

Book Review

The Freedom of Information (Scotland) Act 2002: New Modes of Information Management in Scottish Public Bodies? Eleanor Burt and John Taylor. University of St Andrews and Glasgow Caledonian University, 2007. 177 pages.

There is a dearth of empirical research on the implementation of access to information acts, despite the fact that almost 70 countries have passed such laws (nearly 30 in the last 10 years alone). Thus, this report on the effects of the Freedom of Information (Scotland) Act 2002 (FOISA) on Scottish public authorities' information management practices is a welcome contribution to the study of open government. In their report the authors explore the ramifications of the Act for public authorities subject to the FOISA, including what they perceive to be beneficial about it and the problems they have experienced, and distill for public organizations some lessons from Scotland's first two-and-a-half years under the Act.

The report is based on a study commissioned by the Scottish Information Commissioner (SIC), which was carried out between February and August 2007 by a research team headed by Dr Eleanor Burt of University of St Andrews and Dr John Taylor of Caledonian Business School. Their project is unusual in that they were given complete autonomy and freedom by the funding body to design the research and interpret their findings. It is clear from the structure and highly accessible language of the report that it is geared toward a lay, rather than academic, audience; the only reference to theory comes at the very end when the authors discuss the types of rationality applicable to the implementation of an FOI act.

Burt and Taylor set out to answer five main research questions in their study:

- 1) whether public authorities' information management practices have been changed by the FOISA;
- 2) how Scottish public authorities have altered their processes for handling information since the FOISA came into effect;
- 3) how the FOISA has impacted on records management practices;
- 4) what authorities have taken into consideration when designing their new information management practices;
- 5) whether authorities perceive the effects of the FOISA as beneficial or problematic.

They also ask a sixth, if implicit, question: are the effects of the Act similar for each part of the public sector examined, and for both small and large authorities? The methods they employ to answer these questions include a review of the existing literature, telephone interviews with information management officers and case studies of six Scottish authorities.

The findings are organized according to the method used. In the first section, the authors give a macro level view of the FOISA's impact on organizations gathered through telephone interviews conducted with 53 public authority staff (from Scottish Executive, police, health and local authorities). In the case study section, the authors explain how each of the participating authorities defines and counts FOI requests, describe in detail the organizational arrangements and impact of the Act on each authority and summarize their key findings.

The overall findings reveal that most organizations have undertaken changes to comply with the FOISA but that the changes have not been driven by the law; rather FOI has been one factor among many in prompting the reorganization of information management practices. Seventy-two per cent of Scottish

authorities have created an information policy since the FOISA was passed and 100% of those included in their policy special attention to compliance with the DPA and FOISA. However, 59% believe that the FOISA has had no significant impact on their information management practices. Among drivers for organizational and managerial change, FOI was found to be the least important, although it was also considered by the fewest respondents to be an impediment to change.

The majority of organizations have assigned a group of people (or, in the case of smaller entities, one individual) to deal with FOI requests. New staff responsible for FOI have been hired by only 47% of organizations, whereas 53% of authorities rely on employees already on staff at the time the law came into effect. Interestingly, but perhaps understandably, the percentage of organizations that have designated a specialist or specialist group to FOI increases with the level of expertise demanded for the particular stage of compliance: 70% of organizations have assigned a specialist (individual/unit) to respond to requests, 89% to respond to internal reviews and 92.5% to deal with appeals to the SIC.

FOI officers and other information managers in Scotland appear to be relatively positive about the impact of the FOISA, although they also face compliance challenges. The findings described in this section of the report reflect results found in surveys conducted by the Constitution Unit on local authorities' experiences with the Freedom of Information Act 2000 (FOIA) and the wider public sector. For example, the fact that Scottish practitioners consider improved records management and greater openness to be the two main benefits of the FOISA mirrors similar findings in the Constitution Unit's 2007 survey of local authorities subject to the FOIA 2000. The high percentage of authorities that appreciate FOI's positive effect on the level of external transparency – 89% – is also similar to the 87% who reported the same in a survey of delegates to the FOI Live 2007 conference in London. On the flip side, a lack of resources, vexatious or difficult requests, and tight deadlines are problems that have been identified by authorities in both jurisdictions.

Other interesting findings include changes to written communication practices and differing methods of identifying and classifying requests. One of the recent debates in UK FOI circles has been whether civil servants write less down out of fear that their written work might be requested through the FOIA; indeed, the Public Administration Select Committee in Westminster held an oral evidence session in July of this year to explore whether the FOIA was affecting internal government communication. In the first section of the report three comments allude to an acknowledgement or fear that there is less recording of information as a result of the FOISA (p. 25).

The researchers also found that authorities define, approach and log requests in different ways. For example, some organizations log all requests as FOISA, while others record only those that are not 'business as usual'. Some FOI officers distinguish between politically sensitive and simple non-controversial requests. These differences have implications not only for uniform implementation of FOI across government (or not), but also for the appeals process (hard to complete if there are no audit trails) and for researchers looking at statistics on FOI.

In a speech to the International Conference of Information Commissioners on 22 November 2007 Dr Alasdair Roberts identified several questions in the right to information (RTI) field that have yet to be addressed. One is 'how do RTI laws affect the internal operations of government agencies?' This report provides some of the answers to that question. The research that resulted in this report is the first to examine in any depth how central, local and other types of authorities are dealing with the relatively new law not only in Scotland but in the UK. As such the authors, and the sponsoring SIC, are to be commended for exploring what public authority staff find beneficial and challenging about FOI. The large amount of data collected – a high response rate for the telephone questionnaire and six in-depth case studies – means that the findings are well supported with solid evidence.

However, the report could have been improved in a few ways. The authors' brief but interesting foray into theory at the end of the report gives the reader a glimpse into how the findings contribute to the wider, if limited, academic literature on the subject of access to information. However, this section seems tacked on as an after thought, as if some academic contribution had to be made, despite the fact that the report was clearly aimed at non-academics. The report could also have benefited from a discussion of related research at the beginning, which would have better set the context for their endeavor and explained what this work builds upon and how it is different. It would also have been useful if the researchers had gone into a bit more depth on the findings regarding records management, as this is one of the keys to smooth-operating FOI response systems and an integral part of information management. In addition, an attempt to gauge the costs (or to ask authorities for the costs) of FOI would have been a welcome addition to the data and analysis.

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