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Disruptive, Dynamic and Democratic? Ten Years of FOI in the UK

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The UK's FOI Act came into force in 2005. Three linked research projects were conducted to evaluate its overall impact, and assess to what extent FOI has met its objectives across central and local government and parliament. They conclude that FOI has met its 'core' objectives, making central government more transparent and accountable. However, it has not improved decision-making, public understanding, participation or trust. Nor has FOI significantly changed how government works, despite politicians' fears of a chilling effect. The article concludes with a look at key issues that will shape the future of FOI.

Keywords: evaluation; freedom of information; impact on Whitehall; impact on local government; policy objectives; successes and failures

The truth is that the FOI Act isn't used, for the most part, by 'the people'. It's used by journalists. For political leaders, it's like saying to someone who is hitting you over the head with a stick, 'Hey, try this instead', and handing them a mallet. The information is neither sought because the journalist is curious to know, nor given to bestow knowledge on 'the people'. It's used as a weapon.

Tony Blair (2010), 516-517

The Freedom of Information Act has enhanced the UK's democratic system and made our public bodies more open, accountable and transparent. It has been a success and we do not wish to diminish its intended scope, or its effectiveness.

House of Commons Justice Select Committee (2012), 5

Introduction: FOI in context

The UK's Freedom of Information Act 2000 came into force in January 2005: its delayed implementation resulting from second thoughts on the part of Tony Blair and Alastair Campbell, who feared the political damage it might cause. Ten years on, what has been its impact on government in Britain? Has it been the panacea claimed by FOI advocates, driving greater transparency, accountability and even increased trust in government? Or has it been, as Blair and others maintain, his worst mistake, handing a new 'weapon' to the media and threatening the working of government?

The two comments above sum up the difficulties of measuring the success of the Act. A former Prime Minister sees it as one of his biggest mistakes, a misused, abused and counter-productive law, while a Parliamentary committee, from an institution heavily damaged by scandal partly initiated by FOI, sees it as a vital part of democracy.

Measuring FOI is about more than simple metrics and statistics but is also impressionistic and shaped by perceptions of key actors (Meijer 2014).

Since 2007, the Constitution Unit has studied the impact of the FOI Act on British central government (Hazell, Worthy and Glover 2010), English local government (Worthy, Bourke and Amos 2011; Worthy 2013) and Parliament (Hazell, Worthy and Bourke 2012).¹ Our studies aimed to do three things: to identify and analyse the objectives of FOI in the UK, to evaluate whether they are being achieved, and to assess the impact of FOI on the working of government.

FOI is widely assumed to be a good thing. It has become, as Birchall puts it, an ‘apparently simple solution to complex problems—such as how to fight corruption, promote trust in government, support corporate social responsibility, and foster state accountability’ (2014, 77). Many supporters hoped that FOI would help to remedy problems associated with the growing ‘democratic deficit’ and reverse declining levels of engagement, interest or trust in politics (see Hood 2010).

However, recent work has found that the effects of access to information laws are more nuanced and changeable. The idea of ‘openness’ as a central democratic good at all times over-simplifies its complex effects and influence—as well as its unpredictable consequences (Flinders 2015). Despite its growing status as a lynchpin of good governance across the world, it is also highly politicised and shaped by a complex, and sometimes contradictory, array of pressures (see Michener 2015; Berliner 2014). While transparency is conceived as a single ‘universal’ good, certain sub-types of ‘associated’ but ‘distinct’ forms exist (Hood 2010; Heald 2012; Meijer 2013; Meijer 2014; Grimmelikhuijsen and Meijer 2014). According to Meijer ‘there is no uniform...transparency but an immense variety of sorts and types’ (2013, 2). The dynamics ‘entail interactions between a variety of actors’ within differing ‘legal frameworks, in different cultural settings’ (Meijer 2013, 1). One study found FOI’s impact to be ‘highly idiographic’ and shaped by the ‘social and political contexts and specific histories of different countries’ and others have characterised it as an ‘empty signifier’ and highly malleable idea (Darch and Underwood 2010, 7; Stubbs and Snell 2014; Fenster 2015). Recent experimental research has found that transparency can have very different effects on institutions and the public depending on the topic, environment and pre-existing biases and perceptions (De Fine Licht et al 2014; Grimmelikhuijsen and Meijer 2014). The sort of transparency pursued also contains hidden and not so hidden assumptions and narratives about the state, economy and society (Birchall 2011).

