



Freedom of Information Act 2000: The First Year
The experience of local authorities in England

September 2006

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Acknowledgements

We are grateful to everyone who responded to the invitation to participate in this study. We received valuable material from 112 of the 387 local authorities in England that we invited to participate. Their contributions reflect a spectrum of local authorities' views and experiences with the Freedom of Information Act 2000 (FOI Act) and the Environmental Information Regulations 2004 (EIRs).

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Executive Summary

Introduction

This is a report of a study of local authorities' experiences complying with the FOI Act 2000 from January to December 2005. It relates to a previous study that covered the first six months of FOI enforcement, which we carried out on behalf of the Improvement and Development Agency and published in September 2005. This study is based on a simplified version of last year's survey and covers the whole of 2005 – the first year of full implementation of the Freedom of Information Act (FOI Act).

The primary purpose of this study was to understand how local authorities coped with the Act during 2005 by studying the numbers and types of requests they received, analysing the problems they encountered and exploring the lessons they learned. For reasons of cost-effectiveness the survey was web-based and addressed to central FOI officers in each local authority using email addresses available to the Constitution Unit. In order to encourage frank responses, participants were assured that their submissions would not be used in ways which would enable them or their authorities to be identified. We succeeded in reaching FOI officers at most of the 387 local authorities in England with the invitation to fill out the survey¹. Of the ones we reached, 112 practitioners, or 29 per cent of the total population, gave a substantive response².

Key findings

Volumes: We estimate that in the twelve month period from January to December 2005, the 387 local authorities handled a total of 60,361 requests. We saw no noteworthy differences in the number of requests received by London boroughs, county, metropolitan and unitary councils. However, district councils received far fewer requests on average than the others.

Table 1 – Number of requests, refusals and internal reviews 1st January to 31st December 2005

	Total requests	Refused	Internal reviews
Other councils (149)*	38,401	3683	956
Average/other council	258	25	6

and added them, applying a weighting of 50% to the second choice and 25% to the third³. On this

Types of information requested: Respondents were asked to rank eight types of information requested, of which the top four categories were:

Costs and expenses	24%
Active local issues	21%
Contracts	20%
Procedures, policy decisions and meeting minutes	16%

No other single category represented more than 5 per cent.

Problems with compliance: Respondents were asked to rank six compliance problem areas, which are ranked as shown below:

Applying exemptions	27%
Inadequate resources	24%
Balancing the public interest	18%
Requests which may affect a third party	17%
Requests which could be subject to EIRs	9%
Other	5%

Positive aspects of compliance: Respondents were asked to rank six ways in which they thought that FOI had positively affected their organisation, which are ranked as shown below:

Culture of more openness	29%
Improved records management	28%
Improved internal communication	16%
Improved public trust and confidence	12%
New information about delivery of services	12%
Other	3%

Additional comments and concerns: This was a free format question and 46 authorities provided detailed comments. We analysed and categorised these comments. The largest single category related to problems with applicants and this was divided into a number of sub-categories:

Problems with applicants: This area was highlighted by nineteen of the authorities and their comments were spread across the following categories:

General: a number of concerns were expressed about the general lack of understanding of the Act by applicants and the extra work this produced for FOI Officers.

Commercial applicants: concerns were expressed that the use of the Act for commercial purposes was in some way inappropriate, not intended by the Act and contrary to 'the spirit of the Act'. This was sometimes combined with suggestions that companies should pay for information.

The media – especially the local press: sometimes press activity was intense and on occasion focused upon sensitive areas and at other times on trivia, e.g. money spent on biscuits.

Vexatious applicants and those using the Act as another route for unsatisfied complaints: the implication of some comments was that vexatious applicants were suffered and took a lot of time, and with an unsatisfied complainant there was sometimes a reluctance to refuse an unreasonable request since this could make the situation worse.

Lack of resources: nine authorities mentioned this was an issue for them. However, the reasons varied. The main reasons included:

- a reluctance to say no to a request on cost grounds had an impact upon resources

- a reluctance to publish information made it harder to plan to reduce the on-going costs
- there was an implication that vexatious requests had been suffered rather than refused and this had a large effect upon resources
- a number referred simply to inadequate financial support for FOI activities or the need for FOI staff

Internal training and systems: seven authorities mentioned problems in these areas. Examples included problems with logging, tracking and co-ordinating requests across the council.

Internal policies and attitudes: six authorities made comments about positive and negative attitudes towards FOI held by senior managers and staff. Comments were divided between those who reported that the culture towards openness had improved, those who reported reluctance to release information for which no exemption applied and difficulty in finding all of the information requested.

Summary of conclusions

This survey provides a comprehensive analysis of the key areas of compliance with FOI and EIRs. During 2005 the average council received 13 FOI/EIR requests a month and refused to disclose in just one case per month. Each request took an average of 16.4 hours to process, although wide deviations from this average were reported (from about 3.5 hours to over 50 hours).

The main users of the Act were private individuals closely followed by businesses. The media represented about 11% of the requests. The types of information most often requested were costs and expenses, active local issues and contracts.

Few authorities charged for providing information and 69% of authorities published their charging

Background

At the end of December 2005, the FOI Act had been fully in force for a year. To build on the data we collected in our first survey of local authority FOI practitioners, which covered the first six months of compliance, we carried out a second survey that covered calendar year 2005, or the first 12 months of compliance with the FOI Act 2000⁴.

Objectives

The main aim of this project was to identify how local authorities coped with FOI in the first year of implementation by studying the numbers and types of requests they received, problems they encountered, costs they incurred and lessons they learned. While the primary focus of the study was the FOI Act, requests which were handled under the Environmental Information Regulations 2004 (EIRs) were included.

