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

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Abstract

Political rhetoric in many democratic states gives weight to increasing public participation in and understanding of the political process; (re)-establishing public trust in government decision making; increasing transparency, openness and accountability of public authorities; and, ultimately, improving government decision-making on behalf of citizens. Access to the public record and freedom of information are mechanisms which help to enable the accountability of public authorities: many jurisdictions have introduced legislation. The UK government is no exception, with the Freedom of Information (FOI) Act 2000. University College London (UCL) ran a research project over 12 months in 2008-2009, funded by the UK Arts and Humanities Research Council, which examined what the impact of the UK FOIA had been on records management services in public authorities, especially local government. This article reports on some of the findings of the study. It considers how FOI compliance and records management functions are organised in local government and the role of information governance which is emerging as an umbrella for such functions. It

draws some conclusions about the contributions which records management services make

to the ability of local authorities to comply with the FOIA and identifies some ways in

which the user experience may be affected by the management of records.

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1. Introduction

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

University College London (UCL) ran a research project over 12 months in 2008-2009, funded by the UK Arts and Humanities Research Council, which examined what the impact of the UK FOIA had been on records management services in public authorities, especially in local government. More specifically, the researchers investigated how well records management services had prepared for and coped with the first three years of FOI implementation; what contribution records management services make to the ability of public authorities to comply with the FOIA; and how the user experience of FOI is affected by the management of records. The research sought to discover the impact of FOI and its link with records management from the three perspectives of records managers, institutional FOI policy managers and FOI requestors and user communities.

2. Research methodology

The FOIA applies to over 115,000 public authorities, so the project was only able to undertake a detailed study of one part of the public sector. The study concentrated on the FOI experience of local authorities, focusing on the south east of England, including London, which provided examples of both small and large organizations, with and without dedicated records management professionals. The study built rich data which could be compared with that for other sectoral studies. Local government was chosen because weaknesses in the management of records have been noted in high profile reports (eg *Victoria Climbie Inquiry Report*, Laming, 2003). Evidence to the UK Parliament's Constitutional Affairs Select Committee which investigated the operation of the FOIA (CASC, 2006) reported that local authorities had less support than other sectors for FOI implementation. They 'rely on networks and regional groups', unlike central government they 'do not have a clearing house' and have 'no hierarchy of support and advice'. In addition, 'local authorities are still working on records management, the vast majority still do not have a corporate records management system'. Yet they deal with a high volume of FOI requests on a wide range of subjects and *Practice Recommendations*, issued by the Information Commissioner's Office setting out the steps a particular local council should take to conform with the FOIA Code of Practice on the management of records (ICO, 2007), have exposed the risks of non-compliance.

Data Collection Phase I: local government officers

Following an extensive literature review (Shepherd, Stevenson and Flinn, 2009), qualitative research methods were adopted in order to explore the issues from the perspective of the respondents based on their work context. The complexity and diversity of local government structures in the UK, as represented in the literature, suggested that the organisation of FOI

and records management activities in different institutional contexts would have an impact on the relationship between the two. Semi-structured interviewing was the main data collection method, which although time consuming has worked well in similar research (Shepherd and Ennion 2007). Relevant topics were identified by reviewing existing resources, including the Lord Chancellor's s. 46 Records Management Code, and The National Archive's Model Action Plans and Evaluation Workbook and Methodology (TNA, 2002, 2004, 2007). Work by UCL's Constitution Unit which addressed preparedness for FOI and by the Information Commissioner's Office (ICO) also informed the interview preparation (Amos and Simpson, 2007).

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

management. The transcribed interviews were uploaded into the qualitative computer software NVivo v7 to assist data analysis.

Data Collection Phase II: FOI requestors

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

3. Understanding the local government context: how records management and FOI compliance are organised

The 19 local government authorities in the study reflected the diverse approaches to records management identified by the literature (Shepherd 1994, Mander 1989). Only five authorities had employed a records manager prior to the FOIA 2000, and only a further seven appointed a records manager afterwards. The organisation of records management responsibilities was ad hoc in many, highlighting a lack of corporate approach to records.

