

ADVISORY GROUP ON IMPLEMENTATION OF THE FREEDOM OF INFORMATION ACT

COMPUTER SYSTEMS FOR AIDING THE MANAGEMENT AND MONITORING OF REQUESTS

Paper by the Department for Constitutional Affairs

Introduction

1. The Freedom of Information Act does not have a requirement to produce statistics of the number or type of requests received or to keep a log of requests received. The Act does, however, require the Secretary of State to issue a Code of Practice under section 45 of the Act providing guidance on good practice for public authorities in exercising their functions under Part I of the Act. The Information Commissioner has duties under section 47 which include the promotion of observance by public authorities of the section 45 Code and other good practice.
2. This paper addresses some of the issues raised by the issue of managing and monitoring requests for information. Firstly, it assumes that some form of collation of data on freedom of information requests will be required by Ministers and Parliament to determine the effectiveness of the Act and how well it is operating. Secondly, it assumes that government departments will need to do some form of monitoring to trace and manage the individual requests it receives.
3. The paper reviews the existing monitoring of requests carried out by government departments. It then looks at the issues monitoring raises, drawing on research into what systems government departments already have and are looking to develop, and those used in other jurisdictions. Finally, it examines what specifications a monitoring system could have and the role of the Department for Constitutional Affairs could have in assisting government departments to develop monitoring systems.
4. However, as there is no statutory requirement to procure and operate a monitoring system, and doing so will remain a matter of choice for public authorities, this paper concentrates on the situation in central government departments. It would be the intention, however, that any work would be flexible enough to be applicable to the wider sectors of public authorities covered by the Act.

The Existing Experience of Central Government in Monitoring Requests for Information

5. The issues of monitoring requests, both to produce statistical data and to manage the process of dealing with requests is not a new area for central government.
6. Central government has been operating a non-statutory access regime comparable to the Freedom of Information Act since 1994 in the form of the Code of Practice on Access to

Government Information. Central government departments, agencies and associated public authorities covered by the Code have been required to provide the department with overall responsibility for the Code with statistical information relating to the way in which the Code of Practice has been operated within these bodies, details of their openness contact, their internal review procedures, charging schemes and information proactively made available. Together with the details of the complaints investigated by the Parliamentary Commissioner for Administration (the Ombudsman) these are published in an annual report. This has revealed that over time the number of requests has increased, the majority of requests are dealt with within the target time for response of twenty working days, and the number of cases where the requester complains that information is withheld, resulting in internal review and possible investigation by the Parliamentary Ombudsman.

7. Central government also has experience of logging and tracking requests for information, whether these are dealt with as part of a correspondence management system, or the systems in place to deal with Ministers Cases, Parliamentary Questions, subject access requests under the Data Protection Act 1998, requests under the Code of Practice or requests under the Environmental Information Regulations 1992. Details of the specific systems government departments are currently using are described in the report at **Annex A**, which results from a questionnaire sent to government departments earlier in the summer.

Key Monitoring Issues raised by the Freedom of Information Act

8. In considering monitoring of requests for information once the Freedom of Information Act comes into force, three main issues are raised:
 - i. What data should be collected for the purposes of reporting on the effectiveness of the Act?
 - ii. For the purposes of monitoring, what is a request under the Freedom of Information Act?
 - iii. What are the best systems for monitoring requests, both for internal monitoring within central government departments, and monitoring of overall effectiveness of the Act?

What data should be collected for the purposes of monitoring and reporting on the effectiveness of the Act?

9. It is unlikely that for central government it will be acceptable for less information to be collected and reported on than that already collected for inclusion in the annual Code of Practice Monitoring Report. However, while the Monitoring Report gives data on correspondence volumes, the definition of what is counted as a Code request for monitoring purposes means that there are limitations as to its usefulness in providing a wholly accurate picture of compliance with the Code. Monitoring of the FOI Act would probably need to give a better picture of disclosures in proportion to refusals and of partial disclosures.
10. As departments are already beginning to look at developing monitoring systems, they will also need to be informed fairly quickly what the monitoring requirements will be so that they can incorporate reporting functions for these criteria within their systems. Departments will also need to consider the types of systems they will need to develop for handling requests for information, or the changes they will need to incorporate into their existing systems, in accordance with their business needs. Some may already have systems in place for tracking most request for information, whereas for others most of their business involves dealing with requests for information and they have decided that it would be impractical to monitor, for example, every item of correspondence.

What is a request under the Freedom of Information Act for the purposes of monitoring?

11. Any request for information made to a public authority covered by the Freedom of Information Act 2000 falls within the scope of the Act as long as it is made in writing. It does not have to mention the Freedom of Information Act. Therefore, much of the day to day requests that form part of the normal business of a public authority and which they had previously released without a thought will technically become requests under section 1 of the Freedom of Information Act.
12. However, this is again not a new situation for central government. Like the FOI Act, the Code does not require the requesters to mention it when making a request for information. However, for the purposes of the annual monitoring report, a request under the Code of Practice is defined as one which:
 - Specifically mentions the code;
 - For which a charge or standard fee is paid; or
 - Is refused under one or more of the Code exemptions.
13. The monitoring report also gives an estimate of correspondence volumes, normally by estimating the numbers of 'Treat Official' correspondence, Ministers Cases and Parliamentary Questions, although this does not provide an accurate assessment of requests for information as not all will be requesting information.
14. Depending on the conclusions of point (i) in paragraph 14 above, a working definition of what requests are being included for the purposes of monitoring will need to be determined.

What would an IT Monitoring System needs to include?

