

## **DLM Forum 5-7 October 2005, Budapest**

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### **Freedom of Information and records management in the UK: what has been the impact so far?**

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#### **Introduction**

The UK Freedom of Information Act (FOI) 2000 came fully into force on 1 January 2005.<sup>1</sup> The Act imposes significant duties and responsibilities on public authorities to give access to the information which they hold. To achieve this public authorities need to know what information they have, manage their information effectively, have a suitable infrastructure in place to deal expeditiously with requests under FOI and disseminate information through a publication scheme.<sup>2</sup> Together with the Data Protection Act 1998,<sup>3</sup> which grants individuals rights over personal information, and the Modernising Government agenda, which set a target of 2004 for central government departments to store and manage digital records digitally,<sup>4</sup> FOI is a significant part of the wider government agenda to increase openness, transparency, trust and accountability in the public sector.

The UK FOI Act only provides for access to information, not the actual records that 'provide evidence of an activity'.<sup>5</sup> Although in practice many organisations give access to or provide copies of original records when answering requests, they are not required to do so. The Act is unusual in that it is fully retrospective and operates

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<sup>1</sup> UK. Laws, Statutes etc. *Freedom of Information Act 2000* available at <http://www.legislation.hmso.gov.uk/acts/acts2000/20000036.htm>. The UK FOIA covers England, Wales and Northern Ireland and the UK as a whole. Scotland has its own Act, *Freedom of Information (Scotland) Act 2002* available at <http://www.opsi.gov.uk/legislation/scotland/acts2002/20020013.htm>, accessed 22/07/05.

<sup>2</sup> For an excellent introduction see Kelvin Smith *Freedom of Information: a practical guide to implementing the Act* (Facet, 2004).

<sup>3</sup> UK. Laws, Statutes etc. *Data Protection Act 1998* available at <http://www.hmso.gov.uk/acts/acts1998/19980029.htm>.

<sup>4</sup> *Modernising Government* Cm 4310 (1999) available at <http://www.archive.official-documents.co.uk/document/cm43/4310/4310.htm>, accessed 9/9/05.  
*e-Government Policy Framework for Electronic Records Management* (2001) available at [http://www.nationalarchives.gov.uk/electronicrecords/pdf/egov\\_framework.pdf](http://www.nationalarchives.gov.uk/electronicrecords/pdf/egov_framework.pdf), accessed 9/9/05.

without restrictions on requestors. That is, it applies to all information held by public authorities regardless of its date and anyone may apply for information. One consequence of this is that archives and records management services have a key role to play in effective FOI compliance.

The Act provides for two Codes of Practice to be issued by the Lord Chancellor.<sup>6</sup> The first (section 45) Code concerns procedures for giving access to information. The second (section 46) Code sets out good practice in records management.<sup>7</sup> The UK National Archives (TNA) published model action plans to help different parts of the public sector achieve compliance with the *Records Management Code*, including central government, local government, higher and further education, police authorities, the National Health Service and schools.<sup>8</sup> TNA has also produced an evaluation workbook which helps organizations to assess the extent of their compliance with the *Code* and which will be used by TNA if it is asked by the Information Commissioner to undertake assessments of public authority records management systems.<sup>9</sup> UK authorities had four years, by international standards a long implementation period for FOI, and should have had time to be well prepared.<sup>10</sup>

It is also worth noting that the FOI Act applies to about 100,000 public authorities, many of which were not subject to the provisions of the Public Records Acts 1958 and 1967. For example, of the 44 police forces in the UK,<sup>11</sup> only one, the Metropolitan Police, was subject to the Public Records Acts. As a result of this history, records management services are structured, managed and funded in many different ways in public authorities: there is little uniformity.

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<sup>5</sup> E Shepherd and G Yeo *Managing Records: A Handbook of Principles and Practice* (London, 2003), 2.

<sup>6</sup> Department for Constitutional Affairs, <http://www.dca.gov.uk/foi/codesprac.htm>, accessed 9/9/05.

