

How is the UK Act performing comparatively, and where will it go from here?

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Introduction

How to evaluate FOI laws?


Three pieces of research

1. An article measuring the effectiveness of the UK Act compared with the first four years elsewhere
2. A comparison of FOI and the policy process in four countries for the ICO
3. A chapter on the future of FOI and access to government information

Outline of the presentation

1. The first four years of FOI, compared
2. An overview of four regimes
3. How will the UK Act end up?

The four comparators

	<p>Australia Freedom of Information Act 1982</p>
	<p>New Zealand Official Information Act 1982</p>
	<p>Canada Access to Information Act 1983</p>
	<p>Ireland Freedom of Information Act 1997</p>

1. Comparative performance in first 4 years

Some key metrics:

- Number of requests (as percent of population)
- Rates of disclosure
- Number of appeals
- Use of executive veto

Caveats:

- Jurisdictional/geographical coverage
- Differences in access (personal files)
- Scope of the legislation
- Context of reforms

Number of requests

As percent of population and per 1000 people

	Year 1	Year 2	Year 3	Average per 1000 people
Ireland	0.10	0.31	0.37	2.6
Australia	0.15	0.24	0.26	2.1
UK (central government)	0.06	0.06	0.06	0.6
Canada	0.01	0.01	0.01	0.1

Requests released and withheld

As percent of total requests

	Full Release			Fully withheld		
	Yr 1	2	3	Yr 1	2	3
Canada (Privacy)	62	59	69	4	3	1
Australia	62	-	67	13	7	5
UK	66	62	63	18	19	20
Ireland	42	-	52	18	-	17
Canada (ATI)	39	42	37	10	9	7

External appeals

As percentage of total requests

	Year 1	Year 2	Year 3
UK	1	1	1
Australia	1	1	1
Ireland	5	-	3
Canada	9	8	9

Use of executive veto

Use in first four years

	Number of times used in first four years
Australia	48
New Zealand	14
Ireland	2
UK	1

An additional metric: political support?

- **Australia** - initially very strong but faded. Introduced fees and numerous scandals. Reinvigorated under Rudd?
- **New Zealand** - strong 'insider' legislation created by consensus
- **Canada** - never very enthusiastic but further eroded by scandals
- **Ireland** – FOI passed in final day of government. In 2003 fees introduced that cut requests by 50% and placed limitations upon access to certain documents. Opposition committed to reversing fees?
- **UK** - FOI endorsed by Brown 2007 and pro-expansion and reform BUT nervousness from MPs (Maclean Bill) and within government (veto)

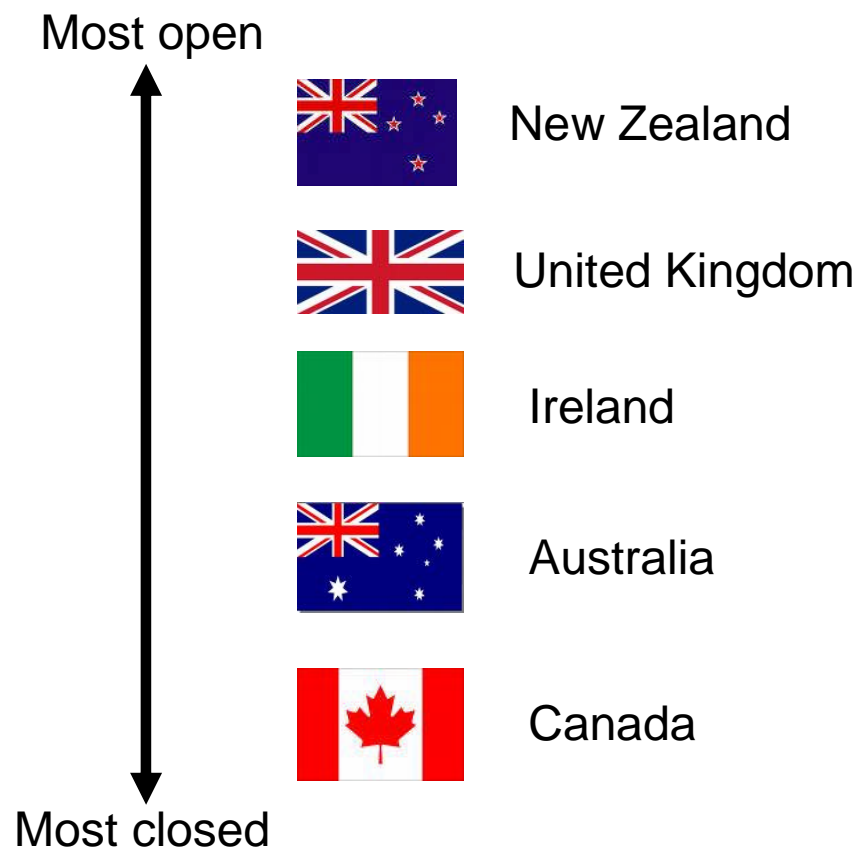
2. An overview of five regimes

- The regimes' different arrangements
- An overview and rough league table

Comparison of the regimes

	<i>Coverage</i>		<i>Enforcement</i>	<i>Appeal</i>		
	Docs or info?	Cabinet docs exempt?	Commissioner or Ombudsman?	Internal Review?	Tribunal	High Court
Australia	Docs	Class exemption	Ombudsman	•	•	•
Canada	Docs	Class exemption + wide definition	Commissioner			•
Ireland	Docs	Class exemption (10 yrs)	Commissioner			•
New Zealand	Info	Public interest test	Ombudsman			•
UK	Info	Public interest test	Commissioner	•	•	•

A rough league table



3. Where will the UK Act end up?

- Aims:
 - Apply other countries' experience to the UK
 - Help decide what types of FOI regime are possible and desirable

Four possible scenarios

Restricted access

Death by a thousand cuts

- Gradual administrative undermining, through neglect or intent
- Australia: the rise and fall of FOI

Legal trench warfare

- Restrictive legislative amendment & lawyers' paradise
- Ireland: 2003 reform

E-enabled open government

- Proactively released information dwarfs FOI disclosures. Will ICT achieve what FOI can't?
- No model. The UK?

Enforced open government

- Legislation a key driver of access to information, but friction remains
- New Zealand, but not the promised land

Liberal access

Which scenario is most likely?

Can the UK buck the downward trend?

- Reasons to be cheerful:
 - No other act introduced at a comparable time in the ‘information revolution’
 - Solid appeal system and centralised authority. Pro-FOI lobby in parliament and media make legislative restriction hard
 - Acceptance of its principles among officials
- Reasons not to be:
 - ‘Success’ of an act may lead to its restriction: a high level of use is costly
 - Clear sensitivity in government about its scope
 - There will always be skirmishes wherever the line is drawn
 - Feeling of administrative burden coupled with budgetary pressures

Conclusion

- How can we measure the effectiveness of FOI?
- What other measures might be used?
- How can we build in performance measurement into everyday monitoring?