For instance, one authority undertook an audit of its records management practices in 2004 and noted:

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

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

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

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

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

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

Case No.	Council Type	Job title of interviewees	RM directorate	FOI directorate	Responsibilities of interviewees
1	London Borough	Corporate Information Manager	IT	IT	RM
		Information Lawyer &			
		Information Governance Manager for		Legal &	
2	London Borough	Adult social services and housing & Information Security Manager (3)	Not formally recognised	Electoral Services	FOI
3	London Borough	Records Manager	Information	Legal	RM
4	County Council	Senior Information Officer	IT	Legal & Democratic	FOI
5	County Council	Records Manager	Archives	Legal	RM
6	Unitary	Records Manager	IT	Legal & Democratic	RM
7	Unitary	FOI manager	IT	Legal & Democratic	FOI
8	London Borough	Information Compliance Advisor	IT	IT	FOI & RM
9	London	Information Governance Manager	IT	IT	FOI & RM

No.	Authority	Job Title	Department	Reports To	Scope
	Borough				
10	County Council	County Archivist	Customers & Communities	Customers & Communities	FOI & RM
11	London Borough	Information Governance Manager & Records Management Officer & FOI Officer (3 individuals)	Civic & Legal	Civic & Legal	FOI
12	County Council	Freedom of Information Officer	Archives & Libraries (Communities)	Archives & Libraries (Communities)	FOI & RM
13	London Borough	Principal Information Management Officer	Administration (Support)	Administration (Support)	FOI & RM
14	London Borough	FOIA & Data Protection Consultant	IT	IT	FOI
15	London Borough	Corporate Information Manager	IT	IT	FOI & RM
16	London Borough	Feedback & Information Project Manager	Adult Culture & Community (Archives)	Chief Executive	FOI
17	County Council	Information Management Officer	IT	IT	FOI & RM
18	London Borough	Solicitor – Litigation Team	IT	Complaints	FOI
19	London Borough	Archivist and Records Manager	Adult Culture & Community (Archives)	Chief Executive	RM
20	London Borough	Interim Knowledge Manager	Not formally recognised	Legal	FOI & RM
21	London Borough	Records Managers	Customer Service Records	Information Services	RM (paper only)

			Centre		
22	London Borough	Information Management Manager & Records Manager (2 individuals)	Not formally recognised	Democratic & Legal	FOI

Table 1: details of 22 interviews, with 27 interviewees, in 19 organisational structures

As can be seen from Table 1, records management was most often found in an IT department (eight cases), followed by the more 'traditional' home within archives or libraries (although in a directorate like Adults and Communities), whilst FOI was most frequently located in a legal department. These different departmental contexts may affect how records management and FOI are perceived and how well records management is delivered. For example, if FOI and records management are orientated from a legal perspective maybe the emphasis is simply upon compliance. One case study where the lead for FOI was from a legal perspective noted that:

> "It was purely seen as a legal requirement for us to comply with and therefore it was more about compliance than coming from a records management point of view."

[Interview 18] *Solicitor, London Borough*

Alternatively, if IT has a lead role for FOI and records management we might expect it to be dealt with as a technological issue. Perhaps surprisingly, we found no evidence to suggest that FOI was addressed simply through technology (such as Electronic Document Records Management Systems - EDRMS). Although many authorities were considering implementing EDRMS, only two of our case studies did so in preparation for FOI (cases 4 and 22).

New job titles and functional descriptions were also observed, in particular the concept of information governance, which emerged in several cases (cases 1, 2, 9, 11, 19) as an umbrella for FOI-related activities. It was defined by one interviewee as:

"…information governance issues. And information governance covering the RM side and compliance and legislation and so forth."

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

Case 11 had recently developed an information governance function and associated policy and case 2 explained the composition of the information governance group in that council:

"We've got this information governance group that's been running now for, well, since the beginning of this year...Basically we've got, well we are hoping to get people in different departments who deal with DP and FOI and some general security issues but it's not, there are some gaps. We are looking for people. And then, so we've got various projects to get things moving. You know you've got all the security breeches so we're really trying to plug holes to make sure we're, sort of, on top of things here."

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

This is an issue which emerged from the data and would be worth further study.