Methodology

A web-based survey of 25 questions was designed and built using online survey software. The invitation to participate, accompanied by instructions for filling out the survey, was sent by email to FOI officers on 21 June 2006. The invitation included an incentive of the chance to win one of five £30 certificates toward Constitution Unit publications to those who completed the survey. Two reminder emails were sent on 4 July and 12 July to those who had not yet responded and the survey was closed on 8 August 2006. The questionnaire can be found in Appendix B.

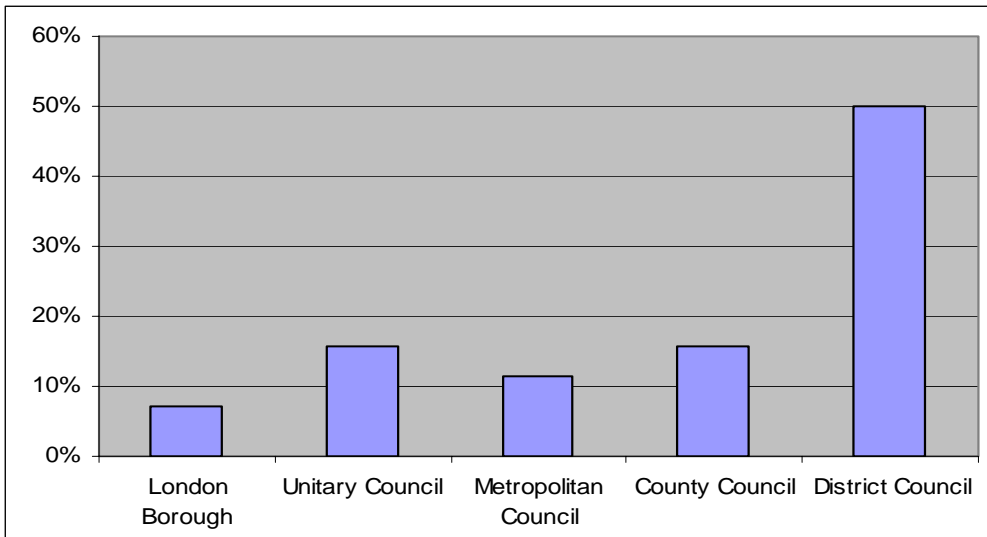
Response rate

The target population of the survey was 387 English local authorities. We sought to obtain responses from the central FOI officer in each authority. For reasons of cost-effectiveness we communicated with authorities only via email. We built our list of email addresses of FOI practitioners from our existing email address list and filled in the missing addresses by locating them on council web sites or by phoning councils and asking for the email address of the principal FOI practitioner. Despite our best efforts, we did not reach all councils but we have reason to

Findings

To establish a basis for understanding the origin of the responses, we asked practitioners to identify for which type of council they work. 50% identified themselves as district council FOI practitioners, 15% each as practitioners at county councils and unitary councils, 11% at metropolitan councils and 7% in London boroughs.

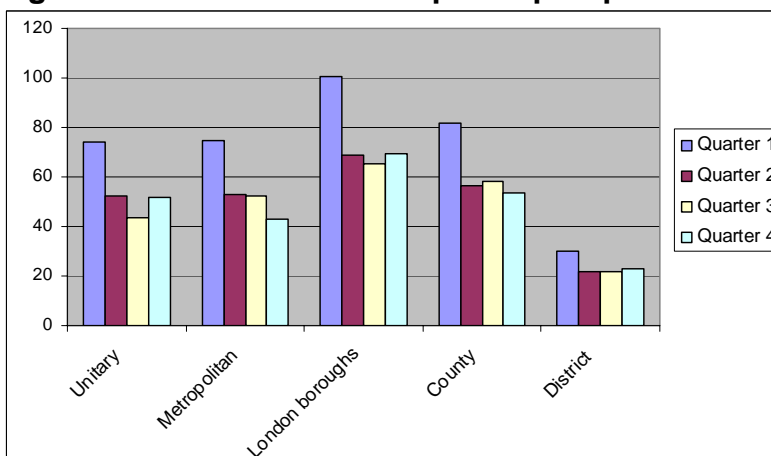
Figure 1 – Breakdown of respondents by council type



Statistics relating to: requests, release of information, refusals, internal reviews, meeting timescales and complaints to ICO (Q1, Q2, Q3, Q4, Q5, Q6⁵)

1. How many FOI and EIR requests did your authority receive during each quarter of 2005?
(Please use information recorded in your tracking system or your best estimate when reporting the number of requests. Please note that Quarter 1 refers to January to March, Quarter 2 to April to June, Quarter 3 to July to September, and Quarter 4 to October to December.)

