



FOIA 2000 and local government in 2006:
The experience of authorities in England, Northern Ireland & Wales

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We are grateful to everyone who responded to the invitation to participate in this study. We received valuable material from 135 of the 435 local authorities in England, Northern Ireland and Wales that we invited to participate. Their contributions reflect a spectrum of local authorities' views and experiences with the Freedom of Information Act 2000 (FOI Act) and the Environmental Information Regulations 2004 (EIRs). We also wish to thank Naomi Holford for editing the report.

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Executive Summary

This is the report of a study of English, Northern Ireland and Welsh local authorities' experiences complying with the Freedom of Information Act 2000 from January to December 2006. In order to understand how the authorities coped with FOI compliance, we conducted a web-based survey of the authorities' FOI practitioners. The questions in the survey centered on the numbers and types of requests they received, the problems they encountered with compliance and their thoughts about the positive aspects of FOI. We succeeded in reaching FOI officers at most of the 435 local authorities in England, Northern Ireland and Wales with an invitation to fill out the survey. Of those we reached, 135 practitioners, or 33% of the total population, gave a substantive response.

Key findings

Volumes of requests: We estimate that between January and December 2006 the 387 local authorities in England received around 72,300 requests, and that the 435 local authorities in England, Wales and Northern Ireland combined received about 78,600 requests. London boroughs and English county, metropolitan and unitary councils received a larger number of requests on average than English district councils. Northern Ireland councils received the fewest requests on average, while Welsh authorities received more than English district but fewer than other English councils.

Table 1 – Estimated number of requests, refusals and internal reviews 1 Jan to 31 Dec 2006

	Number of requests received	Number of requests resulting in full release	Number of requests resulting in no release	Number of internal reviews
England				
London boroughs and county, metropolitan and unitary councils (149)	46,602	35,603	5,508	1,165
Average/council	313	240	39	8
District councils (238)	25,759	21,493	2,086	536
Average/council	108	90	9	2
Total England - all councils	72,361	57,096	7,594	1,701
Northern Ireland (26)	1,818	1,600	66	182
Average/council	70	62	3	7
Wales (22)	4,396	3,340	264	125
Average/council	200	152	12	6

Note: To arrive at the estimates found in Table 1, we added up the numbers reported by those who provided this information in the survey, calculated the average number per council that responded and multiplied that average by the total number of councils in each category. Numbers are rounded to the nearest whole number.

Who is making the requests and what are they asking for? Practitioners were asked to identify the three types of FOI requester that made the largest number of requests, as well as which groups' requests were the most time-consuming to process. Private individuals, businesses, and journalists were the top three - in that order - for both questions. Here are the percentages of respondents that mentioned each of these categories as one of the top three:

	Volume	Time-intensiveness
Private individuals	95%	88%
Businesses	84%	79%
Journalists	74%	73%

We also asked practitioners to select the three types of information that garnered the largest volumes of requests, as well as those that were the most time-consuming to answer. FOI officers

reported contracts, costs and expenses and local issues as the top three categories on both counts. Here are the percentages of respondents that mentioned each of these categories as one of the top three:

	Volume	Time-intensiveness
Contracts	56%	55%
Costs & expenses	53%	55%
Local issues	42%	48%

How much does FOI compliance cost? We asked practitioners how many full-time equivalent staff (FTE) were employed on FOI and EIR (Environmental Information Regulations) compliance activities by their respective authority both in the central team and in the service departments. To produce an average number of hours spent on each request, we calculated the total FTE hours spent and multiplied by the number of requests.

Table 2 – Spend on compliance¹

	Total number of requests	Average hours per request	Total hours	Cost @ £25/hour (£000s)
England				
District councils	25,759	14.8	381,233	£9,531
Other council types	46,602	12.2	568,544	£14,214
England - overall total	72,361	13.1	947,929	£23,698
N Ireland	1,818	27.4	49,813	£1,245

Note: The compliance costs relate to the twelve month period from January to December 2006.

Who charges for FOI requests? We asked about the proportion of cases in which the authority had charged a fee for an FOI request in 2006, not including disbursements (photocopying, postage, etc). Sixty-five per cent of authorities reported that they did not charge at all and 33% said they charged in 5% or fewer cases. Only 3% charged for more than 6% of requests. Sixty-seven per cent of authorities reported that they published their policy on charging for FOI requests on their web site.

What problems do practitioners have with FOI compliance? What positive aspects of FOI do practitioners identify? Respondents were asked to list the top three problems they experienced with compliance in 2006. They identified processes and procedures; resources, costs and timescales; and difficult requests or requesters as the biggest problems. When asked to name the ways in which they thought that FOI had positively affected their organisation, they listed greater openness / transparency and accountability, better records management, and other improvements within their organisation not related to records management.

Overall/additional comments: At the end of the survey we asked practitioners for any additional comments about their experiences with FOI compliance. Sixty-two provided responses, which we categorised. The majority fell into two broad categories.

- 1) **Problems with applicants and requests:** This category included 27 mentions; the complaints were further divided into four sub-categories:
 - *Commercial information (12 mentions):* A number of respondents mentioned problems with applicants who requested commercial information, some of whom represented themselves as private individuals. Several thought that use of the act by businesses was in some way inappropriate and negatively affected the motivation of staff to cooperate with FOI compliance.
 - *Media and press activity (5 mentions):* Journalists' use of the FOIA was also considered by some to be inappropriate, in particular if the journalist made a large number of requests, particularly about trivial issues.

¹ Wales is excluded from this table due to insufficient data.

- *Pursuit of unresolved complaints (5 mentions)*: Practitioners complained about requesters who tried to use FOI as a route to pursue unresolved grievances with the council. These requesters were sometimes considered to be acting unreasonably.
- *Difficult and complex requests (5 mentions)*. This category covered a wide range of issues, including consideration of the degree to which it was appropriate to carry out research when the basic information was not held in a form which would answer the question asked.

2) Management, staff, training, systems and resources: This category included 28 mentions. Unlike the problems category, however, it was not comprised solely of negative comments. Seven mentions were positive, including references to better records management and request handling systems, and operation of a positive management culture. Problems centred on a perceived lack of support and understanding by senior management and elected members. More specifically, they included the refusal to release information for which there was no applicable exemption, lack of resources, and lack of training.

Summary of conclusions

This study provides an analysis of local authorities' experiences with FOI compliance in 2006. During the year the average council received 15 FOI/EIR requests a month and refused to disclose any information in just 1.5 cases per month. The number of requests made to councils in England rose by about 12,000 from 2005, and there was a slight increase in the rate of refusal (8.3% of requests resulting in no information being released in 2005 against 10.5% in 2006, for English councils, and 79% of requests resulting in full disclosure, virtually the same as 79.8% in 2005). Each request took an average of 13.1 hours to process, significantly faster than last year's average of 16.4 hours.

As in 2005, the main users of the act were private individuals closely followed by businesses and the media. The types of information most often requested were contracts, costs and expenses, and local issues. These were all near the top of the list last year, but information on contracts was requested more often in 2006.

Few authorities charged for providing information and 67% of authorities published their charging policy on their website. The main problems with compliance had to do with issues of processes and procedures, difficult requests and requesters, and lack of resources. Applying exemptions and balancing the public interest, which were reported last year as big problems for many authorities, were mentioned little this year, suggesting these were temporary initial problems in getting used to working with the FOI Act. Staff motivation and hostile attitudes towards FOI were still identified as problems by a number of authorities. The most significant positive outcomes of the Act were the development of a more open, transparent and accountable culture among local authorities and improved records management.

Background

The Freedom of Information Act 2000 has been in force since 1 January 2005. Though statistical data on FOI requests to central government departments in the UK are compiled and published by the Ministry of Justice (MOJ) on a quarterly basis, and the Association of Chief Police Officers (ACPO) maintain similar data about FOI requests to the police, no single organisation gathers data on FOI compliance at the local government level².

In 2005, the Constitution Unit was commissioned by the Improvement and Development Agency (IDeA) to carry out a study of English local authorities' experiences with FOI compliance in the six months following implementation. The report of the study was published in September of that year.³ However, IDeA has since removed FOI from its current programme and no other local government organisation has taken on the responsibility of tracking FOI request data at the local authority level. As a result, Unit researchers decided to continue data collection on FOI compliance by surveying local authorities on an annual basis. We carried out a second survey that covered calendar year 2005 and published the results in September 2006. This report describes the findings of our second annual survey, which covers January to December 2006.

