

1 Introduction and background

1.1 The Freedom of Information (FOI) Act 2000 came fully into force in the UK in January 2005 across 100,000 public bodies, including all of local and central government. Local government remains a key tier of government, employing 2.5 million people, and accounting for a quarter of public expenditure and 10% of GDP (Wilson and Game 2006). Around 70% of all FOI requests in 2006 were to local government (Constitution Unit 2007, Ministry of Justice 2007). Unlike central government, local government had already been subject to an access regime through a range of different pieces of legislation (LGA and Constitution Unit 2004). The FOI Act provides a comprehensive right of access which builds on this earlier framework. In this study the FOI regime includes the Environmental Information Regulations 2004.

1.2 There is little empirical research on FOI in general (Egan 2003), and no systematic analysis of the benefits and disbenefits of FOI legislation, anywhere in the world (OECD 2005). There has been no empirical research on FOI and local government apart from the Constitution Unit's annual surveys of local authorities. These show that local authorities in England received an estimated 70,000 requests for information in 2006: an average of 15 requests per month per authority. 80% of requests resulted in full disclosure, and 8% in none. Private individuals, businesses and journalists were the three most common types of requester; and local government contracts, and costs and expenses the two most common types of information requested. The average time spent processing FOI requests was 13 hours per request, and the total cost estimated at £24m (Constitution Unit 2006, 2007).

1.3 The surveys provide a quantitative overview, but no qualitative sense of the impact of FOI on local government. This study aims to fill that gap. It will be the first systematic study of the objectives, benefits, and consequences of FOI upon local government. The study addresses two main research questions – first, whether the objectives of the UK FOI Act are being achieved at local level; second, how FOI has affected the working of local government. It will make an important contribution to the literature on FOI, and on the changing nature of local government.

1.4 The study will also provide an interesting comparison with the impact of FOI upon central government which we are studying in a current ESRC-funded project (2007-2009). It will use a similar methodology to obtain the views of local politicians and officials as well as FOI users and the media, helping to develop the theoretical as well as the empirical literature on FOI. The official and academic literature is sparse about the objectives of FOI. Four broad objectives were proposed by Bennett in the USA (1985) and ten suggested by James in the UK (2005). We have condensed these into six objectives for this study, which are set out in section 2.

1.5 There is much speculation and anecdote but little hard evidence about the impact of FOI. To build up an evidence base we will examine the effects of FOI on four key features of local government – political leadership, accountability, service delivery and partnership working (Wilson and Game 2006, Stoker 2007). Through our interviews with politicians and officials and local government stakeholders we will explore whether each feature is strengthened or weakened as a result of FOI.

1.6 There are two key differences compared with our study of central government. First, local government was already more open as a result of the access to meetings and papers granted by successive pieces of legislation, from the Public Bodies (Admission to

Meetings) Act 1960 through to the Local Government Act 1972, Local Government (Access to Information) Act 1985 and Local Government Act 2000. Second, local government was changed by the new political management and greater separation of powers introduced by the Local Government Act 2000. In brief, whereas before 2000 officers served all parties, were responsible to the whole council, and implemented service decisions made by multi-party committees (Widdicombe 1986), after 2000 officers are responsible to the cabinet (or mayor plus cabinet), they implement service decisions made by cabinet portfolio holders, and both are scrutinised by backbench councillors (Stoker et al, 2004 and 2007, Gains 2008, Laffin 2008). The purpose of New Labour's local government modernisation agenda (hereafter LGMA) was to promote greater transparency, accountability, public understanding and participation in local government. These objectives are all shared with FOI (see section 2). So throughout our study we will constantly be asking: "Yes, but was this the result of FOI?" We currently do that with our central government interviewees, and find it an effective way of separating out FOI effects from wider changes in the system.

Political leadership

1.7 The purpose of the LGMA was to create more effective and visible political leadership concentrated in the cabinet (or mayor). Stoker found that there was 'strong agreement' among councillors and officers that the new arrangements had created 'stronger leadership' (Stoker *et al* 2007). Does FOI help to enhance the focus on the cabinet as the new locus of decision making, and enhance the visibility of the portfolio holders as the main decision makers? Are the papers for cabinet sufficiently protected to enable full and frank discussion, or is the threat of disclosure under FOI driving the real discussion back into party group(s)? Stewart claims that the access provisions in the LG (ATI) Act 1985 succeeded in 'driving deeper underground' the 'informal discussions' upon which many decisions are made (Stewart 2000). Do the exemptions in the FOI Act, designed primarily to protect the effective working of central government, work when transposed to local government?