15. Most government departments already use an IT system to monitor requests for information, including correspondence monitoring systems and systems to monitor requests under existing access regimes. They are also working towards a deadline of December 2004 to implement electronic records management, and are at present procuring electronic records management (ERM) systems, testing and piloting them.
16. Research has been carried out into the systems government departments already have in place for monitoring requests for information and their plans for developing IT monitoring systems. The results of the questionnaires sent to government departments are analysed in the report "Departmental Questionnaire on Systems for Monitoring and Managing Requests for Information" attached at **Annex A**.
17. Research has also been commissioned into the IT systems used in other jurisdictions. The results of this are summarised in the "Management of Freedom of Information Requests in Other Jurisdictions" by Plotnikoff and Woolfson attached at **Annex B**.
18. The following assessment of the key features to consider including in an IT monitoring system is based on this research.
19. The issues discussed so far in this report mean that two different approaches to IT monitoring systems could be taken by government departments. An all-encompassing enquiry system could be designed to deal with all requests for information that are received by a public authority, whether under a specific access regime or as part of the day to day business of the authority. It could, however, require only detailed data entry for requests

where the authority has to give more detailed consideration to the request, for example whether an exemption applied. This would prevent a system becoming burdensome, and take account that a system has to be user-friendly to ensure that data is input by front line staff.

20. An alternative would be for government departments to use a more restricted system which only logged requests for information that came within a definition similar to that currently used to define Code of Practice requests for the annual monitoring report (see above).
21. It is possible that the system could also be linked to records management software, so departments could build up knowledge of what had already been released, such as through an e-reading room or disclosure log.
22. The facility to calculate fees automatically should be included, although it would have to be capable of being amended if there were changes to the fees regulations.
23. Many systems already generate correspondence, and the systems could be capable of generating far more than just acknowledgement letters; for example basic decision letters, management reports on numbers of requests and where processing bottlenecks are occurring in the authority, incorporating scanned documents released to keep a record of everything sent out and redacting documents.
24. There could also be the potential to anonymise an individual requester's information to the majority of officials involved when dealing with requests that need to be properly managed, for example so that a person is not treated differently because they are known to be a journalist or opposition MP.
25. It would be important that a system records each stage of the process of dealing with a complex request accurately so that a record is available should a decision be appealed. This includes the need to ensure that data could only be entered and amended by those who it would be appropriate to do so (which may differ for different stages of the process). It should not be possible to make changes retrospectively that would alter the evidence of how a request had been dealt with, for example if it is initially identified as a freedom of information request but later it becomes apparent that it should be dealt with under the Environmental Information Regulations. A system should also be able to cope with complex requests that incorporate elements of data protection, freedom of information and environmental information regulations.
26. It could improve relations with the requester and ease the administrative burden if the system allowed a requester to track the progress of their request online.
27. Designing such a system may require a fresh look at the procedures for dealing with requests to ensure they are the best possible ones, and the department will not become tied to following its existing procedures once an IT system is in place.

How can the Department for Constitutional Affairs assist Government Departments with monitoring requests under the Freedom of Information Act?

28. The Plotnikoff and Woolfson report highlights the importance of effective management of emails to ensure that requests can be dealt with quickly and accurately. Guidance in this area is currently being produced by the National Archives and we would want to keep this in mind as we developed the work on systems for processing and monitoring requests.

29. The report “Departmental Questionnaire on Systems for Monitoring and Managing Requests for Information” concludes there does seem to be a role for the DCA in i) determining what data should be collected by central government departments for the purposes of central monitoring the effectiveness of the Act; ii) determining what a request under the Freedom of Information Act for the purposes of monitoring; and iii) assisting departments in developing IT systems for monitoring and managing requests.
30. The Department for Constitutional Affairs will be setting up a sub-group of the cross Whitehall Freedom of Information Practitioners Group to consider these three issues. In relation to the latter, there are a numbers of ways that DCA could procedure on assisting departments in developing IT systems for monitoring and managing requests.
31. DCA could provide guidance to departments to assist them in developing specification of IT systems and act as a focus point to ensure experiences are shared between departments and experiences are learnt from. Sharing the research to date enclosed with the report would be an important initial stage in this. This would allow departments to develop systems that match their own needs and in their own way. However, it may be that those departments who have the resources and inclination to pursue this route have already begun, and those who have not already begun looking into this area would be unlikely to pursue it further if only basic guidance was offered. It would also be uncertain whether guidance could be specific yet still be relevant to the diverse size and business purposes of authorities.
32. DCA could produce a user requirements specification for an IT system and publish it to stimulate the software market to respond. This specification could be formally agreed by all departments, or determined by DCA following consultation with departments. This, however, would not solve the resource difficulties departments might face.
33. DCA could commission a software developer to write the code for a product for use across central government. This could be open source, allowing other sectors access to it and to develop it further so it more closely reflected their specific needs. It would also allow DCA to issue patches should there be changes to the Act, for example to fees regulations, and potentially ease the administrative burden of collecting monitoring data if all departments systems were compatible. A number of departments and other public authorities have raised the issue of the lack of resources to properly develop their own system and this would be one way of reducing this problem, although it would also have resource implications for DCA. It may also be problematic for those departments who have made much progress in developing their own systems. Government departments have a multitude of different IT systems already and in development, for example for correspondence management and ERM, and it may be difficult for a system produced by DCA to be compatible with all of these other systems and fit the many different shapes and sizes that government departments come in.

Questions for the Advisory Group

- What criteria do members suggest for requests for information which should be counted for monitoring purposes?
- Which of the suggested approaches for DCA assisting government departments in developing monitoring systems do members of the Advisory Group favour?
- How could the work DCA is co-ordinating assist other sectors?