

Researchers' use of freedom of information: A workshop



Tuesday 9 September 2008, 10:00 – 16:00

Royal Institute of Public Health, 28 Portland Place, London W1

Programme

10.00	<i>Registration and refreshments</i>	
10.30	Introduction and welcome to the day	Maurice Frankel – <i>Director</i> , Campaign for Freedom of Information
10.35	Keynote speaker: Using Freedom of Information in research projects: Opportunities and constraints	Professor Duncan Tanner – <i>Director</i> , Welsh Institute for Social and Cultural Affairs, Bangor University
11.10	Session 1: How to make effective use of the Freedom of Information Act/ The role of the Information Commissioner	Steve Wood – <i>Assistant Commissioner</i> , Information Commissioner's Officer
11.30	<i>Coffee break</i>	
11.50	Session 2: Don't ask me that! How to plan FOI requests for research projects	Teresa Bastow – <i>Head of FOI Centre</i> , The National Archives
12.10	Short case study presentations on effective use of FoI in research	
	FOI in journalism	Paul Francis - <i>Group Political Editor</i> , The Kent Messenger Group
	FOI in contemporary British history	Kathleen Sherit - <i>Researcher</i>
	FOI and food hygiene standards	Dr Denise Worsfold – <i>Training Manager, Food Research and Consultancy Unit</i> , University of Wales Institute Cardiff
12.30	Plenary discussion and questions	
12.45	<i>Lunch break</i>	
13.45	Session 3: Open access, empty archives? A word of warning	Harriet Jones - <i>Freelance Historian</i>
14.10	Parallel workshops (delegates attend one session): <ol style="list-style-type: none"> 1. UK FOI legislation and the role of the Information Commissioner 2. The National Archives' experience of FOI and its user services 3. FOI in journalism 4. Use of FOI in contemporary British history 	
15.00	Plenary session	Led by Maurice Frankel
16.00	<i>End of day, refreshments available</i>	

Speaker Abstracts

Using Freedom of Information in research projects: opportunities and constraints

Abstract: This discussion draws on the speaker's experience of working with contemporary records held in TNA, Government Departments and university archives. It details the varying application of the FoI Act across England and Wales, explains the reasons for this and details the consequences for academic researchers and archivists. The paper notes how the restrictions placed on researchers inhibits the development of studies which could inform the public and be of value to policy makers.

How to make effective use of the Freedom of Information Act / the role of the Information Commissioner

Abstract: This session will cover how to make effective use of FoI Rights, how to use those rights responsibly, what the Commissioner can do if you don't receive the information requested and examples of relevant decisions the Commissioner has issued.

Session 2: Don't ask me that! How to plan FOI requests for research projects –

Abstract: The National Archives receives over 5,000 FoI requests per year and is consistently among the top three government departments in terms of numbers. In addition to over 10 million open records transferred from central government departments, it holds c.200,000 records that are currently closed to public access. It is responsible for determining whether or not access can be provided to these closed records in response to FoI requests. This session explains the legislative framework under which The National Archives operates and provides practical advice on how to plan FoI requests for research projects. It provides examples of good and bad requests and helps researchers to differentiate between information that is likely to be released, and information that is likely to be withheld.

Session 3: Open access, Empty archives? A word of warning

Abstract: Historians and researchers in the UK have much to learn from colleagues in countries with a longer tradition of FOI, and not all of the news is positive. Sweden, for example, with FOI legislation dating from the late 18th century, never developed the tradition of rigorous record-keeping that developed here and Swedish historians today speak critically of an 'empty archive syndrome.' On the whole, however, historians in Europe and the United States have welcomed FOI legislation, but stress that in order to make the process work effectively, there must be a proactive degree of cooperation between serious researchers and archivists, who have a shared interest in the integrity of the historical record. This paper will give specific examples of the kinds of issues that have arisen in other countries with similar FOI regimes, and will suggest a way forward based on best practice internationally.

Speaker biographies

Maurice Frankel has worked with the Campaign for Freedom of Information since it was set up in 1984, and has been its director since 1987. He has been heavily involved in persuading the UK government to introduce FoI legislation, seeking to improve the bill during its Parliamentary passage and subsequently training both public authority staff and potential users.

He is a member of the UK Ministry of Justice's 'Information Rights User Group'. He was a member of the Commonwealth Group of Experts whose Freedom of Information Principles were adopted by Commonwealth Law Ministers in 1999. He drafted the series of successful private members' bills promoted by the Campaign which became the Access to Personal Files Act 1987, the Access to Medical Reports Act 1988, the Environment and Safety Information Act 1988 and the Access to Health Records Act 1990. He currently provides training for journalists and other users of the FoI Act and for authorities on the Information Commissioner and Tribunal decisions under the Act.

Duncan Tanner is Professor of History at Bangor University and Director of the Welsh Institute for Social and Cultural Affairs (WISCA). He is the author of many works on the Labour party, and the organiser of an ESRC-funded project on the history of Welsh devolution up to 2001. In 2008-9, he is running an AHRC funded training course in skills for modern and contemporary historians in conjunction with Andrew Flinn of UCL. This includes workshops on the use of FoI in research, which are open to all PhD students in the UK. He is also starting a new project on Welsh Language legislation, funded by the University of Wales, which will use FOIA to study Conservative cultural policy in Wales, 1979-1993.