Accountability

1.8 The separate executive in the LGMA is meant to create clearer lines of accountability. Research suggests the LGMA has led to increased accountability, more so for senior managers than frontline staff, especially in terms of giving an account to the public; although it was less clear regarding the ability of the public to hold authorities to account (Ashworth and Skelcher 2006). Does FOI help to sharpen the accountability of the executive? What information does the cabinet routinely and proactively disclose? Do opposition and backbench councillors use FOI to get additional information from the cabinet? Do others – journalists and local residents – use FOI to hold backbench councillors to account for their community representation and scrutiny roles? What kinds of FOI requests are made? Are they for policy papers and the reasons for decisions, or are they for the cost of tea and biscuits and details of councillors' expenses?

Service delivery

1.9 Third, we will look at how FOI has affected service delivery. Alongside traditional direct service provision, local authorities increasingly contract out services, and they also have a role as regulator, licensing premises and activities, and as facilitator, offering assistance and finance to voluntary organisations. Stoker found that the new arrangements, particularly the stronger leadership and quicker decision making, have led to better service delivery (Stoker *et al* 2007). Is FOI another lever to drive up service standards? How much information on service delivery performance do councils include

in their publication schemes? And in contracting out services, does FOI hamper the tendering and contracting process, or does greater openness lead to greater competition between contractors?

Partnership working

1.10 The final feature of the LGMA is partnership working, through local strategic partnerships, local area agreements and the networks of sub-regional governance. Senior local government officials devote large amounts of time to partnership working (Gains 2008). The LGA 2000 has increased stakeholder involvement in local government and, along with the Local Government and Public Involvement in Health Act 2007 (LGPIHA) and Sustainable Communities Act 2007 (SCA), there is now an increased duty upon authorities to consult and work alongside partners and the community in developing strategies and delivering services (Stoker 2007). The question is whether FOI assists in penetrating the ‘maze of local government organisations’ and helps to remedy the ‘weakness in the accountability of local partnerships’ (Ashworth and Skelcher 2006; see also Jones 2008). Does FOI help or hinder the sharing of information between organisations which is critical to successful partnerships? Are partner organisations which are not subject to FOI, like voluntary bodies or the chamber of commerce, reluctant to share information with local authorities who might be forced to disclose? Are partnerships themselves subject to the FOI regime, or only (some of) the partner organisations?

1.11 We are particularly interested in the different categories of FOI requesters and requests. The government speaks a lot about FOI being for the ‘ordinary citizen’. If that operates anywhere, it should be at local level, helping people to access information that is relevant to their daily lives and local area. We hypothesise that even at local level, it is mainly ‘extraordinary’ people such as businesses, journalists or people pursuing particular interests or grievances who make FOI requests. And we hypothesise a distinction between ‘public interest’ and ‘private interest’ requests. Public interest requests have a representative quality, and requesters seek to disseminate the information disclosed. Private interest requesters are less likely to publish the information they obtain (eg businesses seeking information about government contracts, the largest category by subject of local government requests: Constitution Unit 2006, 2007). Hendricks (1982) found that many American FOI requests are made to pursue the private interests of individuals, groups or corporations. Hazell (1987) found the same in Australia and Canada. If that is replicated in the UK, it will require a re-evaluation of much previous theorising about the participatory role of FOI.

2 Objectives of FOI

2.1 In order to examine whether the objectives of the Act are being achieved at a local level, we will draw upon the same objectives used in our study of central government. FOI is intended to increase the transparency of public authorities; make public authorities more accountable; increase public participation; improve public understanding; improve the quality of government decision making; and improve public trust and confidence in government (Lord Falconer 2005, Falconer 2004b, Cm 3818, Lord Irvine 1998, Straw 1999). These objectives are similar to those identified overseas (Hazell 1987), and in the UK (James 2005). We are aware that these objectives were framed by central government. As part of our study we will explore whether other objectives are applicable to local government.