<sup>7</sup> Department for Constitutional Affairs (2002) *Lord Chancellor's Code of Practice on the management of records under Section 46 of the Freedom of Information Act 2000*, available at <http://www.dca.gov.uk/FOI/codemanrec.htm>, accessed 1/6/05.

<sup>8</sup> The National Archives (2004) *Model Action Plans for Preparing for the Implementation of the Freedom of Information Act*, available at <http://www.nationalarchives.gov.uk/policy/FOI/>, accessed 1/6/05.

<sup>9</sup> The National Archives (2005) *Complying with the Records Management Code: evaluation workbook*, draft for consultation available at <http://www.nationalarchives.gov.uk/news/stories/62.htm>, accessed 1/6/05.

<sup>10</sup> P Birkenshaw 'Freedom of information in the UK and Europe: further progress', *Government Information Quarterly*, 19:1 (2002), 79.

<sup>11</sup> See Association of Chief Police Officers, available at <http://www.acpo.police.uk/about/about.html>, accessed 9/9/05.

This paper will consider how the implementation of the Freedom of Information Act has affected records management services in public bodies in the UK so far, and its effect on the management of digital records. In particular, I will report on two pieces of research from the School of Library, Archive and Information Studies at University College London (UCLSLAIS). The first study, undertaken by Lorraine Screene in the summer of 2004 before FOI came fully into force, used the model action plan framework to assess five key aspects of preparedness in four case study organisations.<sup>12</sup> It investigated the attitudes of senior management towards committing resources in preparation for FOI, the training programmes and other advocacy activities which were used to enable the cultural change needed within organisations, the extent to which records management policy and practice was improved in line with the recommendations of the *Records Management Code*, and the provision of information to customers about what public bodies hold and how to make FOI requests.<sup>13</sup>

The second study was funded by the British Academy and carried out by Elizabeth Ennion over the summer of 2005. Through examining four case study organizations, it sought to discover how well prepared public sector bodies actually were in the first six months of the FOI Act, how implementation affected archives and records management services in public bodies in the UK, identifying areas of weakness and of success and making recommendations for improvement. It considered the effect of FOI on the management of e-records and examined relationships between the legislative environment and digital records.<sup>14</sup>

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<sup>12</sup> Department for Constitutional Affairs *Model Action Plan for Preparation for the Implementation of the Freedom of Information Act 2000* (2003), available at <http://www.dca.gov.uk/foi/map/modactplan.htm>, accessed 9/9/05.

<sup>13</sup> Lorraine Screene 'How prepared are public bodies for the implementation of the UK Freedom of Information Act in January 2005?' *Records Management Journal*, 15:1 (2005): 34-42.

<sup>14</sup> British Academy Small Research Grant, How has the implementation of the Freedom of Information Act 2000 affected archive and records management services in public bodies in the UK? (5/2005-10/2005), Principal Investigator, Dr E Shepherd, Research Assistant, Elizabeth Ennion. Elizabeth Ennion *How has the implementation of the Freedom of Information Act 2000 affected archive and records management services in public bodies in the UK?* University of London, MA diss., 2005.

This paper is arranged under five key areas, based on the model action plan framework: leadership and policy; training and awareness; information and records management; customers and stakeholders; and systems and procedures.<sup>15</sup>

### **Leadership and policy**

Leadership can be identified at several levels. At the highest political level the Lord Chancellor, whose Department for Constitutional Affairs (DCA) is responsible for the operation of the Act, stated in June 2005 that ‘A presumption of openness has been created’ and that ‘Central government should aim to set an example to the rest of the public sector in pursuit of greater openness... making the information we release available to the widest possible audience... listening and engaging with our stakeholders to enhance our own customer service’.<sup>16</sup> The government’s commitment to openness is qualified, however: ‘open government, yes – but not at the expense of effective government and our ability to get on with the job we were elected to do’. FOI is, perhaps, more about accountability and transparency in local government and other public services than in central government.

