



Called To Account

●●● The impact of the Freedom of Information Act

Matthew Gitsham and Chris Gribben, Ashridge
Belinda Pratten, NCVO



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Foreword

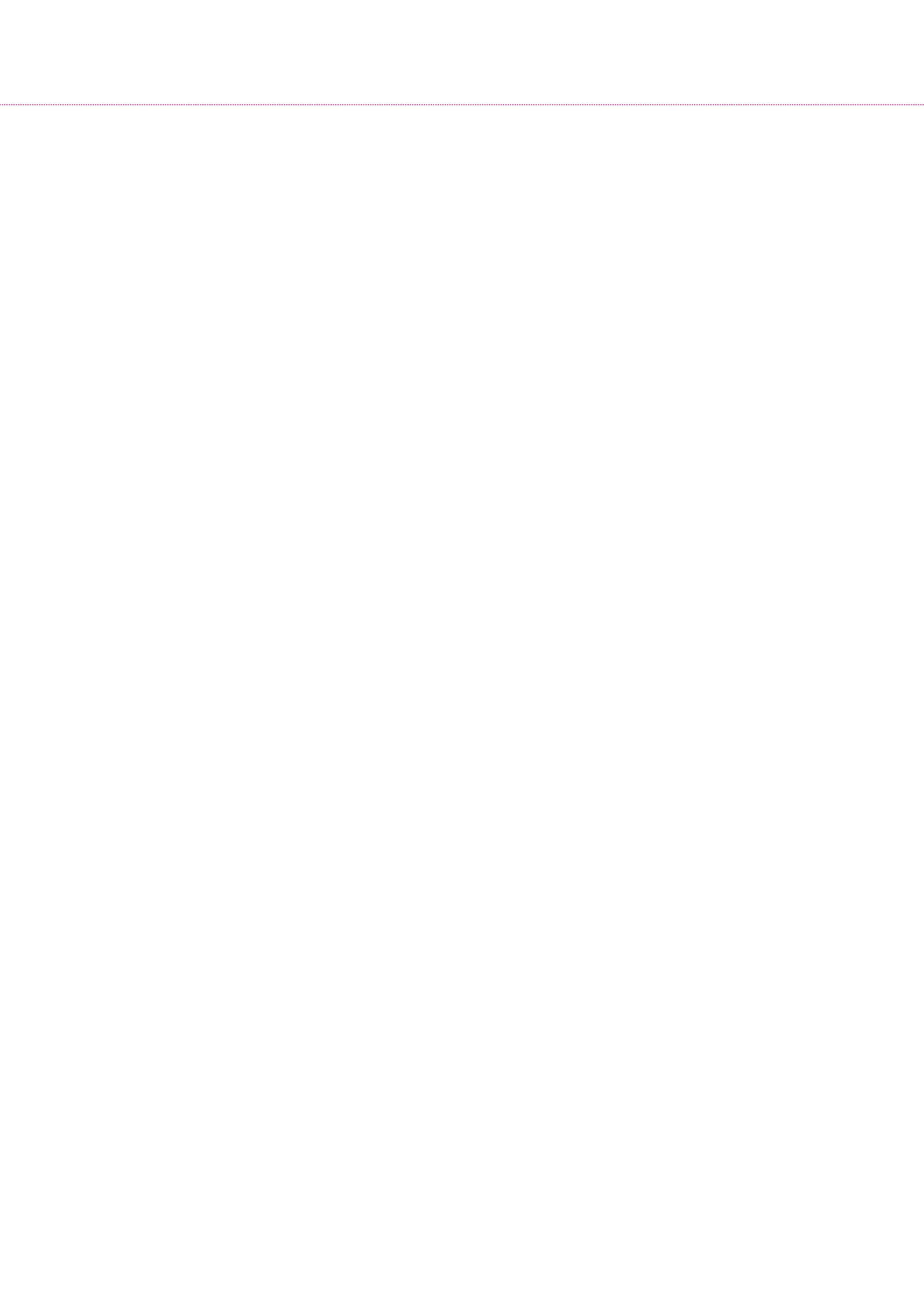
The Freedom of Information Act, which came into force in January this year, is a potentially powerful tool for citizens, communities and the organisations that work on their behalf. By giving people the right to know what government is doing in their name, the Act aims to promote more informed debate about public policy issues. For voluntary and community organisations, it can support their campaigning and advocacy work, promoting their cause and drawing attention to the debates surrounding it.

This report shows that a significant number of voluntary and community organisations have recognised the value of the right to know: those that are familiar with the Act have made good use of it, and more intend to do so in future. But there is still a need to raise awareness of the legislation and the opportunities it offers to the sector, as well as for practical guidance about how it works. There is a clear role here for NCVO and we will be working with others to address this need and ensure that the Freedom of Information Act fulfills its potential as a tool for social change.

This is the second project undertaken jointly by NCVO and Ashridge Centre for Business and Society and we are very grateful to Ashridge for their continuing support. I would also like to thank Ed Mayo, Phil Michaels and Julia Apostle for commenting so thoughtfully on the issues raised by this research.



Stuart Etherington
NCVO Chief Executive
November 2005





Executive Summary

N CVO and Ashridge have found that the Freedom of Information Act is already being used extensively by community and voluntary organisations and looks set to become a powerful tool for the sector. This was the key finding of a survey to which 170 directors and chief executives of voluntary and community organisations responded. As Jack Straw outlined in the House of Commons, the Act – which came into force early this year – aims to help “transform the culture of government from one of secrecy to one of openness”¹. Many in the voluntary sector believe that the right to access information held by public bodies that is enshrined in the Act will have this profound an impact.