In our survey covering the first six months of 2005, we were asked by IDeA to look only at FOI compliance by English authorities. For consistency's sake, our first annual survey had the same scope. However, we expanded the scope this year to include Welsh and Northern Ireland authorities in order to get the broadest possible view of compliance with the FOIA 2000 by local authorities.

Objectives

The main aim of this project was to identify how local authorities coped with FOI in 2006 by studying the numbers and types of requests they received, problems they encountered, costs they incurred and benefits they identified. While the primary focus of the study was the FOI Act 2000, requests which were handled under the Environmental Information Regulations 2004 (EIRs) were also included. Comparisons with the first year's results are highlighted where appropriate and explored in more depth in the conclusions.

Methodology

A web-based survey of 24 questions was designed and built using Survey Monkey, a fee-based Internet survey software. On 26 February 2007, we sent by email an invitation to participate in the study, including instructions for filling out the survey, to FOI officers in England, Northern Ireland and Wales. As an incentive for completing the survey, we offered FOI practitioners the chance to win one of five £30 certificates toward Constitution Unit publications. We sent reminder emails in March to those whom we believed had not yet responded and closed the survey on 30 March 2007. The questionnaire can be found in Appendix B.

Response rate

Our target population was the 435 local authorities in England, Northern Ireland and Wales. We sought to obtain responses from the central FOI officer in each authority. For the sake of cost-effectiveness and efficiency we communicated with authorities only via email. We built our list of email addresses of FOI practitioners from our existing email address list and filled in the missing addresses by locating them on council web sites. Despite our best efforts, we did not reach all councils but we estimate that over 90% of councils received an email inviting them to fill in the survey. When we closed the survey on 30 March, FOI practitioners at 135 authorities had filled out the survey, which gave us a response rate of 33 per cent of the total population⁴. Broken down by category of council, we achieved response rates in each category ranging from 25% to 42% (see

² On 8 May 2007, the Department for Constitutional Affairs (DCA) was renamed the Ministry of Justice. All statistical reports on FOIA 2000 requests to central government in 2005 and 2006 were published by the DCA.

³ The Constitution Unit (2005) *Freedom of Information Act 2000: the first six months – the experience of local authorities in England*. (<http://www.ucl.ac.uk/constitution-unit/foidp/research/>).

⁴ Not all individuals who filled out the survey answered every question. Therefore, for each question in the report we state the number of practitioners that actually supplied an answer.

Table 3). Once we began analysing the data, we separated out answers by Northern Ireland, Wales and England only for selected questions because most practitioners did not answer every question, and consistent, uniform results specific to each of these three would have been difficult to achieve.

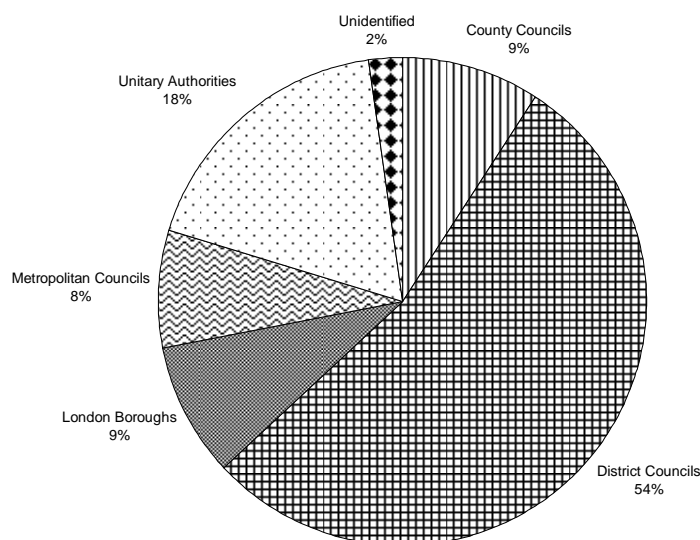
Table 3 – Survey response rate by council type

	Total number	Number that responded	Percentage of total population
England			
County councils	34	12	35.3%
District councils	238	65	27.3%
London boroughs	33	12	36.4%
Metropolitan councils	36	9	25.0%
Unitary councils	46	17	36.9%
Northern Ireland	26	11	42.3%
Wales	22	6	27.2%
Unidentified		3	
Total	435	135	

Findings

Fifty-four per cent of respondents to the survey were district council FOI practitioners, 18% work for unitary authorities, 9% of respondents were from London boroughs and the same from county councils, while 8% responded as metropolitan council FOI officers. Two per cent of the total did not identify the type of council for which they work.

Figure 1 – Breakdown of respondents by council type (based on 135 responses)

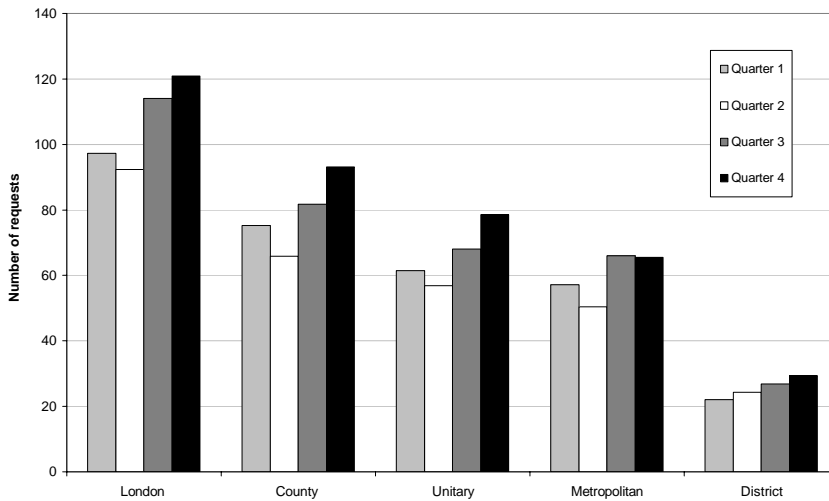


Statistics relating to requests, release of information, refusals, internal reviews, and meeting the 20-day deadline (Q1, Q2, Q3, Q4, Q5)

1. How many FOI and EIR requests did your authority receive during each quarter of 2006⁵? (Please use information recorded in your tracking system or your best estimate when reporting the number of requests. Please note that Quarter 1 refers to January to March, Quarter 2 to April to June, Quarter 3 to July to September, and Quarter 4 to October to December.)

⁵ We provided the following definition of a request at the beginning of the survey: 'For our purposes, an 'FOI request' is a request for any information that is NOT handled as part of the organisation's 'business as usual'. For example, we expect requests for library opening times and informational leaflets to be considered 'business as usual', whereas a request for notes from the meeting that took place over the closure of the local swimming pool would be classed as an FOI request. Please include requests that fall under the Environmental Information Regulations within this definition.'

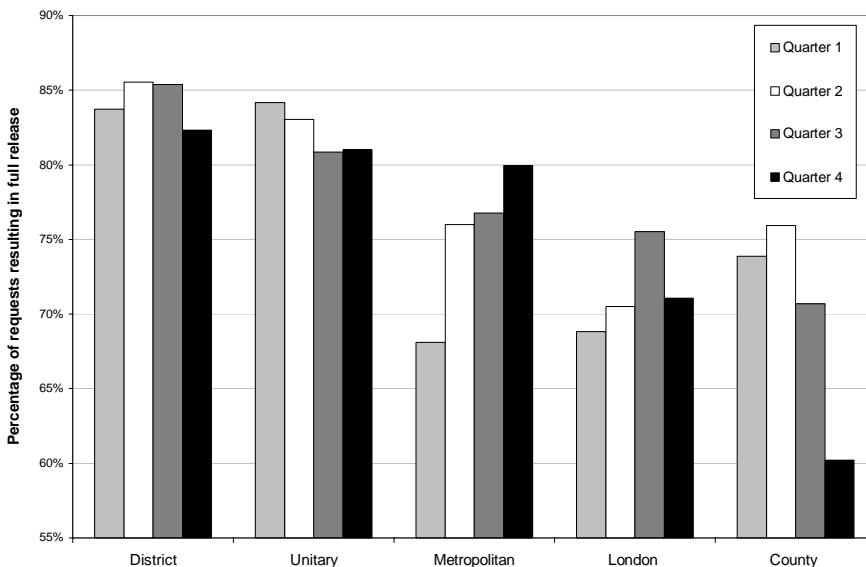
Figure 2 – Average number of FOI requests per quarter (based on 132 responses)



In Figure 2 we display the average number of requests received by each type of council in each quarter of 2006. County, unitary and London authorities all saw a drop from Q1 to Q2 and then an increase until the end of the year, while district councils experienced a steady climb throughout 2006 and metropolitan councils had a small decrease from Q3 to Q4. Similar to last year, London boroughs received more requests than any other type of authority. In terms of differences to 2005, London boroughs saw the biggest overall jump from a range of 65 to just over 100 requests per quarter on average in 2005 to a range of 92 to 121 in 2006. County councils also saw an overall increase from an average range of 55 to 82 in 2005 to 66 to 93 in 2006. Overall, local authorities received more FOI requests in 2006 than in 2005 – an increase of around 10,000.

