Information
Legislation & Management Survey 2006

Introduction
Results
The results of a survey conducted by JISC in association with Universities UK and GuildHE demonstrate that the HE sector is continuing to meet its obligations under a raft of information governance legislation.

The survey conducted between January and February this year reflects institutions' experiences during 2006 and is the second year such a snapshot has been conducted. Although the main focus of the survey continues to be around the Freedom of Information Act, the scope of this year's survey has been broadened to also include the Data Protection Act and the Environmental Information Regulations. All three of which regulate how institutions must respond to requests for information they receive and how they must manage their information. Data for institutions in Scotland was also included this time around.

Looking across the board the figures for 2006 show a marked similarity with those for 2005, indicating that the number, nature and origin of requests submitted under FOI appear to have reached a 'natural level'. Indeed many other areas of the public sector are sure to look at the comparatively low number of requests received (with each institution receiving on average 3 requests per month) with very envious eyes indeed.

Journalists still account for the overwhelming majority of FOI requests submitted, representing very nearly half of all requests where the identity of the requestor is known. The number of requests from commercial organisations has also showed a marked increase on last year as the private sector begin to appreciate the commercial value of information held by the HE sector.

The areas requestors were most interested in are largely in line with 2005 with university management, administration and finance topping the list. Interestingly though 2006 also saw a significant rise in the number of requests regarding estates & buildings (up 99% on 2005) and research related information (up 94% on the previous year). With the amount of new build currently going on in universities and colleges up and down the country it is, perhaps, likely that this new interest in estates and building activity will continue for some time to come.

Regardless of the subject area universities continue to live up to their tradition of openness and accountability. Virtually all information was provided free of charge and the vast majority with no information being withheld from disclosure.

The Environmental Information Regulations introduced alongside FOI in 2005 and included for the first time in this year's survey appear not to be impacting on the HE sector with only a handful of environment related requests being received. The decision to include the Data Protection Act within the remit of this year's survey does, however, appear justified with the Act still having a surprisingly significant impact some years after its introduction. Subject Access Requests submitted under the Data Protection Act accounted for a surprising 22% of all requests received during 2006 and tend on average to take longer per request to resolve than their FOI counterparts with 16% of Subject Access Requests taking over 5 days of effort to complete (where as no FOI requests were reported as taking longer than 5 days of effort to complete). Indications are that the Department for Constitutional Affairs and the Information Commissioner share this concern about data protection issues being overshadowed by FOI and will be refocusing their attention on this area. This, combined with the results of this survey would indicate that institutions would be well advised not to forget about data protection and should perhaps take the opportunity to review their compliance measures.

Indeed guarding against complacency all round would seem to be the order of the day. For although all of these results make for comfortable reading, there are still some signs that below the surface all is not running as smoothly as it could and that it would not take much of an increase in the volume of requests to place a serious strain on institutions' ability to comply with the law. The survey shows that the vast majority of FOI requests (79%) took less than 1 day's actual effort to complete and yet 59% of requests are still taking longer than ten days to actually close, with nearly a third taking between fifteen and the maximum twenty days to
complete. A similar situation is evident with a large proportion of Subject Access Requests only being completed shortly before their 40 day deadline.

It is difficult to be certain as to what the cause of this discrepancy can be. Given the all round good service offered by institutions reflected in the survey and the small number of complaints made against them it seems unlikely that they are deliberately waiting until the last possible moment to send the information requested. Instead it suggests that certain factors are causing blockages in the system resulting in dead time when nothing more can be done to advance the request's completion.

Time spent awaiting the clearance from management to release contentious information would seem an obvious potential candidate, but this appears not to be the case. Indeed the evidence provided by the survey is that the decision making process actually took less time in 2006 than it did in 2005, possibly as senior managers have become increasingly au fait with the requirements of the Act and their role within it.

Instead the blockage appears to be centred around the process of locating and accessing information. In 2005 44% of respondents reported that this took either an 'extremely' or 'very' long time to complete. In 2006 this figure has increased to 55% making it by far and away the one aspect of answering a request reported as taking the most amount of time to complete.

Devolved organisations such as universities and colleges and without strong corporate records management strategies are always likely to struggle in this regard. Information is often scattered across the institution with little central control and obtaining access to that vital document is often reliant on identifying and locating the individual member of staff with access to it. In these circumstances it is inevitable that delays will be caused as the right person is sought and in a position to respond. Many institutions have already identified these gaps and have started work to address them through the development of records management strategies, systems and processes - not only to meet the requirements of legislation such as FOI, but also to help harness the business benefits that control of internal information brings. The evidence is, however, that there is still significant work to be done in this regard if institutions are to be able to continue to meet their obligations in the future and to realise those benefits.