In the first five to six months of the Act’s life nearly one in ten organisations reported that they had already used the Act. Extrapolating this finding to the sector as a whole indicates that over 18,000 organisations have already made use of the Act. The number of actual requests made is also likely to be far higher as 14% of organisations had made over 30 separate requests.

The responses also indicate that the number of organisations making requests is likely to increase substantially – one in three organisations said they intended to use the Act to make requests, which could translate into over 50,000 organisations making at least one request, with some making many more.

Organisations are using the Act to find out how public bodies arrive at decisions and, in particular, find out whether the voice of voluntary organisations is taken into account in decision-making. Significant growth is projected in requests related to campaigning and also service provision.

Nearly half the organisations that have made requests want more information about how decisions are made. In interviews conducted to inform the design of the survey, voluntary organisations said they wanted to know whose voices were listened to in the decision-making process – in particular, was government taking the views of voluntary organisations into account, and was too much weight given to companies?

Operational considerations may be driving requests to some extent. Requests relating to statutory funding of voluntary organisations’ service provision activities look set to rise rapidly – 69 percent of those intending to make requests will make them about how applications for funding are decided, and the criteria used when deciding how to award funding. This reflects the fact that public funds are now the most important source of income for the voluntary and community sector.

Significant growth is also projected in the number of organisations making requests relating to campaigning activity. Requests about government relationships with companies, quite possibly to inform campaigning activity around corporate influence on public policy, also look set to rise considerably – responses suggest that more than 20,000 organisations have plans to make requests about government relationships with companies. The Act could therefore have an enormous impact on the political lobbying activities of companies.

1. Rt Hon Jack Straw MP, introducing the second reading of the Freedom of Information Bill, House of Commons Hansard Debates for 07:12.99 (column 714)

Voluntary and community organisations are not just making requests to central government, substantial numbers are also making requests to local government and other public bodies. Requests to all three are projected to grow, but requests to local government are projected to grow particularly sharply – this is perhaps not surprising as the vast majority of voluntary and community organisations work at a local level.

Significant numbers of organisations indicated that they had an appetite to pursue appeals to the information commissioner and beyond through the courts if necessary. There is clearly a strong mood among a number of organisations to fight for their rights to access information. Organisations also indicated they would be keen to work in coalitions with each other to pursue coordinated campaigns for information.

Those organisations that are familiar with the Act think it is a powerful tool to further their mission and promote transparency, accountability and a change in behaviour. They are confident of its quality and potential, think it is easy to use and are more likely to use it. Many organisations are not familiar with the Act, however, and these organisations say they don't know whether it's easy to use, don't know enough to rate the quality of the legislation and enforcement mechanisms, and don't think it will be a useful asset for their organisation.

Organisations signalled there is a clear need for more help and support in using the Freedom of Information Act. Nearly two thirds of organisations said they were not at all aware of sources of help and support and eighty-five percent said they would value both written briefings and web-based information that was specifically designed for voluntary and community organisations. Around three quarters of organisations either rated the quality of the information the government has provided about the Act as poor or said they didn't know enough to be able to answer this question.

Perhaps unsurprisingly then, the survey shows that the more familiar people are with the Freedom of Information Act, the more confident they are about using it and aware of the benefits it can provide. These findings indicate a clear role for NCVO and others to raise awareness of the Act among voluntary and community sector organisations. NCVO will be taking these recommendations forward by developing a guide to the Act for voluntary and community organisations and expanding the information available on its website. This will include signposting people to existing sources of information and support, including training, where appropriate: for example, the Department of Constitutional Affairs and the Information Commissioner's Office, as well as to voluntary organisations with particular expertise in this area.

This survey shows that not only is the Act a potential asset for voluntary and community organisations, enabling them to further their own aims, it will also help them to facilitate wider public debates on the issues raised and increase the transparency and accountability of public bodies. In this way voluntary and community organisations can play a key role in furthering the aims of the Act itself.

Background to the survey



In January 2005 the Freedom of Information Act 2000 came fully into force. The Act gives members of the public the right to know what information is held by public authorities in England, Wales and Northern Ireland (Scotland has its own legislation). It also gives the public rights of access to that information. Although there are some exemptions, for example on grounds of national security or commercial or personal confidentiality, in general the presumption is one of openness, and most exemptions are subject to a public interest test. Bodies covered by the Act include central and local government; NHS organisations; educational institutions; the police and armed forces; non-departmental public bodies; and publicly owned companies.

The Freedom of Information Act is therefore a significant piece of legislation, enshrining in law people's right to know and backing this up with an independent appeal mechanism. It aims to help 'transform the culture of government from one of secrecy to one of openness'², on the grounds that greater accountability and transparency will both increase public confidence and lead to better decision-making. It also aims to promote more informed debate about public policy issues and give a wider number of people the opportunity to contribute to that debate.

There has been considerable media and other interest in the Act since it came into force in January 2005. In the first month central government alone reported receiving some 4,400 requests. Whilst many of these requests came from the media, a surprising number came from politicians: 130 requests were filed in the first week by members of the shadow Cabinet.³ So far, attention has centred on such high profile releases of information, as well as the failure of a number of requests made by journalists to receive meaningful responses. Less attention has been given to the Act's potential to support campaigning and lobbying outside of the media spotlight, for example by voluntary and community organisations.

Voluntary and community organisations

As previous work by Ashridge and NCVO has shown, voluntary and community organisations see campaigning and advocacy as a core part of their role.⁴ Such activities enable them to further their mission or cause and better meet the needs of their users and beneficiaries. For these organisations, the Freedom of Information Act has the potential to be extremely valuable. This is perhaps most obvious in relation to the large household name organisations mounting high profile campaigns at national or even international levels. But it is also true for smaller community organisations wanting to find out more about local planning decisions, for example, or plans for the future use of community facilities: the 'right to know' enshrined in the Freedom of Information Act is a potentially powerful tool for citizens, communities and the organisations that work on their behalf.