2. How many FOI and EIR requests resulted in a FULL release of the information requested in 2006?

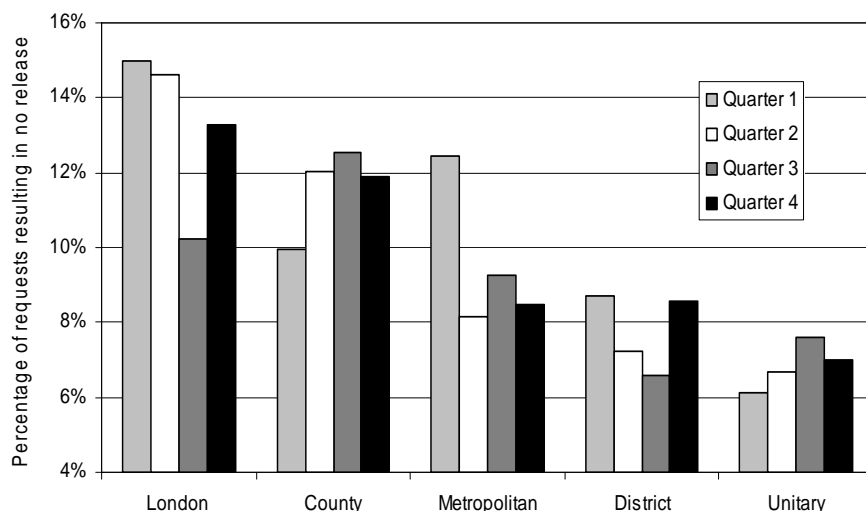
Figure 3 – Percentage of FOI requests that resulted in full disclosure (based on 119 responses)



County and London authorities reported the lowest rates of full disclosure, averaging approximately 71% over the year, whereas district and unitary councils reported the highest at 84% and 82%, respectively. Metropolitan councils' full disclosure rate, which averaged 84% in 2005, dropped to 75% in 2006. It is possible that the low percentages London and county councils recorded in quarter four reflect significant numbers of requests which were being processed at the end of the quarter, some of which may later have resulted in full disclosure

3. How many FOI and EIR requests resulted in a release of NONE of the information requested in 2006?

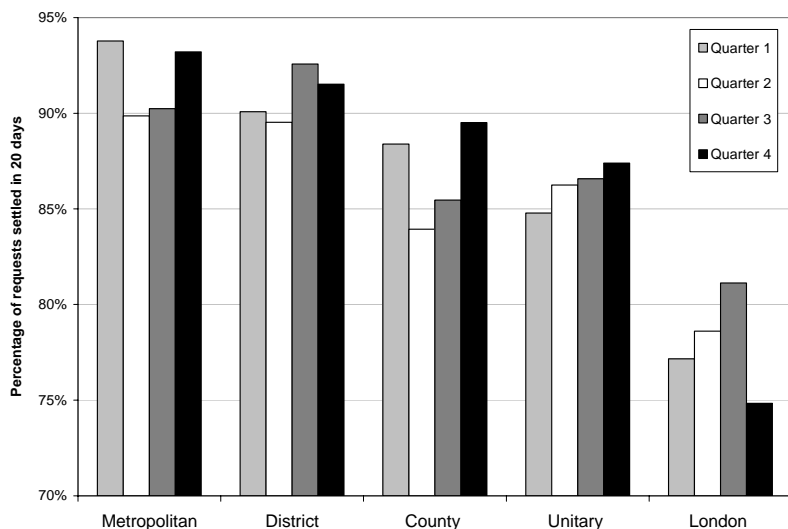
Figure 4 – Percentage of FOI requests that resulted in no information released (based on 118 responses)



The average refusal rate across councils in 2006 was 9.8%, which was slightly higher than the average rate of 9% in 2005 and 8% over the first six months of 2005. At 13% London boroughs had the highest average refusal rate, which was two percentage points more than in 2005.⁶ Unitary councils had the lowest average refusal rate over all four quarters at 6.9%, followed closely by district councils at 7.8%.

4. How many FOI and EIR requests were settled within the statutory 20-day time limit in 2006?

Figure 5 – Percentage of FOI / EIR requests settled within 20 days (based on 119 responses)

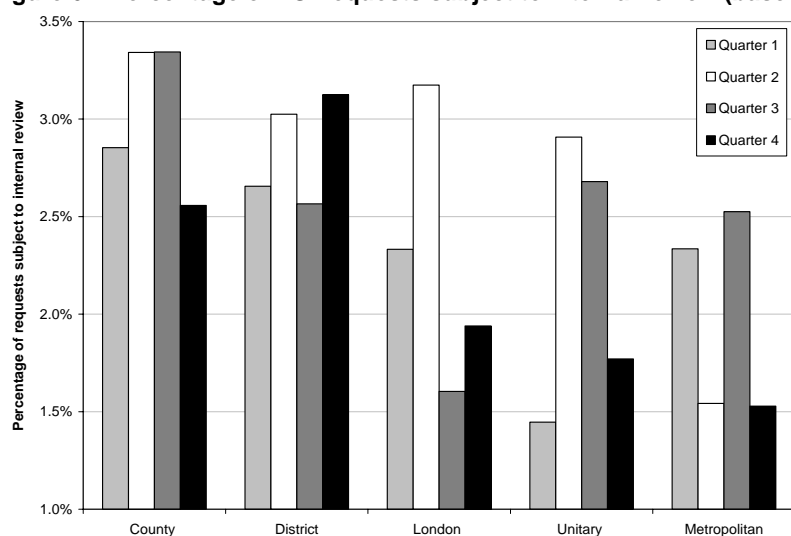


Eighty-seven per cent of all information requests made in 2006 were answered within the 20-day time limit, up from 85% in 2005. Only unitary councils saw a consistent increase throughout the year. In comparison to 2005, county councils made the most improvement from an average rate of 71% to 87%, while unitary authorities' rate increased from 82% to 86%. However, the three remaining categories all reported numbers lower than the previous year – district councils dropped from 95% to 91%, London from 82% to 78% and metropolitan councils from 96% to 92%.

⁶ One of the eight London boroughs to supply this information had a substantially higher rate of full refusals than the other boroughs. We have left this outlier out of the average for London boroughs in fig. 4 – without this authority's numbers, the average was 13.3%, while including its responses raised the average to 18.3%.

5. How many requests were subject to an internal review within your authority in 2006?

Figure 6 – Percentage of FOI requests subject to internal review (based on 125 responses)



In 2006 2.5% of all information requests were subjected to internal review, up half a percentage point from 2005 and down from 2.8% for the period of January to June of 2005. The highest rate of internal reviews - 3% - was seen by county councils, while metropolitan councils had a rate of just under 2%. London boroughs' rate dropped from 4% in 2005 to 2.3% in 2006.

Staff assigned to FOI and EIR compliance tasks (Q7)

7. On average, how many full-time equivalent (FTE) staff were assigned to FOI and EIR compliance tasks in the following areas in 2006? (Please count staff in terms full-time equivalents. For example, one full-time person and four people at 25% time each equals two FTEs.)

