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Abstract

The Freedom of Information (FOI) Act 2000 came fully into force in January 2005. There have been few studies exploring the users' experience of using the Act, whether in the UK or abroad. This paper seeks to explore how one of the most visible 'categories' of requesters, journalists, used the Act during the first 21 months of implementation. Based primarily on interviews with journalists in the UK, the paper investigates and describes journalists' motivations for using the Act, journalists' experience of the administration of the Act, and the Act's performance as measured against the objectives and benefits that are often ascribed to it. Information gleaned from the interviews is supplemented by data collected through a content analysis of UK newspaper articles based on information obtained under the FOI Act 2000 in 2005. The paper finds that although there was significant disappointment with the FOIA 2000 in operation, journalists used the Act to good effect in investigative stories, particularly articles of a historical nature, articles based on statistical or performance

Introduction

The Freedom of Information (FOI) Act 2000 came fully into force in January 2005.¹ In implementing the law, the UK joined a growing group of countries that have granted the public legal access to government information, the majority of which have done so in the last 10 years. Although nearly 70 FOI laws now exist worldwide, there has been relatively little investigation of who makes requests, why they make requests, how effective and efficient they find the FOI response process, and what they do with the information they receive.²

1 Readers should note that this paper looks almost exclusively at journalists' use of the FOI Act 2000 and not the FOI (Scotland) Act 2002. The FOIA 2000 and FOISA 2002, to which public authorities within the Scottish Parliament's jurisdiction are subject, are broadly similar. A neat table of their differences can be found in Appendix 1 of CILIP's 2004 guide '*Freedom of Information (Scotland) Act 2002: A guide for the Information Professional*' (<http://www.slainte.org.uk/files/pdf/cilips/foisa04.pdf>).

2 A survey of all FOI laws in existence is available in David Banisar's '*Freedom of Information around the world 2006: A global survey of access to government information laws*' at <http://www.privacyinternational.org/foi/foisurvey2006.pdf>.

Surveys of those who make FOI requests are difficult to carry out because most FOI laws are 'requester blind', which makes it hard to identify categories of requesters, much less contact individuals about their use of the legislation. However, journalists who use FOI – some of the most visible and prominent requesters – can often be identified through their by-lines. In addition to the fact that they are the most easily identifiable group of requesters, journalists' use of FOI is interesting because the information they obtain is often put in the public domain and it is through them that most members of the general public learn about the law. This paper, based on interviews with journalists and a basic content analysis of articles that appeared in British national newspapers in 2005, seeks to explore why and how journalists used the FOIA 2000 during the first 21 months following implementation, how effective and efficient they found the administration of Act, and to what extent they thought the law 'succeeded' in meeting the objectives set out for it.

Exploring journalists' experiences of using FOI allows us some insight into the administration of the FOI Act 2000. Is a satisfactory amount of information being released? Is it being released in a timely fashion? Is the Act truly requester-blind? Studying their use of the Act also allows us to explore whether FOI is succeeding in relation to some of the benefits that are often ascribed to it. Has it made the government more 'open'? Is it increasing government transparency and accountability? Has it enabled better public understanding of government decision-making and more effective public participation in the political process? Has it increased trust and confidence in government? As users of FOI and well-practiced observers of government, journalists are well placed to comment on these issues.

Literature review

Most people only hear of FOI or about information obtained through FOI via the media. When journalists receive information through use of the legislation and use it in their stories, they often cite the law as their source. They also publish stories and editorials about problems with and, to a lesser degree, about the advantages of FOI.

Reliable and systematic data on who uses FOI are nearly impossible to obtain because most FOI laws do not require requesters to identify the capacity in which they make their requests. Identifying journalists who use FOI is easier because there is often a by-line attached to published articles. However, this only catches those who use the information they have obtained – accurately determining the exact volume and nature of requests placed by journalists is difficult. There have been few extensive studies on how journalists use FOI,³ and

³ M. Rosenbaum's 2004 *Open to Question – Journalism and Freedom of Information*, a qualitative study of journalistic use of FOI in Sweden and Ireland, is one of the exceptions.

there are no comprehensive quantitative data. Even so, it is possible to outline some trends and patterns from the studies available.