At the same time, voluntary and community organisations can help to fulfil the intention that the Act should enable more people to be involved in more informed debates about public policy issues. As the

2. Rt Hon Jack Straw MP, introducing the second reading of the *Freedom of Information Bill*, House of Commons Hansard Debates for 07.12.99 (column 714)

3. Reported in *Monitor*, The Constitution Unit Bulletin, University College London

4. Gribben, Robb and Wilding, 2002, *The Third Sector: Vision for the Future* Ashridge and NCVO

Government's Strategy Unit has argued, voluntary and community organisations are well placed not only to comment on public policy issues, but also to engage others in these debates and ensure that a diversity of views are represented. This is because of their links into local communities, the diversity of causes they represent, and the fact that they are relatively more trusted than other sectors.⁵ Therefore the Freedom of Information Act has the potential to assist voluntary and community organisations to meet both their own aims and those of Government.

Corporate accountability

Additionally, there has been little exploration of what the Act means for business. There has been some attention given to the risks to business from competitors requesting commercially sensitive information submitted to government and public bodies as part of tender proposals. However, business might also be sensitive to greater transparency concerning its relations with government and what the Freedom of Information Act might reveal about the nature and extent of corporate influence on public policy.

Within the voluntary and community sector, a number of organisations are concerned about the relationship between business and government: for them the Act has the potential to inform campaigns for greater corporate accountability. This could range all the way from campaigning organisations focussed on anti-corruption making requests about business lobbying on the government's anti-bribery legislation, for example, to community organisations making requests about the role of private companies in local regeneration projects.

Aims of the research

Against this background, NCVO and Ashridge have undertaken a survey to explore what the Freedom of Information Act will mean for voluntary and community organisations. The research seeks to:

- understand the level of awareness of voluntary and community organisations about the implications of the Act for their organisations;
- explore how far voluntary and community organisations are currently using and/or planning to use the Act as a tool to aid campaigning and promote accountability, both locally and nationally;
- assess how far voluntary and community organisations are currently using and/or planning to use the Act as a tool to drive greater corporate accountability; and
- understand what support the voluntary and community sector needs in order to use the Act effectively.

5. Strategy Unit, 2002, *Private Action, Public Benefit* Cabinet Office



The survey

In order to shed some light on these questions, NCVO and Ashridge surveyed a cross-section of directors and chief executives of voluntary and community organisations of different sizes, and fields of interest, across England and Wales in order to gain a wide range of perspectives from across the sector. The design of the survey was informed by a series of interviews with representatives from large and small voluntary organisations, national and local government, the private sector and legal specialists. NCVO and Ashridge would like to thank the following organisations for agreeing to give interviews:

- Friends of the Earth
- Islington Voluntary Action Council
- Department for Trade and Industry
- Winchester City Council
- British Land
- DLA Piper Rudnick Gray Cary UK LLP

The survey was distributed to 600 directors and chief executives from a cross-section of voluntary and community organisations drawn from the membership of NCVO. It was opened on June 2 and closed on July 11 2005. The response was excellent, with 170 questionnaires being returned, a response rate of around 30 percent. Such a high response rate indicates this is clearly an important issue for key parts of the voluntary and community sector.

The sample of 600 organisations was deliberately weighted to encourage a balance of responses from organisations of different sizes and with different fields of interest. Among those responding there was a good balance between different sizes of organisation, although smaller organisations are represented less strongly. This is revealing in itself – it may be that fewer of the smaller organisations responded because they have less capacity to devote time to questionnaires, but it may also signal that smaller organisations currently perceive the Freedom of Information Act to be less of a priority for them than do larger organisations.

Table 1 Size of organisation

Size of organisation in terms of annual income⁶

Under £100k	11%
£100k - £1m	29%
£1m - £10m	34%
Over £10m	24%

6. All figures presented in the tables in this report are percentages of the total number of respondents (170) unless otherwise noted.

Respondents also represented a broad cross-section of fields of interest. The following categorisation follows the Charity Commission's classification of different types of charitable organisation. Respondents were encouraged to identify the one or two categories they thought were most appropriate to their organisation.

Table 2 Field of interest

Main fields of interest

General charitable purposes	19%
Education/Training	26%
Medical/health/sickness	16%
Disability	21%
Relief of poverty	8%
Overseas aid/famine relief	5%
Accommodation/housing	14%
Religious activities	2%
Arts/culture	2%
Sport/recreation	3%
Animals	2%
Environment/conservation/heritage	6%
Economic/community development/employment	8%
Other	15%

**Current and future use of the Freedom of Information Act:
lots of voluntary organisations are already using the Act**

Respondents were asked about requests they had already made under the Freedom of Information Act, and their intentions regarding future requests.

Table 3 Current and future use

Has your organisation made any requests for information under the Freedom of Information Act, or arranged for individuals to make requests on the organisation's behalf?	9%
Does your organisation intend to make any requests for information under the Freedom of Information Act, or to arrange for individuals to make requests on the organisation's behalf?	36%
Looking at the longer term, could you see any value in your organisation making requests under the Freedom of Information Act, even if it has no plans to at present?	55%

7. This figure was reached by examining the percentage of organisations in each size range in the survey that said they had made requests, and then applying this percentage to the total number of voluntary and community organisations in England and Wales in that size range: Wilding *et al.* 2004 *The UK Voluntary Sector Almanac 2004*, NCVO.

8. Figures refer to percentage of those that have already made requests

These results represent a snapshot of the first few months of the Act. They show that there are already large numbers of voluntary and community organisations using the Act and that there are strong indications that the Act is going to be a powerful tool for the voluntary and community sector in the future.