Table 4 – FTEs assigned to FOI and EIR compliance tasks in 2006*

Authority type	Total FTEs	Total FTE hrs/mth	Total requests (12 Months)	Average requests/mth	Average Hrs/request
County councils					
Totals for 10 councils	26.0	3640.0	3520.0	293.3	12.4
Average per council	2.6	364.0	352.0	29.3	
London boroughs					
Totals for 9 boroughs	25.8	3612.0	4194.0	349.5	10.3
Average per council	2.9	401.3	466.0	38.8	
Metropolitan					
Totals for 4 councils	7.4	1029.0	951.0	79.3	13.0
Average per council	1.8	257.3	237.8	19.8	
Unitary (English)					
Totals for 11 councils	22.8	3192.0	2594.0	216.2	14.8
Average per council	2.1	290.2	235.8	19.7	
District councils (English)					
Totals for 55 councils	52.92	7408.8	6008.0	500.7	14.8
Average per council	1	134.7	109.2	9.1	
English authorities					
Totals for 89 councils	134.9	18,881.8	17,267.0	1,439.0	13.1
District councils (Northern Ireland)					
Totals for 6 councils	7.35	1,029.0	451.0	37.6	27.4
Average per council	1.2	171.5	75.2	6.3	

* Note: Not all councils that responded provided detailed information for this question, so the averages have been calculated using only data given by those who did. As some respondents appeared to have reported the total number of staff who work on FOI, rather than the number of full-time equivalents, we removed the data of those who reported an unusually high number of FTEs. The number of each type of council used to calculate the averages are shown in the table. Thus, though more people answered this question than is reflected in the table, we feel this is a fairly accurate summary of correctly reported FTEs. However, given that the sample size for each category of council is so small, we

cannot claim that the averages are statistically significant. Welsh authorities are excluded from this table due to lack of data.

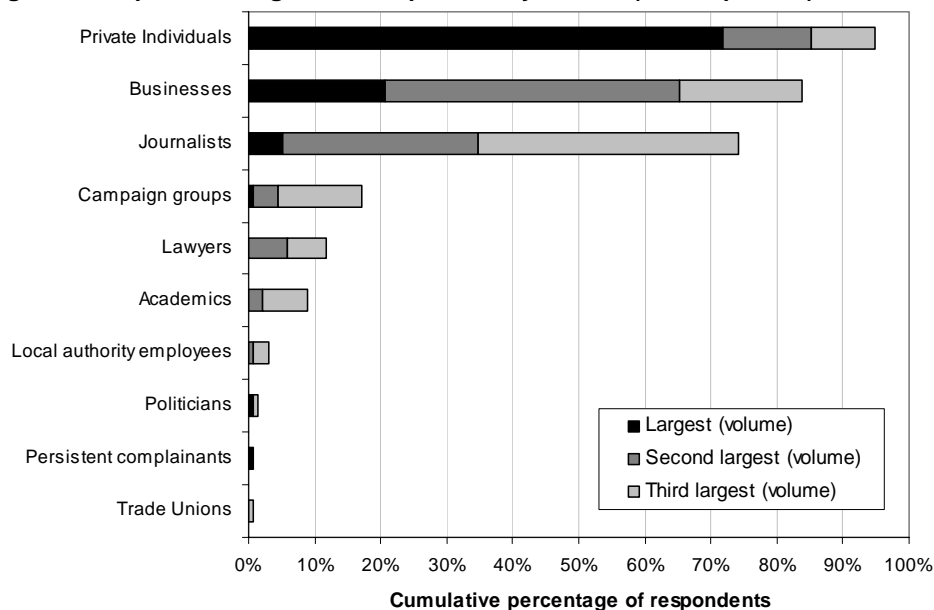
The average amount of time spent on dealing with each FOI request has decreased across all English council categories since 2005. Metropolitan councils saw the most dramatic drop, from an average of 22.2 hours per request in 2005 to 13.0 in 2006. The average amount of time country councils spent per request decreased from 19.3 hours to 12.4. Overall, the average for English councils went down from 16.9 hours per request to 13.1. The reported number of FTEs working on FOI has gone up slightly, from a total of 110 FTEs in England in 2005 to 134.9 in 2006. However, in London boroughs and unitary councils the number of FTEs dealing with FOI decreased.

Sources of requests and information requested (Q8, Q9, Q10, Q11)⁷

(The manner in which we collected information about requester categories and types of information requested changed from 2005 to 2006. For the 2006 survey we gave respondents set categories of requesters and types of information, which we based on responses obtained in 2005. We asked practitioners to identify from among these the top three categories, both in terms of the volume and time-intensiveness of the requests.)

8. To the best of your knowledge, which were the top three categories of FOI requesters to your organisation in 2006 IN TERMS OF NUMBER OF REQUESTS? (Largest, second largest, and third largest volume of requests)

Figure 7 – Top three categories of requesters by volume (135 responses)

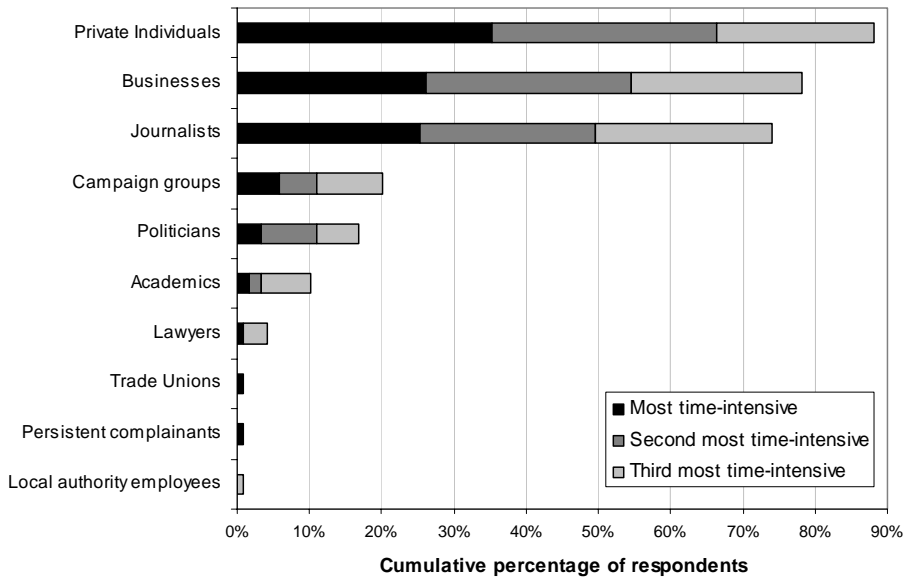


Ninety-seven FOI practitioners chose private individuals as the category of requester responsible for the largest volume of information requests in 2006, followed by 28 who selected businesses / commercial entities. Only seven identified journalists as the group that made the most requests. In terms of the second largest volume of requests, businesses were identified by 60 practitioners, journalists by 40 and private individuals by only 18. However, more practitioners chose journalists as the group that made the third highest volume requests than any other single group. A small number of mentions for the top three went to campaign groups, lawyers, and academics.

⁷ For these questions, as well as questions 16 and 17, we weighted the responses and then ranked them according to the frequency by which they were mentioned. First mentions received a weight of 45, second mentions 35 and third mentions 30. This allowed us to aggregate the data and summarise it in the charts on this and the following pages, according to the cumulative percentage of respondents.