In most countries the proportion of journalists using FOI to total requester population is low. The Access to Information Review Task Force in Canada suggests that journalists account for around 10% of requests to federal government (Attallah & Pyman 2002). Similarly, the Heritage Foundation in the US estimates that approximately 5% of all requests to the federal government come from the media (Tapscott and Taylor). Stephen Lamble compared journalists' use across Australia, New Zealand, Canada and the United States and found that the use in Australia was particularly low (1.9 articles per 100,000 people), as was that in the US (1.0 per 100,000 people). However, New Zealand bucked the trend (13.3 per 100,000 people). The most notable exception in journalists' use of FOI is Sweden. Although authorities in Sweden do not record the number of requests they receive, Johan Lidberg suggests that between 40% and 70% of journalists articles use information obtained through FOI (Lidberg 2001).

Anecdotal evidence suggests that the number of requests made by the media under the FOIA 2000 and FOISA 2002 is slightly higher than in other countries, with half of requests to central government in the first month of operation of FOI filed by people identifying themselves as journalists (Mathieson & Chamberlain 2005). The Scottish Executive revealed that 60% of all FOI requests received by Scottish authorities in the first quarter of 2005 came from journalists. However, it must be noted that 60% of the media's requests came from one individual (Scottish Executive 2005). The Scottish Information Commissioner, in contrast, reports that only 7% of appeals made to his office in 2005 and 8% in 2006 were filed by journalists (Scottish Information Commissioner 2007).

The reasons for the relatively low levels of use are clearly identified (Rosenbaum 2004, Evans 2003, Lidberg 2001). FOI response processes are perceived as slow and cumbersome, especially for journalists who have daily deadlines. The twenty-working-day response time allowed authorities under the FOIA 2000 feels like an eternity in a 24/7 news environment. In contrast, speaking to press officers or members of government off the record can be a quick and easy source of information. There are also complaints about the Act's scope. Exemptions, in particular, are viewed as too broad and too readily applied. Journalists are put off by the fact that access to whole classes of information, such as high level government papers like Cabinet papers or policy advice, is generally denied. In some jurisdictions, complaints are made about the excessive costs of requests. In Australia, for example, one journalist was asked to pay AUS70,000 for requested information (Evans 2003). Sweden is the exception in all cases. The high level of use in Sweden is attributable to the speed with which information

is disclosed. Journalists are given almost instant responses to their requests, and almost all requests are granted (Rosenbaum 2004). In other countries the use of FOI has been most beneficial to investigative reporters working on projects with medium- to long-term deadlines.

Some studies have shown that journalists' requests receive treatment that is different to that of other FOI requests. Alasdair Roberts has demonstrated that officials in Canada's Department of Citizenship and Immigration adopted a range of measures to handle politically sensitive requests, such as those from journalists (Roberts 2005). The 'amber light process' is ostensibly used to provide Ministers and senior officials with a 'heads up' and time to prepare a communications strategy and/or package to respond to the issue in question. However, once the request lands on a desk in the Minister's office the line between the decision to disclose and departmental communications strategy becomes somewhat blurred. These 'amber light' requests take longer to process, and a Minister's special interest in a request is likely to mean a more cautious approach when deciding to disclose or withhold information (Roberts 2005). In contrast, in a study of 14 countries' FOI laws, the Open Society Justice Initiative found that journalists who made requests 'received more information than business persons or [others]...between 26% and 32% [of what they requested]' (Open Society Justice Initiative 2006).