Identifying the objectives of FOI

The literature on transparency connects a whole range of potential political, economic and even social benefits with increased information (see Hood 2006; Heald 2012; Meijer 2014). Our projects narrowed down the many competing objectives to the six most frequently mentioned by those supporting the law:

- increased openness and transparency
- increased accountability
- improved decision-making in government

¹ ESRC grant RES-062-23-0164 (Impact of FOI on central government), RES-062-23-18748 (FOI and local government), Leverhulme Trust grant F/07 134/CO (FOI and Parliament).

- better public understanding of government decision-making
- increased participation
- increased public trust in government.

Drawing on the transparency literature (Hood 2006; 2010; Heald 2012), we divided the objectives into two tiers. Greater transparency and accountability were considered the core objectives of FOI, and the other four were secondary objectives which would flow from them.

We then sought to measure each of these objectives using a battery of five research methods, to draw upon the views of all the main participants, including officials, requesters and the media. We also examined the possible downsides of FOI, and the threat it might pose to the proper functioning of government. In the UK and elsewhere fears had been expressed that FOI would have a negative impact, undermining Cabinet confidentiality or civil service neutrality (Justice Committee 2012).

The main threat to effective government is rooted in the claim that FOI might have a ‘chilling effect’, with the fear of disclosure leading to less information being communicated and recorded (Hood 2007). Tony Blair, among others, has argued that it had a negative impact upon decision-making, explaining in an interview how FOI was

...not practical for government...if you are trying to take a difficult decision and you're weighing up the pros and cons, you have frank conversations...if those conversations then are put out in a published form ...you are going to be very cautious (Guardian 1/9/2010)

Such caution could, it is claimed, have damaging effects on the quality of government decision making.

Research Methods

Evaluating the impact of FOI requires multiple methods, combining quantitative and qualitative approaches. It involves mapping use, through requests made, alongside more intangible changes to culture or behaviour (Meijer 2013). Studies have sought to measure the impact in numerous ways, from statistical analysis to design experiments (see Hazell and Worthy 2010; Michener 2015a).

Our research used five main methods: analysis of official literature, interviews, an online survey of FOI requesters, analysis of press articles using FOI, and analysis of FOI case law. We examined ministerial speeches and statements to identify the objectives of FOI, while reading the annual reports and statistics from the Information Commissioner and Ministry of Justice to learn about its impact, as well as the evaluative reports by government and Parliament (MOJ 2011; Justice Committee 2012).

Interviews were conducted with 56 officials in eight British central government departments; 90 officials and others across 16 local authorities; 30 MPs, peers and

officials at Westminster; and over 50 journalists, requesters, campaigners and other stakeholders. An online survey of FOI requesters was created which gained the views of 200 requesters in total, half from local government and half from central government. This was backed up by interviews and, in the case of local government, analysis of 300 randomly sampled FOI requests.

The media are central to any well-functioning FOI regime (Hayes 2009). As less than 1 in 1000 people uses FOI the media are the primary source of information disclosed under FOI. We analysed a large sample of articles in the national, regional and local press that used FOI. We took a 20 per cent sample of FOI stories in the national press (1114 articles) and a sample of 1,500 articles covering local government from the different levels of press in the UK. We also interviewed journalists who use FOI. This helped provide a richer picture of how the law fits within the wider news values that govern its use. We also analysed case law emerging out of the appeal system, from the Information Commissioner and Tribunal.

Our research fitted with other attempts to map parts of the FOI system, including the impact at the local level in England and Scotland (Chapman and Hunt 2010: Wilson and Richter 2013: Burt and Taylor 2010: John et al 2015) and specific use by groups such as journalists (Hayes 2009: Burgess 2015), NGOs (Spence 2009) or MPs (Worthy 2014). The Act has also been subject to scrutiny by the Ministry of Justice (2011) and post-legislative scrutiny by a House of Commons Select Committee (2012). Other work has also mapped the effect of particular FOI related events, such as the MPs' expenses scandal of 2009 (see Hudson 2014).

