Information governance, records management, and freedom of information: A study of local government authorities in England

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	In many democratic states political rhetoric gives weight to increasing public participation in and understanding of the political process; (re)-establishing public trust in government decision making; increasing transparency, openness, and accountability of public authorities; and, ultimately, improving government decision-making on behalf of citizens. Access to the public record and freedom of information (FOI) are mechanisms which help to facilitate the accountability of public authorities. Many jurisdictions have introduced legislation related to these mechanisms, and the UK government is no exception with its enactment of the Freedom of Information Act (FOIA) in 2000. University College London (UCL) ran a research project over 12 months in 2008–2009, funded by the UK Arts and Humanities Research Council. The research project examined what the impact of the UK FOIA had been on records management services in public authorities, especially local government. This article reports on some of the findings of the study. It considers how FOI compliance and records management functions are organized in local government and the role of information governance which is emerging as an umbrella for such functions. It draws some conclusions about the contributions that records management services make to the ability of local authorities to comply with the FOIA and identifies some ways in which user experience may be affected by the management of records. © 2010 Elsevier Inc. All rights reserved.

1. Introduction

The UK Freedom of Information Act (FOIA) 2000 came into force in January 2005. The Lord Chancellor's Code of Practice on the management of records (TNA, 2002; TNA & Ministry of Justice, 2009) published in compliance with FOIA (s 46), asserted that effective records management helps public authorities to meet their obligations under FOI. Together with the Data Protection Act 1998 and the *Modernising Government* agenda, FOI is a significant part of the wider government agenda to increase openness, transparency, trust, and accountability in the public sector. The impact of information policy and freedom of information on public services and the effectiveness of public authorities in meeting their obligations are significant factors in the accountability of government to its citizens and of concern to all.

University College London (UCL) ran a research project over 12 months in 2008–2009, funded by the UK Arts and Humanities Research Council. The research project examined what the impact of the UK FOIA had been on records management services in public authorities, especially in local government. More specifically, the researchers investigated how well records management services had prepared for and coped with the first three years of FOI implemen-

tation; what effect records management services have on the ability of public authorities to comply with the FOIA; and how user experience of FOI is affected by the management of records. The research sought to discover the impact of FOI and its link with records management from the three perspectives of records managers, institutional FOI policy managers, and FOI requestors and user communities.

2. Research methodology

The FOIA applies to over 115,000 public authorities; as a result, the project was only able to undertake a detailed study of one part of the public sector. The study concentrated on the FOI experience of local authorities, focusing on the southeast of England, including London. This focus provided examples of both small and large organizations, with and without dedicated records management professionals. The study built rich data which could be compared with data of other sectoral studies. Local government was chosen because weaknesses in the management of records have been noted in high profile reports, for example, *Victoria Climbie Inquiry Report* (Laming, 2003). The UK Parliament's Constitutional Affairs Select Committee, which investigated the operation of the FOIA (CASC, 2006), reported that local authorities had less support than other sectors for FOI implementation. Local authorities "rely on networks and regional groups"; unlike central government they "do not have a clearing house" and have "no hierarchy of support and advice." In addition, "local authorities are

still working on records management; the vast majority still do not have a corporate records management system." Yet local authorities deal with a high volume of FOI requests on a wide range of subjects. *Practice Recommendations*, issued by the Information Commissioner's Office, sets out the steps a particular local council should take to conform with the FOIA Code of Practice on the management of records (ICO, 2007a,b), and has exposed the risks of non-compliance.

2.1. Data collection phase I: local government officers

Following an extensive literature review (Shepherd, Stevenson, & Flinn, 2009), qualitative research methods were adopted in order to explore the issues from the perspective of the respondents based on their work context. The complexity and diversity of local government structures in the UK, as represented in the literature, suggested that the organization of FOI and records management activities in different institutional contexts would have an impact on the relationship between the two. Semi-structured interviewing was the main data collection method, which, although time consuming, has worked well in similar research (Shepherd & Ennion, 2007). Relevant topics were identified by reviewing existing resources, including the Lord Chancellor's s. 46 Records Management Code, and The National Archives' Model Action Plans and Evaluation Workbook and Methodology (TNA, 2002, 2004, 2007). Work by UCL's Constitution Unit, which addressed preparedness for FOI and by the Information Commissioner's Office (ICO), also informed the interview preparation (Amos & Simpson, 2007).