Roberts suggests that the UK experience of sensitive FOI requests, especially when considering the Labour government's reputation for highly centralised control of communications and the early work of the Department for Constitutional Affairs (DCA) FOI Clearing House, is likely to be similar to Canada's.⁴ Rick Snell (2002) and Roberts (1998) also note that such an approach to 'sensitive' requests represents a form of administrative compliance that undermines the spirit of access to information legislation. If administrative compliance with FOI laws were mapped onto a continuum one could conceive of varying shades of compliance from one end to the other - from malicious non-compliance (intentional, sometimes illegal actions to undermine the legislation) to proactive compliance (enthusiastic pursuit of the social purposes of the Act). In between would be adversarial (an 'us and them' approach, testing the limits of the legislation without engaging in any illegalities), administrative non-compliance (undermining of access with deficient administration and/or inadequate resources) and administrative compliance (timely compliance with the letter and spirit of the law) (Snell 2002).

⁴ The Department for Constitutional Affairs states that the role of the Clearing House is "to ensure a consistent government- position on requests which have gone to more than one department, and potentially precedent-setting cases; to provide guidance on all sensitive cases with a potentially high public profile; to align the response to such cases with government policy and guidance; [and] to revise government guidance in the light of emerging case law and new policy imperatives." (Department for Constitutional Affairs website, <http://www.dca.gov.uk/foi/clearinghouse.htm>)

Despite the low use of FOI by generally sceptical journalists outside Sweden, most journalists do see FOI as a good tool for journalists and the public (Evans 2003). Many journalists and commentators refer positively to the media and their use of FOI as an important part of the democratic process and a 'special' or 'independent' counterweight to the government's information machine. However, this view is not without its critics. The 24-hour news cycle has brought with it a constant demand for new narratives and minute-by-minute news and has led to a public discourse in which attention (the focus of which is on 'politics-as-entertainment') is fragmented and partial. In other words, the increasing flow of information through new networks of information like 24-hour news channels has a negative impact on the public's ability to hold the government to account because the 'quality' information is drowned out by the constant barrage of personalities and scandals (Balkin 1998).

Methodology

This study is based upon nine semi-structured interviews with journalists as well as basic statistical data that describe journalists' use of the FOIA 2000 in 2005. The statistical data were culled from an analysis of national newspaper articles in which information obtained through FOI appeared. Articles were coded according to whether they appeared in the broadsheet or tabloid press, the name of the publication in which they appeared, their type (news, feature, editorial, etc.), whether they were published on the front page, and to which government department or organisation the FOI request was submitted. The articles were also coded according to the content or type of information requested. Based upon an initial sample of articles the following categories of story were identified: costs/expenses, institutional rules, procedures and policies, performance measures, historical in nature, whimsical/trivial in nature, crime related, health and safety related, malpractice or impropriety, international relations, contracts with government, and domestic security matters.

In the autumn of 2006, after completing the coding exercise, nine one-hour semi-structured telephone and face-to-face interviews were conducted with national newspaper and broadcast journalists.⁵ The interviews were then transcribed. The selection of journalists was informed by the coding exercise through which several, whose name appeared more than once in article by-lines, were identified. This group is not a representative sample of journalists in the UK or even of journalists that use the FOIA 2000. Their responses are only intended to give a 'flavour' of journalists' experiences and opinions about the FOIA 2000 during the first 21 months of the Act's implementation.

⁵ Interviewees were promised anonymity in any write-up of the study results.

Data and findings

Statistics on the use of FOI in 2005

In 2005, 38,108 requests were made to central government under the FOIA 2000, 19,717 (52%) of which were received by Departments of State (Department for Constitutional Affairs 2006).⁶ As one might expect, there was a significant peak in request numbers when the Act was first implemented – 36% of requests made in 2005 were received in the first quarter. The second quarter saw a significant drop in the volume of requests. However, the number remained stable for the rest of the year.

The FOI Act 2000 places a statutory obligation on public authorities to respond to requests within 20 working days. The DCA notes that in 2005 87% of requests received a response within the 20 days or were subject to a permitted deadline extension. The timeliness of responses improved over the year and particularly after the initial first quarter surge.