Requests and Requesters

The key driver of any FOI regime are the requests, and the question of who uses FOI is thus crucial (Meijer et al 2012). A key problem underlying all FOI research is lack of knowledge about requesters and their motivations.

As table 1 shows, in terms of numbers the UK has a relatively high use of FOI, rising steadily across central government by around 5 % a year from 30,000 in 2005 before seemingly plateauing and then slightly dropping to 46,000 by 2014 and rising again in 2015 (IfG 2015: IfG 2015a: Cabinet Office 2015). Use is heavily orientated towards local government, with 70-80% of requests, or nearly four in every five, made to local councils, in excess of 200,000 per year (Worthy 2013). Under the separate Scottish FOI regime the Scottish Information Commissioner similarly spoke of how 'the real worth of freedom of information [is] to be found in the pages of the local rather than the national newspaper' (Dunion 2011, 458). Parliament has also experienced rising request numbers. As well as increasing in number, requests become more complex over time and appear to come in 'waves' around particular media issues, with coverage becoming 'self-generating' and attracting further interest (Justice Committee 2012).

Table 1: Numbers of requests to central and local government in the UK 2005-2014

Year	Local government	Central government
2005	60,000	25,000
2006	72,000	30,000
2007	80,000	33,000
2008	118,000	35,000
2009	165,000	40,000
2010	197,000	43,000
2011	n/a	47,000
2012	n/a	49,000
2013	n/a	52,000
2014	n/a	46,000

(Source MOJ 2012a, 2014, IFG 2015 and Constitution Unit 2010)

Meijer et al (2012) argue that, far from there a being a ‘general’ FOI requester, users are a ‘diverse population [with] varied capacities and interests’. As table 2 below shows, estimates of requester types to central and local government from FOI officers supports this idea (see Hazell et al 2010; Worthy et al 2011). They can be characterised as a small ‘core’ of users, mixing activists, journalists and NGOs, with looser, peripheral groups of the curious and personally engaged. Snapshots of requesters to higher education institutions, hospitals and local government point to similarly diverse patterns (see MOJ 2011; Richter and Wilson 2013). This is reflected in other FOI regimes from Brazil to India (see Michener and Worthy 2015).

Table 2: Top four requesters by type to central and local government

Requester	Local Government (%)	Central Government (%)
Public	37	39

Journalist	33	8
Business	22	8
Academics and researchers	1-2	13

The public emerge as the largest single category, but do not constitute a majority. For the core group, FOI tends to be used by those already engaged (Worthy 2010). The former Scottish Information Commissioner argues such people act as a vanguard of FOI innovators (Dunion 2011). For the looser, peripheral public group, requests generally involve matters of private interest rather than wider political issues, focusing on specialised local or personal issues - waste, street fixing, tax and permits - that go ‘under the radar’. This is especially the case at local government level: analysis of a small sample of 300 FOI requests found 55% were specific, with a focus on a single issue/event/location, and 20% very specific to a particular incident or place (see Worthy et al 2011, 37). FOI is thus, locally, more of a personal or ‘micro-political’ tool: about holes in roads and refuse collection.

Another significant group are journalists, who have a large influence because their requests often become press stories and they work to innovate and defend the law against change (Hayes 2009). Despite Blair’s complaints, the journalists who regularly use FOI appear small in number, as the Act’s 20 day limit for responding to requests doesn’t fit with tight media deadlines (Burgess 2015). Business requesters constitute nearly a third of requests at local government level, covering tenders, equipment costs and contract details and are felt by some to run against the ‘spirit’ of the law. A very small group of parliamentarians regularly deploy FOI as part of their ‘armoury’ of weapons to hold government to account (Worthy 2014). Like journalists, their requests generate disproportionate attention and considerable impact. Since 2005 MPs’ FOI requests have opened up information about visitors to the Prime Minister’s residence, NHS reforms and, perhaps most importantly, extraordinary rendition (Worthy 2014).