9. Using the same list of requester categories, please select the top three category of FOI requesters IN TERMS OF AMOUNT OF TIME spent on the respective group's requests. (Most time-intensive, second most time-intensive and third most time-intensive requests)

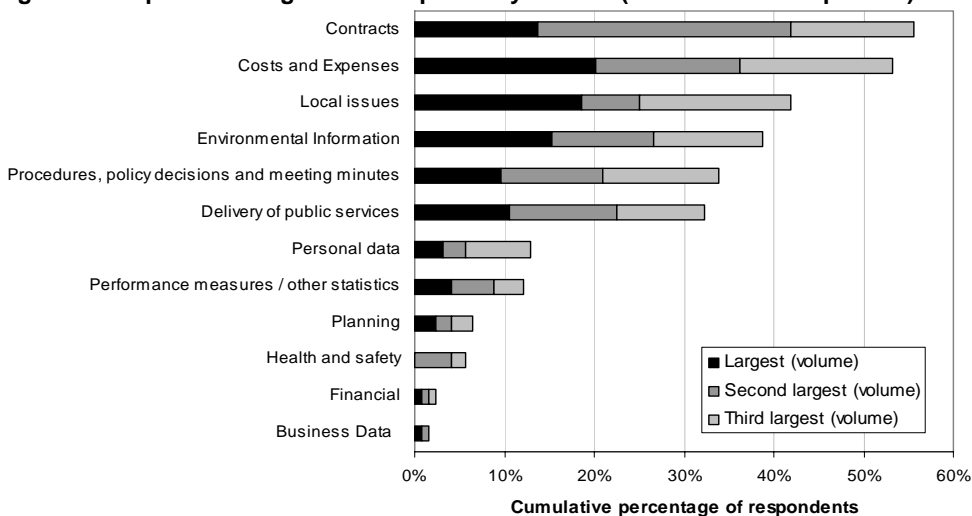
Figure 8 – Top three categories of requesters by time-intensive nature (based on 119 responses)



The ranking of requester groups by the amount of time their requests took differed only slightly from ranking by the number of requests they made. Private individuals, selected by 42 practitioners as the group that made the most time-intensive requests, were followed closely by businesses, chosen by 31, and journalists, by 30. This pattern was repeated when naming the second most time-intensive requester group – 37 identified private individuals, 34 selected businesses and 29 chose journalists. Journalists were selected as the group that made the third most time-intensive requests, with 29 mentions, compared to six mentions for private individuals and 28 for businesses. In this case, campaign groups and politicians were each mentioned in one of the top three groups by 7% and 6% of practitioners, respectively. While the three top categories were the same as the groups who made the most requests, it is notable that considerably fewer practitioners put private individuals first in this category, and considerably more chose journalists.

10. To the best of your knowledge, which were the most requested categories of information to your organisation in 2006 IN TERMS OF NUMBER OF REQUESTS? (largest, second largest, and third largest volume of requests)

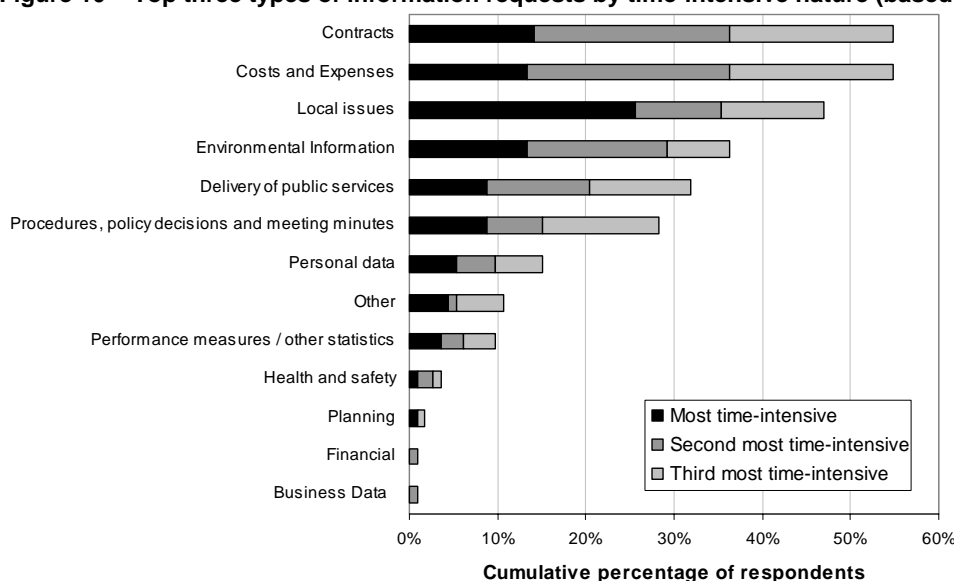
Figure 9 – Top three categories of requests by volume (based on 124 responses)



The single largest category of information requested by the public was contracts, followed closely by costs and expenses, though practitioners' responses differed as to which was most, second-most, and third-most often requested. Following these two categories were information regarding local issues and environmental information, and then procedures, policy decisions and meeting minutes. In comparison with 2005 (as far as a comparison can be made, given the changed method of data collection), it is clear that information was being requested on similar issues from the first year of FOI to the second, but that the number of requests for information regarding contracts has risen above those for costs and expenses.

11. Using the same list of information categories, please select the top three categories of information IN TERMS OF AMOUNT OF TIME spent on that type of information request. (most time-intensive, second most time-intensive and third most time-intensive requests)

Figure 10 – Top three types of information requests by time-intensive nature (based on 113 responses)



When looking at the categories of requested information from the perspective of time-intensiveness, rankings did not change much. However, contracts and costs and expenses received the same total number of mentions, and local issues had more mentions than it did when based on volume of requests.

Publication of disclosure log and charging policy (Q12, Q13, Q14, Q15)

Similar to the first six months of 2005 and calendar year 2005, most practitioners told us that in 2006 their authority did not publish a request or disclosure log on the authority's website. Just over 20% (of 137 respondents) reported that their authority did publish such a log. County councils had the highest proportion of authorities that published a log online, though the percentage of those that did only rose from 41.2% in 2005 to 41.7% in 2006.

The most commonly published information on a disclosure log was the summary of requests received and the progress of each request, according to 34% of the 32 practitioners who answered this question. The second most commonly published information was information pertaining to selected releases of information thought to be of wider interest (25%). Fewer than 15% of councils reported publishing performance summaries with the number of requests by month/quarter, refusals, appeals and conformance with time scales.

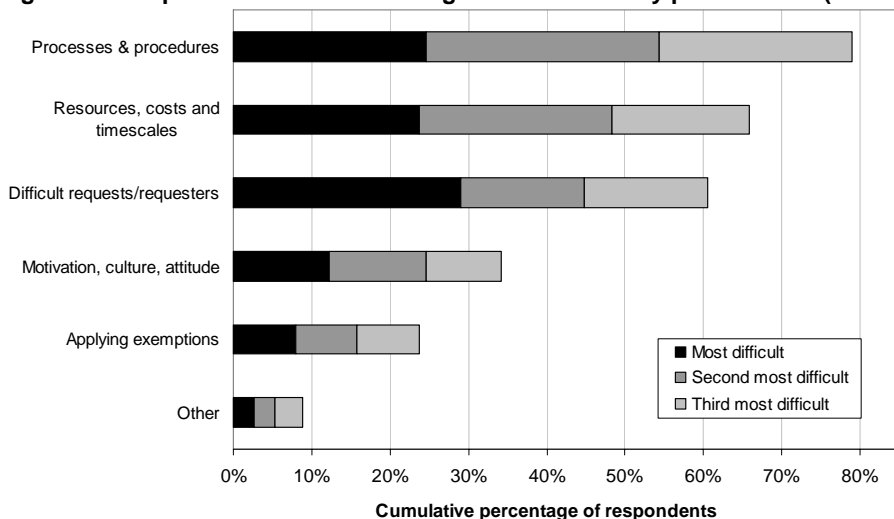
The proportion of authorities that charged for requests and that described their charging policy on their web site changed very little from 2005 to 2006. The percentage that charged for requests (not including photocopying, postage, etc.) in 6% or more cases over the year went up from 1% in 2005 to 3% in 2006 but the majority – 65% – reported that they did not charge at all for requests. Sixty-

seven per cent of practitioners (135 respondents) reported that their policy on charging for FOI and EIR requests was published on their website in 2006, down slightly from 69% in 2005.

Problems with compliance and positive effects of FOI (Q16, Q17)

In order to understand the difficulties that local government practitioners face in their job and the benefits of FOI that they have recognised, we asked respondents to fill in the top three problems they encountered with compliance in 2006 and the three most significant advantages to having FOI. We then grouped the responses into categories and counted the number of responses in each category.

Figure 11 – Top difficulties and challenges as identified by practitioners (based on 114 responses)



Nearly 30% of practitioners stated that their number one problem with FOI compliance was difficult requests / requesters (or a derivative of this), but larger percentages stated that an aspect of processes and procedures or resources, costs and timescales was one of their top three challenges. Examples of processes and procedures included:

- Clarification of requests
- Locating information
- Records management
- Calculation of fees when several service areas are involved
- Ensuring all staff know about FOI and EIR legislation
- Requests that may affect a third party

Problems with resources, costs and timescales included:

- Collating information within timescale
- Lack of dedicated resource as opposed to being part of the day job.
- Responding within time limits on complex requests
- Staff shortages
- The time taken to deal with requests takes time away from service delivery. This conflict of interest makes it difficult to get information together within 20 days.