Figure 2 – Number of FOI requests per quarter

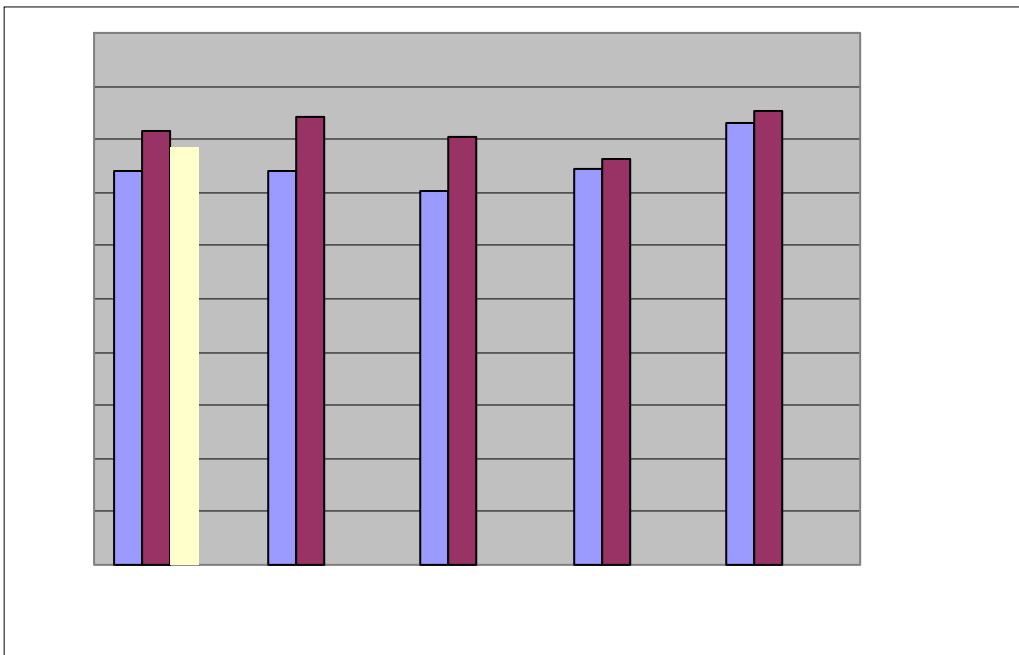


⁵ Due to extremely low numbers reported in response to the number of cases referred to the ICO, we have left the results of this question out of the report.

Figure 2 shows the average number of requests received by each type of council in each quarter of 2005. The number of requests dropped sharply after the first quarter, with numbers stabilising across quarters 2, 3 and 4. The average number of requests received by London boroughs was consistently higher over the year than those received by other types of authorities. The total number of requests increased in quarter 4 for unitary councils, London boroughs and district councils, though metropolitan and county councils saw a drop in requests from quarter 3 to quarter 4.

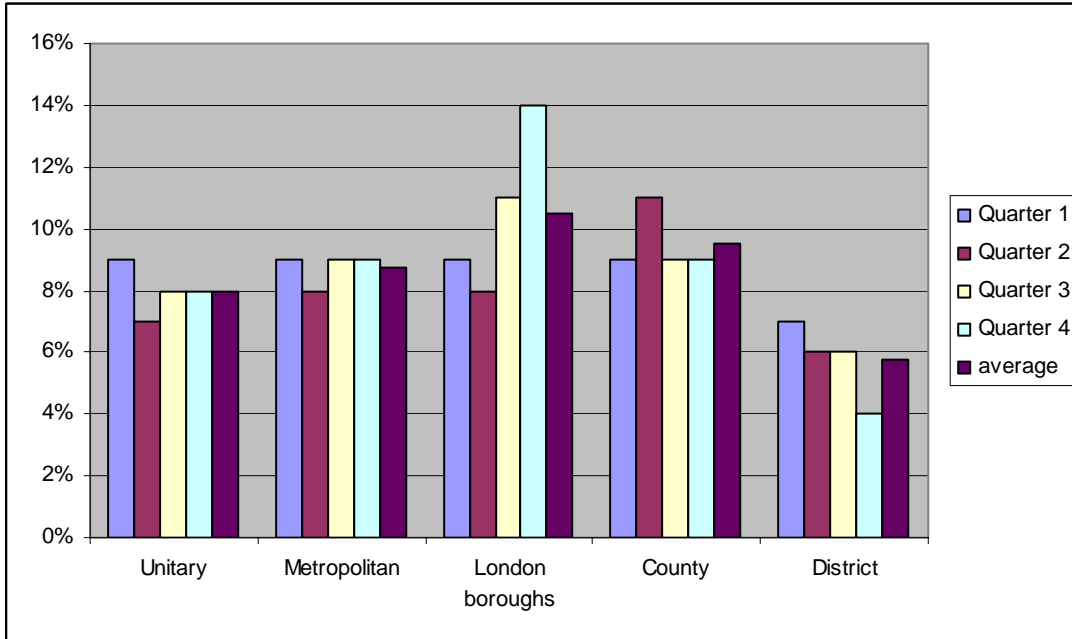
2. To the best of your knowledge, in 2005 how many FOI and EIR requests resulted in **full** release of the information requested?

Figure 3 – Percentage of FOI requests that resulted in full disclosure



3. To the best of your knowledge, in 2005 how many FOI and EIR requests resulted in a release of NONE of the information requested?

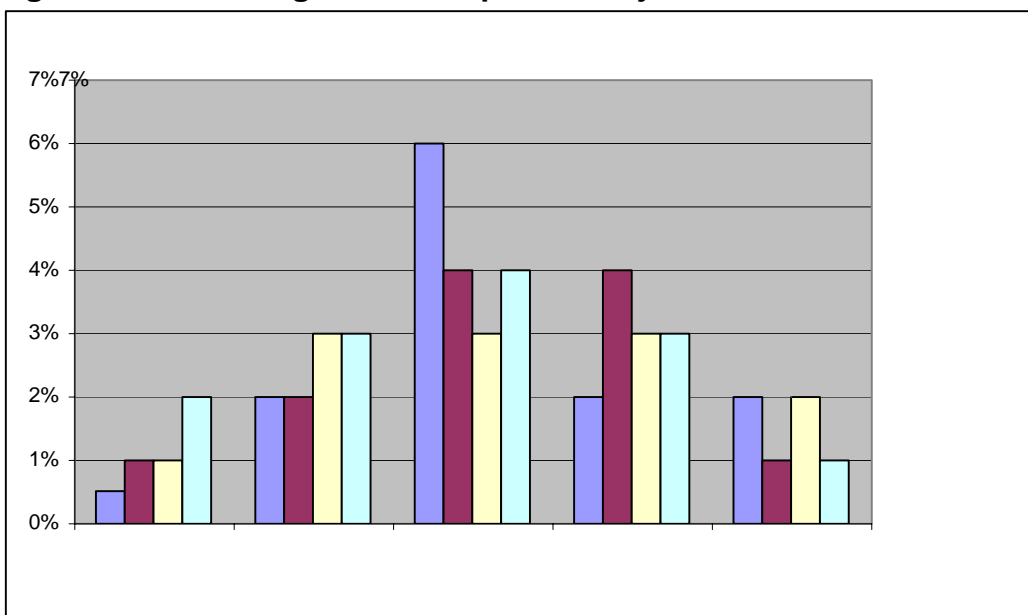
Figure 4 – Percentage of FOI requests that resulted in none of the information requested being released



The average refusal rate across councils over the entire year was 9%, which represents a small increase over the average refusal rate of 8% over the first six months. London boroughs showed the highest average refusal rate at 11%, boosted by a surge in full refusals from quarter 2 to quarter 4. District councils had the lowest average refusal rate over all four quarters at 6%.