Has FOI achieved its objectives?

Of the six objectives of FOI, the core objectives of greater transparency and accountability were achieved. But we found very little evidence that FOI had delivered the secondary objectives of improved decision making, better public understanding, greater public participation and increased trust, in central government or in Parliament; and the evidence in local government was not much stronger. With hindsight we can see that in relation to the more transformational secondary objectives, FOI was oversold.

Transparency and Accountability

FOI has **increased transparency**. The Justice Committee’s post-legislative scrutiny concluded that ‘The Act has contributed to a culture of greater openness across public authorities ... We welcome the efforts made by many public officials not only to implement the Act but to work with the spirit of FOI to achieve greater openness’ (2012). All the evidence showed that the amount of information released has increased across a vast range of subjects from nuclear convoys to Ministerial gifts, and from parking fines to councillors’ expenses. It may have also led to increasingly

open cultures within organisations. The exact impact varied as local government was already fairly open and parts of central government less so. Some Whitehall departments still struggle due to senior attitudes or simply the nature of the information they deal with. This increased openness was in spite of the fact that the publication schemes required by the FOI Act were widely perceived to be a failure, as few people used them and they quickly became superseded by internet search engines. FOI was assisted by a range of other drivers towards openness, particularly the information revolution, which continues to enhance pro-active disclosure. The then government agreed that the 'Act has contributed to a culture of greater openness across public authorities' (Justice Committee 2012, 4).

Similarly, our interviews contained plenty of evidence and examples to show that FOI has **increased accountability**, though not to the same extent. It has been used by the media, MPs and campaigners to make government more accountable. In 2009-2010 the case of MPs' expenses contributed, as part of a wider chain of accountability, to dozens of MPs stepping down and, in 2012, requests led to the mass resignation of an entire Parish council in Walberwick in Sussex (BBC 2013). But the extent to which FOI can be used to increase accountability on a more day to day level is dependent on whether other actors (the media, NGOs etc) are willing and able to make use of it. FOI is frequently used alongside other tools of accountability, including Parliament and the media and has proved, in general, more effective as part of a process of building a larger picture, or putting together pieces of a jigsaw as in the case of extraordinary rendition, or a nationwide campaign against library closures (Worthy 2014).

Improved decision-making, understanding, participation and trust

There was little evidence that **FOI improved government decision-making**. The vast majority of interviewees felt that FOI had no positive impact on any of the numerous facets of decision-making, whether the quality of advice, quality of records, evidence used in making decisions or relations with third parties. The minority who felt it had made a difference focused upon very small alterations, such as 'inappropriate' comments being removed from notes or minutes and a slight 'disciplining effect' also seen elsewhere (Richter and Wilson 2013).

The Act has had little impact upon **public understanding of government decision-making**. Few requesters use the Act to access papers about decision-making, and newspapers rarely report disclosures that do so. FOI requests are frequently seeking facts rather than information behind the policy process. There was a general perception that most policy papers are well protected by exemptions (a perception belied by the decisions of the Information Commissioner: Hazell and Busfield-Burch 2011). Nevertheless, despite the reality, governments are hyper-sensitive. Successive UK governments have used their fallback veto power on seven occasions to withhold information (House of Commons 2014). Though relatively restrained by international comparison, the blocking of information on key policy areas such as Scottish devolution, HS2 and correspondence between Ministers and the heir to the throne is evidence of continued nervousness (Justice Committee 2012). The 2015 Supreme Court judgement ordering disclosure of Prince Charles's 'spider memos' has left considerable uncertainty, and fear, over the continued viability and protection offered by the veto. An independent commission chaired by Lord Burns was asked in 2015 to

look into how well protected the decision making process was (Independent Commission 2015).

There is little evidence that **public participation** has increased as a result of FOI. Such evidence as exists suggests that users were a mix of a core of the already participating and wider groups interested in micro-politics. So they were either already engaged, or not interested in participation. Officials agreed with this picture of requesters though the Justice Committee pointed to some instances of it happening (2012). Nor has there been significant indirect shifts. Despite media claims, the MPs' expenses revelations of 2009 did not lead to any an 'anti-expenses' general election in 2010 or any substantial change in voting patterns, in part because the electorate didn't act on the information, and because the electoral system was not conducive to such forensic use (Hudson 2014: Pattie and Johnston 2012: Vivyan, Wagner, and Tarlov 2014).