Of the 29,271 'resolvable'⁷ requests, 66% were granted in full, 13% were granted in part, and 18% were refused. In each quarter, Departments of State responded to between 10 and 15% fewer requests by releasing information in full.

There were also 1,267 internal reviews requested in 2005. Of the 1,057 reviews for which the outcome was known when the DCA's report was published, the initial decision was upheld in 77% of cases and partially upheld in 15%. In 8% of cases the requester's complaint was upheld.

At the end of 2005, there were 127 appeals to the Information Commissioner's Office (ICO) concerning central government's refusal to release information. Only 25 of these appeals had been settled at the time the DCA's report was published. Of those 25, the ICO upheld the department's decision in 18 cases, and partially upheld the department's decision on one occasion. In six cases the requester's complaint was upheld.

Content analysis

In 2005, 602 national newspaper articles in which information obtained through FOI appeared were published. Of those, 387 (64%) appeared in the quality press and 215 (36%) in the popular press. *The Guardian* (15%), *The Times* (15%) and *The Sunday Times* (12%)

⁶ Departments of State include all the main departments of HM Government (Foreign & Commonwealth Office, Ministry of Defence, etc.) while other monitored bodies include organisations such as the Office for National Statistics and the Foods Standards Agency.

⁷ This excludes requests for which information sought was not held, further clarification about the nature of the request was being sought, or those in which a fee was required but had yet to be paid.

published the largest number of FOI-information-based stories. Of the popular press papers, *The Daily Mail* (7%), *The Daily Mirror* (6%) and the *Daily Express* (8%) were notably active in using FOI. There was a predictable spike in the number of articles published in the first quarter of the year as journalists used the Act for the first time. However, usage remained relatively stable for the remainder of the year.

As table i shows, the most prominent 'types'⁸ of stories were those relating to costs and expenses, institutional rules, policies and procedures, and performance measures. More than one-fifth of the articles related to costs or expenses incurred by government. A further 20% related to the government's conduct within certain institutional rules or procedures. Stories about contracts with government, international relations, and domestic UK security matter were the least prominent.

Table i

Content/nature of article	Percent
Costs / Expenses	21.2%
Institutional rules, procedures and policies	20.8%
Performance measures	10.7%
Historical	9.4%
Whimsical / Trivial	9.1%
Crime	7.1%
Health and safety warnings	7.0%
Malpractice or impropriety	6.4%
International relations	4.2%
Contracts with government	2.5%
Domestic (UK) security matters	1.5%
	100.0%

Forty articles based on information obtained through FOI made the front page, *The Guardian* (23%), *The Daily Telegraph* (18%) and *The Sunday Times* (15%) published half of these front page stories. The types of stories that won this coveted spot focused on the most prominent types of information – costs and expenses, institutional rules, policies and procedures, and articles relating to performance measures or data. Approximately half the articles using FOI were about central government, though stories about the police and police activities were also common.

⁸ Please note that the categories are not mutually exclusive.

Interviews

Why do journalists use the Act?

As the large number of requests during the first quarter of the FOI Act's operation demonstrates, one reason journalists made FOI requests just after implementation was because of the law's novelty factor. The Act presented journalists with a new means of gaining information and they were keen to test it. As one journalist noted, 'I am one of those that are guilty of making a whole flurry of requests in the early stages' (Interview, 20 October 2006). Another noted, 'The bulk of my requests were made in the early phase of the Act, [since then] I have made fewer and fewer' (Interview, 24 October 2006). This early enthusiasm sometimes took the form of what one interviewee referred to as 'fishing' for stories (Interview, 20 October 2006) - putting requests in on subjects without any real leads in the hope of 'capturing' something newsworthy.

