

Promoting Freedom of Information

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Or should that be championing?

- Scrutiny of FOI
- Why is FOI so unpopular?
- What is the role of the FOI Officer?
- Highlighting the benefits of FOI
- Being professional
- Methods of promoting FOI within your organisation

“You idiot. You naive, foolish, irresponsible nincompoop. There is really no description of stupidity, no matter how vivid, that is adequate. I quake at the imbecility of it...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.”

Tony Blair, A Journey (2010)

“...this endless discovery process that furs up the whole of government - don't worry, we are not making any plans to change it...Publication of information is better than the discovery process which I think does fur up the arteries on occasions.”

David Cameron, Liaison Committee evidence, 6 March 2012



Evidence to the Post-Legislative Scrutiny

- Complaints about cost of compliance, media and business use of Act
- Public authorities want
 - charging
 - more included in estimate of cost
 - increase in response time
 - more restrictions on what can be disclosed

Experience of a civil servant

“...my colleagues...curse FOI, they grumble about having to deal with it, and think it’s a waste of time and effort. Why are people asking for this? What on earth can they possibly want it for? All they’re going to do is use it to cause trouble for us, to make us look bad.”

Why is FOI so unpopular? (1)



- Invasion of the zombie requesters?
- Unreasonable expectations of requesters?
- Inevitable discomfort over scrutiny?

Why is FOI so unpopular? (2)

- Leaders' experience...



- Our own training and advice?
 - “smoking gun”
 - “be careful what you write down”
 - “anything you write down might be disclosed”

What is the role of the FOI Officer?

Is it:

- (a) to administer a statutory process
- (b) to protect the reputation and effectiveness of their employer
- (c) to champion FOI and openness within their authority
- (d) all of the above?

Interpreting FOI positively

“A public authority shall apply a presumption in favour of disclosure.”

Environmental Information Regulations 2004, Regulation 12(1)(b)

“...there is an assumption built into FOIA that the disclosure of information by public authorities on request is in itself of value and in the public interest...”

Secretary of State for Work and Pensions v The Information Commissioner Appeal no. EA/2006/0040 (affirmed by *OGC v ICO* [2008] EWHC 737 (Admin))

We are the Champions!

- FOI Officers have to be the ones who make that assumption – others (presently) are unlikely to do that

“leadership is crucial to making (or breaking) FOI and openness...Support...by leaders sends out a strong signal...Hostility...can also percolate an organisation...”

UCL Constitution Unit (December 2011), *Town Hall Transparency?*

Benefits that FOI has brought

- ACPO – identified weaknesses in police forces (and a murder witness)
- Birmingham City Council – provision of legal right to information is a strength
- Kent County Council – business can't be conducted behind closed doors eg MPs' expenses
- KCC - Improvements to records management

Highlight benefits (1)

- Report financial savings through FOI
- Show how FOI can be used as an early warning system – eg are areas that struggle with FOI generally under-resourced?
- Demonstrating that good compliance = good news story for your organisation
- Give examples of the “dark side” – organisations that aren’t subject to FOI



Highlight benefits (2)

- Explain how FOI provides a structured, auditable process to protect information where necessary
- No need for staff to know details of exemptions – that’s our job!
- Show that we’re robust in refusing requests that are vexatious or expensive - see recent Tribunal decision (IPCC v Information Commissioner)

Demonstrate your professionalism

- FOI Officers are professionals
- Keep up-to-date:
 - courses, conferences
 - podcasts
 - mail lists
 - social media
- “We’re all in this together”

Methods of promotion

- Induction courses, refresher sessions
- In-house newsletters
- Intranet/website
- Attending team meetings – target areas that get lots of FOI requests/have difficulties
- Blog - allows you to respond to issues as they come up (FAQs)

Summary

- FOI is under considerable scrutiny – makes our job harder
- Be positive about FOI – if you're not, who will?
- Explain benefits
- Show how FOI provides protection
- CPD – keep up-to-date
- We're all in this together!

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