Experience from overseas should alert us to the importance of political support for FOI.<sup>17</sup> Terrill suggests that the Australian FOI Act was seriously undermined by a decline in political support.<sup>18</sup> The lack of an independent FOI Commissioner there has also been seen as a weakness.<sup>19</sup> The long period allowed for implementation of the UK Act is believed by some to send a message of a lack of enthusiasm among senior politicians for the Act.<sup>20</sup> FOI needs to be well used and supported by the government for it to succeed. Exemptions should not be routinely and extensively employed. It is not enough just to have FOI, but citizens need to engage with the legislation and benefit from it, if it is to increase the openness and accountability of government.

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<sup>15</sup> Department for Constitutional Affairs *Model Action Plan for Preparation for the Implementation of the Freedom of Information Act 2000* (2003), available at <http://www.dca.gov.uk/foi/map/modactplan.htm>, accessed 9/9/05.

<sup>16</sup> For example, speech by Lord Falconer, Lord Chancellor, on 16 June 2005, available at <http://www.dca.gov.uk/speeches/2005/lc160605.htm>, accessed 9/9/05.

<sup>17</sup> Ennion (2005): 21.

<sup>18</sup> G Terrill, ‘The rise and decline of freedom of information in Australia’, in A McDonald and G Terrill (eds.), *Open Government: Freedom of Information and Privacy* (London, 1998), 111.

<sup>19</sup> D Banisar, *The Freedominfo.org Survey: Freedom of Information and Access to Government Record Laws Around the World* (2004), 7, available at [http://www.freedominfo.org/survey/global\\_survey2004.pdf](http://www.freedominfo.org/survey/global_survey2004.pdf), accessed 31/05/05.

<sup>20</sup> Birkenshaw, ‘Freedom of information in the UK and Europe’, 80.

There are mechanisms for advice and appeal. The Information Commissioner (IC) is an independent office-holder appointed by the Crown to promote and enforce the FOI Act across the public sector. He reports to Parliament and not to Government, although he 'works closely' with the DCA.<sup>21</sup> Part of his responsibility is promoting good practice by public authorities in the observance of the *Records Management Code*. The Lord Chancellor's Advisory Council on National Records and Archives also has a role. Part of the Council's remit is to advise the Lord Chancellor on the release of historical records, ie those over 30 years old.<sup>22</sup> The Council hopes that greater transparency and openness will develop as it presses for records to be opened, including those less than 30 years old, and offers its advice on applications to see closed records where exemptions may apply or where there is a question about whether the public interest in maintaining an exemption outweighs the public interest in disclosing the information.

At organizational level, both Screene and Ennion found wide variation in leadership commitment to FOI, in the provision of sufficient expert staff to manage FOI and, generally, in committing sufficient resources to FOI. The costs of resourcing FOI have not been separately funded by government. In some of the case study organizations, FOI was simply added to the workload of existing staff (such as the records manager) without providing additional resources. In others, project teams had multiple objectives, leading to a lack of focus on FOI, and suffered from frequent changes in management. Although managers appreciated the legal imperative, they seemed unaware of its full implications or were unable or unwilling (perhaps from lack of new resources) to undertake the necessary organizational change. Some viewed the possibility of non-compliance as an acceptable risk. As Screene reported, there was 'a tendency to implement the basic changes and hope that this is enough'.<sup>23</sup> Ennion attributed this in part to uncertainty, in advance of 2005, about the real impact of FOI on workload. She suggested that, although in her study all the organizations believed they had coped well in the first six months, if the impact of FOI can be

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<sup>21</sup> Department for Constitutional Affairs, *Role of the Information Commissioner* available at <http://www.dca.gov.uk/foi/infocomm.htm#top>, accessed 9/9/05.

<sup>22</sup> Advisory Council on National Records and Archives, *First Annual Report 2003-2004* (2004) available at <[http://www.nationalarchives.gov.uk/about/operate/pdf/advisory\\_council.pdf](http://www.nationalarchives.gov.uk/about/operate/pdf/advisory_council.pdf)>, accessed 14/07/05.

assessed, organizations will be better able to argue for more resources to improve records management and other facets of FOI systems. As she noted, ‘it is always necessary to make a business case for spending on any improvements, simply saying “it’s the law” is not enough anymore’.<sup>24</sup>