Nine percent of responding organisations have already used the legislation to make requests, while around one third intend to make requests. More than half said they could see value in their organisation making requests, even though they had no plans at present.

Extrapolating from the nine percent of respondents that have already used the Act to the sector as a whole produces a startling result. In the first five to six months of the Act, requests by voluntary and community organisations to central and local government and other public bodies in England and Wales could be in excess of 18,000.⁷

Moreover this research found that 14 percent of organisations that had made a request had actually made more than 30 separate requests. Therefore, the number of actual requests made by voluntary and community organisations could be far higher than 18,000.

Table 4 Number of requests made

How many requests for information has your organisation made under the Freedom of Information Act (or arranged for individuals to make on the organisation's behalf)?⁸

1-10	87%
11-30	0%
31-50	7%
51-100	7%
More than 100	0%

Statistics released by the UK Department for Constitutional Affairs on requests to central government in the first three months of the Act confirm that this figure is entirely plausible. Figures collated show that departments of state and a limited number of other public bodies alone received over 13,000 requests for information in the first three months of the Act's operation.⁹

Given that over one in three organisations intend to use the act in the future, again extrapolating the results across the sector, this could translate into over 50,000¹⁰ organisations making at least one request, with some making many more. In the longer term, the fact that over half of respondents could see some value in making requests indicates the number of voluntary and community organisations making requests could grow much higher still.

These findings are consistent with the growth in requests experienced in other countries following the introduction of similar legislation. In Australia, for example, over 5000 requests for information were made in the first seven months following the introduction of their Freedom of Information Act in 1982. In the following year nearly 20,000 requests were received and in the third year, around 33,000 requests were received.¹¹

9. Department for Constitutional Affairs *Freedom of Information Act 2000 Statistics on Implementation in Central Government Q1: January – March 2005* (London, 2005, p.4)

10. This figure was reached by looking at the percentage of organisations in each size range in the survey that said they intended to make requests, and then applying this percentage to the total number of voluntary and community organisations in England and Wales in that size range: Wilding *et al.* 2004 *The UK Voluntary Sector Almanac 2004*, NCVO.

11. Commonwealth of Australia *Freedom of Information Act 1982 Annual Report 2003-2004* (Canberra, 2004, p. 8)

One would expect the largest organisations to be leading the way in making use of the Act, so it comes as no surprise that 18 percent of organisations with an annual income of over £10 million had made requests and 45 percent intend to make requests. What is much more surprising is that over one in ten (11 percent) of organisations with an income of less than £100,000 have already made requests and one in three intend to (32 percent).

Organisations whose fields of interest include the environment, overseas aid and health are more likely than other organisations both to have made and to have intentions to make requests under the Act. Organisations with a focus on accommodation and housing, religious activities, arts and culture, and sport and recreation are less likely to have used or to have intentions to use the Act. This is perhaps unsurprising: it is possible that few such organisations see themselves as having a campaigning remit, or, if they do, this is not a large part of their role. A sports organisation, for example, may not see the Act as being of general relevance to them. This could change, however, if it became concerned that the local authority was planning to build on the local playing fields, for example. In such a circumstance the Act and its 'right to know' may become a useful tool for them.

Voluntary and community organisations are making requests to central and local government and to other public bodies, and the growth in requests to local government is likely to be particularly strong

Voluntary and community organisations are not just making large numbers of requests to central government, they are also making substantial numbers of requests to local government and other public bodies. What's more, looking to the future, the number of requests being made to local authorities is likely to grow particularly strongly. This is perhaps not surprising given that the vast majority¹² of voluntary and community organisations work at a local level.

Table 5 Requests to central and local government and other public bodies

	If your organisation has made requests, did it make these requests to:¹³	If your organisation intends to make requests, would it make these requests to:¹⁴
Central government	47%	56%
Local authorities	33%	57%
Other public bodies	33%	44%

12. According to Charity Commission figures, 82.1% of general charities are defined as having a local area of operation in England and Wales (source: Wilding *et al.* 2004 *The UK Voluntary Sector Almanac 2004*, NCVO. p.50)

13. Figures refer to percentage of those that have already made requests

14. Figures refer to percentage of those that intend to make requests

Voluntary and community organisations are using the Act to find out whose voices are listened to in the decision-making process, and growth is predicted in the number of organisations using the Act to inform campaigning activity

Organisations were asked about the nature of requests they had made, and intended to make, under the Freedom of Information Act.

Table 6 Purpose of requests

	If your organisation has made requests for information under the Freedom of Information Act, what were they about?¹⁵	If your organisation intends to make requests under the Freedom of Information Act, what would they be about?¹⁶
Information about how public bodies arrive at decisions	47%	72%
Information about funding criteria and decisions	20%	69%
Information to inform campaigning activity	27%	41%
Information about government relationships with other voluntary organisations	7%	36%
Establishing precedents about rights to access certain information	27%	21%
Information about the scope of information available (eg requesting lists of files)	20%	23%
Information about government relationships with companies	7%	20%
Other	20%	5%

These responses indicate that, firstly, more than anything else requests have been and will be about how public bodies arrive at decisions, and, secondly, the anticipated growth in requests is likely to be sharpest in relation to two key interests: campaigning and service provision.

Nearly half the organisations that have made requests, and nearly three quarters of those who have plans to make requests want more information about how decisions are made. This suggests that these organisations are wanting to use the Act to promote greater transparency and accountability. In interviews conducted to inform the design of the survey, voluntary organisations said they wanted to know whose voices were listened to in the decision-making process – in particular, was government taking the views of voluntary organisations into account, and was too much weight given to companies?