Is it the case that the best structural arrangements for both FOI and records management functions are where they are located together? Certainly this is advocated by the Section 46 Code of Practice, and for those authorities that situated both functions together, advantages were noted:

"I mean I firmly believe that having FOI and records management combined is very important because my knowledge of record management — of how the council works and its structure and where I can go to find information — is invaluable"

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

However, in those cases where FOI and records management were the responsibility of a single individual, workload pressures were noted:

"I worked in that role for a year and the workload was just becoming huge and it became apparent that really, to be honest, the records management side, the S.46 side, I didn't have time to do any work on because it was just full of dealing with FOI compliance."

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

"The sheer workload that FOI is now engendering is harming record management because I don't have the time to review the policies that are written and I don't have time to update the retention schedule and investigate it."

In one case study, the records manager had been aligned initially with FOI, but more recently had been placed in another directorate. In her opinion the advantages of being situated with FOI far outweighed the disadvantages.

"being outside of FOI has had a very detrimental effect and that's why I am desperate to get realigned with FOI as soon as possible and out of ICT. Initially, I thought when FOI moved into a different service area and I stayed in ICT, initially I was promised that wouldn't have a detrimental effect because I wanted to take the programme forward and it would be all bells and whistles and that's completely not happened at all. It's had completely the opposite effect."

[Interview 6] *Records Manager, Unitary Council*

In three cases (cases 1, 11 and 14) there was a dedicated team with individuals separately responsible for records management and FOI working together, and in these contexts all interviewees were positive about their experience.

"roles really sit together quite nicely in the sense that we all sit within IT and I try to make the focus not just IT but the information. And in that sense people across the authority come to us for guidance on, you know, complying data protection, FOI, records management standards."

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

This can be compared to those cases where the functions were in separate directorates, where the engagement between the two was either limited (e.g. case 16) or fraught (e.g. case 3):

"I think it is historical that they are dealt with by entirely different people and I suppose maybe in an ideal world, FOI Act comes along someone thinks 'this has an impact on records management let's have another look at all of this' but that didn't really happen. So we are basically – they deal with records management, we do FOI and we do try and speak to each other from time to time."

[Interview 16] *Feedback & Information Project Manager, London Borough*

"The FOI bit stayed with the legal side of business and records management moved to information management… Now ever since then there's been kind of a bit of a battle lines drawn up about who should be responsible for records management. … they still give records management advice that is contrary to the advice that we give here."

[Interview 3] *Records Manager, London Borough*

The most effective combination appears to situate FOI and records management together in the same team, with different individuals having corporate responsibility for each. The benefits of this arrangement are also evident to some requestors:

"…talking about FOI officers and records managers actually. I've noticed that when they are the same person, which sometimes happens, it is much better sometimes… because they actually know what information they've been filing and so forth, and sometimes they're good. I sort of get the impression that the sort of people who have been chosen to be records managers are more interested in the information being available than some people, like in large councils, who employ PR people to be FOI officers who are more interested in obstructing. So when you've got a big FOI team and separate division of records it is going to be difficult because communication is not very good."

[Focus Group] *Campaigner*

Other requestors (such as requestors 3 and 9), noted that some FOI officers had difficulty with some requests, as they did not know where in the organisation such information was held, in which case a records manager engaging with the requestor might clarify what information was required and from where.

4. Separating out the impact of the FOIA

Other local government initiatives in the period 2000-2008 have also had an impact on records management. The most widespread issue, cited in 16 out of the 22 interviews, was re-structuring and reductions in office space:

> "the biggest potential reasons to succeed are to do with accommodation, changes in accommodation, either downsizing or building brand new premises."
>
> [Interview 10] *County Archivist, County Council*

This was closely linked to business efficiency, as councils sold off property to save money:

> "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. That's a much better driver [for records management]"
>
> [Interview 15] *Corporate Information Manager, London Borough*

Local government employment re-structuring, and new working arrangements such as 'hot-desking', home-working and 'smart-working', also created a need to address records management in seven authorities (cases 2, 9, 13, 15, 18, 19 and 21).

A second issue that was a catalyst for records management developments was data security, which was mentioned in 13 cases as having led to an evaluation of records management systems. This may also be indirectly linked to FOI, since many of the data security cases reported in the media were a result of FOI requests probing this very issue.