4. To the best of your knowledge, how many requests were subject to an internal review within your authority in 2005?

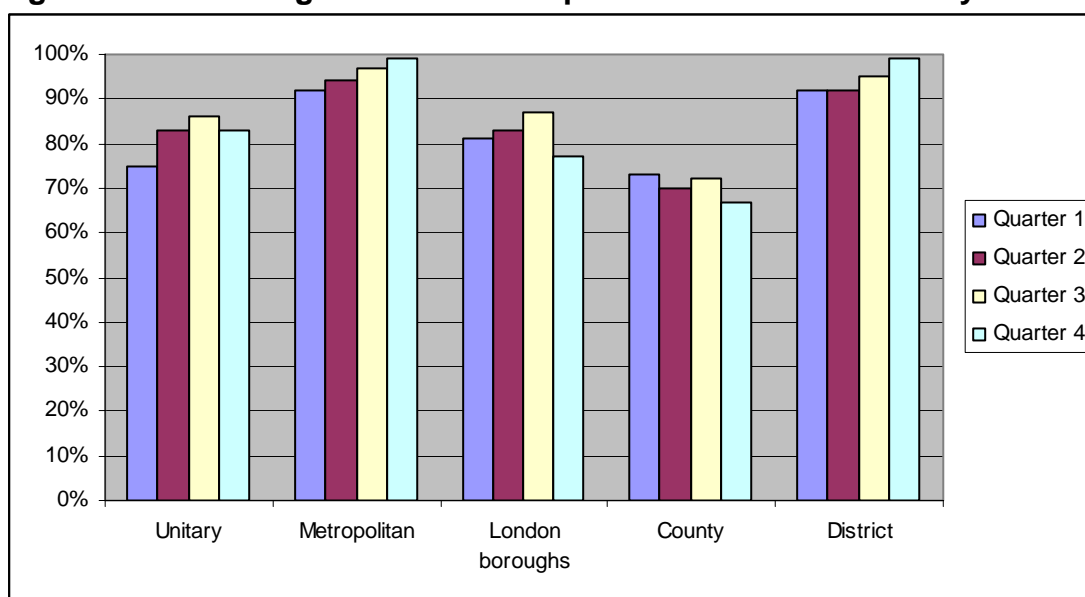
Figure 5 – Percentage of FOI requests subject to internal review



The average authority had 2% of their requests subjected to internal review over the year, while in the first six months the rate was 2.8%. Compared to other councils, London boroughs showed a consistently higher ratio of internal reviews to total requests – 4% across all four quarters. Unitary councils, at 1%, had the lowest overall average ratio of internal reviews across quarters.

6. To the best of your knowledge, how many FOI and EIR requests were settled within the statutory 20-day time limit in 2005?

Figure 6 – Percentage of FOI / EIR requests settled within 20 days



The average authority reported settling 85% of requests within the statutory time limit. Metropolitan councils and district councils showed a smooth improvement over time. Comparatively speaking, county councils showed the poorest performance, averaging a 75% ratio of requests settled within the time limit to total requests over all four quarters, while metropolitan councils performed best, settling an average of 95% of requests within the time-limit.

Staff assigned to FOI and EIR compliance tasks (Q7)

7. On average, how many full-time equivalent (FTE) staff were assigned to FOI and EIR compliance tasks in the following areas in 2005? *(Please count staff in terms full-time equivalents. For example, one full-time person and four people at 25% time each equals two FTEs.)*

Table 4 – FTEs assigned to FOI and EIR compliance tasks in 2005

1st Jan to 31st Dec 2005

Authority	Central FTEs	Dept. FTEs	Total FTEs	Total FTEs (hrs/mth)	Total requests (1 year)	Average requests/mth	Average hrs per request
County councils							
Totals for 12 Councils	11.4	18.0	29.4	4116.0	2557	108	19.3
Average per council	1.0	1.5	2.5	343.0	213	18.0	
London Boroughs							
Totals for 6 Boroughs	5.9	10.5	16.4	2296.0	1997.0	166.2	13.8
Average per council	1.0	1.8	2.7	382.7	332.8	27.7	
Metropolitan							
Totals for 5 Councils	5.0	9.0	14.0	1960.0	1057.0	88.0	22.2
Average per council	1.0	1.8	2.8	392.0	211.4	17.6	
Unitary							
Totals for 9 Councils	8.1	7.3	15.4	2156.0	1841.0	153.4	14.1
Average per council	0.9	0.8	1.7	239.6	204.6	17.0	
District Councils							
Totals for 38 Councils	23.9	12.4	36.3	5082.0	3636.0	303.0	16.8
Average per council	0.6	0.3	1.0	133.7	95.7	8.0	
Overall averages	0.9	1.2	2.1	295.6	211.6	17.7	16.9

Note: Not all councils that responded provided detailed information for this question, so the averages have been calculated using only data given by those who did. The numbers of each type of council used to calculate the averages are shown in the table