A more substantial motivation for using FOI, noted by nearly all journalists interviewed, was the statutory right to access information conferred by the Act. Several journalists mentioned the 'extra leverage' (Interview, 20 October 2006) offered by FOI. As one explained:

It was an opportunity to ask questions from the basis of having the right to receive answers to questions that are otherwise just blocked. We get so many "no comment" answers in this country, "can't discuss that", etc. It does give you a little bit of extra leverage, but only a little bit...Press officers often say "we can't disclose that because of data protection", they can just make stuff up and block you. And actually when you can say, well, I'm going to do this under FOI and at least you have the statutory right, they at least have to consider it. (Interview, 20 October 2006)

Such views were common among the interviewees. Some gave specific examples of this 'extra leverage'. One journalist received information from the Metropolitan Police about the costs of policing Abu Hamza's preaching outside the Finsbury Park mosque and explained, 'if you went to the press office they would usually say the figure is not available, and they certainly wouldn't go and get it for you' (Interview, 20 October 2006).

Another journalist also explained the difference the statutory backing made:

It's made a noticeable difference in that you can go and ask for things where previously you would just have given up or thought it was dead end. I think it

has made a real difference in giving you the opportunity to pursue things if you are really intent on a particular issue or angle. It gives you that scope, and you do have the knowledge at the same time that to a certain extent you're backed up by the law and what the Act says so that even if you're refused twice over you can take it to the commissioner. I think that does make a difference. (Interview, 22 September 2006)

One journalist also noted how the Act had, in some circumstances, slightly changed his relationship with inside contacts. 'Certainly contacts of mine have said you might want to put in a request for XYZ, so I suppose it's made a difference from that point of view, whereas previously they've said you won't be able to see that material for 30 years.' (Interview, 11 October 2006)

Another reason journalists used the Act was its helpfulness in longer-term, investigative stories. 'When you're not dealing with a particular time frame, no real deadline, or you want the information as well investigated or [as] full as possible, you seek it through an FOI request. If it's a story for the day, then you find it through press office' (Interview, 19 September 2006). Others also noted that FOI was most beneficial to those doing investigative reporting. 'I think it's people who are interested in investigations, original journalism, in following long-term ideas rather than next-day stories. That's what the difference [of having FOI available] is,' suggested one (Interview, 10 November 2006). Another commented, 'I think it would be wrong to say that it is something that impacts on every day reporting, in the sense that by and large in the day-to-day, run-of-the-mill reporting, the FOI act is not going to come into play every day or every week. But there are times when it makes a real difference' (Interview, 22 September 2006).

Several journalists also noted that the Act was particularly useful for getting hold of primary source material which would have previously been unobtainable. 'We are better off because any new way of getting information, particularly first-hand primary sources, is a good thing. It was rare to get actual minutes, etc. in the old days. Even when they don't produce stories, it's interesting to see first hand documents, which you rarely got to see before' (Interview, 13 September 2006). The ability to get such material has also opened up a 'new' set of stories to pursue. 'Journalists have a whole new area of news: historical news stories, the ability to look back on events that are no longer politically sensitive about which public bodies or government departments will feel relaxed about releasing information' (Interview, 19 September 2006). While this is not quite a 'new' area of news, the Act does apply to material in the National Archives and at least one other journalist was using the Act for that purpose. As well as historical or original documents it was also frequently noted that FOI 'seems to be

of most use to get hold of statistical/factual information' (Interview, 24 October 2006). This was borne out in the content analysis, which showed information relating to costs or expenses and performance measures as the type most frequently used in FOI-information based articles.