Although the FOIA is the only piece of legislation affecting local government that makes explicit provision for records management guidance to be issued, other legislation has records management implications and the relationship between these and the FOIA may be difficult to untangle, as may broader information management issues. A key example is the Data Protection Act 1998, which in some cases set records management improvements in motion prior to the FOIA:

> "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"

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Local councils were also keenly aware of the national Audit Commission's Comprehensive Performance Assessment (CPA), (CLGD, 2007) (e.g. cases 7, 9 and 11):

> "… the CPA now, they are talking much more about efficiency and savings and managing things in a different way, so records management has come up the scale"
>
> [Interview 5], *Records Manager, County Council*
>
> "We've always had this sort of sense, we've been trying to impress on people for years that it is going to be part of the CPA or something like that, but it hasn't yet and I think a lot of the stuff around TNA is going to be around their own conception of data quality now, which it's what we've been involved working with. So it has been a help.."
>
> [Interview 9], *Information Governance Manager, London Borough*

Finally, the UK government's emphasis upon electronic government was seen as a particular impetus for the introduction of EDRMS, which was often driven from IT departments (e.g. case 11). Organisations may have situated records management and/or FOI in IT to align them with such technological advances. E-government was mentioned by six interviewees as a contributory driver for records management in their council (cases 2, 6, 9, 10, 11 and 17), particularly for social care records. In one preparation document provided by our case studies, dated in June 2003, FOI and e-government are clearly envisaged to be inseparable as drivers for records management:

> "Although there has always been an obvious need for a more coherent corporate approach to records management with the Council the Freedom of Information Act 2000 ("FOIA") now makes this a legal imperative and it will be critical to the implementation of e-government."
>
> [Interview 2] *London Borough*

However, in some cases this led to tensions between an IT department and central records management functions:

"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*

These, and other, initiatives all have a bearing on access to information and the management of records in local government and it was not always easy to disentangle the impact of the FOIA on records management from these broader contexts.

5. Preparation: how well records management services prepared for the FOIA

The FOIA was passed in 2000, but full implementation was not until 1 January 2005. In preparation the Lord Chancellor issued the *Code of Practice on Records Management* in November 2002 (TNA, 2002) giving organisations at least two years to prepare records management for FOI. Some authorities did address records management issues before 2005. In one case the authority's archivist conducted audits and produced preparation documents by 2003 (case 10), but this was in an unusual context where records management had existed as a corporate function for several decades. In contrast, in several cases preparation appeared to be a last minute affair (e.g. cases 6, 12, 16, 20, and 22):

"Interviewer: Was there no preparation for FOI? Did they just let it happen?

X: Yep. I mean I think the publication scheme was just put together by somebody over a period of time at the back end of 2007"

[Interview 20] *Knowledge Manager, London Borough*

"I wrote it [the records management policy] after we implemented FOI because we didn't have the time to do it beforehand."

[Interview 6] *Records Manager, Unitary Council*

"I got FOI because I volunteered to do it, because it was about 6 weeks before it all kicked off and there was no-one to do it."

[Interview 12] *FOI officer, County Council*

Engagement with records management best practice to facilitate FOI varied. Even though all public authorities were strongly encouraged to pay heed to the guidance in the *Code*, not all our cases referred to the *Code* or acknowledged the role of records management in FOI preparation, but rather dealt with FOI in isolation (eg cases 16, 19):

"I don't think anybody has ever thought 'this FOI ought to make us have a re-look at the records management'. I don't think there has ever really been a link."

[Interview 16] *Feedback & Information Project Manager, London Borough*

"Interviewer: Have you looked much at the S.46, the records management part of the FOI Act? Have you ever looked at what is required?

X: I know it exists and I probably have read it, but I wouldn't be able to quote any of it."

[Interview 19] *Records Manager, London Borough*

Although the *Code* identified several key areas, we will focus here on the data which reports on corporate functional responsibility for records management.