Sources of requests and information requested (Q8, Q9, Q10, Q11)

8. To the best of your knowledge, please rank the following categories of FOI requesters to your

Private individuals were identified as the most frequent category of requester by 43% of respondents. The second most frequent category of requester was businesses/companies

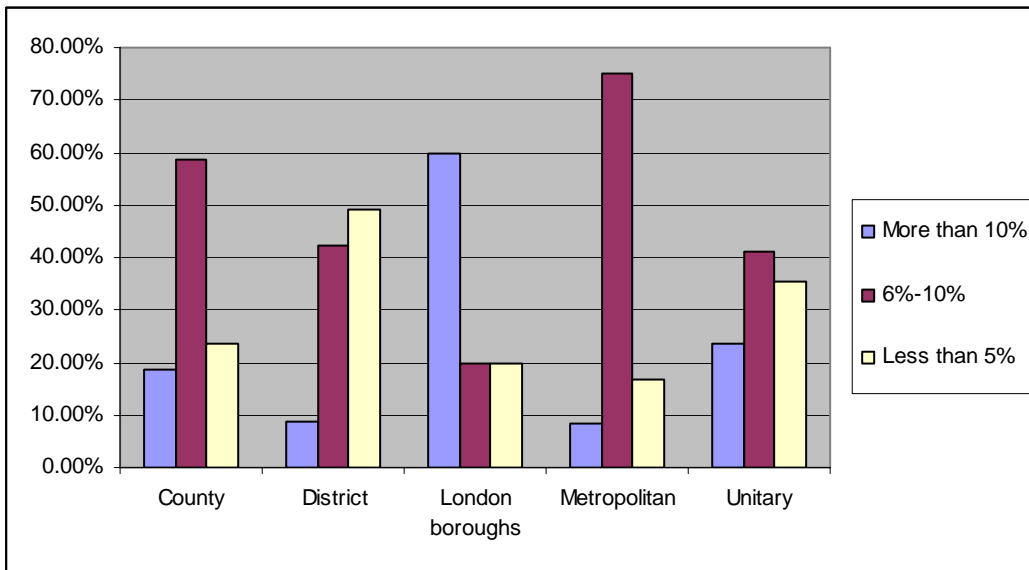
Traffic management – six mentions

Requests relating to parking charge notices, and parking enforcement more generally

Education – three mentions

Local education questions including place provisions, exam comparisons, meals, IT provision, and bullying policies

Figure 10 – Percentage of information requested considered ‘high profile’ (by council type)

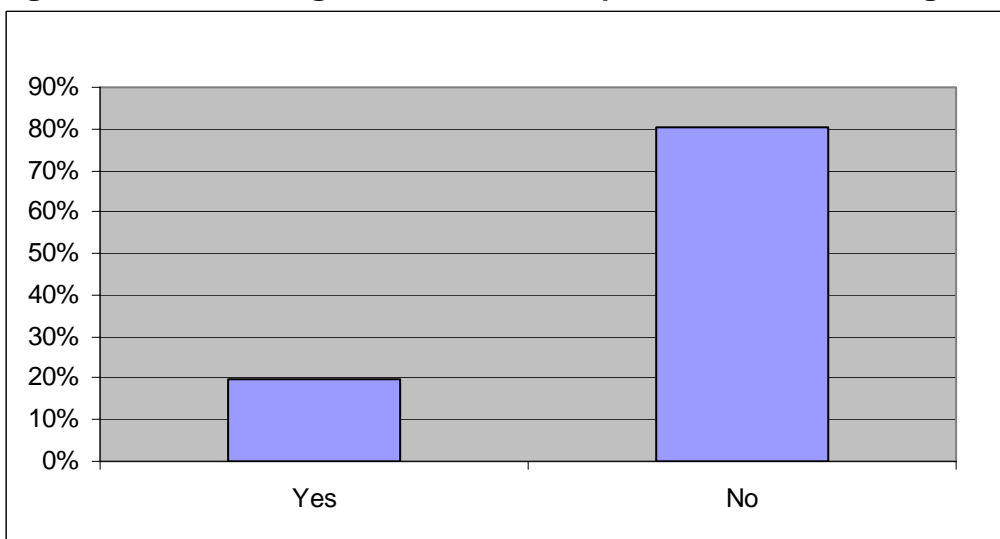


London boroughs appear to have received the majority of requests for high-profile information. 60% of all FOI practitioners who worked in London boroughs identified more than 10% of requests received by their organizations as “high-profile”. 70% of metropolitan council FOI practitioners and 59% of all respondents who worked in county councils felt that 6%-10% of total requests received were “high-profile”.

Publication of tracking system and disclosure log (Q12, Q13)

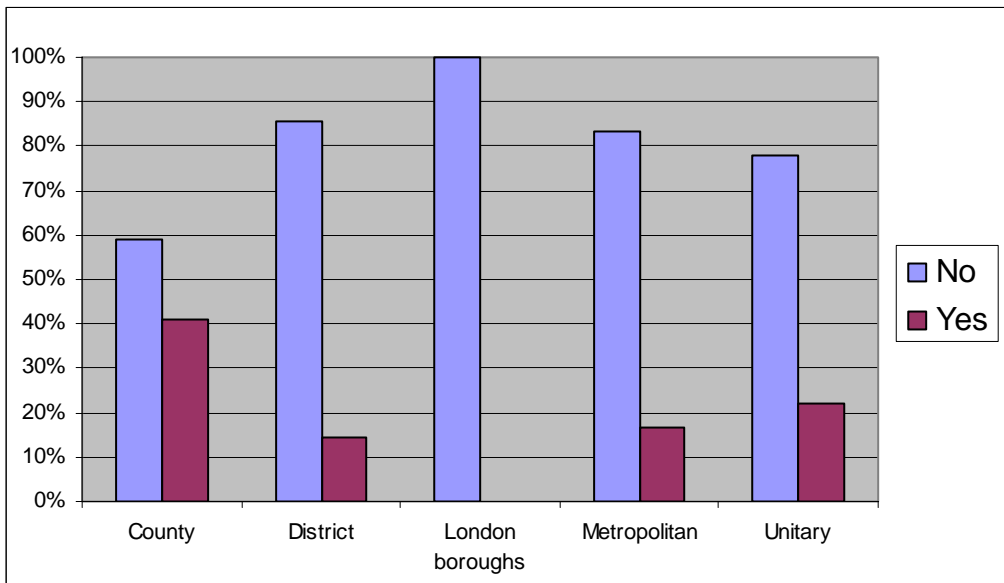
12. Does your authority publish its request and/or disclosure log on its web site?