There was a further, perhaps surprising, reason for media use of FOI. One journalist observed that some peers were using the Act in a manner that sought to undermine it or portray it as weak. For some journalists not getting a story through FOI was the story:

Looking at the requests other journalists have made, that some other papers have put in, some journalists are putting in requests to try and prove...they're putting in requests for information they know they are not going to get in order to try and show how weak FOI is. They're putting in requests in a kind of campaigning way. My interest is purely to get information which I think is of practical use for stories, not to show that the law is weak or strong. (Interview, 10 November 2006)

Journalists' experience of the Act 'in operation'

Timeliness

Journalists reported that many responses to their requests arrived after the 20-day statutory deadline had passed. Some of these delays occurred because authorities are permitted to go over the 20-day statutory deadline in order to consider the public interest.⁹ However, evidence from journalists suggests that requests for which authorities request further time to deliberate often end up being delayed for a long time. One journalist waited nine months for a response. Another waited 12 months for a reply from the Foreign & Commonwealth Office (FCO), prompting the Information Commissioner to intervene. These were not isolated cases. Indeed, under the FOI Act Martin Rosenbaum obtained a list of the worst cases, which detailed excessively long delays by central government departments in their responses to individual requesters or the ICO itself (Rosenbaum 2006).

Several of the interviewees suggested that the system was so slow and chaotic that it was easy to lose track of the requests that they had submitted. None had anything positive to say about the amount of time it took to receive a response. In sum, for journalists the FOI request process is plagued by missed deadlines and extensive delays. With the exception of Sweden, this is in line with evidence from other countries: FOI is by and large a slow and cumbersome means for obtaining government-held information.

⁹ Time extensions granted to consider the public interest test are not included in the DCA's monitoring statistics.

One factor presumed to be responsible for many delays is of particular interest. Several journalists drew attention to the DCA Clearing House and the excessive involvement of Ministers in the response process. Journalists reported that many of their requests ended up on the Minister's desk and/or in the Clearing House. It is reasonable to assume that in most cases the Act is working in the 'requester blind' fashion, and that journalists are more likely to ask sensitive questions of the sort that might need to be referred to a Minister for consideration. However, in the eyes of journalists the Clearing House is over-zealous in its approach and acts as a further buffer that is used to undermine the effectiveness of the Act. Said one journalist, 'It seems to me the role of [the Clearing House] is to block the release of information. It does not seem to be there to facilitate the release of information' (Interview, 20 October 2006).

Appeal system

It is the appeal system that perhaps generated the most disappointed comments from journalists, although, as the Information Commissioner's Office's own figures show, this is by no means a problem encountered solely by journalists. Of the appeals made to the ICO in 2005-06, more than half were open for longer than three months and a fifth were open for longer than six months (Information Commissioner's Office 2006). Journalists were unanimous in their criticism of the length of time it took their requests to make it through the system. Only one journalist could report that his appeal had reached the Information Commissioner, and a substantial number had yet to see their cases opened. The delays, sometimes over a year in length, were a great deterrent to making further FOI requests. Most journalists remarked that the process took so long that it was a 'waste of time' and that they could no longer be 'bothered'. Once the request was referred to the ICO most gave up.

There was similar scepticism about the internal review process. Only one journalist had had a decision overturned at the internal review stage. The process was almost unanimously viewed as an 'institutional buffer' (Interview, 24 October 2006) and another means for delaying the release of information. One likened the process to asking the question 'Are you sure?', to which the answer, a month or more later, was - 'yes' (Interview, 11 October 2006). There is no statutory limit on the length of time an internal review can take, which frustrates requesters not only because of the delay in getting a response but also because they cannot appeal to the ICO before an internal review is complete.

The process of making a request, challenging the decision in an internal review, and appealing to the Information Commissioner's Office (and for some, the Information Tribunal), is long and slow. If one were to go by what was said only in these interviews, the appeal system, by

virtue of its slowness, is not working. The absence of an effective appeal system that works in a reasonably timely fashion is at the root of journalists' cynicism regarding the Act. The long, drawn-out process of making an FOI request and working one's way through the appeals system is unappealing and mostly unrewarding. While there was an expectation that government departments might be reluctant to release some information, there was some hope that an independent Information Commissioner would give the system some 'teeth' (Interview, 19 September 2006). However, the year-long delays have led to widespread disappointment and disillusionment. This acts as a deterrent for journalists, even those who are not working to day-to-day deadlines. However, despite the problems they have faced, most journalists acknowledge that overall the Act is a force for good and recognise that information has been made available that would not have been prior to FOI.

