roughly similar proportion agreed as disagreed that this hampered the realisation of the benefits of FOI
- In response to the open ended question asking them to identify the greatest benefit brought by FOI the following were selected by respondents:

*Table A3.6: Challenges of FOI for Irish local government (open-ended answers)*

Lack of resources	53%
Inadequacy of record keeping systems	22%

Less than one per cent saw as the greatest challenge that FOI takes staff away from core duties; inadequacies in training; and the difficulty of dealing with awkward requesters

## The ‘Chilling Effect’

Respondents were asked whether FOI had resulted in the non-recording of information by staff within their organisations and they responded as follows in Table 43:

*Table A3.7: Has FOI led to non-recording of information?*

Agree	29%
Disagree	49%
Neutral/Don't know	19%

Sample comments made by respondents to this question included: “people will record information, but are less willing to give views, opinions or interpretations which might be subject to challenge” and “the main type of information which is no longer recorded is of a type which should not have been recorded or considered in any decision-making process – mostly inappropriate personal details”

## FOI and Access to Politicians

A key part of Irish politics involves the role of politicians (both local and national) as conduits for constituents. Another question explored was whether FOI had led to people seeking access to information for themselves rather than relying on Councillors to act as go-between in terms of the transmission of information. Table 44 shows the responses:

*Table A3.8: Has FOI led people to seek information for themselves?*

Agree	45%
Disagree	33%
Neutral/Don't know	18%

Sample comments included the following: “Parish pump politics is alive and well with the use of elected Councillors, Dail deputies [MPs] and even Ministers enquiring about the most trivial of issues” and “Councillors are still not only used to press for information, but also to obtain a particular service”

## Overall Impact of FOI

Finally respondents were asked to say whether the overall impact of FOI on their organisations was positive or negative and Table 45 shows they responded as follows:

*Table A3.9: Has FOI had a positive effect on your organisation?*

Positive	76%
Negative	11%
No Impact	8%

Sample comments included: “There is definitely a downside - more administrative work, more cautious approach to situations. However the relationship between the public and the individuals in a local authority has improved greatly since I started working in the late seventies, and I think that openness, resulting in part from FOI, has probably contributed to this”; and “The potential for your actions to be laid bare to those directly affected must inspire a greater effort.”



In conclusion, the survey showed that FOI was viewed as overwhelmingly positive not only in terms of impact on the public but also on the organisation in terms of improving record keeping and the provision of a framework for access decisions with some limited evidence of improvements in decision-making. The main problems were identified as being related to resource problems and deficiencies in record management systems. The survey showed that some of the expected consequences of FOI, both positive and negative, had failed to materialise.

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Local government has been the focus for the majority of Freedom of Information requests. Understanding the impact of FOI on local government is central to a wider understanding of how the Act is working.

In this report we measure FOI against the objectives set for it. FOI has made local government more transparent, working alongside new online innovations, and also more accountable. It has improved decision-making at a low level but has had little impact on public understanding or participation, except through local groups. Because of the variety of use it has had no single impact on trust in local government.

The study also examines how FOI has interacted with the new structures and ways of working in local government. FOI has had no impact upon local political leadership, partnership working and local service provision. Requests for information held by businesses working on behalf of authorities and media use continue to cause concern.

Local authorities are all open to differing degrees, being dependent on context, culture and political leadership. The diversity is also driven by requesters' varying motivations who often use FOI for 'micro-political' issues.