Functional responsibility

There were three key recommendations in the *Code*: that records management be recognised as a specific corporate programme, that it receive the necessary level of organisational support and that, ideally, those responsible for records management and FOI should work together. It has already been reported that several councils in the study did not have a corporate records management programme, that it was not always the case that records management and FOI were positioned in the same directorate, and that insufficient resources were often allocated. In other cases, however, the recommendations were followed, a not insignificant achievement given that local authority functions were

traditionally managed on a department by department basis, in separate silos. Four cases studies mentioned this (cases 1, 2, 6 and 14). For example, an individual who was hired specifically for FOI noted that:

> " we are quite a devolved authority, so units are very autonomous. So until I joined there wasn't really a central function on information management"

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

Changing corporate outlook, however, is not something that can be implemented quickly, which was one of the problems envisaged prior to FOI implementation (Bailey 2005). Some authorities recognised the need to give records management a corporate focus:

> "what's changed is the intention to address that, I think, and to do so on a corporate basis because the history of this organization is very much one of semi-autonomous directorates … but these changes require systems change which are very long term."

[Interview 14] *FOIA & Data Protection Consultant, London Borough*

What was clear from the interview data was that buy-in right at the top of the organization was critical to promote a corporate approach. As identified in the literature review, lack of senior management support for records management has long been an issue in local government (Mander 1989), and it remains a problem for many, with 8 interviewees describing the obstacles faced by a lack of support from senior management (cases 2, 3, 6, 8,10, 11, 16 and 17):

> "it's really difficult when you are so demotivated as one voice in such a large organisation, which most people would say that to keep having to continually repeat why you should be doing things and why you should be doing them a certain way … It's not been driven enough from the top-down and we need to do that"

[Interview 6] *Records Manager, Unitary Council*

In terms of records management practice, lack of senior management support hampered the endorsement of policies (cases 2 and 10), the instigation of FOI and records management training (cases 10 and 12), the initiation of electronic management strategies (case 6) and the establishment of publicly available disclosure logs (case 10). Many commented that any support for records management would most likely be reactive rather than proactive and would be dependent upon the scale of the issue encountered (e.g. cases 6, 8 and 10). The requestors that we spoke to were also aware of the problem, having encountered challenges to their requests from senior executives. One example, related in the focus group, referred to a request for a Chief Executive's pay in a County Council, which was refused by the Chief Executive himself. Requestor experience of direct intervention from senior managers to limit the release of information reflects the attitudes to FOI at higher organisational levels, which percolate down through the organisation.

The lack of support can be attributed to several factors. Frequently, FOI and particularly records management were not deemed to be frontline issues (eg cases 14 and 18). There was also evidence in some of our case study organizations of reluctance to accept and propagate the ethos of FOI (e.g. cases 4, 10, 11, 18 and 22) with FOI described unsympathetically as "irritating" (case 18) and "annoying" (case 4). The requestors also noted variation in councils' attitudes in the responses to their requests. Some councils were described as being proactive and helpful with regard to FOI, whilst others merely "just pay it lip service" (requestor 3), are very "secretive" (requestor 1) or "don't … take their statuary duties terribly seriously" (requestor 9).

Another factor is limited resources which meant that in one case:

> "the Chief Executive's Management Team recommended taking the lowest cost approach that would achieve compliance assuming that request volumes were low. This involved minimal investment in IT systems"

<div align="right">[Interview 6] County Council Preparation Document</div>

Where there is direct senior management support for records management, the benefits are clear. In one case, for example, there had initially been little work on records management in the council. The catalyst for the change was identified as senior management support:

> "The information management group and the new document was driven by a new Chief Executive. He's been in post about a year and it was within 6 months he looked at it and realised that frankly we were a basket case and decided to sort it…"

<div align="right">[Interview 22] Information Management Manager, London Borough</div>

Similar positive aspects of senior management support were noted by other interviewees, with records management projects being directly instigated and funded (case 15), as well as changes proposed by information managers being facilitated (cases 5 and 17).

It is notable, however, that the response of interview participants to questions regarding senior management support for FOI and records management was, in part, dependent upon the respondent's role and responsibilities. For example, in case 6 the records manager had previously been aligned with FOI where she described being more visible to and working more closely with senior managers, but since being reassigned to the IT department she no longer worked with senior management, a situation that made promotion of good records management far more difficult. This response, whereby FOI was privileged over records management, was a common one (e.g. cases 6, 7, 12, and 15):

> "Interviewer: …So do you get quite a lot of support at senior management level for records management and FOI?
>
> X: Certainly for FOI and Data Protection. There is quite a lot of interest from our councilors about it, so quite a lot of questions come from them"

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

"Interviewer: Do you feel that senior management gives FOI a lot of support and records management?