Figure 11 – Percentage of councils that publish disclosure logs online



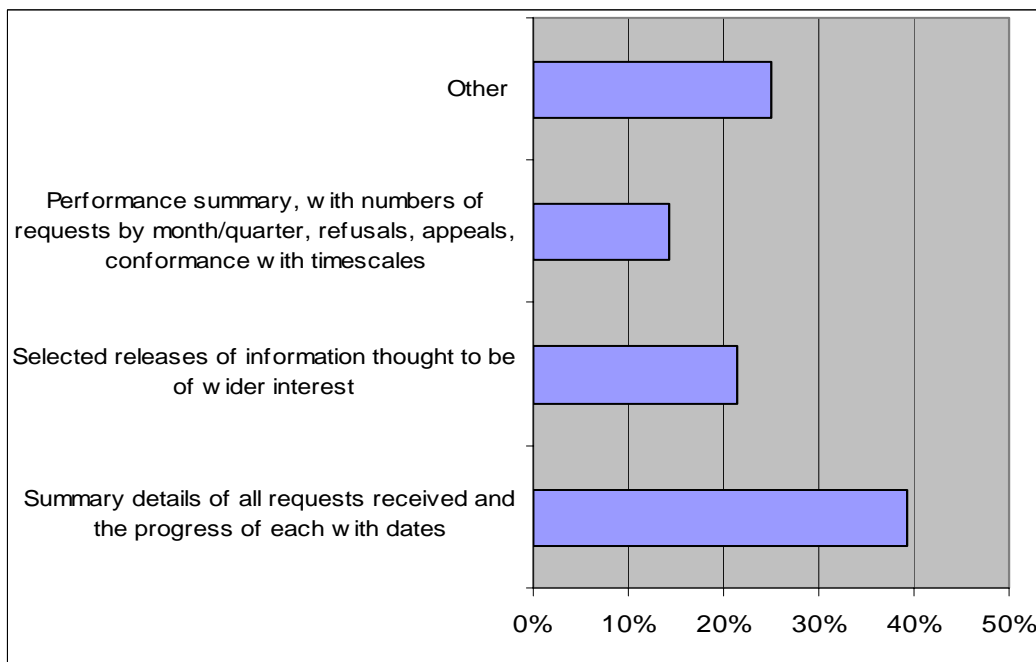
The overwhelming majority of practitioners stated that their authority did not publish its request or disclosure log on its website in 2005. This applied to all the London boroughs who responded to the survey. More county councils – 41.2% – have published their request/disclosure log on their website than any other type of council.

Figure 12 – Percentage of councils that publish disclosure logs online (by council type)



13. What categories of information from request and/or disclosure log are published?

Figure 13 – Categories of information published on disclosure log



The most commonly published information on a disclosure log is the summary of request details

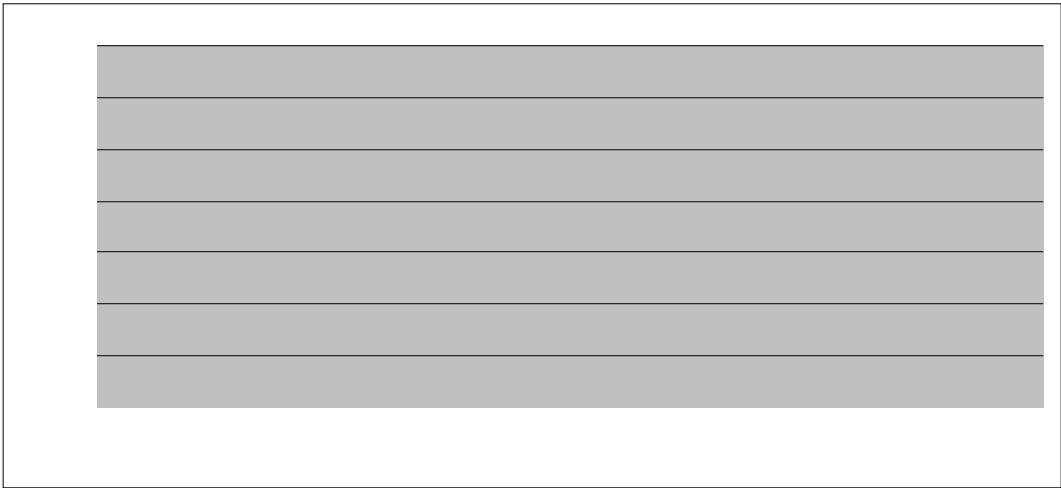
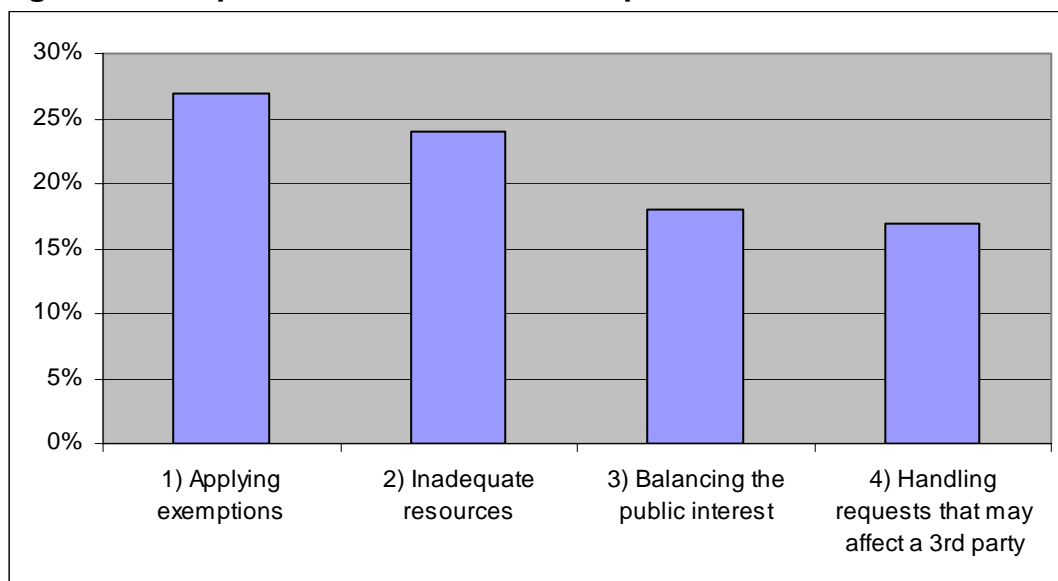