Journalists' perspective: is the Act meeting its objectives?

The objectives of the FOIA 2000 are not included in the text of the legislation, though many politicians, government officials and campaigners have offered their thoughts on what the Act should 'achieve' in speeches, editorials, select committee reports and other communications. Besides providing a statutory right to access official information, the legislation is expected to increase the openness, transparency and accountability of government. Journalists' perspectives on whether the FOIA 2000 is doing so were mixed. Some believed that FOI had changed nothing and that 'the promise to usher in a new age of freedom of information has seemingly failed to materialise' (Interview, 24 October 2006). Others believed that government was changing, albeit slowly, and that over time, as public authorities release more information and realise that 'the sky has not fallen in' (Interview, 19 September 2006), there will be a move towards greater openness in government.

Those that believed nothing had changed suggested that the government and officials treat the Act and its obligations as a 'game' (Interview, 24 October 2006). The perpetual blocking and delays of requests was cited as evidence that the government was not serious about making FOI work. 'The government treats it like a game and is very defensive – look at the Clearing House for instance' (Interview, 24 October 2006). The role of the Clearing House generated scepticism and was cited as evidence of government's reluctance to change. 'They are clearly coordinating and blocking responses across Whitehall – I have had responses to FOI requests, from different departments, that are the same - word for word' (Interview, 24 October 2006). The opinion that the government is as secretive as ever was prominent. One journalist suggested that the behaviour of civil servants in this respect has changed little over the last 30 or 40 years and that FOI has made little difference.

Some journalists had more nuanced views, and noticed different approaches in different parts of government. 'Based on my own personal experience, the further away from the centre of power you are, people tend to be more helpful' (Interview, 19 September 2006). Another agreed. 'The further away from the centre of power you get, the more liberal people are with information. So frequently you do get a better response from local councils or NHS bodies' (Interview, 19 September 2006).

Even those who were disappointed with FOI in its first 21 months acknowledged that there has been some progress, and that government departments are now perhaps slightly more accountable than before. It was also noted that the public, who have little contact with central government's civil servants, would notice this more than journalists. There was recognition that changing the 'culture of secrecy' in Whitehall would be a long, slow process. '[It's] a very long process, but every time you ask for some information and they say "oh no" and it's released, and the sky doesn't fall in, every time that happens it's a slight lever towards changing the culture towards, "oh, maybe we could publish that then"' (Interview, 19 September 2006).

There were also realistic expectations on the part of journalists about what FOI could actually deliver. A few suggested that FOI was just one of many tools available, to be used in a 'supporting role' (Interview, 11 October 2006). This was different, however, to how many journalists had used the Act, which in the early stages was getting an 'FOI story' – one that stood alone – as either X information was released under FOI or Y information was withheld. The notion that FOI could deliver accountability, transparency and openness on its own was dismissed by these journalists. Instead there was a consensus that FOI should be judged in more modest terms, as one of a range of ways in which the government could be made more accountable, transparent and open. But most journalists tended to see the delay and refusals of their requests as evidence that nothing had changed.

Conclusions

Most journalists suggested that the Act has made little difference to their reporting. Even so, it was widely remarked that journalists are 'slightly better off' (Interview, 11 October 2006) because they now have another avenue of information-gathering open to them. The few journalists who were relatively positive about FOI were investigative reporters – those not working to the daily deadlines of news stories. Indeed, those reporters who do focus on longer-term investigative stories said that FOI had made a 'noticeable' (Interview, 22 September 2006) or 'huge' (Interview, 10 November 2006) difference to their reporting. FOI provided journalists with the opportunity to obtain information or pursue story angles that

previously they might not have. While not a tool to use in every day reporting, FOI occasionally proves very useful. All journalists welcomed the added leverage that comes with the statutory right to information that the FOI Act confers, even if they were disappointed by the administration of the Act itself.