Greater transparency

2.2 We define transparency as greater openness and availability of government information. A unique feature of the UK FOI Act is the emphasis on proactive disclosure through publication schemes. We will study how the publication scheme sits alongside the statutory obligation in the Local Government Act 2000 for councils to publish forward plans, decision lists and advance notice of key decisions. Stoker found there to be a ‘mixed’ picture of transparency across the different types of authority; and officers ‘typically more positive than councillors’ (Stoker 2007). We will examine whether FOI has had similar mixed effects.

Increased accountability

2.3 The LGMA was intended to promote greater accountability by having a separate and identifiable executive responsible for making decisions. Stoker found that 56% of the officers asked felt the Local Government Act 2000 had made it ‘easy to find out who had made a decision’ though only 39 % of councillors and 30% of stakeholders agreed (Stoker 2007). We will investigate to what extent FOI adds to increased accountability, not only inside the council executive but also outside. Do backbench councillors ever use FOI to obtain information? And when others make FOI requests, is it primarily councillors or local government officers who are called and held to account? We will explore this particularly through the survey of local media (see 3.8), to see who gets named in local newspapers’ FOI stories.

Better public understanding of government decision making

2.4 The FOIA was about “giving people the chance to understand how government works and why [they] have reached particular decisions” (Irvine 1998). While officers feel that the LGMA has led to authorities ‘explaining their decisions more effectively’ the public do not seem to agree (Ashworth and Skelcher 2006). Through the requester survey, we will explore whether FOI requesters have achieved better understanding of local government decisions, and in what respects. Through analysis of FOI stories in the local press we will analyse how the media contribute to wider public understanding.

More effective public participation in the political process

2.5 One of the oft repeated strengths of local government is that it ‘provides more opportunities than central for people...to participate’ (Jones 2008). The LGPIHA 2007 is the latest in a series of initiatives designed to increase participation. These initiatives build upon the duty under the LGA 2000 and the SCA 2007 to develop ‘community strategies’ in consultation with civic groups and the community (Jones and Stewart 2008). The forthcoming ‘Empowerment’ White Paper will seek to further extend this process (DCLG 2007, Blears 2008). The ladder of openness and participation is our research tool to explore the contribution of FOI (see Figure 1, building on Arnstein 1969). We will ask requesters whether information obtained in response to an FOI request enabled them to participate more effectively in the political process, and in what ways. Interviews with local government officials and stakeholders will also be used to explore further the causal links (if any) between FOI and public participation. This will enable us to begin to construct a theory of how openness links to participation, and *vice versa*.

Increased public trust and confidence in government

2.6 Tony Blair suggested that a freedom of information law could help “restore people’s trust” (Blair 1996), and DCA Minister Lord Filkin argued that FOI would “help build trust and credibility” (Filkin 2003). The impact of the LGMA upon citizens’ trust appears ‘limited’, with local authorities retaining a ‘modest level of trust’ (Stoker 2007). The difficulty is establishing a causal link when other factors affect public trust and

confidence. In the survey of FOI requesters we will ask whether their trust in local government has increased as a result of their request. Through analysis of FOI stories in the press we will analyse how many are positive and how many negative, as factors influencing public trust and we will probe the issue in interviews.

Better quality of government decision making

2.7 The hypothesis is that advice and background information which is liable to be disclosed is likely to be more thorough and carefully balanced, and thus lead to better decision making (PASC 1998, 1999). This may already have happened as a result of disclosure requirements in the LG (ATI) Act 1985. We will ask councillors and officials for evidence of any further changes following the introduction of FOI.

3 Research methods

Survey of FOI requesters

3.1 This builds on the similar survey we have done of FOI requesters in central government. The questionnaire will be web-based for ease of distribution and analysis, as well as cost-effectiveness. It can be publicised on local authority websites, and attached to local authorities' responses to requests for information. It will include questions about requesters' status (private individual, business, journalist, etc); reasons for making the request; assessment of the request process; result of their request; and subsequent actions taken. We will ask about the effect of the response they receive on their understanding of local government decision-making, trust in local government, increased participation, etc. in order to probe which of the objectives are being achieved.