Figure 18 – Top four difficulties with compliance



27% of practitioners felt that applying exemptions was the most problematic aspect of FOI/EIR compliance and 24% highlighted the lack of resources available to them. 18% claimed that applying the public interest test is a top difficulty, while a further 17% referred to the problems of handling requests that may affect a third party.

2. If you answered 'Other' please provide further details here

25 of the participants provided additional details, which we have placed into the categories shown below. The largest reported category related to internal problems with compliance. Ten authorities reported problems with the attitudes of senior management and staff. Eight authorities referred to problems with requesters and four to records management problems.

Internal attitudes – ten mentions

“Getting senior officers to take FOI seriously”

“Persuading senior management and councillors to either release information or...to justify why it should be withheld”

“Lack of internal commitment from departments”

“Persuading staff that requests...should be passed through the FOI team to be logged...”

“Obtaining information from local managers within the statutory deadlines”

“Lack of understanding of impact of the legislation in some areas – some managers who object to disclosure”

‘Difficult requests/ers’ – eight mentions

“Dealing with a few but prominent ‘nutters”

“Requests that ask for explanation or analysis where this does not already exist in recorded form....We must decide whether to deny or do the new work.”

“Dealing with ambiguous requests and serial requesters”

“The same question being asked in an organised manner”

“Long running complaints which suddenly turn into FOI requests”

“Vexatiousness”

Records management issues – four mentions

“Locating the information”

“Less than ideal document management... does cause some difficulties”

Overall/additional comments (Q20)

‘Please provide any additional comments and any specific concerns about your experiences as an FOI practitioner’

43 of the participants provided comments in free form. We have broken these down into the categories shown below. A number of the comments fell into more than one category and some were made by only one or two respondents and have been noted under ‘other comments’. The comments are ranked in order of number of mentions. For example, ‘problems with applicants’ was mentioned by nineteen authorities and ‘lack of resources’ by nine:

1. Problems with applicants – nineteen mentions

This was by far the largest category and was mentioned by nineteen authorities. However, different problems were raised according to the type of applicant. The following five areas of problem/applicant each received between two and nine mentions:

1.1 General – four mentions

A number of concerns were expressed about requesters’ general lack of understanding of the FOI Act and the extra work this caused FOI officers. There was also concern about people who repeatedly request information under FOI.

“The public repeatedly misunderstand what they can get access to – often asking for private information about others.”

“...problem with an ex-councillor who sends in a lot of requests which are sometimes deliberately attacking staff within the organisation. In 2005 this applicant sent in 95 out of over 200 requests.”

1.2 Commercial applicants – nine mentions

A number of practitioners expressed concern that the use of the Act for commercial purposes was in some way inappropriate and not intended by the Act. This was sometimes combined with general concerns about the Re-use of Public Sector Information Regulations and the suggestion

The use of FOI by people who had a complaint against the authority about some aspect of its service was reported by two practitioners.

“Many requests are from people who have exhausted the corporate complaints procedure.”

“The main problem we encounter are requests which arise from complaints...These are difficult...because we are not able in many cases to satisfy the complainant with our replies and although some of the requests could be considered vexatious, we are reluctant to use this...”

2 Lack of resources – nine mentions

The subject of lack of resources was raised frequently, but often for different reasons. For example, saying ‘no’ to requests which could be refused on cost grounds had an impact upon resources. A

“Confused approach to FOI/EIR – needs rationalisation, possibly linked to Re-use of PSI.”

“I would question the value of the Publication Scheme as separate document...it would make more sense to insist that local authorities keep their website up to date, rather than submitting schemes.”

“There is a strong presumption by the ICO that because of public funding, the threshold of privacy for employees should be lower than in the private sector. This seems a false distinction.”

Appendix A – Survey invitation letter

Dear FOI Officer,

We estimate that over 50% of FOI requests made to all public authorities in 2005 were made to local authorities (about 63,000 out of 120,000). Last year we carried out a detailed survey of the experience of local authorities during the first six months of the implementation of the FOI Act on behalf of the Improvement and Development Agency. The results showed that councils received an average of 14 requests per month and the average time spent handling each request was 13.6 hours. A number of problems were identified and suggestions made for the steps councils and central bodies could take to improve the experience of handling requests for councils and citizens.

