

FOI's impact on the media and public on both sides of the Border, five and 12 years on

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The views expressed in this presentation are the personal views of the speaker and do not necessarily reflect the views of the media in general

This presentation will cover:

- The usage of FOI legislation by media/public
- Stories it has uncovered
- Benefits of release of data
- Future development of FOI
- Questions

Acts prompted wave of FOI

- Secrecy culture before the acts' introduced
- 1998 Republic of Ireland introduced act - 20 countries had similar laws. Today 70 countries have similar laws
- Creating a culture change in public bodies
- Knowing what is being done in our name

International experience

- FOI legislation is an uneasy relationship with government
- Its agenda is to “keep government honest”
- Ensure political accountability
- Discourage corruption

Prime Minister Gordon Brown

“In a world of increasingly rapid change and multiplying challenges - facing for example a terrorist threat or a challenge to our tolerance - democracies must be able to bring people together, mark out common ground, and energise the will and resources of all. It is the open society that responds best to new challenges ...”.

(25 October 2007)

Benefits of FOI

- Public bodies are more transparent and accountable
- More consistent decision-making
- Promotes democratic involvement of the public
- Allows individuals access to and correction of their records

Usage patterns in Republic

- Average of 11,688 requests a year.
 - 70% granted in full or part
 - 8% internal appeal
- 53% from 3rd party
 - 3% to Information Commissioner
 - 25% IC appeals successful.
 - 41% public body decision upheld
- 4,000 p.a. non-recorded FOI requests for exam scripts, medical records, public servant's files

Usage in UK - similar

- Over 500,000 FOI since 2005
- 80% granted in full or part (Justice Ministry)
- Those agreeing that freedom of information “increases knowledge of what public authorities do” rose from 54% in 2004 to 84% in 2008.
- 30% of cases ICO upholds complaint
- 25% of complaints are rejected

The act's users

- Few cases of serious abuse
- Individuals = main users - health, tax, education, social welfare, housing records
- Public servants (employment records).
- Businesses (tender information etc).
- Journalists: 8% of **recorded** requests (was 16% before fees in RoI).

Other power users of acts

- Opposition MPs and TDs: They know where to find the records
- Lobby groups/unions
- Media have been slow to push FOI to its limits due to time constraints, complexity, cost.
- Sunday newspapers and broadsheets = main media users

FOI Stories in Republic

- 4 week processing of requests = FOI not a media friendly act – news value diminished.
- Dail speaker's and Fas expenses = resignations
- €300m overrun on national stadium - abandoned
- Minister watering-down rail safety report
- Cuts ordered while government deny them
- School/university leagues tables/performance

Stories in UK through FOI

- MPs expenses – resignations and criminal charges/ changes in system re renting family property for offices
- NI: Paisley family involvement with developers
- NI: MLAs employing family members
- Iraq war legal advice
- WMD draft dossier; Cabinet minutes where going to war in Iraq was discussed
- MMR vaccine

Better transparency

- **Inspection reports** of nursing homes, child care facilities, schools, hospitals – improved quality – routinely published
- Revised decision-making
- Hospital waiting lists/acquired infections
- EU farm grants/MPs/MLAs expenses/staffing
- Shed light on virtually on public policy making - from taxation to legal profession regulation

Public bodies and the media

- In general they have been co-operative even if it does cause some embarrassment at times
- Bodies well trained in FOI. Write records as if the public was looking over their shoulder
- Public bodies bad at admin. = bad at FOI too = e.g. health authorities

Key conflict areas on release:

Confidence

Legal privilege

Privacy

State security

Cost of operation

Time of public servants

Fishing expeditions/trivial

Other tactics with media

- Releasing publicly requested records to do a reporter out of a scoop
- Astronomical fees - over ruled by Information Commissioner
- Using appeal mechanism to delay release and take out news impact

Intangible benefits of FOI

- Public servants have “zone of comfort” in explaining things to public and media. Often can set-out background better than records
- More information is published in a routine manner
- Particularly useful is material placed on archive on a public body’s website as it allows 24/7 access

FOI wish list

- Gardai, schools, CAO, State Exams Commission and others brought into FOI
- Reduce barriers to openness like the unfair fees regime (OECD/Information Commissioner /Transparency Int)
- Cut processing requests and appeals
- Fast track FOI for media like in US
- Repeal 2003 amendments
- Whistleblower legislation
- Include Financial Services Regulator

Conclusions

- The public rarely exercise their FOI rights, but they are very aware of them. It has led to:
 - Greater trust in public bodies
 - Cost savings for government through more competitive tendering
 - More consistent decision making
 - Huge benefits and few downsides (save inconvenience)

Conclusions

- The concerns which first prompted FOI legislation are as relevant today than when introduced.
- We must cultivate it, fight for it, Promote it.
- While both sides of the border may well be a more open society than it was 12 or five years ago, there is no room for complacency

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Q & A