Difficult requests and requesters referred to:

- Companies asking complicated questions under FOI who really want to sell something
- Complexity and size of requests
- Obsessive complainants
- Repeat requests when people don't believe we don't have the information
- Vexatious requests

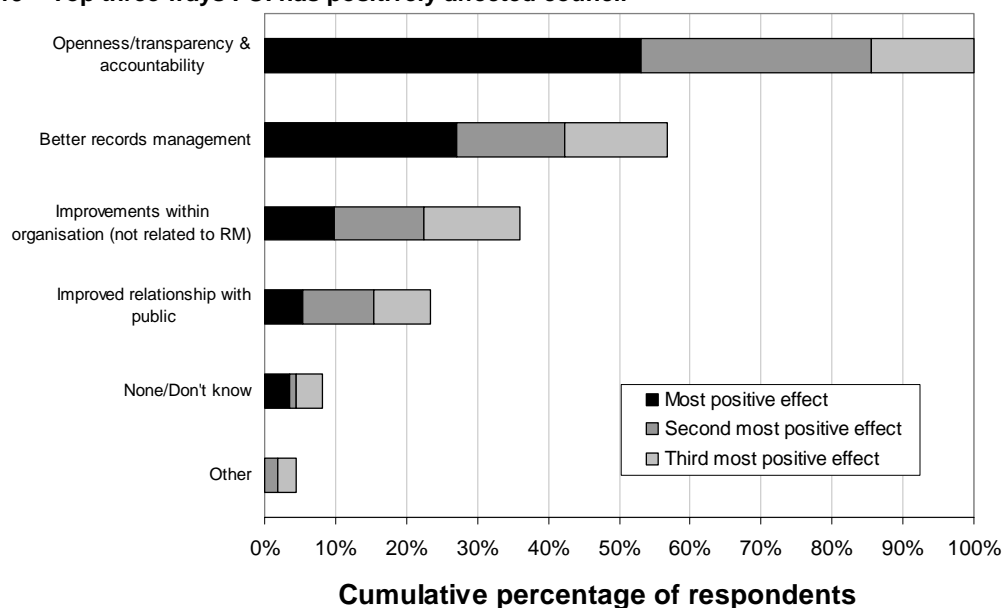
Problems with motivation, culture and attitude encompassed:

- Attitude of staff ("FOI fatigue")

- Culture change in organisation
- Departmental resistance to the diverting of resources to FOI compliance
- Senior management buy-in

Some of the difficulties with compliance changed little from 2005 to 2006. Lack of resources, which was the second most commonly mentioned problem in the first year, remained a significant problem, and had a knock-on effect in terms of delays and backlogs. Lack of commitment by staff to FOI was also a common problem last year, and remains so. However, applying exemptions and balancing the public interest, which were identified as the first and third most problematic in 2005, were not prominent among the most difficult aspects of compliance in 2006.

Figure 19 – Top three ways FOI has positively affected council



All practitioners told us that one of the top three positive effects FOI had on their organization in 2006 was a contribution to a culture of more openness and accountability, while nearly 60% reported that FOI has prompted their authority to improve their records management systems. Almost 40% stated that FOI has stimulated improvements (besides those to records management) within the organisation.

Mentions related to openness/transparency and accountability included:

- Ability to respond positively to most requests
- Better accountability
- Changing culture of secrecy
- Council becoming more transparent by publishing disclosure log
- Making information open and available

Improvements within organisation included:

- Corporate tracking has improved
- Extra training across authority
- Helped improve internal communication
- Partnership links
- Statistics from the requests show areas of concern by local residents

Improved relations with the public included:

- Indicates degree of public's interest in the council
- Better public image
- Citizens are involved more proactively
- Engagement with customers

Overall/additional comments (Q18)

'Please provide any additional comments and any specific concerns about your experiences as an FOI practitioner.'

62 of the respondents provided comments in free form. We broke these down into the categories below. A number of the comments fell into more than one category, while some were made by only one or two respondents and have been noted under 'other comments'. The comments are ranked in order of number of mentions. For example, 'problems with applicants' was mentioned by nineteen authorities and 'lack of resources' by nine.

1. Problems with applicants and requests – 27 mentions

This was one of the two largest categories of comments. However, the problems raised differed according to the type of requester. Each of the following four categories of problematic applicants or requests received between two and nine mentions:

1.1 Commercial requesters – 12 mentions

Several respondents expressed dissatisfaction with the fact that many requests come from businesses. Many practitioners feel companies are using FOI to get the councils to do research for them, and think that this is a misuse of the legislation.

- Some requests from what appear to be private individuals are, I suspect, by their nature, actually business orientated. I suspect that businesses (and politicians, pressure groups etc) are using the FOI Act more than the general public.
- We are very concerned about the use being made by commercial companies to supply answers to pro-forma questionnaires (in one case they actually asked for us to log on to a web site and fill in the questionnaire) and consider this to be very much an abuse of the legislation.
- Business requests and particularly surveys are a huge drain on resources and not really FOI. They require large amounts of work to respond to and do not further the open and accountable agenda. Surveys / fact finding requests should be a qualified exemption.
- A large proportion of time spent on FOI requests is for companies seeking information which they believe will put them in a better position to tender for contracts. This does not necessarily benefit the public.
- Businesses / companies are consuming too much time in asking for information purely to get their foot in the door with the council. Following requests officers are bombarded with information about their services (particularly I.T. consultants, HR consultants and legal personnel).
- The greatest difficulty experienced in getting colleagues to cooperate with requests is in relation to those requests from businesses seeking to use FOI for commercial advantage. This does alienate my colleagues and certainly does not endear those companies to the service areas concerned. This is perceived, rightly or wrongly, as an abuse of the principles behind FOI.

1.2 The press – 5 mentions

As above, some press activity is considered a misuse of the act, and sometimes requests from journalists are difficult to deal with.

- The misuse of the act by some journalists (but not all) and businesses does not seem to be the most appropriate way for officers to be spending their time.
- We receive a large number of requests from journalists hoping for a story. The requests are often badly formed and difficult to interpret.
- Reporters use FOI as a way to get quick stories.
- There is a specific Press Agency which makes huge use of FOI and it is sometimes hard to see obvious public benefit...

1.3 Requesters using FOI as another route for unresolved complaints – 5 mentions

- There are a minority of individuals who have been classed as vexatious in respect of on-going contact with the council. These individuals are now using their rights under FOIA to further lobby the authority. They have a particular issue in mind, and do all they can to see

a perceived wrong righted. This minority [of requesters] takes up a great deal of resources. It would be helpful if we could consider previous actions in dealing with individuals' FOI requests.

- A great deal of time is spent on requests made by people who are acting unreasonably; for example, they may be already exercising their rights through the corporate complaints procedure but further complicate matters by making multiple FOI requests to numerous officers, and then filing FOI complaints.
- It has become clear that the general public see the legislation as a way to get at the local authority when other avenues have failed to get the response they are looking for.

1.4 Problematic / difficult / complex requests – 5 mentions

- It can be very time consuming even answering trivial questions like how much do we spend on toilet roll a year. Too many questions we receive...have evidently been generated against an address database - but we have to answer them anyway.
- Main issues are around personal information and DPA.
- Many requests are for information which would be available if research is done - e.g. how many PCs do we have? There's an inventory, but no one has actually counted them. So does the council know, because it could do the count, or not? And what do we want the answer to be? Of course most real cases are more subtle or difficult than this one.
- The area concerning deceased persons that fall within the FOI Act
- Requests are more complex as users have themselves built up a better understanding of the act.

2. Management, staff, training, systems and resources – 28 mentions

This category is broad. It was often not clear in the responses whether respondents were reporting a long-term problem in the organisational culture, or a short-term situation that was currently visible to the respondent. Not all comments in this category were negative. Seven were either positive or neutral in tone, e.g. about an explanation of the policy of the authority.