### **Training and awareness**

Staff training in FOI and the raising of awareness about how to deal with FOI requests, particularly ensuring that staff knew that requests had to receive a response within 20 days, was a priority during 2004. Every organization in the studies (except one)<sup>25</sup> established and implemented a training plan for staff, although they varied widely in scope and delivery method.<sup>26</sup> Techniques included seminars and briefings run by internal or external experts, video training, leaflets, web-based information and a computer training package. All had limitations. One university relied almost entirely on the records manager/ FOI officer giving talks to groups of staff. This had the advantage of being cheap to run (at least no additional resources were required), ensured that the trainer retained expert FOI knowledge in-house and was excellent in content, but the programme was a considerable drain on limited resources, could not bring in potentially valuable expertise from outside, relied on the records manager having training skills as well as FOI knowledge, and failed to reach staff who did not attend.<sup>27</sup> One local authority provided formal training only to managers with explicit FOI responsibility and for other staff relied on web-based information leaflets. In large organizations, the training was generally not scheduled to be completed until after January 2005. The timing of training was, in any case, problematic. Too much too early and staff forget: too late and staff were not properly prepared. In one organization, a police force, significant resources were invested in a comprehensive training programme led by external consultants, which had different intensities of training for different groups of staff, depending on their FOI responsibilities, ranging from 4-day to half-day courses.<sup>28</sup> Every staff member had some training within a short timeframe in late 2004/ early 2005. However, internal trainers were not trained to

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<sup>23</sup> Screene (2005): 36.

<sup>24</sup> Ennion (2005): 44.

<sup>25</sup> A school with about 1300 pupils aged 11-16. The Headmaster dealt with all FOI enquiries.

<sup>26</sup> Screene (2005): 36-37. Ennion (2005): 46.

<sup>27</sup> Ennion (2005): 46-47.

<sup>28</sup> Ennion (2005): 48.

carry on the work, and no provision was made for new staff to be trained or for refresher sessions for existing staff.

In many cases, organizations lacked resources, or started planning too late, to complete their training plans before January 2005, leaving organizations vulnerable at the start of FOI.<sup>29</sup> However, Ennion's study suggested that most organizations were adequately ready by early 2005, and had made significant efforts to get their staff trained in time.<sup>30</sup> Her greater concern was about the lack of provision for future training of staff. Some organizations made FOI awareness and specialist records management training part of the new staff induction programme, but others had little expert input, relying on generic FOI training materials or voluntary attendance at briefings.<sup>31</sup> Informal networks are also likely to be important sources of advice. Amos and Holsen reported that few organizations made any provision to inform third parties about FOI requirements (that is, organizations who work on behalf of a public authority and who might be asked to disclose information about commercial activities).<sup>32</sup>

The effectiveness of training and awareness programmes will be judged not by how many staff attended training sessions, but rather in their behaviour and knowledge about FOI. One measure may be the consistency of responses to FOI requests across an organization, and across the public sector. One of the case studies, a police force, sought to improve consistency by giving the records management unit central responsibility for some types of requests, and cross-training staff from different departments, so that departmental assumptions were challenged.<sup>33</sup> Within central government, the DCA established a central clearing house in January 2005 'to provide advice and assistance to central government in responding to information requests which are particularly difficult or have cross-government implications'; the Information Commissioner publishes the results of appeals; and public authorities

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<sup>29</sup> Screene (2005): 37.

<sup>30</sup> Ennion (2005): 48.

<sup>31</sup> Ennion (2005): 51.

<sup>32</sup> J Amos and S Holsen *Freedom of Information Act 2000: Survey of FOI Officers One Month After Implementation: A Pilot Study: Report* (London, 2005), 6, available at <<http://www.ucl.ac.uk/constitution-unit/foidp/downloads/SurveyofFoIbyJimAmos.doc>>, accessed 2/07/05.

<sup>33</sup> Ennion (2005): 51.

release information through their websites, not only to the FOI requester, all of which will probably influence future behaviour.<sup>34</sup>

### **Information and records management**

In establishing the *Records Management Code*, Parliament sent a clear signal of the importance of good records and information management in effective FOI implementation. Records management was also significantly enhanced by the publication of an international standard (ISO15489) in 2001.<sup>35</sup> Both the Standard and the *Code* are, however, voluntary. No new resources were provided to public authorities to implement the *Code*. What has happened in practice?