Finally, **trust** has not been increased by FOI. Alongside transparency and accountability, FOI, like much of New Labour's constitutional reform agenda, was intended to improve trust and legitimacy (Bromley et al 2002). This is in spite of growing scepticism that increased openness equals increased trust (De Fine Licht et al 2014). Despite FOI trust in politicians to tell the truth or pursue the national interest has fluctuated around a low to very low base between 2005 and 2015 with a particular drop during the MPs' expenses scandal (National Centre for Social Research 2015). A series of tracker surveys between 2005 and 2010 by the MOJ found that 'respondents tend to disagree that public authorities are open and trustworthy' (2010).

The reasons for this are the context in which FOI exists, and it is for this reason the Coalition government concluded that improving trust may not have been an entirely 'realistic' objective of the Act (Justice Committee 2012, 6). Public perceptions are influenced by the minority of FOI stories that achieve prominence that involve controversy, resistance or apparently secretive behaviour that often fits with the 'negativity bias' seen in reporting and public attitudes in the UK, a very low trust political system (Roberts 2005: Flinders 2015). FOI is shaped by pre-existing attitudes such as negativity or low levels of trust. Indeed, the often repeated 'decline in trust' thesis is itself not reflective of reality, with few members of the public ever trusting politicians (Van De Walle et al 2008). The nuances around trust can be seen in the MPs' expenses scandal, triggered in part by an FOI request. The corruption revealed was a confirmation of the public's rather poor view of its politicians, rather than a trust eroding revelation (Worthy 2014).

Measuring trust itself is highly problematic as judgment is frequently complicated by perceptions, heuristics and causality (Whiteley et al 2013). The issue also challenges one of the major assumptions underlying transparency: that we are rationally influenced by what is released. It is not clear whether or how voters are influenced by available information (Bauhr and Grimes 2014). Experiments point to voters having systematic negativity biases and inclinations to focus on poor performance and ignore positive achievements (Oliver and Moseley 2014: Boyne et al 2009).

Impact of FOI on the functioning of British central government

If FOI has not realised its proponents' more ambitious objectives, neither has it realised its opponents' worst fears. British central government had real concerns that FOI would prejudice the proper working of government, by undermining collective Cabinet responsibility and ministerial accountability to Parliament. They also feared that civil servants would be less willing to give free and frank advice, and civil service neutrality would be threatened if civil service advice was exposed.

In practice none of these fears have been realised. Officials were all agreed that FOI has not significantly affected the way British central government works. The constitutional conventions that FOI was thought to threaten remain broadly intact. Civil servants are no more or less anonymous or impartial. Ministerial accountability to Parliament is barely affected. Civil servants are not required to advocate or defend policies publicly, because it is ministers who deal with the consequences of FOI disclosures, not officials.

Despite this, Ministers are concerned about the impact of FOI on Cabinet, as demonstrated by the government veto to prevent disclosure of cabinet minutes. In 2010 and in 2015 there was discussion around excluding Cabinet documents entirely, as is the case in Canada, but this was later rejected. As a result no Cabinet discussions have so far been disclosed. Leaks and briefings do much more than FOI to reveal differences of opinion in Cabinet.

The Chilling Effect

Tony Blair's Chief of Staff Jonathan Powell said FOI had led to a 'reduction in the amount of confidential work done on paper' (2010, 198). One Former Cabinet Secretary Gus O'Donnell also claimed it has 'hamstrung' government, though when pressed he could only offer isolated examples - two hypothetical and one based on the coalition negotiations (Justice Committee 2012). O'Donnell's successor as Cabinet Secretary Jeremy Heywood agreed that FOI was 'sand in the machine' and that 'there are some chilling effects, there's no doubt about it whatsoever' (IfG 2015b).

