

The Impact of the Freedom of Information Act on English Local Government

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Freedom of Information Act
2000

The objectives of FOI

1. Transparency
2. Accountability
3. Better decision making
4. Public understanding of decision-making
5. Public participation
6. Trust in government

Whitehall study: which objectives have been achieved?

Objective	Has the objective been met?
Transparency	✓
Accountability	✓
Better decision making process	X
Public understanding of decision making	X
Participation	X
Trust	X

Whitehall study: paradoxes of FOI

- **FOI only works if almost nobody uses it**
- **Requesters and officials both support the principle of FOI, but deplore the practice.**
 - officials tend to see business and media requests as a “misuse” of FOI
 - Requesters tend to believe the government is hiding information, delaying and playing games with them

Whitehall study: myths of FOI

- **FOI is for the ordinary citizen**
- **FOI requests would be easy for the government to process** if the government was not so secretive
- **There would be no need for FOI requests** if government published more information proactively.
- **FOI has a chilling effect** on the quality of advice and the public record.

Whitehall study: laws of FOI

- **The media has a key influence on the impact of FOI**
- **Officials have nothing to fear from FOI**
- **FOI never settles down**
- **Both sides will game the system**
- **A few FOI requests cause most of the trouble** a few high profile cases cause disproportionate effort, media attention, public controversy and political pain.

Local government study: methods

Interviews with 15 local authorities



Online survey of FOI requesters



Analysis of articles in national, regional and local media



Commissioner and Tribunal case law



Why study FOI and local government?

- Most FOI requests are to local government and the number of requests is rising
- Local government proximity to the voter means objectives such as participation and trust may be more achievable.
- Local government has been subject to openness legislation since the 1960s
- Wider reform of local government, especially the LGA 2000, shared the aims of FOI of bringing about transparency and accountability

FOI and Local government: what we know

- Unit's surveys of LG officials show use of FOI has increased, bucking the central government trend that FOI use levels out:
 - **2005** 60,000 requests
 - **2006** 72,000
 - **2007** 80,000
 - **2008** 118,000
 - **Average by 2008 494 a year**
- (NB these are estimates only-may be much more)

Why is this?

- Those already using it are now using it more e.g. more activists, more ‘round robins’
- Increase in use with new users due to publicity (MPs’ expenses)
- Increasing professional use such as business and journalists

FOI and Local government: what we know

Performance

Information fully disclosed

- 2005: 79%
- 2006: 79%
- 2007: 73%
- 2008: 84%

Refusals to release:

- 2005: 8%
- 2006: 10.5%
- 2007: 10%
- 2008: 7%

FOI and Local government: what we know

Big issues 2005-2008

1. Financial issues
2. Planning, procedures and minutes
3. Contracts

Others that grew in importance

- Environmental
- Public services

FOI and Local government: what we know

Who is using FOI?

	Private individuals	Business	Media & journalists
2005	43%	29%	11%
2006	46%	27%	17%
2007	41%	25%	21%
2008	40%	22%	31%

1. Members of the public (but are they activists?)
2. Journalists
3. Businesses
4. NGOs

Does FOI achieve its objectives at the local level? (from 2008 survey of officials)

Objective	Agreed
Transparency	95 %
Accountability	78 %
Participation	25 %
Trust	25 %

FOI positives: Openness/transparency

Officials say:

- “Transparency: allowed public to understand why things took place”
- “Increased transparency improves reputation”
- More open about information - active consideration of publishable information”

FOI positives: Improved internal culture

- “Continued improvement in staff attitude to information sharing”
- “Improved communication between departments”
- “Makes management more aware of the consequences of decisions”

FOI positives: Others

- **Records management:** “Better recording of decisions”, “More thought given to quality of record keeping by staff”, “Changing the culture to bring about an improvement in records management”
- **Trust:** “Increases public confidence”
- **Policy Change:** “One instance where the council changed its policy (on hosting meetings in external venues) due to FOI requests”

FOI negatives: Resources- estimated resource cost of FOI

Year	Average hours per request	Cost
2005	16.4	£24 million
2006	13.1	£23 million
2007	15.3	£30 million
2008	11.6	£34 million

FOI negatives: Resources

Recurrent theme in surveys, but most prevalent in 2008

- “The rise in requests is imposing an increasing burden on all local authorities and demands increased resources at a time when public services are under great pressure.”
(Bexley)
- “...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)... I no longer believe that my staff should be spending their precious time on such spurious requests.”
(Hampshire County Council)

FOI negatives: Vexation and misuse

Recurrent problem of vexatious/border line vexatious and abuse with journalists fishing, business using for commercial advantage

- “Overuse of the Act by some local groups and media putting undue pressure on available resources”
- “Vexatious enquiries from residents of the district whose sole purpose seems to be to waste the council's time as these individuals do not like the council”

FOI negatives: Vexation and misuse continued

- “I appreciate the aims of the Act but in practice, it is used as a stick by the public and media to beat LAs [local authorities] with...This does not result in a proven increase in transparency and openness”
- Stories on expenses, biscuits or tea at meetings
- This then provokes resistance/hostility and a negative cycle?

FOI negatives: Media?

- Chief Executives' bonuses
- TPA 'Town Hall Rich list'
- 'Non-jobs' in local government and their cost (Yoga instructor, toothbrush advisor, trampoline coach etc)
- Sickness rates in social services
- Ban on use of Latin phrases in local councils

FOI negatives: Internal resistance

- “I often find myself in an difficult position and face hostility when trying to impress the need to comply with the spirit of the Act when it conflicts with senior management opinion”
- “I do not think that this council affords FOI the importance it deserves. I am often pulled away from my job to do other work and am constantly chasing departments for answers to FOI requests”

FOI and local government: possible theories...

- FOI may be used much more as a tool for political activism and participation at local level, as opposed to central government level
- How FOI works is very much shaped by its local context, particularly political support and resources, but also local events or circumstances
- FOI's success or not is heavily influenced by the wider local government reform agenda. Local government is more open, transparent and accountable and is seeking to increase information dissemination, political participation.

FOI and local government: what we don't know

- Why have requests risen so sharply?
- Who are the requesters?
- Has FOI met the same objectives at local level (e.g. local government is more trusted, easier to participate)
- What role does the media play?
- Is there a chilling effect?
- How does the context effect how FOI works?

Can you help us?

- Help us reach requesters for our requesters survey - a simple link on the website or attached to responses to FOI requests (we will aggregate and give out the data at the end of the project)
- Fill in our annual officers' survey
- Speak with us about your experience
- Have your authority be a case study

THANK YOU

Current projects

- FOI and Local Government: Aug 2009 – July 2012
- FOI and Parliament: Nov 2009 – Oct 2011

- FOI monthly updates

Contact us

- b.worthy@ucl.ac.uk

Project sites

- www.ucl.ac.uk/constitution-unit/research/foi/