Dr Steve Wood is the Assistant Commissioner with responsibility for FoI Policy in the Information Commissioner's Office. He oversees the development of policy related to the Freedom of Information Act and Environmental Information Regulations; this includes overseeing the management of the Commissioner's response to all Information Tribunals appeals and appeals to the Higher Courts. Before joining the ICO in March 2007 Steve was previously a lecturer in Information Management at Liverpool John Moores University.

Dr Teresa Bastow is Head of The National Archives' FoI Centre. She was responsible for establishing the Centre in late 2004, in preparation for the full implementation of the FoI Act. Prior to this she worked as an Information Management Consultant within The National Archives providing advice to government departments on records and information management and overseeing the selection of records for permanent preservation.

Dr Harriet Jones is a freelance writer and historian. Formerly director of the Institute of Contemporary British History at the University of London, she is currently editing a volume of comparative international essays on the impact of FOI legislation on historical research with Dr Andrew Flinn of University College London.

Rationale for the workshop

Although universities have approached the issue of FoI from a compliance perspective, notably through the advice, guidance and training provided by JISC infoNet¹ and workshops such as that held in 2007 by UUK,² few have yet focused on FoI as a research tool.

This workshop is intended particularly for:

- academic researchers, especially in humanities and social sciences
- other research workers, such as journalists
- librarians, archivists and other information professionals who provide research services and research training
- compliance officers interested in facilitating access and advising requestors
- public policy makers in the access to information arena.

The objectives of the event are:

- To raise awareness of FoI as a resource discovery tool for researchers
- To help researchers to become 'informed consumers' under the new access regime. For instance, what information is now in the public domain as a result of FoI, how the access regime operates, when to use FoI to access records and information and when not to do so, how to make successful FoI requests.
- To explore effective FoI exploration and use strategies: what works well for particular disciplines or types of research, how FoI has or could support different research methods, ways of exploiting FoI as a research tool.

To identify development and training needs for researchers to help them make best use of FoI as a research tool.

Context and background

The UK Freedom of Information Act 2000 came fully into force in January 2005.³ The Act imposes significant duties and responsibilities on public authorities to give access to information. Together with the Environmental Information Regulations, the Data Protection Act 1998 and Modernising Government agenda, FoI is a significant part of the wider government agenda to increase openness, transparency, trust and accountability in the public sector. The impact of information policy and freedom of information on public services and the effectiveness of public authorities in meeting their obligations are significant factors in the accountability of government to its citizens and of concern to all.

In 2006, the Constitutional Affairs Select Committee concluded that 'the FoI Act has already brought about the release of significant new information and that this information is being used in a constructive and positive way by a range of different individuals and organisations.' The Information Commissioner reported that 'the Freedom of Information Act really has made a significant impact across the whole of the public sector' and that 'there have been real benefits for the users'.⁴ Recent high-profile decisions by the Information Commissioner and Information

¹ JISC infoNet is an advisory service for HE 'planning, implementation and management of information and learning technology to support learning, teaching, research and business processes', see <http://www.jiscinfonet.ac.uk/> accessed 26/09/07.

² 'Freedom of Information and higher education' a conference held by Universities UK at Woburn House, London on 16 October 2007, see <http://www.universitiesuk.ac.uk/>, accessed 26/09/07.

³ The UK FOIA 2000 covers England, Wales and Northern Ireland and the UK as a whole. Scotland has its own Act, *Freedom of Information (Scotland) Act 2002*.

⁴ UK Parliament. House of Commons Constitutional Affairs Select Committee: Freedom of Information - One Year On (Seventh Report of Session 2005–06, HC 991). 2006.

Tribunal⁵ and Government consultation on reform of the Act⁶ have sent out mixed signals about how FoI will evolve in future, but there is no doubt that compliance with FoI and effective management of information will be a central responsibility of public authorities towards citizens.

So far, academic researchers seem to have made little use of the provisions of the FoI Act as a resource discovery mechanism. For example, the FoI Act replaces some access provisions of the Public Records Acts, 1958 and 1967, effectively abolishing the '30 year rule' under which public records were considered for release into the public domain when they were 30 years old. Now it is possible for researchers to ask The National Archives to consider a request for access to public records regardless of their age⁷. In addition, since FoI applies to over 100,000 public authorities, from schools and universities to police forces, hospitals, and local government, most of which were not previously subject to public records or other access to records legislation, researchers potentially have much greater access to records and information created and held by public authorities than ever before.

⁵ Information Commissioner's Office. *Decision notices and Enforcement notices*. 2007. Available at http://www.ico.gov.uk/tools_and_resources/decision_notices.aspx, accessed 15/5/07.

Information Tribunal. *Decisions*. 2006. Available at <http://www.informationtribunal.gov.uk/ourDecisions.htm>, accessed 17/7/07.

⁶ Also David Maclean's Private Members Bill, The Freedom of Information (Amendment) Bill, 2007. See Campaign for FOI's website, <http://www.cfoi.org.uk/>, accessed 26/09/07, for a critique of recent FOI developments.

⁷ See details at <http://www.nationalarchives.gov.uk/foi/>, accessed 26/09/07.