Surveys of local government officials and of councillors

3.2 We will continue and build upon our annual survey of local authorities on the impact of FOI (see 1.2). The survey asks about the number of FOI requests, refusal rates, staffing, categories of FOI requesters, kinds of information sought (Constitution Unit 2006, 2007). We will expand Q18 to ask how FOI has impacted upon the four key features (see 1.7 to 1.10) and to what extent FOI has or has not met its objectives (see 2.1). The survey goes to the FOI officers in almost all 387 local authorities in England. It gets a response rate of 30 %; with more follow up, this figure could be increased.

3.3 We will add to the survey by interviews in a representative sample of 15 local authorities in England: 4 metropolitan, 3 county, 4 district and 4 unitary authorities. In terms of political management we will select 12 with leader and cabinet model, 1 mayoral and 2 alternative arrangements. In terms of political balance we will aim for 3 Labour, 4 Conservative, 3 Liberal Democrat and 5 hung authorities. We will interview chief executives, portfolio holders, chief officers, legal advisers, FOI officers, non executive party leaders and councillors and scrutiny officers as well as local stakeholders.

3.4 Interview questions will focus on the objectives of FOI, and the extent to which each has been realised (section 2). We will also ask about the negative effects of FOI, eg whether it has led to less information being recorded, and less information supplied to local government (by partnership agencies or contractors). A third set of questions will explore the impact of FOI on the workings of local government, in particular the four key features identified in 1.7 to 1.10. In each case we will probe how much reported effects are the result of FOI and how much attributable to wider local government changes. We will also use the ladder of participation (Figure 1) as a tool to prompt discussion about the links between greater openness and greater participation.

3.5 We will also interview stakeholders from the authority's policy networks and client groups to cross-check the officials' and councillors' views. They will include members of civic and interest groups, partnership bodies and journalists who have regular dealings with the authority, including some who have made FOI requests.

Decisions by the Information Commissioner and Information Tribunal

3.6 Our third research method is to go through all decisions by the ICO and Information Tribunal which relate to local government. The ICO has issued 274 decision notices against different local authorities since 2005. We will analyse and code these in order to draw out conclusions on how FOI is affecting local government, and the difficulties of implementation and interpretation which have arisen.

Review of publication schemes and disclosure logs

3.7 In order to judge the level of proactive disclosure and transparency of each case study authority, we will look at its publication scheme (the guide to classes of information which it holds), and disclosure log (published information about FOI requests received). Both can be found on the authority's website. Between the case studies of the same authority type, we can code the publication schemes and compare what information the different schemes contain. We will also interview the person(s) currently in charge of each authority's publication scheme.

Analysis of media reporting of FOI stories

3.8 Journalists constitute the third largest group of requesters to local government (Constitution Unit 2005, 2006, 2007; Holsen et al 2007). We will use the Newspaper Society website, which lists circulation and websites of local free and paid newspapers by local government area, to access a representative sample of articles that mention freedom of information between 2005 to 2008 in each case study area. It is not possible to search all local newspapers, as some are free newspapers not available in an archive; but we can use the circulation figures to work out how representative our sample papers are. We will use specially tailored survey software to code articles according to whether the stories are about FOI or information obtained through the FOIA, type (e.g. editorial, news story or letter to the editor), tone (e.g. critical, positive, mixed), focus of FOI request (e.g. expenses, contracts, planning issues), and names of departments mentioned (e.g. Planning, Housing, Social Services, Education). This will enable us to identify which subjects and which departments receive most exposure through FOI, and whether the press coverage is likely to increase or decrease public understanding and public trust.

4 Outputs and Dissemination

4.1 The main outputs will be at least two articles for academic journals: one on the distinction between 'private' and 'public interest' requests, and FOI requesters being 'extraordinary citizens' (see 1.11); the other on the impact of FOI on the new local government model. We will also publish two articles in practitioner journals. On the FOI pages of our website we will publish detailed reports on the annual survey of local authorities, conference papers etc. We will present papers to both academic and practitioner conferences (PSA, LGA, CIPFA etc).

4.2 The project will be guided by an advisory group of experts on FOI and local government. The members are listed in the Communications and User Engagement Plan. The ten practitioner members will help with user engagement.