



Records management in English local government: the effect of Freedom of Information

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Overview of presentation

- Research context: FOI Act 2000; role of Information Commissioner's Office; local government issues
- Findings from a research study in English local authorities on FOI and records management
- Lessons for records professionals towards improving public access to information under FOI?



Research context: UK Freedom of Information (FOI) Act 2000

- fully into force in January 2005
- most important UK legislation to include records management guidance for *all* public authorities
- know what information they hold; deal within 20 days with FOI requests; disseminate information through a 'publication scheme'

Code of Practice on Records Management under s 46

“Freedom of information legislation is only as good as the quality of the records and other information to which it provides access. Such rights are of little use if reliable records are not created in the first place, if they cannot be found when needed or if the arrangements for their eventual destruction or transfer to an archives service are inadequate.”

Research context: role of the Information Commissioner's Office (ICO) example 1

Practice Recommendation against Nottingham City Council Oct 2007

- 'There is no culture of corporate information or records management in Nottingham City Council. It is not resourced as a corporate programme and does not have specific funding. Staff awareness of records management responsibilities is inconsistent.'

ICO example 2

Undertaking by the University of East Anglia to make improvements to staff training and information management 2010 (Climate Research Unit)

- All staff to be trained in FOI awareness
- University to review systems for ‘archive, storage and retrieval of emails with particular emphasis on reducing the prevalence of localised procedures and instilling a common standard of approach’.
- ‘The importance of good records management is embedded into the University information management processes, procedures and culture’

Research context: local government

- *Modernising Government* 1999 e-government target services available electronically by 2005
- how to sustain e-government: physical (people, finance and technical infrastructure) & non-physical resources (skill, plans and strategies)
- emphasis on ‘front-end’ systems (eg website) and less attention to ‘back office’ functions such as records and information management

Has FOI improved RM?

Benefits of FOI (Q15)

We asked respondents to give us the top three most positive effects of FOI on their authority in 2007. We then grouped the responses into several categories and counted the number within each category. We received 84 first choices, 65 second choices and 42 third choices. We gave a weighting of 45 to first choices, 35 to second choices and 30 to third choices, then added the weighted totals in each category and adjusted the results to percentages. The results, expressed in table form are as follows:

1. Openness, transparency and accountability	32%
2. Improvements within the organisation (not related to records management)	28%
3. Better records management, including information management	25%
4. Improved relationship with the public	11%
5. None/don't know	3%

Amos et al. 2008. *FOI 2000 and local government in 2007: The experience of local authorities in England*. London: Constitution Unit, UCL.

Research project



Arts & Humanities
Research Council

- Funded by the Arts and Humanities Research Council for a year, 2008-09
- What has been the impact of the FOIA on records management in public authorities, especially local government, in the UK?
- three perspectives: records managers, FOI policy managers, FOI requestors and user communities

Research objectives

1. How well records management services prepared for and coped with the first few years of FOI implementation
2. What contribution records management services make to the ability of public authorities to comply with the FOI Act
3. How the user experience of FOI is affected by the management of records
4. What the implications are of FOI so far for good practice in records management.

Research method

- Data collection: 22 semi-structured interviews with 27 officers responsible for FOI and/or records management in 19 local authorities in London and south east of England (county, unitary, city and London borough)
- Data collection: a focus group and 11 interviews with requestors
- Data analysis: NVIVO 7

Why improve records management?

- (Re-)organisation of staff, restructuring
- Space/accommodation
- Business efficiency
- Data security/data loss
- E-government and technology
- Transparency and access: public trust and participation

Re-structuring, reductions in office space

- most widespread issue, cited in 16 out of the 22 interviews

“The business case for records management is the property issues – getting out of expensive properties, stopping people having whole cupboards of things that are just secondary copies of committee meetings or something like that.”

*[Interview 15] Corporate Information Manager,
London Borough*

Data security, data protection, audit

- mentioned in 13 cases as having led to an evaluation of records management systems

“I do think there was a lot of work done round Data Protection. When I came here I was quite pleasantly surprised at how clued up people were on Data Protection and all the records management responsibilities”

[Interview 1] *Corporate Information Manager,
London Borough*

E-government and technology

- mentioned by six interviewees as a contributory driver for records management

“Although there has always been an obvious need for a more coherent corporate approach to records management with the Council, the FOIA now makes this a legal imperative and it will be critical to the implementation of e-government.”

[Interview 2] *London Borough*

Although not always a help to RM...

“I sort of got pushed aside because of the fact that we are going to get an EDRMS... the information governance team, which is led by an IT person rather than a records manager and so there is a bit of tension about who is responsible for what and who has the final say for what... I think IT, they look at records management when there is a problem rather than right at the beginning when they are instigating some sort of electronic system.”

[Interview 19] *Records Manager, London Borough*

Advocacy and senior management support

- Lack of senior management support hampered records management improvements

Eg no endorsement of RM policies (cases 2 and 10), FOI and records management training (cases 10 and 12), ERM strategies (case 6), establishment of publicly available disclosure logs (case 10).