- The biggest problem is still with senior management and elected members refusing to release information, without being able to justify why not. The size of our authority and lack of centralised records is a headache, and this is aggravated by lack of funding/support for EDRMS [Electronic Document and Records Management System].
- Data protection issues are not widely understood by those answering requests. FOI is not high profile so limited resources are devoted to it and staff training has been minimal.
- Not enough time or high enough position in the council to effect enough change.
- As an FOI practitioner I still find it difficult to 'sell' the concept of FOI without adequate championing within central government and the ICO and without funding being available to carry it through.
- Lack of resources, lack of support, blame culture when 20 day deadline is missed. No lead from the top.
- FOI seen by the organisation as a burden and chore. Not popular to be distributing FOI enquiries around to colleagues. Trouble getting senior management to add their weight to getting requests solved. Lack of money to spend on any helpful technology. The training available for conferences is expensive and beyond the departmental budget...Lack of staff resources to update the publication scheme.
- As the requests are spasmodic I sometimes do not have the time (I am only part-time) to cover my other duties. I believe that the FOI officer should be a dedicated officer. The authority may then gain more insight from properly analysing requests. I believe the FOI legislation is working well in this authority and most people are satisfied with the response.
- After two years of FOI it's tending to disappear off internal radar a bit and we have put in place sessions to remind staff that FOI is still running and the sort of enquiries we're receiving which will hopefully raise awareness again

Some other positive mentions:

- Generally positive about it. We have a new corporate tracking system, accessible across departments (although we are not yet recording all information comprehensively - there is a learning curve for all those involved).
- In June 2006 we implemented an electronic request handling system, which is still being tailored to our needs, especially when this involves creating reports. We are learning something new every day!
- We have a comprehensive database in place with robust 'reminder' logic, escalating requests through the management structure to ensure that all FOI requests are monitored, tracked and answered within the deadlines set. We are continually looking at how the process works and a further review is soon to take place.

3. Other comments – 7 mentions

There were a number of other comments made only by one or two respondents that did not fit into either of the broad categories. A few negative comments were made about the ICO, along similar lines:

- We have found the information commissioner's helpline not very helpful. Where we ring for advice or guidance we cannot be given specific assistance in case the matter is appealed. Providing advice at an early stage could prevent a number of cases being taken forward and the cost and time of appeals etc could be reduced. I am aware of other local authorities ringing the helpline as members of the public who have made a request and advice is provided freely. This seems unfair as in most cases local authorities only want assistance to make the correct decision.

Other sources of discontent included:

- I'd like to see the end of publication schemes and instead have disclosure logs made mandatory.
- Too many surveys like this one
- FOIA is fine on its own but the fact that there are 5 different regimes with 5 sets of rules and 5 different charging policies is an absolute ***** nightmare

Conclusions

With only two years' worth of data about local authorities' experiences complying with the FOIA 2000, it is too early to discuss trends; however, some comparison of practitioners' responses in 2005 and 2006 reveals some interesting changes from the first year to the second⁸.

The number of FOI requests made to authorities in England went up by 12,000 from 2005 to 2006. The percentage of requests that resulted in a full release of information stayed virtually the same at about 79% in both years, while the proportion of non-disclosure cases increased from 8.3% to about 10.5% in the same period. Local authorities processed requests within the statutory deadline 87% of the time, up from 85% the year before. However, internal reviews remained at a similar level with a very slight increase from 2.2% to 2.3% of all FOI requests.

Local authorities are still spending several hours on answering each request, though the amount of time has decreased from 2005. This can probably be attributed in part to an increase in the number of full-time equivalents working on FOI, as well as the fact that authorities have had another year's experience in dealing with requests. Based on the reported number of FTEs working on FOI in each council, the average across English councils in 2005 was 16.4 hours, while it was only 13.1 hours last year. However, authorities in Northern Ireland appear to have spent much more time per request – 27.4 hours. Very few authorities charged for requests last year, as in 2005, and the vast majority of those that did charged in only 5% or fewer of the cases with which they dealt.

As for FOI requesters and the information they are eager to obtain, there is almost no change from 2005 to 2006. In both years, private individuals, businesses and journalists – in that order – made

⁸ Please note that the comparisons are not precise, as information provided by Northern Ireland and Welsh authorities is included in the 2006 results, while 2005 data was provided only by English authorities.

the most requests. With the addition of a question on this year's survey about which group's requests were most time-consuming, we reinforced the evidence that these three categories of requester are responsible for the bulk of FOI compliance work carried out by local authorities. The types of information in which they are most interested (and which take the most time to answer) also appear to be roughly consistent – costs and expenses and local issues made the top three both years, though in 2006 contracts (which was not a choice on the 2005 survey) was the third, while in 2005 it was 'procedures, policy decisions and meeting minutes'. There has been no increase in the percentage of authorities that publish a disclosure log of requests online, which suggests that they either a) do not consider them important or b) do not have time to create and maintain a log, or perhaps a combination of both.

In this year's survey we asked practitioners to fill in free-form the top three problems they experienced with FOI compliance in 2006 and the top three benefits they think FOI has brought to their organisation, while last year we asked them to choose from a list. This could account for the differences in answers, though there were some similarities. In 2006 practitioners found aspects of the FOI response process to be most challenging, followed by lack of resources and time and then difficult requests and requesters. Inadequate resources were also a problem in 2005, but applying exemptions and balancing the public interest rounded out the top three that year. Whereas applying exemptions was the number one problem in 2005, it was a distant fifth in 2006. In terms of benefits, the top responses both years were greater openness/transparency, followed by better records management and internal improvements (besides records management), in that order.

The request for additional comments at the end of the survey stimulated myriad responses but of most significance was the fact that commercial FOI requests continue to be a problem – perhaps a growing one – as do requesters who use FOI to pursue grievances with the council. Practitioners are also conscious that FOI holds little importance within their organisations as a whole, and note that convincing colleagues to cooperate with requests is a challenge. However, they also seem to have more positive things to say about FOI than they did a year ago.

With this data collected from local authorities, we are able to get a sense of what FOI compliance entails for the segment of the public sector responsible for a large proportion of all requests made each year. Unfortunately, most of the data is merely descriptive and we were unable to conduct an in-depth analysis. The ability to explain the results is hindered by a lack of data – we would have obtained more in-depth answers to questions had we been able to carry out telephone interviews with some of the respondents, but lacked the resources to do so. We hope that there might be more resources to do this justice in the future.

Appendix A – Survey invitation letter

Dear FOI Officer,

First, this is not an FOI request - it is a voluntary survey, the results of which will benefit your council.

The Constitution Unit is part of the School of Public Policy at University College London and is the principal independent research body on constitutional affairs in the United Kingdom. The field of Freedom of Information and Data Protection is one of our most important fields of study and we are eager to investigate its application in local government.

Of any single group of public authorities, local councils receive the largest number of FOI requests each year. Based on two surveys of local government FOI practitioners the Constitution Unit have carried out, we estimate that 50% of FOI requests received by public authorities in 2005 (about 60,000 of 120,000) were made to local authorities. Our surveys – conducted in July 2005 and July 2006 – helped identify the number of requests made, positive effects of the legislation, and specific issues of concern to local authority FOI practitioners. After analysing the responses and drafting suggestions for best practice, we published [reports](#) that we disseminated to the public.

In our first survey in 2005 that encompassed English local authorities, seventy-one percent of those organisations that we reached responded, providing coverage of more than half of the total population of the country. We are grateful to all FOI officers who filled out those surveys. As a result of their input, we have begun building up a solid base of data on FOI at the local government level and plan to carry out this survey every year. We think that the results of these surveys could help:

- to ensure that local authorities' needs are properly taken into account when the operation of the Act is reviewed and policy changes are considered (for example, the data collected was cited by Frontier Economics in their October 2006 [report](#) on the impact of FOI);
- to identify the need for advice, guidance and training to address issues specific to local authorities;
- to provide objective information to enable individual local authorities to see how they are doing in comparison with others and inform reviews of their own systems and policies.

In order to understand the issues of most importance to local authority FOI compliance officers and teams, we would like to invite you to participate in a survey covering the whole of 2006. The survey is web-based and seeks information that we hope is readily available to you. As an incentive to participate, we will give away five £30 certificates toward any Constitution Unit publications to a random selection of authorities whose FOI officers complete the survey.

Confidentiality

Your submission will be treated in confidence. **The report and any published material will be written so that no individuals or authorities are identified.** However, we may want to publish the full list of authorities that participate.