We are grateful to all FOI officers who filled out that survey - over 70% of the 280 local authorities we reached gave a substantive response. A number of people have expressed an interest in the survey being extended to cover the entire year and we think that the results of such a survey could help:

- to ensure that local authorities' needs are properly taken into account when the operation of the Act is reviewed and policy changes are considered;
- to identify the need for advice, guidance and training to address issues specific to local authorities;
- to provide objective information to enable individual local authorities to see how they are doing in comparison with others and inform reviews of their own systems and policies.

In order to understand the issues of most importance to local authority FOI compliance officers and teams, we would like to invite you to participate in a survey covering the whole of 2005. We estimate that the questions will take about 30 minutes of your time. The survey is web-based and seeks information that we hope is readily available to you. After we have closed the survey on 21 July, we will select a small number of authorities for short discussions on the telephone to add more qualitative information to the conclusions. As an incentive to participate, we will give away five £30 certificates toward any Constitution Unit publications to a random selection of authorities whose FOI officers complete the survey.

Confidentiality

Your submission will be treated in confidence. The report and any published material will be written so that individuals and authorities are not identified. We may want to publish the full list of authorities who participate.

Thank you for your help,

Jim Amos, Honorary Senior Research Fellow
Sarah Holsen, Research Fellow

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Appendix B – Survey

FOI 2005: How are things going for local authorities?

For the purposes of this survey, please use the following definition of an FOI request:

An 'FOI request' is a request for any information which is not handled as part of the organisation's 'business as usual'. For example, we expect requests for library opening [redacted] as a request for notes from the meeting that took place over the closure of the local swimming pool would be classed as an FOI re

Quarter 4



Lawyer

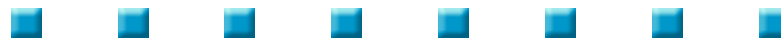


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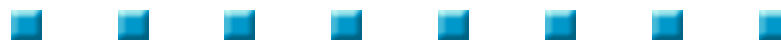
To the best of your knowledge, please rank the following types of information requested of your department in 2005. *(Please rank from one [most requested] to nine [least requested].)*

1 2 3 4 5 6 7 8

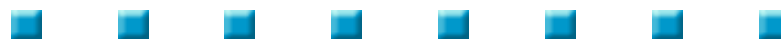
Information about costs and expenses



Information about procedures, policy decisions and meeting minutes



Personal data about staff



Performance measures / other statistics



Information about contracts with your organisation



Health & safety matters



Active local issues



Other (please specify)



10

Other (please provide details)

Charging fees for FOI requests

14

Is your authority's policy on charging for FOI and EIR requests published on its website?

- Yes
- No

15

In what proportion of cases have you charged a fee for a request (NOT including photocopying, postage, etc).?

- none
- in 5% or fewer cases
- in 6% or more cases

Problems with compliance

16

Please rank the following problems you have experienced with FOI/EIR compliance. (Please rank from one [most significant problem] to six[least significant].)

1	2	3	4	5	6
Balancing the public interest					

■ ■ ■ ■ ■ ■
Applying exemptions

■ ■ ■ ■ ■ ■



Helped improve communication within your organisation



Provided new information about delivery of services



Other (please specify in question 19)



19

If you answered 'Other' to question 18, please provide further details here.

Overall/additional comments

20

Please provide any additional comments and any specific concerns about your experiences as an FOI practioner in the box below:

Contact details

21

For which type of authority do you work?

- London Borough
- Unitary council
- Metropolitan council
- County council
- District council

22

Please provide us with the name of your organisation:

Participation in future research

23

Would you be willing to participate in further research, including a telephone interview, about your experiences as an FOI practitioner?

- Yes in principle
- No

24

Please provide us with your work email address. *If you wish to be entered in the draw for one of five £30 vouchers toward Constitution Unit publications, please provide this information. A full list of publications can be found on at the [Constitution Unit](#) website*

25

Do you think your organisation would be willing to participate in a survey of its FOI requesters?

Yes in principle

No

Appendix C – Breakdown of number of requests and appeals by council type

CU survey: estimates of requests, refusals, etc
1st January to 31st December 2005

Category	Total requests	Total full release	No info. released	Internal reviews	Complaints to ICO
County Councils					
Total for 17 councils	4249.0	3146.0	385.0	124.0	15
Average/council	249.9	185.1	22.6	7.3	0.9
Total for 34 councils	8498.0	6292.0	770.0	248.0	30.0
London Boroughs					
Total for 8 boroughs	2436.0	1826.0	254.0	94.0	17
Average/borough	304.5	228.3	31.8	11.8	2.1
Total for 33 boroughs	10048.5	7532.3	1047.8	387.8	70.1
Metropolitan					
Total for 13 councils	2937.0	2479.0	228.0	68.0	14
Average/council	225.9	190.7	17.5	5.2	1.1
Total for 36 councils	8133.2	6864.9	631.4	188.3	38.8
Unitary					
Total for 17 councils	4077.0	3092.0	429.0	46.0	13
Average/council	254.8	193.3	26.8	2.9	0.8
Total for 46 councils	11721.4	8889.5	1233.4	132.3	37.4
Other Councils: average/council	258.8	199.3	24.7	6.8	1.2
Other Councils: total (149)	38401.1	29578.7	3682.5	956.3	176.3
District Councils					
Total for 57 councils	5536.0	4691.0	338.0	90.0	30.0
Average/council	92.3	78.2	5.6	1.5	0.5
District Councils total (238)	21959.5	18607.6	1340.7	357.0	119.0
All Local authorities Totals (387authorities)	60360.6	48186.3	5023.2	1313.3	295.3