The insights gleaned from the interviews suggest that in the early phases of FOI in the UK, journalists have been using the Act with most effect in investigative stories, particularly those of a historical nature, those that entail statistical or performance data, or those for which access to original documents or papers are required. The fact that the FOI Act 2000 provides a statutory right to access such documents has, in some cases, provided a new means to develop stories that prior to the Act may have stalled.

References

Attallah, P. & Pyman, H. 2002. How Journalists Use the Federal Access to Information Act. *Access to Information Taskforce* [online]. [Accessed 13 March 2007]. Available from the World Wide Web: <http://www.atirtf-geai.gc.ca/paper-journalist1-e.html>

Balkin, J. M. 1998. How the media simulate political transparency. [online]. [Accessed 13 March 2007]. Available from the World Wide Web: <http://www.yale.edu/lawweb/jbalkin/writings.htm>

Department for Constitutional Affairs (2006) *Freedom of Information Annual Report 2005: Operation of the FOI Act in central government*.

Evans, B. 2003. The use by journalists of the Australian freedom of information regime. *FOI Review*. Number 103.

Information Commissioner's Office (2006) *Information Commissioner's Office Annual Report 2005-2006*.

Interviews with journalists between 13 September and 10 November 2006.

Lidberg, J. 2001. Freedom of Information as a Journalistic Tool, *FOI Review*. Number 95.

Mathieson, K. & Porter Chamberlain, R. 2005. The Media Experience of FOI Law So Far. *The Freedom of Information Journal*. Volume 1, Issue 5 (May/June).

Open Society Justice Initiative. 2006. Transparency & Silence: A Survey of Access to Information Laws and Practices in 14 Countries. New York, NY: Open Society Institute.

Rosenbaum, M. 2004. *Open to Question – Journalism and Freedom of Information* [online]. [Accessed 13 March 2007]. Available from the World Wide Web: <http://www.ucl.ac.uk/constitution-unit/foidp/downloads/Martin%20Rosenbaum%27s%20Reuters%20paper%20FINAL.pdf>

Rosenbaum, M. 2006. Revealed: departments which delay. 5th July 2006. *Open Secrets: a blog about freedom of information*. [online]. [13 March 2007]. Available from the World Wide Web: http://www.bbc.co.uk/blogs/opensecrets/2006/07/revealed_departments_which_del_1.html

Roberts, A. 1998. Limited access: Assessing the health of Canada's freedom of information laws [online]. [Accessed 13 March 2007]. Available from the World Wide Web: <http://www.aroberts.us/documents/papers/limitedaccess.pdf>

Roberts, A. 2005. Spin control and freedom of information: Lessons for the United Kingdom from Canada' *Public Administration*, 83.1 (Spring): 1-23

Scottish Executive. 2005. *Responses to requests for information concerning the operation of FOI within the Executive – in particular with regard to requests from the media* [online]. [Accessed 13 March 2007]. Available from the World Wide Web: <http://www.scotland.gov.uk/Resource/Doc/1066/0012147.pdf>.

Scottish Information Commissioner. 2007. Freedom of Information Annual Report 2006 [online]. [Accessed 17 April 2007]. Available from the World Wide Web: <http://www.itspublicknowledge.info/Documents/AnnualReport2006.pdf>.

Snell, R. 2002. FOI and the delivery of diminishing returns, or how spin doctors and journalists have mistreated a volatile reform. *Australian Review of Public Affairs*. Vol. 2, No.3: March, 187-207.

Snell, R. 2001. Administrative compliance – evaluating the effectiveness of freedom of information. *Freedom of Information Review*. Number 93.

Tapscott, M & Taylor, N. Few Journalists Use the Federal Freedom of Information Act. *The Heritage Foundation* website. [Accessed 13 March 2007]. Available from the World Wide Web: <http://www.heritage.org/Press/MediaCenter/FOIA.cfm>