- Positive senior management support enabled them

Eg RM projects being directly instigated and funded (case 15), changes proposed by information managers being facilitated (cases 5 and 17).

Advocacy and senior management support

- Information Champions set up in 8 authorities (senior managers, Information Managers, Information Officers, Records Managers)

“We set up an information champion originally and I have to say we could really see the role. The Chief Executive is very supportive.”

[Interview 17] *Information Management Officer, County Council*

FOI and records management functions

19 institutions in the study:

- 3 had no designated RM officer
- 9 put RM and FOI in same directorate
- Of these, some had 2 posts, some combined the roles, some had a team (or 2)
- 7 placed FOI and RM in separate directorates with varying degrees of interaction
- Directorates included: ICT, Libraries & Archives, Civic & Legal, Customers & Communities

People

Code of Practice “7.1 A designated member of staff of appropriate seniority should have lead responsibility for records management within the authority”

- Not the case in every council
- 8 added RM to existing posts
- Some dispersed RM responsibilities
- 2 created new RM posts

People

“...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*

People

“They [the records manager and FOI officer] were appointed in the middle of 2005 whereas I came at the end of 2005... there was a realisation that there needed to be somebody in post certainly to handle the FOI side of it, but also there was appreciation that records management plays quite a large role in that... there needs to be a Corporate Records Manager.”

[Interview 8] *Information Compliance Advisor,
London Borough*

New job titles and functional descriptions

“...information governance issues. And information governance covering the RM side and compliance and legislation and so forth.”

[Interview 1] *Corporate Information Manager,
London Borough*

People

“We’ve got this information governance group that’s been running now ... since the beginning of this year...Basically we’ve got, ... people in different departments who deal with DP and FOI and some general [data] security issues.”

[Interview 2] *Information Governance Manager,
London Borough*

RM policy statement

Code of Practice on Records Management: “6.1. An authority should have in place an overall policy statement, endorsed by top management and made readily available to staff at all levels of the organisation, on how it manages its records, including electronic records”

- 9 had no policy
- 4 had just published a policy
- 2 planned to do so soon

RM policy statement

“In terms of policies, a policy is good in terms of the audit commission. We’ve got a bit of paper to carry, to hold in the air...”

*[Interview 9] Information Governance Manager,
London Borough*

“There’s policies in place but there is not that much awareness of records management”

*[Interview 19] Archivist and Records Manager,
London Borough*

RM policy statement

“It is easy to create a records management policy...It is far harder to convince staff that they should cease filing their information locally and managing it according to their own ways and should embrace new, shared ways of working”

(S Bailey)

RM training for FOI

Code of Practice “7.2 Staff responsible for records management should have the appropriate skills and knowledge needed to achieve the aims of the records management programme.”

Variety of approaches:

- Structured, systematic RM training
- Training on request
- RM in all staff inductions
- Online, in-house, outsourced

RM training for FOI

“Interviewer: You mentioned training, was there much of a training programme when FOI was being implemented?”

X: Huge. That was down to me and the head of law. We prepared PowerPoint presentations to each directorate to senior manager. We also offered it on a rolling basis to anyone else who wanted it.

Interviewer: Was records management seen to be part of that at that time?

X: It was referred to in the training but it was left to each individual directorate to get their records in order.”

[Interview 18] *Solicitor, London Borough*

Retention and disposal of records

- 15 councils had retention schedules (4 did not)
- corporate or local?
- lack of consistency in application of retention schedules
- schedules revised or had higher profile under FOI
- 'bin it campaign' part of preparation for FOI
- schedules rarely extend to digital records

Retention and disposal

“...to be honest there isn't that much evidence that day-to-day individual business units are actually managing their records in compliance with the retention schedule.”

[Interview 10] County Archivist, County Council

“there's no dedicated roles in a lot of places to sit and weed out paper according to the retention schedules so I think that's a bit of a problem.”

*[Interview 1] Corporate Information Manager,
London Borough*

Managing digital records: who is responsible?

“Interviewer: How does that translate then for electronic record equivalents? For example, if the paper comes in what about the electronic versions sitting there on the shared drive or home document file?”

X: That’s pretty much out of my control... we do our bit to do best practice but I can’t imagine that it is very much followed.”

[Interview 12] *Freedom of Information Officer,
County Council*

Managing digital records: who is responsible?

“The hardest records are electronic because I can’t get a grip on them, I cannot get a grip on them without ICT... it’s just an ongoing battle. I mean for example, I’ve worked now twice on the management of email but no-one seems to want to pick that up and take it forward.”

[Interview 6] Records Manager, Unitary Council

Managing digital records

“the business case for our corporate EDRM system was the time it took to gather an early FOI request around contacts”

[Interview 9] *Information Governance Manager, London Borough*

Interpreting the impact: an explanation

“It’s more high profile, but the actual way we do things hasn’t changed”

[Interview 5] *Records Manager, County Council*

“...people realise there’s a need, but it’s just there’s never enough time or money to actually get good records management.”