Our thanks go to all those who participated in this survey.

Steve Bailey
JISC infoNet
March 2007

Information Legislation & Management Survey 2006 - Results

1. Institution Details

Q.1. What type of institution do you represent?
Q.2. In which country is your institution located in?

No. of respondents by country

<table>
<thead>
<tr>
<th>Country</th>
<th>Number</th>
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<tbody>
<tr>
<td>England</td>
<td>40</td>
</tr>
<tr>
<td>Scotland</td>
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<tr>
<td>Wales</td>
<td>8</td>
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<tr>
<td>Northern Ireland</td>
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Q.3. Approximately how many full-time equivalent students does your institution have?
2. Requests

2.1. Definitions

Q.4. How does your institution define an FOI request (i.e. on what basis do you decide whether or not to record a request received)?
2.2. Volume of Requests

Q.5. According to the above definition, how many FOI or EIR or Data Protection Act (DPA) Subject Access Requests have you received during the following months?
Total volume of requests received per month
(all types)

Average No. of requests received per month
(all types)
Q.6. Of the total number of FOI and EIR requests received, how many have resulted in the following responses?
2.3. Types of Request

Q.7. How many of the requests you have received have cited the following specific legislation?

**FOI** 1352 requests (60.9% of the total FOI requests received)
**EIR** 3 requests (18.6% of the total EIR requests received)
**DPA** 396 request (63.1% of the total DPA SAR received)
**Total** 1751 requests (61.2% of all categories of requests received)

Q.8. How many requests have you received which have been 'mixed' requests (i.e. which have required handling under more than one piece of information access legislation)?

121 mixed requests received.

Q.9. Of the total number of requests received which you have dealt with under FOI how many have related to the following subject areas: (if a request covers more than one of the
areas outlined below please record it under the principal subject area)?

Total No. of responses by category

Comparison of total No. of requests received by category

* Note: Figures for 'student issues' were not collected in 2005, but where included as a separate category in 2006 due to the large number of student-related requests featuring in the 'other' category for 2005.
2.4. Types of Requestor

Q.10. Of the FOI & EIR requests you have received since January 2006 how many have been from each of the following categories of requestor? Separate figures for FOI and EIR

**Total No. of FOI requests received by type of requestor**

*Note: Figures for 'Trade Unions' were not collected in 2005, but where included as a separate category in 2006 due to the large number of requests from trade unions featuring in the 'other' category for 2005.*
2.5 Responding to Requests

Q.11. If you routinely record the amount of time it takes to answer an FOI or EIR request please indicate how many requests have taken the following periods of time to complete. (including forwarding / logging of request, identifying and locating relevant information, considering exemptions, redacting / preparing information for release, internal approval process for release).

If you do not record this information, please indicate which of the following lengths of time you feel that the majority of requests have taken to answer.
Q.12. If you routinely record the amount of time it takes to answer a DPA Subject Access Requests please indicate how many requests have taken the following periods of time to complete.

If you do not record this information, please indicate which of the following lengths of time you feel that the majority of requests have taken to answer.
Q.13. How many FOI or EIR requests did you receive during 2006 which you did not complete within 20 working days?

90 requests out of a total of 2235 (4.0%) received were not completed within 20 working days.
Q.14. How many DPA subject access requests did you receive during 2006 which you did not complete within 40 days?

31 Subject Access Requests out of a total of 628 (4.9%) were not completed within 40 days.

Q.15. If appropriate, how many of those FOI requests noted in your answer to Question 13 were caused by extensions to the deadline to allow for consideration of the public interest test?

Of those 90, 11 (0.5%) were caused by extensions to the deadline to allow for consideration of the public interest test.

