

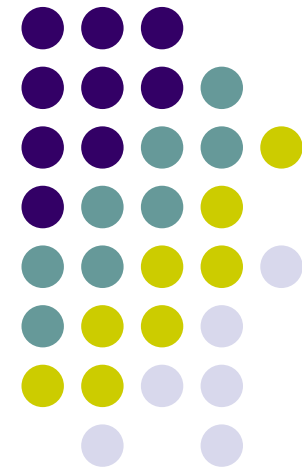
**'Using the Freedom of Information Act to study devolution: a
Welsh project and some Scottish parallels'**

**RIN Workshop - Freedom of Information: what's in it for
researchers?**

Glasgow 14 September 2009



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Why Scottish researchers might want to use FOI south of the border

- To study non-Scottish events
- To access sources relating to Scotland held in English or Welsh archives.
- To show the impact of Westminster attitudes and the British dimension on Scottish issues.



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The value of FOIA to researchers

- **HUMANITIES:** To produce great research on contemporary topics, an area where there is huge scope for original work.
- **SOCIAL SCIENCE/SCIENCE.** To produce research which is useful in ‘evidence based policy’, a key policy aim (see 1999 White Paper, Modernising Government etc)
- **ARCHIVISTS.** To attract attention to your records – ‘secrets from the archives’ always of public interest.
- **JOURNALISTS.** FOI produces innumerable stories based on snapshots from single files. Opportunity to produce exceptional stories.
- **To generate research with impact** (see AHRC, ‘Leading the world. The economic impact of UK arts and humanities research’).



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Obstacles to research using FOI

- Access to material under FOI is often too unpredictable for academics to plan a large project. Many don't try.
- Academics are not trained in making FOI requests.
- Academics often want a great many files and have unrealistic expectations.
- Restrictions on Cabinet Mss and PM's papers
- No extra resource for managers to process requests.
- Time constraints unhelpful
- Law sometimes ambiguous
- Government in theory wants evidence-based policy and open government but in practise
- Managers of records are in the middle.



ESRC Welsh devolution project as case study: the role of FOI in pre-1979 research

- Access to TNA papers on complexity of devolution settlement, 1976-79
- Access (eventually) to some papers withheld by Home Office.
- (indirectly as a result of FOI):
- Access to politicians' papers in NLW deposited with restrictions.
- (used alongside other materials)



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Contribution of 'FOI' sources to research on Welsh/Scottish devolution pre 1979

- Shows have to understand Scottish position to understand Welsh position (and visa versa).
- Huge complexities of producing a new constitutional settlement – see problem from legislators' view.
- Problems of delivering different politically acceptable and different Scottish/Welsh settlement in one bill.
- Reluctance of Whitehall to devolve powers and negative role of Ministers such as Crossman, Crosland, Healey and Jenkins.



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Examples of problems delivering devolution revealed by FOI

- From meeting of key devolution committee
'the meeting agreed that it would be most desirable for Welsh Assembly (sic) to have the same industry and employment powers as the Scottish Assembly (the Secretary of State for Wales regarded this as essential), provided that that did not lead to any reduction in the devolution of such powers (the Secretary of State for Scotland regarded that as essential).'
- (Welsh opponents opposed such powers)



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Examples of problems delivering devolution revealed by other sources

- Bernard Donougue diary 10 Sept. 1975

‘Healey went on and on, saying that the Cabinet had never agreed to devolution. . . Jenkins obviously was embarrassed by Healey’s crude style but agreed with his argument. Ross was booming away at the end of the table that it was too late to object, devolution was a fact of life. HW was trying without success to restore order. For 20 minutes it was like a monkeys’ tea party’

Tom McNally briefing of Callaghan 5 Mar. 1979, quoting Paul Rose of ITN on the aftermath of the referendum defeat:

‘The SNP will play for time – because behind the leadership after all they are just a lot of mad men in kilts’.



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Limitations of FOIA in accessing materials on pre-1979 period

- Negotiated access to some collections without FOI, but prompted by FOI - took time.
- Welsh Office before Cabinet MS - inconvenient
- PMs' papers. Wait for access.
- Home Office - not helpful with illegal nationalist activity. Limited release after 10 months. Cite public interest test:
- 'It would not be in the public interest to disclose police tactics for dealing with terrorist threats in the past as disclosure would undermine current and future operation for dealing with similar threats'



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Police tactics and nationalist violence in the 1960s

- Bugging public telephone boxes
- Attending public meetings
- Infiltration of groups
- Bring in external forces because local police suspected of being sympathetic/incompetent
- Much already known as a rest of:
- Oral testimony; published/unpublished letters from the convicted arsonists; other records
- Research has already shown the counter-productive nature of police policies.
- HO concern probably with precedent.



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FOI and research on devolution since 1979: a Welsh example and Scottish opportunity?

- Very open FOI regime operated by: Welsh Office, National Library of Wales, Labour party, Welsh Language Board.
- Accessed c50 files 1980-1998 from the Welsh Office – via requests and organised access.
- Granted access to Welsh Language Board archives without FOI request.
- NLW proactively opens ‘closed’ files – access to papers of Shadow Sec of State etc.



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Impact of the material

- Shows no organised Conservative alternative to devolution 1980s in Wales.
- Shows careful evolution of Welsh Labour policy was important as Ron Davies's leadership.
- Shows role of Blair's office.
- Suggests Scotland still set the agenda – but some Welsh lessons from the 1970s.
- Suggests devolution in Wales was not understood by the public (private polls/focus groups 1997-98).
- What about Scotland?



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Some Scottish opportunities?

- KEY QUESTION – what does experience of FOI in Scotland indicate about prospects for parallel work on devolution?
- Scottish published material on 1980s-1990s is much better than Welsh material. Scottish universities contain excellent, historically minded political scientists.
- Scottish government like WAG has strong commitment to open government outside of FOIA.
- Scottish government has released some material already e.g. on devolution referendum – attitude to other sources?
- FOIA in Scotland has some positive differences.
- Have Section 28 exemptions been used to restrict access in Scotland (not used with ESRC project in Wales).
- KEY LESSON – collaboration with record management staff is essential to maximise access.



Finding out more

- Bangor University/AHRC PG training:
www.bangor.ac.uk/wisca/pgtraining.php.en
- D.M. Tanner and T. Bastow, 'A researcher's guide to using FOI' (access via RIN and TNA)
- Andrew Flinn and Harriet Jones (eds) Freedom of Information. Open access or closed archives? (Routledge, 2009)