– [Interview 11] *Records Manager, London Borough*



People or systems ?

“a lot is not stored in a records management document manager. It is still stored on servers that are unique to each directorate or unit or service so **we have to chase humans to get access to the information.**”

[Interview 4] *Senior Information Office, County Council*

People or systems?

“I think what we found in terms of FOI is that the ability to retain information is based on a person and not a system. It is the person who knows what keyword it is. It is the person that knows what the subject area is. It is the person that interprets a request. It’s the person that says ‘this department is the one that you need to go to because they had dealings over this’. So a lot of the knowledge is with the person.”

[Interview 13] *Principal Information Management Officer, London Borough*

Changing nature of the record?

Variety of responses:

- no changes to record creating practices
- staff were generally more careful and ‘more concise’ about what they wrote
- senior management ‘not writing things down’ for fear of disclosure
- FOI requests highlight data for proactive capture and release

Changing nature of the record?

“We’ve got senior managers who just don’t write anything down any more. Without any doubt they have learnt that if they put something in an email that will come back to haunt them so it’s a lot more face-to-face, things jotted down in their own jotter which you never know if it’s held or not. There is definitely this recognition that if you put ... anything else on the system you ostensibly lose ownership of that.”

[Interview 11] *Data Protection and FOI officer, London Borough*

Changing nature of the record?

“You can actually think ‘well do we need to collect this data’. Should we be suggesting to HR ‘yes do collect the data’, so there is a feedback on that as well. It can affect the kind of record keeping...It’s also identifying for me things that we should be creating.”

[Interview 17] *Information Management Officer,
County Council*

Barriers to access: what the requestors say

- Mismatch between the council's records structures and requestor's knowledge of them
- Authorities obliged to provide assistance to the requestor to frame request, but they vary in their helpfulness
- Problem of 'getting the questions right'
- Lack of dialogue between council and requestor
- Lack of knowledge of records within council

Barriers to access

- Mismatch between the council's records structures and requestor's knowledge of them

'It's awkward. In some cases different councils have different documents for the same thing'

(Requestor 1)

Barriers to access

- Authorities obliged to provide assistance to the requestor to frame request, but they vary in their helpfulness; problem of ‘getting the questions right’

“I get in touch and say ‘20 days have gone past’ and they just send me something rather than trying to assist me to narrow it down, or help me achieve what I am looking for because obviously you don’t know exactly what form things are kept in.”

[requestor 9] *Political Researcher*

Barriers to access

- Lack of dialogue between council and requestor

“..actually the problem there was not entering into a fruitful discussion with the applicant. A request was made, you have no information, you have a number of opportunities to engage and you don't do so and only when it gets to an ICO enforcement level do you magically find 1000 pages. I am sure they could have been found earlier. Was that actually a break down in records management? Well maybe. Maybe not.”

[Interview 13] *Principal Information Management Officer, London Borough*

Barriers to access

- Lack of knowledge of records within council

“I had a planning enforcement case where there was allegedly corruption and this thing had happened in 1989. It was twenty years ago and when I did FOI they came back and said that they couldn’t find the files. Then I pointed out to them they needed to go back into the archive and then they came up with a lot of files.”

[Focus Group] *Political Researcher*

Barriers to access

“The other thing, in addition to what appears to be a broad increase in the number of requests, however they are logged, the complexity has increased... a lot more detailed.”

“...we might answer a request – but the quality of what we are providing on the whole is not good because of records management. If we had better records management the quality would be better because you will be sure the document you are providing will be the latest one.”

*[Interview 15] Corporate Information Manager,
London Borough*



Lessons for records professionals towards improving public access to information under FOI

- The business case for RM: office moves, data security, e-government
- Advocacy and senior management support: use of Information Champions is one route
- Administrative relationship between FOI and records management works best when they are in same team, with different individuals having corporate responsibility for each, working together

Lessons for records professionals

- People: in practice, many different administrative relationships for FOI and RM functions
- People: no agreement on the title of the role(s) or the scope of their responsibilities
- Emergence of 'Information Governance' function
- RM policies are still needed by a few councils, but many need better RM culture
- Lots of good practice in FOI & RM training, but needs to be made sustainable
- Retention and disposal schedules have higher profile but need more systematic implementation

Lessons for records professionals

- Digital records are often used to answer FOI requests for current information, yet are poorly managed
- The role of individuals in supplying or delaying FOI responses highlights need to train and inform people, as well as develop systems
- Are there changes in record creating practices?
- Increasing knowledge of requestors and increasing complexity of requests means accurate and complete records are even more critical

Publications

- Shepherd, E. and E. Ennion (2007). "How has the implementation of the UK Freedom of Information Act 2000 affected archives and records management services?" *Records Management Journal* **17**(1): 32-51.
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- Shepherd, E., A. Stevenson and A. Flinn (2011). "Freedom of Information and records management in local government: help or hindrance?" *Information Polity: the International Journal of Governance and Democracy in the Information Age* (forthcoming)
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