FOI has not caused a 'chilling effect' on frank advice and deliberation, or on the quality of government records. Other research on the subject points in different directions and to different conclusions (Badgley et al 2003; Gilbert 2000). The myth persists, but convincing evidence proved hard to find. There was no evidence of any decline in the quality of official advice. Ministers may resort to 'sofa government', and there is deterioration in the quality of government records; but there is no evidence to link this to FOI. Sofa government results from ministerial preferences and behaviour. The deterioration in government records results from starving the record keeping function of resources. The majority of central and local government officials were more fearful of the consequences of not having a record rather than of a record being released. Many pointed to general shifts in the way decisions are made and use of electronic technology as the source of changed records, rather than FOI.

Given so few specific FOI examples, we concluded the chilling effect to be a myth, albeit a pervasive one as Tony Blair's comments show. Despite complaints from high level officials, the Justice Committee 'was not able to conclude, with any certainty, that a chilling effect has resulted from the FOI Act' and took the view that current protections in the Act were sufficient (2012, 75). Research also points to FOI

improving and professionalising records through a ‘discipline effect’ (see Richter and Wilson 2013). An Irish local government survey was similarly divided: it found 30 per cent of local officials claimed a chilling effect and just fewer than 50 per cent denied it (McDonagh 2010, 11). One possibility, however, is that the myth itself has a powerful signalling effect on bureaucracies. Despite the lack of evidence, the myth may be self-fulfilling, leading to behaviour change and fear each time it is repeated.

‘Iron laws’ of FOI?

Our findings enabled us to sketch out some potential laws or ‘maxims’ of FOI, based upon our conclusions and knowledge of FOI regimes elsewhere (Hazell 1989, Gillis 1998, White 2006). The ‘iron laws’ of FOI may include the following:

- **FOI never settles down.** In terms of bureaucratic routine and a body of case law, FOI does begin to settle down after the early years. But at a wider political level it never does and conflict is ongoing.
- **A few FOI requests cause most of the trouble.** The Pareto principle operates in FOI, as in other fields of policy. In the UK and elsewhere (e.g. White 2007 on New Zealand), a few high profile cases cause disproportionate effort, media attention, public controversy and political pain.
- **Officials have nothing to fear from FOI**, save for the extra burden on resources, which is all the more difficult to bear at a time of staffing and public expenditure restraint.
- **Political support is crucial** and the attitudes of senior politicians and officials are key in helping to create, or undermine, a culture of openness.

Paradoxes and myths of FOI

The study also highlighted a selection of paradoxes about how FOI operates

- **FOI only works if almost nobody uses it.** Less than one person per thousand makes FOI requests in the UK. What is less noted is that if usage increased to two people per thousand, the system would collapse.
- **Requesters and officials both support the principle of greater openness, but deplore the practice.** Both requesters and officials support the principles of FOI, but find FOI very cumbersome and legalistic in practice.

And the study challenged some of the more powerful myths about FOI, given credence by politicians both in the UK and in other FOI regimes.

- **FOI is for the ordinary citizen.** FOI is not much used by ordinary citizens. By definition FOI requesters are **extraordinary**: they represent at most one in a thousand of the population. Moreover, many are activists or professionals rather than the ‘person in the street’.
- **FOI requests would be easy for the government to process**, if only it wasn’t so secretive. This is a common misperception amongst requesters. They don’t

understand the difficulties faced by government in finding the information in the first place, in trawling through it for exemptions, and consulting third parties.

- **There would be no need for FOI requests** if government published more information proactively. This belief is also shared on both sides; but it is very difficult to anticipate what requesters will want, especially since many are pursuing private interests not shared by others. This is also supported from some of our findings from local government (Worthy 2011).

Future Issues for FOI in the UK

So what issues may shape how FOI develops in the future? Below are some of the key influences on the future trajectory of FOI in the UK.