15. Figures refer to percentage of those that have already made requests.

16. Figures refer to percentage of those that intend to make requests.

However, it is possible that this may also be driven to some extent by operational considerations. For example, requests relating to statutory funding of voluntary organisations' service provision activities look set to rise most rapidly. Sixty-nine percent of organisations intending to make requests will make them about how applications for funding are decided, and in particular the criteria used when deciding how to award funding. This compares with 20 percent of organisations that have already made requests. This reflects the fact that the public sector is the most important source of income for the voluntary sector, accounting for 37 percent of total income,¹⁷ and that much of this income is linked to its increasing role in public service delivery.

Similarly 36 percent of organisations intending to make requests will make them about government relationships with other voluntary organisations, compared with 7 percent of organisations that have already made requests – requests of this nature may well be seeking information about the details of contracts public bodies hold with existing service providers, or about the funding applications other voluntary organisations have made in the past.

Such a rise in requests about statutory funding of voluntary sector service provision may well be a key driver of the projected rise of requests to local authorities, as well as a source of risk for voluntary organisations.

Yet whilst this may be a factor, it is also clear that requests relating to campaigning activity are set to grow significantly. Forty-one percent of organisations that said they intend to make requests will do so to inform campaigning activity. This compares with 27 percent of organisations that have already made requests, making them about this.

Requests about government relationships with companies – quite possibly to inform campaigning activity around corporate influence on public policy – also look set to rise considerably. Only seven percent of organisations that have made requests have made them about government relations with companies, but 20 percent of organisations that intend to make requests say they will make them about this. To extrapolate these responses taking into account the size of the sector in England and Wales, it may well be the case that in excess of 20,000 organisations have plans to make requests about government relationships with companies.¹⁸

These respondents were asked which industry sectors their requests had, or would refer to. Rather than, as some might suppose, only making requests about a few usual suspects like companies in the armaments, pharmaceuticals and energy sectors, the responses indicated that organisations had made and would continue to make requests across the whole-cross section of industry including property development, transport, food and drink, utilities and financial services. This highlights the diversity of the voluntary and community sector and the range of issues with which individual organisations might be concerned, as well as the range of industry sectors that may be affected.

Many voluntary organisations have made effective use of similar freedom of information legislation in other countries to aid campaigning around corporate influence on public policy. In June 2005, for example, Greenpeace used the US's freedom of information legislation to obtain papers revealing the

17. Wilding *et al.* 2004 *The UK Voluntary Sector Almanac 2004*, NCVO.

18. This figure was reached by looking at the percentage of organisations in each size range in the survey that said they intended to make requests about government relations with companies, and then applying this percentage to the total number of voluntary and community organisations in England and Wales in that size range according to *The UK Voluntary Sector Almanac 2004*, published by NCVO.

extent of ExxonMobil’s confidential lobbying on US energy and climate change policy, contrary to the company’s public statements – this release of information led to a high profile story critical of the oil giant appearing in the Guardian newspaper.¹⁹

Thus the Act could potentially have an enormous impact on the political lobbying activities of companies.

Familiarity with the Act and its implications for the organisation: familiarity drives use

As can be seen from the table below there is considerable variation in familiarity with the Act.

Table 7 Familiarity with the Act

How familiar are you with the Freedom of Information Act legislation and its implications for your organisation?	Very familiar	8%
	Somewhat familiar	62%
	Not at all familiar	29%
Have the implications of the Freedom of Information Act been explored by the senior management or board of trustees of your organisation?		29%

A small number of respondents described themselves as very familiar with the UK Freedom of Information Act legislation and its implications for their organisation. Nearly two thirds described themselves as somewhat familiar with the legislation and around one third described themselves as not at all familiar. Around one third responded that the implications of the legislation had been explored by the senior management or board of trustees of their organisation. Although it is not clear whether this was in the context of the opportunities or risks presented by the Act, it does suggest that these organisations considered the implications to be significant enough to warrant discussion at this level.

Again it comes as no surprise that 15 percent of organisations with an annual income of over £10 million were very familiar with the Act, while none of the smallest organisations said they were very familiar with the Act. Environmental organisations were significantly more likely to be very familiar with the Act than other organisations. Twenty-seven percent of organisations with an environmental focus said they were very familiar with the Act, compared with an average of eight percent across all fields of interest. This perhaps reflects the longer engagement of environmental organisations with freedom of information legislation – rights to access environmental information were established in UK law in 1992 following a 1990 European directive, giving environmental organisations a 13 year head start in becoming familiar with these issues.

Comparing these responses with those about using the Act, it becomes clear that familiarity with the Act drives use. Twenty-nine percent of those very familiar with the Act have made requests already and 50 percent intend to make requests. On the other hand, only two percent of those not at all familiar have made a request and only 14 percent have plans to make requests.

19. “Revealed: how oil giant influenced Bush” Guardian, June 8 2005 www.guardian.co.uk/international/story/0,,1501632,00.html

This finding, that organisations more familiar with the Act are far more likely to use it, is also clear in the responses to many other questions. Organisations more familiar with the Act are more prepared to use it, think it is easy to use, and are more confident about its quality and potential.

These findings suggest that there is a need to raise awareness not only of the Act itself, but also its relevance to a wide range of organisations.

Preparedness for using the Act: familiarity drives readiness

Table 8 Preparedness for using the Act

How prepared is your organisation to make use of the Freedom of Information Act?	
Very prepared	6%
Fairly prepared	25%
Fairly unprepared	32%
Very unprepared	28%
Don't know	8%

These results are in line with the responses on familiarity and current use of the Act. A small number of organisations say they are very prepared to make use of the Act. One in four organisations are fairly prepared, but nearly two thirds described themselves as either fairly or very unprepared.

Again the link with familiarity is clear. Three quarters of organisations very familiar with the Act described themselves as either very or fairly prepared to use the Act. Conversely, 76 percent of organisations not at all familiar with the Act said they were either fairly or very unprepared to use the Act.