X: They do now. Not the records management side so much …"

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

"My profile at the senior levels is mainly to do with my FOI role not my records management

role." [Interview 12] *FOI Officer, County Council*

Perhaps FOI lends itself more easily than records management to corporate performance indicators, which were mentioned by five interviewees (cases 9, 13, 14, 15 and 17), in the context of senior management being more interested in quantifiable measures of improvement:

"the Chief Executive has actually taken a very strong interest in the performance indicators for FOI"

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

"they are concerned if our performance in providing people with information is not good"

[Interview 14] *FOIA & Data Protection Consultant, London Borough*

Records management was seen as a background function and not so obviously linked to performance indicators:

"in some ways it's easier to grasp FOI than it is records management because a lot of records management benefits are longer term"

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

One potential approach to engaging senior managers is through the appointment of 'Information Champions', a role which some councils developed in order to ensure advocacy for information policy and practice across the authority. 'Information Champion' responsibilities were given to different people, including those working as Information Managers, Information Officers and Records Managers, so there seemed to be no agreed

home for this activity. Eight of our cases had individuals with such a role at senior management level (cases 1, 4, 5, 12, 14, 15, 17 and 19) and several reported benefits of this in terms of bringing issues to the attention of senior management and ensuring support of those issues.

> "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*

6. Evaluating the effectiveness of the preparations: coping with FOI

Prior to the implementation of FOI there was little clear idea as to what to expect in terms of the volume of requests, as the literature review (Screene 2005) and many interviewees in this study noted. After three years and in hindsight, not one of our case studies, however, expressed the view that in the end they had not been able to cope with the volume of requests received. In a few cases it had been clear that not enough resource had been given at the outset to staff time to dealing with incoming FOI requests (cases 1 and 6), but in these instances the problems were quickly resolved. Eight councils (cases 1, 2, 5, 6, 9, 10, 13 and 14) noted that the initial drive to set up and implement systems to cope with FOI had subsequently subsided as the workload generated by the Act had proved manageable:

> "I think that did drive it [records management] a bit. I would say, that then it lulled because FOI came in and we all managed it"
>
> [Interview 1] *Corporate Information Manager, London Borough*

> "…we have successfully flown by the seat of our pants in responding to individual requests for information pretty successfully, so using the big stick of non-compliance of FOI just ain't there any more"
>
> [Interview 10] *County Archivist, County Council*

"It's almost a bit like the millennium bug, people did all of that work and then everything just went smoothly and everyone just forgot about it and it's the same really with the records management."

<p style="text-align:right">[Interview 5] Records Manager, County Council</p>

One reason for this was the disparity between expectations of what would be requested and what actually was. Promotion of the *Code* on records management led to expectations that records would be the primary objects of requests:

"Much of the information requested under the FOI Act will be held on paper files rather than on a computer"

<p style="text-align:right">[Interview 1] London Borough, Meeting of the Executive, December 2004</p>

However, many interviewees reported that the majority of requests were for statistics from current data or were framed as broad questions which meant that records were not necessarily being supplied in response and that records management would not be necessary for locating the information (cases 8, 10, 15, 16, 17, 20 and 22):

"quite frankly when I look at the type of requests that come in, a marvelous all singing all dancing records management system wouldn't necessarily satisfy us being able to find those answers…. FOI requests to [this council] at the moment, tend to be to do with stuff that is actually active now or within the last financial [year] and that is the sort of stuff which hasn't even got to the stage where it's in a records management sphere."