Thank you for your help,

Sarah Holsen
Research Fellow

Appendix B – Survey

The Constitution Unit is part of the School of Public Policy at University College London and is keen to stay abreast of developments in the application of FOI at the local government level. We do this in the form of annual online surveys. This is the second annual survey we are conducting and covers the year 2006.

Approximately half of all FOI requests submitted to public organisations each year are sent to local authorities. Our previous surveys have enabled us to identify the number of requests made, positive effects of FOI legislation and specific issues of concern to local authorities. The results have helped us to understand the challenges of complying with FOI and EIRs and where future resources for FOI compliance might best be directed. It is our aim to identify FOI issues that specifically relate to local government, to ensure that the needs of local authorities are accounted for when the operation of the FOI Act is reviewed, and to provide objective information to permit local authorities to evaluate their systems and policies.

Thank you in advance for participating in our survey. Your submission will be treated in confidence and the report and any published material will be written so that individuals and authorities are not identified. We may, however, want to publish the full list of authorities who participate.

For the purposes of this survey, please use the following definition of an FOI request: *An ‘FOI request’ is a request for any information that is NOT handled as part of the organisation’s ‘business as usual’. For example, we expect requests for library opening times and informational leaflets to be considered ‘business as usual’, whereas a request for notes from the meeting that took place over the closure of the local swimming pool would be classed as an FOI request. Please include requests that fall under the Environmental Information Regulations within this definition.*

1. How many FOI and EIR requests did your authority receive during each quarter of 2006? (Please use information recorded in your tracking system or your best estimate when reporting the number of requests. Please note that Quarter 1 refers to January to March, Quarter 2 to April to June, Quarter 3 to July to September, and Quarter 4 to October to December.)

- Quarter 1
- Quarter 2
- Quarter 3
- Quarter 4

2. To the best of your knowledge, how many FOI and EIR requests resulted in FULL release of the information requested in 2006?

- Quarter 1
- Quarter 2
- Quarter 3
- Quarter 4

3. To the best of your knowledge, how many FOI and EIR requests resulted in a release of NONE of the information requested in 2006?

- Quarter 1
- Quarter 2
- Quarter 3
- Quarter 4

4. To the best of your knowledge, how many FOI and EIR requests were settled within the statutory 20-day time limit in 2006?

- Quarter 1
- Quarter 2
- Quarter 3
- Quarter 4

5. To the best of your knowledge, how many requests were subject to an internal review within your authority in 2006?

- Quarter 1
- Quarter 2
- Quarter 3
- Quarter 4

6. On average, how many full-time equivalent (FTE) staff were assigned to FOI and EIR compliance tasks in the following areas of your organisation in 2006? (Please count staff in terms of full-time equivalents. For example, one full-time person and four people at 25% time each equals two FTEs.)

- Central information team
- All other departments

7. Are the costs of FOI compliance included in your organisation's operating budget?

- Yes
- No
- I don't know

For the following questions, please provide your best estimate or guess based on your experience of dealing with FOI requests.

8. To the best of your knowledge, which were the top three categories of FOI requesters to your organisation in 2006 IN TERMS OF NUMBER OF REQUESTS? (Please select the top three from the following list and enter them below.)

- Private individuals*
- Journalists*
- Politicians (MP, local councillor, or assistant etc)*
- Academics/students*
- Campaign groups / charities*
- Local authority employees (current or former)*
- Trade unions*
- Businesses/Companies (including very small businesses)*
- Lawyers*

- Largest number of FOI requests
- Second largest number of FOI requests
- Third largest number of FOI requests

9. Using the same list of requester categories, please select the top three category of FOI requesters IN TERMS OF AMOUNT OF TIME spent on the respective group's requests.

- Most time-intensive
- Second most timeintensive
- Third most timeintensive

10. To the best of your knowledge, which were the most requested categories of information to your organisation in 2006 IN TERMS OF NUMBER OF REQUESTS?

- Costs and expenses*
- Procedures, policy decisions and meeting minutes*
- Personal data about staff member/s or other 3rd party*
- Performance measures / other statistics*
- Contracts with your organisation*
- Delivery of public services or benefits*
- Environmental information*
- Health & safety matters*
- Local issues - important to individuals (please specify)*
- Other (please specify)*

Most frequently requested
Second most frequently
Third most frequently

11. Using the same list of information categories, please select the top three categories of information IN TERMS OF AMOUNT OF TIME spent on that type of information request.

Most time-intensive
Second most time-intensive
Third most time-intensive

12. Does your authority publish its request and/or disclosure log on its web site?

Yes, in part or in full (please go to question 13)
No (please go to question 14 on the next page)

13. What information is published on the request and/or disclosure log?

Summary details of all requests received and the progress of each with dates
Selected releases of information thought to be of wider interest
Performance summary, with numbers of requests by month/quarter, refusals, appeals, conformance with timescales
Other (please specify)

14. Is your authority's policy on charging for FOI and EIR requests published on its website?

Yes
No

15. In approximately what number of cases did your organisation charge a fee for an FOI request in 2006?

16. Please fill in the top three problems you experienced with FOI/EIR compliance in 2006.

1)
2)
3)

17. Please fill in the top three ways in which you think FOI positively affected your organisation in 2006.

1)
2)
3)

18. Please provide any additional comments and any specific concerns about your experiences as an FOI practitioner in the box below:

19. Where is your authority located?

England
Wales
Northern Ireland

20. For which type of authority do you work?

London borough
Unitary council
Metropolitan council
County council
District council

21. Please provide us with the name of your organisation:

22. Would you be willing to participate in further research, including a telephone interview, about your experiences as an FOI practitioner?

Yes, in principle

No

23. Please provide us with your work email address. (*If you wish to be entered in the draw for one of five £30 vouchers toward Constitution Unit publications, you are required to provide this information. A full list of publications can be found on the Constitution Unit website.*)

24. Do you think your organisation would be willing to participate in a survey of its FOI requesters?

Yes, in principle

No

Appendix C – Breakdown of number of requests and appeals by council type

Category of council	FOI requests	Requests resulting in full release	Requests resulting in no release	Internal reviews
County Councils				
Total for 12 councils	3,792.0	2,088.0	383	107.0
Average/council	316.0	232.0	38.3	9.7
Estimated total for all 34 councils	10,744.0	7,888.0	1,302.2	330.7
London Boroughs				
Total for 12 boroughs	5094.0	2,159.0	592.0	97.0
Average/borough	424.5	308.4	74.0	12.1
Estimated total for all 33 boroughs	14,008.5	10,178.1	2,442.0	400.1
Metropolitan Councils				
Total for 9 councils	2,151.0	1,622.0	206.0	43.0
Average/council	239.0	180.2	22.9	4.8
Estimated total for all 36 councils	8,604.0	6,488.0	824	172.0
Unitary Councils (England)				
Total for 17 councils	4,895.0	3,843.0	327.0	97.0
Average/council	287.9	240.2	20.4	5.7
Estimated total for all 46 councils	13,245.3	11,048.6	940.1	262.5
District Councils (England)				
Total for 65 councils	7,035.0	5,599.0	517.0	144.0
Average/council	108.2	90.3	8.8	2.3
Estimated total for all 238 councils	25,758.9	21,492.9	2,085.5	535.5
Unitary Councils (Wales)				
Total for 6 councils	1,199	910.9	72.0	34.0
Average/council	199.8	151.8	12.0	5.7
Estimated total for all 22 councils	4,396.3	3,340.0	264.0	124.7
District Councils (Northern Ireland)				
Total for ? councils	769.0	616.0	25.0	70.0
Average/council	69.9	61.6	2.5	7.0
Estimated total for all 26 councils	1,817.6	1,601.6	65.0	182.0
All local authorities				
Total (435 authorities)	78,574.6	62,037.2	7,922.8	2,007.5
Average/authority	180.6	142.6	18.2	4.6
% of total requests		79.0	10.1	2.6

Note: Estimated totals for each council type are based upon multiplying the average per council by the total number of councils. Because the number of responding councils did not reach the level of a representative sample, this is not a scientifically reliable method of calculating the total number. However, we use it to give an idea of the numbers across local government. Please note that only in the metropolitan and unitary Welsh authority categories did a uniform number of councils respond to all four questions (9 and 6, respectively).