Perceptions of ease of use of the Act: it's easier than it looks

Overall only one in three organisations think the Act is easy to use (37 percent).

Table 9 Ease of use

How easy do you think it would be to use the Freedom of Information Act to find out information?	
Very easy	1%
Fairly easy	36%
Fairly difficult	28%
Very difficult	4%
Don't know	30%

It is clear, however, that those very familiar with the Act think it is easy to use whereas those who are not familiar with the Act don't know whether it is easy to use or not. Fifty-seven percent of organisations very familiar with the Act said they thought the legislation was either very or fairly easy to use. On the other hand 58 percent of those not at all aware of the Act didn't know whether it would be easy to use or not.

Perceptions of the quality of the Act: those who know about it think it's quite good

It is also clear that those more familiar with the Act have a higher opinion of the quality both of the legislation itself and the associated enforcement and appeals mechanisms.

Table 10 Quality of the Act

How highly do you rate the quality of:	The legislation	The enforcement and appeals mechanisms	Information the government has provided about the act and how to use it
Good	6%	4%	7%
Average	35%	22%	19%
Poor	5%	9%	27%
Don't know	54%	64%	46%

While overall, the majority of organisations were not familiar enough to have an opinion on the quality of the Act, among those very familiar with the Act, the overwhelming majority thought it was good or average. Ninety-three percent of organisations very familiar with the Act rated the quality of the legislation as either good or average, and 71 percent rated the quality of the enforcement and appeals mechanisms as either good or average. Conversely, 92 percent of those not at all familiar with the Act said they didn't know enough to rate the quality of the legislation and similarly 90 percent said they didn't know enough to rate the quality of the enforcement and appeals mechanisms.

The finding that many organisations are not at all familiar with the Act chimes with the finding that, when asked to rate the quality of the information the government has provided about the Act and how to use it, around three quarters of responding organisations (72 percent) either rated the quality as poor, or said they didn't know enough to answer the question. This indicates that government could have done much more to raise awareness of the potential of the Act and how to use it. Although useful information exists, for example that published by the Department of Constitutional Affairs and the Information Commissioner's Office (which also has a telephone helpline), many organisations, particularly smaller organisations, do not have the resources or staff time to look for it. This suggests that there would be value in developing a guide to the Act specifically for voluntary and community organisations and making this accessible through existing voluntary sector networks.

Perceptions of the potential of the Act: it is a powerful tool voluntary organisations can use to drive transparency and change

Table 11 Opportunity presented by the Act

How much of an opportunity do you feel the Freedom of Information Act presents for your organisation?

It will be a huge asset in furthering the aims of the organisation	2%
It will be a useful asset in furthering the aims of the organisation	31%
It will be of marginal use to the organisation	38%
I can see it having no use for the organisation	7%
Don't know	21%

Again, there is considerable variation among organisations on the question of how much of an opportunity the Act presents. A small number of organisations thought that the legislation would be a huge asset in furthering the aims of their organisation. Around a third of organisations thought the legislation would be a useful asset, while nearly half thought it would have little or no use for their organisations. Twenty-one percent said they did not know whether the legislation presented an opportunity or not.

Compare these responses with those on familiarity and again the results are telling. Eighty percent of those familiar with the Act thought it would be either a huge or a useful asset to their organisation, compared with only ten percent of those not at all familiar with the legislation.

Previous research by Ashridge and NCVO found cost to be a real constraint on voluntary and community organisations' ability to campaign effectively or to influence policy-makers or public opinion²⁰. The Freedom of Information Act should make it easier – and cheaper – for organisations to take on this role. It will do this directly, by making information held by public authorities available on request. Perhaps its greatest asset, however, is its potential to change the culture of public sector organisations, and others, by making greater transparency the norm, thereby enabling voluntary and community organisations to engage in (and provoke) more informed debates on the issues that concern them.

Respondents were asked whether they thought the Freedom of Information Act would drive transparency in a range of different types of organisation.

20. Gribben, Robb and Wilding, 2002, *The Third Sector: Vision for the Future* Ashridge and NCVO

Table 12 Will the Act drive transparency?

Do you think the Freedom of Information Act will make the behaviour of the following *more transparent* (without necessarily fundamentally changing that behaviour)?

	Significantly more transparent	A little more transparent	No more transparent	Don't know
Central government	12%	56%	19%	11%
Local authorities	15%	57%	16%	11%
Other public bodies	11%	59%	15%	13%
Companies	3%	31%	46%	17%
Voluntary organisations	6%	44%	29%	18%

These results show that the majority of voluntary and community organisations believe that the Freedom of Information Act will increase the transparency of government and other organisations.

Respondents more familiar with the Act were much more likely to believe it would increase transparency. For example, 79 percent of those very familiar with the Act thought it would make the behaviour of central government either a little or significantly more transparent. Similarly, 57 percent of those very familiar with the Act thought it would make the behaviour of companies a little more transparent.

Respondents were also asked whether they thought voluntary and community organisations could use the Freedom of Information Act to bring about fundamental change in the behaviour of a range of different types of organisation.

Table 13 Can the Act be used to change behaviour?

Do you think voluntary and community organisations can use the Freedom of Information Act to bring about a *fundamental change* in the behaviour of:

	Significant change in behaviour	Some change in behaviour	No change in behaviour	Don't know
Central government	3%	58%	21%	18%
Local authorities	4%	61%	17%	18%
Other public bodies	4%	55%	21%	20%
Companies	0%	34%	41%	22%

More than half the respondents thought voluntary and community organisations could use the legislation to bring about some change in the behaviour of central and local government and other public bodies, although very few thought it could be used to bring about a significant change. Around one third of respondents felt voluntary and community organisations could use the Act to bring about some change in the behaviour of companies, although no respondents thought it could be used to bring about a significant change.