<p style="text-align:right">[Interview 10] County Archivist, County Council</p>

Other studies have noted that the largest volumes of requests were for financial information (Amos, Dobias et al. 2008, 6). There is thus a tension between records and information. Some councils did not make a distinction (e.g. cases 1 and 4), whilst others did separate the two:

"I sometimes have to remind people that responding to FOI is providing the information, not necessarily providing the record. I think that that's not being devious or anything but it's an issue that there are two different things"

<p style="text-align:right">[Interview 10] County Archivist, County Council</p>

As a result of the emphasis on information, even those organizations which are aware that their systems are not ideal, they feel able to comply:

> "I think we are actually pretty alright at dealing with this stuff. We don't seem to have any major issues despite the fact that things are a bit loose"
>
> [Interview 16] *Feedback & Information Project Manager, London Borough*

> "I don't believe we have ever not found it, despite our not having a very structured records management system."
>
> [Interview 22] *Information Management Manager, London Borough*

Successful compliance more often depended not upon systems, but upon knowledge of where information can be found. In the majority of cases, therefore, delays in responding to requests arose not from an inability to find a record in a system, but from individuals failing to respond to a request (e.g. cases 5, 7, 9, 11, 15, 16, 17, 18, 19, 20, 22), whether because they were on leave, had left the organization, had failed to pass it on to a corroborating department, or had just failed to prioritize it in their workload:

> "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*

> "… we have to chase humans to get access to the information."
>
> [Interview 4] *Senior Information Office, County Council*

The role of individuals in supplying or delaying FOI responses was also clearly evident to requestors, who expressed frustration with delays caused by absent staff members (requestor 9), poor internal communications (requestors 3, 4, 5 and 9), and vacant posts (requestor 1). Such problems have also been noted in Decision Notices issued to local

authorities by the ICO, where investigations have been hampered by the fact that a member of staff left the organization resulting in a knowledge gap (ICO, 2008).

The fact that organizations have been able to cope regardless of the nature of their systems, has led to suggestions that FOI may have in some sense had a detrimental effect on the perception of records management as it had been shown not to be as important as presented initially:

> "a few years ago people were insisting on records management for FOI compliance. The proof in the pudding now is that you have had hundreds of enforcement notices from ICO, dozens from the tribunal and how many have related to records management? One, maybe two. I think before people were saying records management has FOI as a driver because it was an unknown quantity and now it is not an unknown. Now, most authorities can quite happily service FOI requests without having an EDRM system."
>
> [Interview 13] *Principal Information Management Officer, London Borough*

Those responsible for records management and FOI may find that the FOIA is an insufficient argument for the allocation of resources to records management.

Overall, however, there was only one mention in all the interviews of an exceptional incident where poor records management was identified as having hindered directly an FOI request.

> "We've had an E[nvironmental] I[nformation] R[egulation request] where in the end the information relating to a file, they couldn't find it. That was blinding case of bad records management but that's the worst I ever seen."
>
> [Interview 4] *Senior Information Officer, County Council*

Therefore, when it is reported that finding information is one of the problems associated with FOI compliance, it is not necessarily commensurate with saying that there are records management failings. It is clear that delays are incurred by a combination of attitudes to openness and FOI, communication weaknesses, and training and knowledge management failings, and that these would still hamper FOI compliance even with robust records management systems.

7. Conclusion

If local authorities are seemingly able to cope with FOI regardless of the state of their records management services, the question of what contribution records management services actually make to the ability of public authorities to comply with the FOIA is raised. Of course, records management exists in local authorities to enable them to function generally and for their business efficiency, not specifically for FOI. FOI does, however, put a focus on the ability of the authority to retrieve information from its systems, and several interviewers commented that "life would have been a lot easier with decent records management" (case 22), that "better records management will help you find the information more quickly" (case 15) and hence "would probably save quite a bit of time and therefore money and therefore it would be more efficient" (case 16).

There is one key area, however, where records management can be identified as contributing directly to the ability of authorities to comply with the FOIA. This relates to the quality of the information being currently provided (Flinn and Jones, 2009).

> "I doubt we answer our requests completely. My guess is that the quality of what we are providing – 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 documents you are providing will be the latest one."

This issue was raised by seven interviewees who admitted that they doubted they had fully replied to requests or had even supplied inaccurate information (cases 10, 11, 14, 15, 16, 20 and 22).

This was certainly evident to all of the requestors who had made requests of several councils (requestors 1, 2, 3, 4, 6, 8, 9). They noted the inconsistency in the quality of the information supplied by different authorities and they "always think they could give me more information than they do" (focus group), and that councils "are not sort of going that bit extra with accessing it" (requestor 4) or "just try and give you something after 20 days" (requestor 9). Variability in responses to similar FOI requests between authorities is perhaps not surprising given the myriad of ways in which FOI and records management is structured. But the key factor identified by the requestors for the difference was not that some authorities could not find the information whilst others could, but that some councils had a more open organisational culture than others.