Screene found that all the case study organizations had established adequate records management procedures, although in some cases these did not extend to the whole organization, were in process of major revision and restructuring, and, in at least one case, would not comply with the *Code of Practice* by 2005.<sup>36</sup> The extent of compliance of records management systems with the *Code* has begun to be measured: TNA's evaluation workbook will certainly help.<sup>37</sup>

Ennion discovered that although organizations claimed to be in compliance, further probing uncovered weaknesses. Three of her case studies had central records management systems but admitted that the programme did not extend across all branches and departments. A serious weakness was in the management of digital records, in spite of the fact that the *Code* devoted a separate section to the issue and TNA provides a huge amount of guidance.<sup>38</sup> Ennion concluded that matters had

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<sup>34</sup> Department for Constitutional Affairs, *Central clearing house guidance*, available at <http://www.dca.gov.uk/foi/guidance/index.htm#2>, accessed 15/9/05.

For example, Department for Constitutional Affairs, *Information released under the Freedom of Information Act 2000* available at <http://www.dca.gov.uk/rights/dca/disclosure.htm>, accessed 15/9/05.

Information Commissioner's Office, *Decision notices*, available at <http://www.informationcommissioner.gov.uk/eventual.aspx?id=8617>, accessed 15/9/05.

I am grateful to my colleague, Dr Andrew Flinn, for drawing my attention to an index to organizational disclosure logs, with links to many of them, available on Steve Wood's FOI blog, at <http://foia.blogspot.com>

<sup>35</sup> Julie McLeod 'Assessing the impact of ISO15489 – a preliminary investigation' *Records Management Journal* 13: 2 (2003): 70-82.

<sup>36</sup> Screene (2005): 38.

<sup>37</sup> The National Archives (2005) *Complying with the Records Management Code: evaluation workbook*, draft for consultation available at <http://www.nationalarchives.gov.uk/news/stories/62.htm>, accessed 1/6/05.

<sup>38</sup> DCA (2002) *Code of Practice on the management of records*: s 10.

improved little since the Barata study undertaken in 2002 which showed that a great majority of English local authorities had made no provision for the long-term care, storage and access to digital records.<sup>39</sup> All respondents in Ennion's research were aware of digital records issues but few had taken action, beyond ensuring that digital records were printed to paper and then managed as paper records. In one case, the police force, steps by the national advisory body, Police Information Technology Organisation (PITO), towards a national file plan to underpin a digital primary record indicated real progress.

Ennion noted the gap between records management and the FOI officer in many organizations.<sup>40</sup> In one case, the records manager and the FOI officer were the same person, but elsewhere the FOI officer had no records management training, although did have access to expert advice if a records management professional was employed in the organization. FOI responsibility was located in a variety of functional areas: records and information management, customer services, and legal services. Each gave FOI a different focus, but 'wherever FOI responsibility is located it is important that it is seen as a key priority with senior management support'.<sup>41</sup>

Ennion examined the common perception that FOI has a positive impact on records management.<sup>42</sup> Legislation such as FOI is clearly an important part of the environment within which records management operates. However, in case study organizations with adequate pre-existing records management systems, only limited additional resources were provided in the preparation phase to improve records management compliance. FOI seems not to have ensured the improvements in digital records management that might have been expected. Ennion considered that *failures* to comply with FOI were more likely to stimulate new resources, as was the experience in Canada.<sup>43</sup> However, in case study organizations with little formal

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<sup>39</sup> Kim Barata *Archives in a Digital Age: A study for Resource* (2002).

<sup>40</sup> Ennion (2005): 54.

<sup>41</sup> Ennion (2005): 56.

<sup>42</sup> Ennion (2005): 59.

<sup>43</sup> 'Prompted by scandals of being unable to find important records and failure to create paper trails and accountable retention and disposal schedules, records management had improved in recent years.