Q.16. Please rank the steps below in order of the amount of time they usually take when completing an FOI or EIR request (ranging from 1 = longest time to complete to 7 = shortest time to complete)

Time taken to officially log and FOI/EIR request

- Extremely long: 5%
- Very long: 7%
- Long: 4%
- Average: 9%
- Quick: 7%
- Very quick: 18%
- Extremely quick: 50%
Time taken identifying relevant information sources

- Extremely quick: 5%
- Extremely long: 2%
- Very long: 16%
- Long: 14%
- Average: 16%
- Quick: 18%
- Very quick: 29%

Time taken locating & accessing required information

- Extremely long: 43%
- Very long: 12%
- Long: 12%
- Average: 14%
- Quick: 11%
- Very quick: 4%
- Extremely quick: 4%
Time taken reviewing the information

- Very long: 27%
- Long: 23%
- Average: 23%
- Quick: 7%
- Very quick: 4%
- Extremely long: 16%
- Extremely quick: 0%

Time taken considering exemptions

- Very long: 19%
- Long: 23%
- Average: 19%
- Quick: 11%
- Very quick: 5%
- Extremely long: 9%
- Extremely quick: 5%
Q.17. On average, how many members of staff are actively involved in responding to an FOI, EIR or DPA request?
Q.18. How many FOI or EIR requests did you receive during 2006 for which you charged a fee?

5 out of 1702 requests (0.3%) which were either answered partially or in full resulted in a fee being charged.

Q.19. How many FOI or EIR requests did you receive during 2006 for which you charged for disbursements?

4 out of 1702 requests (0.2%) which were either answered partially or in full resulted in disbursements being charged.

Q.20. During 2006 how many DPA subject access requests did you charge a £10 fee for?

416 out of 628 Subject Access Requests (66.2%) required payment of a £10 fee.

Q.21. Do you publish the FOI or EIR requests you have received and the answers / information you have given (e.g. in the form of a disclosure log)?

3 institutions do publish the information they provide.
53 institutions do not.
2.6. Exemptions Applied

Q.22. Since January 2006 how many times have you relied on the following exemptions to withhold information requested under FOI?

No. of times each exemption has been used to withhold information
Key to exemption numbers

21 Information accessible to applicant by other means
22 Information intended for future publication
23 Information supplied by, or relating to, bodies dealing with security matters
24 National security
25 Certificates under ss 23 and 24: supplementary provisions
26 Defence
27 International relations
28 Relations within the United Kingdom
29 The economy
30 Investigations and proceedings conducted by public authorities
31 Law enforcement
32 Court records, etc
33 Audit functions
34 Parliamentary privilege
35 Formulation of government policy, etc
36 Prejudice to effective conduct of public affairs
37 Communications with Her Majesty, etc and honours
38 Health and safety
39 Environmental information
40 Personal information
41 Information provided in confidence
42 Legal professional privilege
43 Commercial interests
44 Prohibitions on disclosure

2.7. Appeals process

Q.23. Since January 2006 how many requests for information which have been either
partially or completely refused by the institution have subsequently been subject to an internal appeal?

52 decisions to withhold information have been subject to an internal appeal (2.3% of all FOI/EIR requests received, 6.3% of requests refused in full or part)

Q.24. How many of these decisions to refuse a request, either partially or completely, were:

36 Upheld by the internal appeal (69.2% of decisions to refuse)
14 Overruled by the internal appeal (26.9% of decisions to refuse)
2 Decisions still pending (3.8% decisions to refuse)

Q.25. How many requests since January 2006 have been the subject of external appeal (i.e. involving the Office of the Information Commissioner, Scottish Information Commissioner, the Information Tribunal or the Court of Session)?

9 decisions to withhold information have been the subject of external appeal (0.4% of all FOI/EIR requests received, 1.1% of requests refused in full or part)

Q.26. How many of these decisions to refuse a request, either partially or completely, were:

2 Upheld completely by the external appeal
1 Upheld in part by the external appeal
0 Over ruled by the external appeal
6 Decisions still pending

Q.27. How many times since January 2006 have you sought formal legal advice when responding to a request or appeal?

Legal advise has been sought on 37 occasions regarding FOI matters, 25 times regarding DPA issues and 0 times regarding the EIR

3. Staffing Issues

Q.28. Do you have an officially designated FOI Officer and/or team?

52 (91.2%) Yes
5 (8.8%) No
Q.29. If so, approximately what equivalent FTE resource is devoted to FOI issues (please note this can be more than 1.0 FTE if more than one person is employed in this area)

![FTE resource devoted to FOI & EIR issues](image)

Q.30. Does your institution have an officially designated Records Manager and/or team?

34 (59.6%) Yes
23 (40.4%) No

Q.31. If so, approximately what equivalent FTE resource is devoted to Records Management issues (please note this can be more than 1.0 FTE if more than one person is employed in this area)
Q.32. Do you have an approved records management policy in place?

41 (71.9%) Yes
15 (26.3%) No

Q.33. Is your institution implementing or planning to implement in the near future an Electronic Document & Records Management System?

23 (40.4%) Yes
34 (59.6%) No

Steve Bailey
JISC infoNet
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