Potential interview participants were identified. Initially, it was envisaged that ten interviews would be conducted with records managers and ten with FOI policy managers. In reality it was found that in many local authorities individuals held dual responsibilities, whilst in others the roles of FOI and records management were seen in the broader context of information governance with individuals fulfilling a wide job specification. A total of 22 interviews with 27 individuals from 19 different institutions were conducted (see Table 1). One bias in the data to be acknowledged is how long those interviewed had been employed in their councils. In three cases (cases 5, 10, and 22) the interviewee had been employed in the same council for over ten years and in nine cases (cases 2, 3, 6, 11, 12, 13, 16, 19, and 21) the period of employment had been between five and ten years. These individuals had a longer-term view of before and after the implementation of the FOIA, compared with those who had been hired either to prepare for FOI (cases 1, 4, 7, 15, and 17) or to cope with FOI post-2005 (cases 8, 9, 14, 18, and 20). Interviewees' job responsibilities affected their answers: the responses given by those with purely FOI or data protection responsibilities often displayed a more generalized notion of "information," rather than of records management. The transcribed interviews were uploaded into the qualitative computer software NVivo v7 to assist data analysis.

2.2. Data collection phase II: FOI requestors

In the second part of the data collection, we envisaged running focus groups with individuals from requestor groups that had made multiple requests under FOIA, since we believed that they would have an informed perspective. From phase one of the data collection, three main groups of requestor communities were identified: *journalists* were mentioned most frequently as users of the Act (cases 2, 6, 7, 8, 9, 10, 11, 13, 16, and 18), with *political researchers*–Members of Parliament and their researchers–(cases 9, 11, 13, and 16) mentioned four times, and *campaign groups* four times (cases 5, 8, 12, and 17). These groups match those identified in other research (Amos, Dobias, Holsen, & Worthy, 2008). Representatives of the three groups were identified; however, it proved difficult to attract participants to focus groups. As a result, telephone interviews were adopted as an additional data collection strategy. Eleven interviews (nine by

telephone, two in a focus group) were held with journalists, political researchers, campaigners, a business user, and private individuals.

3. Understanding the local government context: How records management and FOI compliance are organized

The 19 local government authorities in the study reflected the diverse approaches to records management identified by the literature (Shepherd, 1994; Mander, 1989). Only five authorities had employed a records manager prior to the implementation of the FOIA in 2000, and only seven appointed a records manager afterwards. The organization of records management responsibilities was ad hoc in many, highlighting a lack of corporate approach to records. For instance, one authority undertook an audit of its records management practices in 2004 and noted:

…some interesting results in terms of levels of compliance or who had responsibility for certain records because that varied from an admin[istrative] assistant to an assistant director. So it would throw up the question of "when we have to dispose of these records, who is actually responsible? Who is signing that off? Who is doing the work?" So there was a bit of a spectrum of what were deemed to be the official responsibilities… ([Interview 13] *Principal Information Management Officer, London Borough*)

In other cases, records management had low priority and was given to temporary staff (e.g., cases 9 and 12) or to short-term consultants (e.g., cases 2 and 19).

Local authorities' organization of FOI and records management functions varied considerably. In the 19 institutions in our sample, there were almost 19 different ways of organizing these areas. In three cases, no individual had corporate records management responsibilities nor was records management a recognized corporate program (cases 2, 20, and 22). Sometimes, whilst there was no formally acknowledged records management function, individuals oversaw corporate records management alongside other duties. For example, in two instances, individuals had adopted records management because it was necessary for their role, although it was not officially in their job description:

"I looked at all the stuff that had been done on records management and recognised straight away that although my job description didn't say records management it was clear that in order to make us compliant with FOI, records management would have to be pulled in." ([Interview 17] *Information Management Officer, County Council*)

"when I went back to look at my Corporate Information Manager's job description there isn't a word of records management in there." ([Interview 15] *Corporate Information Manager, London Borough*)

In those cases where records management was identified as a discrete function there were several possible ways it could be organized. In nine of our cases, records management was linked specifically with FOI and both functions worked from the same directorate, sometimes looked after by a single individual, sometimes as part of a team (see Table 1). In others, the two were placed in separate directorates with varying degrees of interaction and interdependence between them. The designated directorate was also very varied.

As can be seen from Table 1, records management was most often found in an IT department (eight cases), followed by the more "traditional" home within archives or libraries (although in a directorate like Adults and Communities), whilst FOI was most frequently located in a legal department. These different departmental contexts may affect how records management and FOI are perceived and how well records management is delivered. For example, if FOI and records management are orientated from a legal