Changes to the Law

FOI leads to ‘fighting on the borders’ between supporters seeking to strengthen the law and opponents seeking retrenchment. In its first decade FOI has shifted and changed in a number of ways, both extending and contracting. The Act has been broadened to cover a number of new bodies, including academy schools, free schools and exam boards. In April 2015 it was extended, owing to a change in accountancy designation, to cover Network Rail and in May 2015 Home Secretary committed to extending the Act to the Police Federation. As well as covering new bodies, the law was also amended to incorporate datasets and, under the Brown government, the Public Records Act was amended to shorten the closure of records from 30 to 20 years (Allan 2014). Outside of the purview of the Act, the UK Supreme Court recently ruled on separate common law rights to access information (*Kennedy v the Charity Commission*, [2014] UKSC 20).

Yet there have been repeated attempts to restrict the Act, including an attempt to introduce application fees in 2006, to remove Parliament from the scope of FOI via a Private Members’ Bill in 2007-08, to exclude Cabinet papers, and discussion of deterring ‘industrial users’ between 2012 and 2013. All failed amid strong opposition in Parliament and the media. Only one change, with considerable less publicity, was successfully made in 2010 when the Monarch and heir to the throne were removed from the scope of the Act. However, a request by a Guardian journalist to see pre-2010 correspondence between the Prince of Wales and government departments was eventually upheld by the Supreme Court after a six year court battle (*R (Evans) v Attorney General*, [2015] UKSC 21). The publication in May 2015 led the government to suggest changes to the veto power and to set up the 2015 Independent Commission to examine the veto, the impact of FOI on decision-making and the potential burden of the Act.

The Commission and its remit generated considerable controversy. Its call for evidence received 30,000 submissions and generated criticism from civil society, the church and across the media including the Guardian, Daily Telegraph and Daily Mail, with a personal editorial from the head of Associated Press attacking any attempt to cut back on FOI (Daily Mail 1/12/2015; Daily Mail 10/12/2015). Opposition MPs reacted by forming of a cross-party counter commission in December 2015

championing the expansion of FOI, and there was vocal opposition from within the Conservative party itself (Guardian 30 November 2015).

Future struggle is almost certain to focus on extending FOI to private bodies working on behalf of public authorities. This change has been previously discussed at length in the UK between 2007 and 2009 and under the Scottish FOI Act on two occasions - resulting in limited extension to leisure trusts in 2012 with possible further coverage of housing associations and private prisons mooted in 2015. In parallel, private utility companies look to be covered by FOI's sister legislation the Environmental Information Regulations [EIR] while the government is pushing ahead with the use of FOI clauses in procurement contracts, as a lesser option to extending the Act to cover private providers (Act Now 2015: Cabinet Office 2013).

There is an ongoing debate about how much FOI 'costs', also part of the FOI Commission's investigation, and a concurrent consultation on whether to introduce a £100 fee for the second level of appeals to the Tribunal. Costs are often discussed within the context of whether the Act is being 'abused' by the media or troublemakers, and a number of submissions to the Independent Commission complained of the resource burden (Daily Telegraph 9/12/2015). There appears to be some support for some form of charging from officials themselves (Civil Service World 2/11/2015). Methodologically however it is almost impossible to obtain a precise figure on the cost of FOI. Estimated costs per request range from £160 (MoJ 2011) to £255 with internal studies by public bodies putting costs as low as £36 and £19 (Frontier Economics 2006: Worthy et al 2011).

Technology

Freedom of Information is greatly assisted by technology and the UK saw the development of mySociety's public request portal *whatdotheyknow.com*, now copied around the world and accounting for 10 % of all requests made (Bailur and Longley 2014).

More importantly, the coalition government's transparency agenda was designed to sit alongside, if not supersede, FOI. The agenda covers a range of legal changes, experiments and innovations from the development of the UK data.gov.uk portal to the publication of local and central spending data, the creation of online crime maps and crowd-sourcing platforms (Worthy 2015). One study described the overall effect as 'disappointing' so far, as successive governments lacked commitment and will to experiment while many of the tools are poorly designed (Moss and Coleman 2014).

A study of one of the flagship reforms, the publishing of local government spending data over £500, found the impact to be more complex, unpredictable and political than the often optimistic narrative (Worthy 2015). Public use of the data appeared low, though the data could suddenly, but unpredictably, open up spending in different areas. Local authorities had very different views about publishing their spending data - some saw it as an opportunity for experiments while others viewed it as window dressing designed by central government to 'expose' local government as 'wasteful' (Worthy 2015).