> "X1: There's no real consistency. I think that is definitely true. I send on a regular basis 420 FOIs, every council in the UK. You would think that if one answers them, they should all answer them, on principle, if they give you full information. I am not talking, because there are some tiny councils and there are huge councils so you can understand that there are fairly different issues, but you'll get two enormous London councils giving you completely opposite answers to your FOI question. These are two councils which abut each other.
>
> R1: … why?
>
> X1: I think the culture, we keep coming back to this, I really do think that some places have had it hammered home that they are paid for by the public and they should be open."

[Focus Group] *Campaigner*

One facet of the issue of information quality concerns version control and which version of a document to provide or extract information from. To some extent the problem is a matter of perception with some individuals going to greater lengths than others to procure the final document:

"From a FOI point of view, we've had so many enquiries where we've had to go through everybody's little notes on the agenda, scribbled all around the margins and it's just taken forever."

[Interview 6] *Records Manager, County Council*

Several other cases acknowledged that finding the definitive document was problematic (cases 2, 6, 11, 14, 15 and 16), and in one case the interviewee (case 14) recalled an instance where he was supplied with what was described as the final document, only to discover that it still contained 'tracked changes'. For some it is simply a matter of resources:

"At the moment we are relying a lot on trust and people say 'oh I wrote this, it is the only version', which we provide and send out, and we just don't have the resources to call their bluff on it. But if there is proper version control and everything can be found then we are going to have some hard choices to make."

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

For others (cases 13, 18 and 22), as long as some information could be provided to the requestor, regardless of whether it was all the information potentially available or the definitive final version of a document, that was deemed to be sufficient to comply:

"Certainly with journalists they will take what they're give because they've got a copy deadline to produce some article and once they've dealt with that one, they'll move on to something else"

[Interview 10] *County Archivist, County Council*

However, it is clear that many requestors are changing their strategies in order to make the most of the FOIA. Quality of information may well become a greater issue in the future

given that not only did all those interviewed describe how the number of FOI requests had increased significantly in 2008, but also noted that the complexity of those requests had also increased (cases 9, 11, 13, 17, 18, 20 and 22), with requestors "getting a lot smarter and smarter with their requests" (case 11), "more savvy" (case 9), "starting to dig deeper" (case 11), being "quite demanding" (case 18), "a lot more probing" (case 13), and "getting better in the way that they are phrasing some of their stuff" (case 20). The requestors themselves discussed some of the strategies they used to pursue requests, such as their willingness to challenge responses (e.g. focus group 1, requestor 1, 2, and 9), requesting assistance in clarifying what information they were seeking (requestors 8 and 9), requesting the information in a different form (requestor 8), and requesting file lists (requestor 9). There is clearly, therefore, increasing awareness amongst requestors on the most effective way to make requests:

> "once you've understood the FOI Act then that actually cuts through the barriers because you can start asking penetrating questions about things"
>
> [Requestor 4] *Private requestor*

And as some interviewees observed, this has the potential to cause problems:

> "It only needs one or two people who understand the FOI game probably to cause havoc and mayhem"
>
> [Interview 10] *County Archivist, County Council*

Although this is clearly a limited study, it has established a body of data from both users and providers of information for the under-studied sector of local authorities. We have addressed questions about the relationships between records management and FOI in local government, the organisational and structural models used to deliver these functions, and some of the implications of the choices made about the management of these functions. We also now have more evidence about the preparations made by local authorities in order to cope with the introduction of the FOIA and the extent to which authorities made

appropriate arrangements for functional responsibility for records management. The data showed wide variation in compliance and in the arrangements made. Yet, our data suggests that in general our case study authorities coped with the introduction of FOI in spite of the variation of resources devoted to it, and that few felt that there had been any major compliance problems. What was more difficult to study was the contribution which records management specifically made to the ability of authorities to comply with the FOIA and the extent to which the user experience of FOI is affected by the management of records. Many requests could be answered from current information sources, which might not have been accorded the status of organisational records and recorded in the records management system. However, as requestors become more sophisticated in their information seeking behaviour using the FOIA, this may change.

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