Those very familiar with the Act appeared even more confident that the legislation could be used to bring about some change in behaviour. For example, 79 percent of those very familiar with the Act thought voluntary and community organisations could use it to bring about some change in behaviour of central government. Similarly, 57 percent of those very familiar with the Act thought voluntary and community organisations could use it to bring about some change in the behaviour of companies.

Taking results from these two questions together it is clear that a majority of organisations think increasing transparency will drive a change in behaviour. This is a key finding confirming that voluntary and community organisations see the Act as a powerful tool that, by driving transparency, allows them to hold government and other organisations to account and bring about change in behaviour.

Perceptions of risk: there are some risks but these are outweighed by opportunities

Table 14 Risk associated with the Act

How much of a risk do you feel the Freedom of Information Act presents for your organisation?	
It presents a huge risk to the organisation	1%
It presents a marginal risk to the organisation	47%
I can see no risk to the organisation	25%
Don't know	21%

Although a quarter of organisations thought the legislation presented no risk, and very few felt particularly threatened (one percent), around half (47 percent) noted there was some level of risk. This has also been a theme of enquiries to NCVO. It is important not to overstate the level of risk posed by the Act, particularly when compared to the benefits of greater transparency and accountability; benefits which are as important in terms of public trust and confidence in the voluntary and community sector as in government.²¹

At one level the risks are similar for all sectors, for example in relation to requests for commercially sensitive information. One respondent that had a contract with a local authority to provide services noted they had lost the contract to another voluntary organisation when the contract came up for renewal. This happened after the other organisation had made a request to the local authority about the nature of the existing contract.

However, these situations reflect the reality of an increasingly competitive funding environment, particularly in relation to public sector contracts, rather than an argument against greater transparency. This is an issue that should be addressed as part of the contracting process, so there is clarity on both sides about what information must be released if requested.

It is also possible that whilst the Act might be a powerful tool that allows voluntary and community organisation to hold government and others to account, it can equally be used against them. Certainly in the US organisations such as the American Enterprise Institute's NGO Watch has expressed concern at 'the growing power of the unelected' (the subtitle of a 2003 conference).²² As organisa-

21. See for example, Pratten B, 2004, *Accountability and Transparency*, NCVO

22. <http://www.aei.org>

tions become more successful at lobbying government and influencing public policy, the more likely they are to be a potential target. Again, this threat is likely to be more perceived than real: in interviews for this research it was suggested that there would be little sympathy for a company or organisation that targeted a voluntary or community organisation in this way. Moreover the case for greater transparency still holds.

The point here is not that these risks don't exist, but they can be managed. Organisations need to be aware that their communications with public authorities are potentially available to the public. More importantly these risks are outweighed by the opportunities presented by the Freedom of Information Act.

Appeals: voluntary organisations won't take no for an answer

The Freedom of Information Act contains a number of mechanisms to manage complaints. Those making requests have the right firstly to appeal internally, asking the body concerned to review its decision, and if that is not successful they can appeal to the Information Commissioner. In addition, while there are a number of exemptions that allow public bodies to withhold releasing information on certain grounds, most of these exemptions are balanced by a clause in the legislation which states they can be over-ridden if it is in the public interest. If a public body invokes an exemption clause, the person or organisation requesting the information has the right to ask the Information Commissioner to rule on whether or not this is in the public interest.

Significantly, over a quarter (27 percent) of the organisations that have already made requests said they intend to submit appeals to the Information Commissioner. There is a clear message here for public bodies that receive requests: they should be aware that if they give responses that organisations are not satisfied with, they should expect a substantial number of these organisations to pursue the matter further.

Appeals to the Information Commissioner carry no cost implications. Beyond this, there is also the option to pursue litigation through the courts, although it is likely that this could carry a much greater cost burden. Respondents were asked about their appetite for this.

Table 15 Appeals through the courts

If your organisation were to appeal to the Information Commissioner and receive what it thought was an unsatisfactory response, would it have an appetite to pursue litigation through the courts to:

Obtain information to which it had been refused access	21%
Establish its right to access certain information	21%

Twenty-one percent of all respondents surveyed said that they had the appetite to pursue litigation through the courts, either to obtain information to which they had been refused access or to establish their right to access certain information. There is thus clearly a strong mood among a large number of organisations to fight for their rights to access information.

Working with others: voluntary organisations will work in coalitions

Table 16 Working in coalitions

Would you be interested in working together in coalitions with other voluntary organisations to pursue:

Coordinated campaigns for requesting information	45%
Appeals to the information commissioner	32%
Appeals to the courts	19%

Respondents were asked about the extent to which they would be interested to work in coalitions with other voluntary organisations – the responses indicate that even greater numbers of organisations are likely to both make requests and appeals if they join together with others.

This clearly indicates that if organisations join together to collaborate, not only will the number of organisations making requests rise, but also that the appetite to pursue unsatisfactory outcomes will grow. It also highlights the value of an independent appeals mechanism that can be invoked without going to Court and therefore without the cost implications that would involve.

A number of voluntary organisations have already begun working in coalitions internationally. The European Export Credit Agencies Reform Campaign, for example, a coalition of 13 European voluntary organisations, has launched a coordinated campaign for information by simultaneously making requests about how export credit agencies integrate environmental concerns into their financing decisions under freedom of information legislation in ten different European states.²³

Support: there is a real need for more support across the board

Respondents want more support in understanding and using the Freedom of Information Act.

Table 17 Sources and types of support

How aware are you of sources of help and support in guiding your use of the Freedom of Information Act?