The two transparency reforms may feed off each other. Yet the relationship between Open Data and FOI is complex and shifting (Yu and Robinson 2012). The conflation of Open Data, fundamentally about re-use determined by the government, with FOI, about legally mandated access blurs a crucial distinction between rights based, enforceable access and discretionary, government controlled release. The Scottish Information Commissioner warned that Open Data is ‘not a substitute for freedom of information’ (Civil Service World 7/12/2015).

Political support

A final crucial area for the future of FOI is that of political support. FOI embodies a paradox in that it requires endorsement from politicians, exactly those most likely to see the downsides. As well as Blair’s high profile attack, David Cameron, while a supporter of transparency more generally, spoke of how FOI can ‘occasionally fur up the arteries of government’ (BBC 14 March 2012). The danger is that such negativity may encourage poor behaviour and lead to a small ‘anti-FOI’ group at the very top of government (BBC 14 March 2012).

In part the unhappiness is due to a politician’s natural dislike of ‘surprises’ amid a growing emphasis on control of political communications. As seen in the UK, FOI can often cause embarrassments and scandal, generating continual uncertainty while the long term benefits are more diffuse. The difficulty for politicians is also about how FOI is encountered: senior politicians and officials only ever see a few requests, often the most sensitive or most potentially damaging and often from journalists. They thus get a very narrow, and negative, view of what requests are received and are prone to view FOI as a ‘problem’ and see it as ‘abused’ by the media. The danger is that these views can then percolate more widely through the institution. Political opposition or disinterest, as seen in Ireland or Australia, can lead to internal resistance, neglect or loss of resources with a consequent ‘stagnation’ of FOI systems (Roberts 2012). It can also lead to amendments, as seen in Ireland where an up front application fee was introduced.

The Requester

FOI is user driven and dynamic, shaped by those who use it (Michener and Worthy 2015). As White (2007) points out only a small percentage of requests ever cause a problem but it is this small percentage that frequently attracts media and political attention. Underneath the high profile requests, FOI is used for ‘private’ matters of personal interest to the requester, a ‘micro-political’ use that is often hidden and unpredictable. FOI has opened up obviously controversial and high profile areas, such as Iraq, but has also had an effect on a whole series of institutions from the Monarchy to the smallest parish council. This pattern of chaotic and unpredictable use matches other innovations such as e-petitions, where issues ‘bubble up’ suddenly from below (Hale et al 2014). Requesters and the direction and impact of what they ask for creates uncertainty and unpredictability across political systems.

Conclusion

FOI ‘tells a transformative narrative’ as ‘transparency enables – and, indeed forces [a] virtuous chain of events’ towards more accountable and democratic government

(2015, 151). FOI has made British government more transparent and increased accountability. FOI's very unpredictability may be a powerful force for enforcing behaviour by anticipated reactions (Prat 2006).

Its deeper impact on democracy is less clear. This is not because FOI has failed but simply because shifting levels of participation and public trust, are complex and FOI alone is unlikely to make a difference. If it hasn't realised all its supporters' hopes, it has not realised the fears of others. It has not had any significant impact on the decision-making process or some of the key constitutional conventions. Nor does it appear to have led to a chilling effect.

One of the difficulties with FOI is that it is many things simultaneously- a tool of democratic empowerment, a human right, and an everyday grievance mechanism (Birkinshaw 2006). It is dynamic, shaped by how it is used by diverse user groups. FOI can be best seen as part of a wider political ecosystem of formal and informal mechanisms designed to scrutinise government and hold them accountable, what Keane calls 'Monitory Democracy' (2009). FOI sits alongside old accountability mechanisms, such as the media and Parliament, and new ones, such as Open Data and digital activism. It is now part of a shifting transparency ecosystem disrupting established agendas and generating uncertainty (Kreimer 2008).

So where will it go in the future? Meijer cites Dror's characterisation of transparency as a pharmacon: 'it heals in correct doses and kills when the doses are too high' (2014, 516). However, FOI requires use to flourish and, more problematically, it requires support from those very politicians most at risk from FOI exposure.

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