However, the improvement required a great deal of resources, both in financial and personnel terms':

see Information Commissioner, *Annual Report 2004-2005* (Ottawa, 2005), available at

[http://www.infocom.gc.ca/reports/pdf/oic04\\_05E.PDF](http://www.infocom.gc.ca/reports/pdf/oic04_05E.PDF), accessed 15/06/05: 7.

Ennion (2005): 19.

experience of records management, FOI seemed to have brought about improvements in both senior management awareness and in the provision of resources to implement records management programmes.

One issue which has a direct impact on archives and records management services is the way in which a request is fulfilled. Sometimes, copies of records were provided, either photocopies or scanned images, but some records cannot be copied (eg for preservation reasons) so the requestor may be encouraged to visit to see records. This has implications for both online services, which may need to expand quickly to include digital copies of requested records, and onsite services, which may face additional demand.<sup>44</sup>

The effect of FOI on the records which are created and kept by organizations is as yet unclear. Experience from Canada indicated that records were either not created or were less complete in the wake of the Access to Information Act, 1982.<sup>45</sup> In the USA, third party contractors demanded that files be destroyed to prevent them from being disclosed.<sup>46</sup> Ennion reported that some of her case study organizations had issued advice to staff on the creation of corporate records. For example, one organization issued guidance on committee minutes, encouraging the recording of factual information such as decisions rather than opinions and discussion.<sup>47</sup> The effect of FOI on records creation is a subject worthy of further study.

### **Customers and stakeholders**

A key part of FOI preparation was the requirement to prepare a publication scheme, which set out the types of information the organization held and how information was to be made available. Effective publication schemes can only be produced if the organization knows what it holds, and such analysis is a key part of records management. Publication schemes also reduce the need for customers to make FOI

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<sup>44</sup> Ennion (2005): 66.

<sup>45</sup> J Gilbert 'Access denied: the Access to Information Act and its effect on public records' *Archivaria* 49 (2000): 113.

A Roberts 'Spin control and freedom of information: lessons for the United Kingdom from Canada' *Public Administration* 83:1 (2005): 4.

<sup>46</sup> T Huskamp Peterson 'After 5 years: an assessment of the amended US Freedom of Information Act' *American Archivist* 43:2 (1980): 164

<sup>47</sup> Ennion (2005): 85.

requests by providing information in advance. The experience of the organizations in Ennion's study was that they worked well and were worth maintaining actively, although Amos and Holsen reported that not all organizations planned to develop their schemes.<sup>48</sup> Publication schemes were universally made available through websites, although they were not always easy to find from the home page: customers without web access were not able to use them and others may not find them.<sup>49</sup>

One of the most difficult aspects of FOI implementation was predicting the level of requests that would be made after January 2005. Research carried out by Amos and Holsen in the first half of February 2005 looked at how moderately sized authorities were responding to FOI.<sup>50</sup> The results of the survey indicated that in the first few weeks, enquiry levels and complexity were as expected, with about 60% of enquiries coming from individuals, 18% from businesses, and 14% from the media and politicians.<sup>51</sup> When the research was conducted, those interviewed reported no difficult requests that would have really tested both their systems and the support of senior management. The issues they noted as causing concern included the interpretation of exemptions, being able to find records, DCA reporting requirements and the development of the FOI officer's role.<sup>52</sup> The first official report providing statistics on the implementation of the Act across central government showed that in January to March 2005, 82% of requests were answered within 20 working days.<sup>53</sup>

In line with the Amos and Holsen study, Ennion reported that request levels were about as expected, or in some cases, lower. She identified a difficulty in distinguishing an FOI request from a 'business as usual' request, and therefore problems in actually counting FOI requests. Although most organizations separated 'business as usual' from FOI requests, so that FOI ones could be properly logged and reported, in practice this was not always clear cut.

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<sup>48</sup> Amos and Holsen (2005): 6.

<sup>49</sup> Ennion (2005): 76-78.

<sup>50</sup> Amos and Holsen (2005): 5.

<sup>51</sup> Amos and Holsen (2005): 6.

<sup>52</sup> Amos and Holsen (2005): 7.

<sup>53</sup> DCA, *Freedom of Information statistics January - March 2005*, available at <http://www.dca.gov.uk/foi/statsjan-mar05.htm>, accessed 15/9/05.

Ennion also noted that requests showed peaks and troughs which could be related either to the current public profile of the organization (eg a police force is subject to more scrutiny than a school), but also to current issues (eg a contentious planning inquiry may generate significant additional requests for a local authority).<sup>54</sup> As understanding of the Act and how to use its provisions grows, more requests may be generated. The experience of the first few months of FOI may not be a completely reliable indicator of future demand. Organizations need to be able to respond flexibly to variations in FOI workloads. Since most of the FOI systems were set up before 2005 without knowledge of the real workload, they need to be evaluated in the light of actual request levels.<sup>55</sup>

### **Systems and procedures**

Sources of advice and guidance in the preparation phase were generally found to be sufficient and clear and enabled organizations to put in place FOI systems and procedures ready for January 2005.<sup>56</sup> However, organizations continued to need up-to-date advice from the ICO, DCA, TNA and informal networks to develop their FOI systems, deal with difficult cases and develop good practice. The ICO does not provide legal advice and organizations have to obtain this from an in-house legal team, or by employing external experts in specific cases.

Screeen's research revealed that although in most aspects the public bodies studied would achieve minimum preparedness by January 2005, there were significant weaknesses, including limited resources for embedding records management, which would be tested by difficult requests or ones where the organization failed to find the relevant records.<sup>57</sup> Ennion's study reported that organizations coped well in the first six months and were confident that their systems were appropriate to the level of requests. They had all answered requests in accordance with the Act. Is that enough?

Ennion raised the question of what 'successful' FOI means. 'Is it receiving large numbers of requests and being able to answer them within 20 working days? Is it producing a comprehensive publication scheme to pre-empt requests? Is it changing

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<sup>54</sup> Ennion (2005): 64-65.

<sup>55</sup> Ennion (2005): 81.

<sup>56</sup> Screeen (2005): 40.

the culture of an organisation to become more open and transparent?'.<sup>58</sup> She concluded that part of the answer for government is culture change, being more open, publishing in advance of likely requests and not seeking to hide information that might show an organization in bad light.<sup>59</sup> FOI campaigners might give different definitions of success. Committed leadership, both nationally and in organizations, and the provision of necessary resources for comprehensive records management and other systems, will be critical.

### **What happens next?**

We at UCL are planning a project for 2006, subject to a successful funding bid, which will undertake a robust assessment of the impact of the UK FOI Act on records management services in public authorities after the first full year of implementation, (January – December 2005) to provide a benchmark for future studies. It will create a body of knowledge which will help public authorities to improve the effectiveness of their services in meeting FOI policy objectives, to ensure greater transparency and accountability and to help ensure that citizens can exercise their rights within a democratic state.

In particular the project will seek to assess the extent to which records management services were prepared for the first year of FOI implementation and identify the actions needed in future to ensure full compliance. It will assess the contribution of records management services to the effectiveness of public authorities in meeting the requirements of the FOI Act, the impact of that contribution on the ability of authorities to meet FOI performance targets and the impact of effective records management on ensuring greater transparency in public authority services. Also it will look at the impact of FOI on user communities, for example whether FOI has brought greater accountability, and any specific positive benefits for users. It will identify examples of best practice which can be shared within the records management and public sector communities.

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<sup>57</sup> Screene (2005): 41.

<sup>58</sup> Ennion (2005): 44, 82.

<sup>59</sup> K Murphy 'Freedom of Information – The Irish Experience', an address to the 'Delivering Freedom of Information in Scotland' Conference at the University of Glasgow, 19 November 1999, available at <http://www.foi.gov.ie/foi.nsf/PublicationsSpeeches?OpenFrameSet>, accessed 12/08/05.

The outcome of the proposed project will be a better understanding of the impact of the UK Freedom of Information Act on the management of records in the public sector and identification of actions needed in future to improve services to support FOI. Perhaps if we get funding for this work, I will be able to return and report the results to a future DLM-Forum!

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