Very aware	4%
Somewhat aware	35%
Not at all aware	59%

Would you value:

Written briefings for voluntary and community organisations	85%
More access to web-based information for voluntary and community organisations	85%
Training events specifically for voluntary and community organisations	62%
Opportunities to meet other organisations with similar concerns	42%
Other	4%

23. See www.fern.org for more information.

Only four percent of respondents felt very aware of sources of help and support. Around one third of respondents felt somewhat aware, but almost two thirds claimed to be not at all aware of sources of help and support.

There was not much variation in awareness of sources of help and support across different sizes of organisation or across different fields of interest, except that far more environmental organisations (36 percent) were very aware of sources of support, and significantly more poverty relief and overseas aid organisations were somewhat aware (62 percent and 56 percent respectively). This may reflect the fact that some campaigning environmental organisations have been running training courses on using the Freedom of Information Act for other environmental, international development and trade justice organisations. This finding also tallies with the earlier finding that environmental organisations are far more familiar with the Act than organisations with other fields of interest.

Eighty-five percent of respondents said they would value both written briefings and web-based information that was specifically designed for voluntary and community organisations. Over 60 percent said they would value training events specifically designed for voluntary and community organisations and over 40 percent said they would value opportunities to meet with other organisations that had similar concerns to themselves. These findings did not vary significantly with levels of familiarity with the Act, suggesting there is a real appetite for more support across the board.

A small number of organisations noted other forms of support they would value. One specified that it would value specialised legal help on a charged basis. Another noted that greater clarity is needed on the position of voluntary and community organisations that are not bound by the Act but receive statutory funding to provide services.

These findings, when taken together with findings elsewhere in the survey, indicate a clear role for NCVO and others to raise awareness of the Act and its potential among voluntary and community sector organisations.





Conclusion and recommendations

This survey has shown that a significant number of voluntary and community organisations have already used the Freedom of Information Act and that many more intend to do so in future. For these organisations, the Act is a practical tool that can be used to inform campaigning activities and to find out more about how decisions are made by public bodies. Perhaps unsurprisingly, the survey shows that the more familiar people are with the Freedom of Information Act, the more confident they are about using it and aware of the benefits it can provide.

However, if the Act is to fulfill its potential both as a campaigning tool and a stimulus for public debate, there needs to be a greater awareness within the sector of the opportunities (and risks) arising from the 'right to know'. As the high percentage of respondents wanting written and web-based briefings and/or training has shown, there is a clear need for practical advice and guidance about the Act and how it works. There also appears to be a need for information about some of the direct implications of the Act for voluntary and community organisations, for example in relation to information about their organisation held by public bodies and good practice in relation to this.

NCVO will be taking these recommendations forward by developing a guide to the Act for voluntary and community organisations and expanding the information available on our website. This will include signposting people to existing sources of information and support, including training, where appropriate: for example, the Department of Constitutional Affairs and the Information Commissioner's Office, as well as to voluntary organisations with particular expertise in this area.

This survey shows that not only is the Act a potential asset for voluntary and community organisations, enabling them to further their own aims, it will also help them to facilitate wider public debates on the issues raised and increase the transparency and accountability of public bodies. In this way voluntary and community organisations can play a key role in furthering the aims of the Act itself.





Commentaries

Ashridge and NCVO have asked a number of commentators to provide a range of perspectives on the complex and varied issues raised by this research.

Ed Mayo – Chief Executive, National Consumer Council

If you ever felt as if you are drowning in information, you will not be surprised to learn that our society's gross national production of information has hit five exabytes of data per year. That is a lot of noughts. So why on earth should we want to know more?

The answer is simple. Freedom of Information legislation, alongside new guarantees on consumer privacy and more open approaches to intellectual property, represent new democratic rules, struggling to be born for a digital age. A credit to the vision and campaigning passion of the voluntary sector at its best, the law is an attempt to wrest the centre of gravity of the information boom from one of institutional control to one of institutional accountability.

The timing on the introduction of the Act could not have been more propitious. When I started my contributions to the data mountain, as a computer analyst and programmer, mainframe computers ruled and the ubiquity of PCs and email was long off. Today, the beauty of the Act is that it has come at a time in which the workplace has reorganised fundamentally around the connectivity of computing and IT.

This is the unseen flipside of 1984, that data systems could be used not just for surveillance, but for accountability, by reconstructing the past through electronic media. Email is opening up the internal workings of powerful bodies, as shown by the dismissal of DTI special adviser Jo Moore, or when Merrill Lynch were fined \$100 million after one of their senior analysts confided in an informal email that a company that he was giving a buy rating to, he actually considered "a piece of shit". Information technology creates a historical log. It makes previous interactions visible and so builds accountability.

It is in this context that the Ashridge/NCVO study is an uplifting account of how civil society is learning how to use Freedom of Information.

It is true that it shows that 69 percent who intend to make a Freedom of Information request will do so in relation to the funding decisions of government. While voluntary organisations account for less than one per cent of all government spending, no doubt they will be no less concerned than private sector counterparts to work out how decisions are made, either to improve them or the better to game the system.

But over two thirds think that Freedom of Information will make government more transparent, and it is positive that the most frequent users of the Act are those that praise its integrity and relative simplicity. After all, the true prize of accountability is not simply in what is revealed. It is how the culture of powerful institutions changes in response to the credible threat that Freedom of Information represents.

There may be 20,000 requests coming, the survey suggests, on the relationship between government and business. This will be one to watch, as the private sector is, overseas, the dominant user of Freedom of Information, because of the commercial advantages it brings. It will be a test of the strength and vision of the civil society sector in the UK as to whether they make as much use of Freedom of Information as the private sector.

In a recent book, *The Glass Consumer*, the National Consumer Council pointed out that we are the most probed, surveyed and monitored society in history. It may grow the data mountain, but in the digital age, Freedom of Information is a welcome chance for anyone to turn the tables.

Phil Michaels – Solicitor, Friends of the Earth

I cannot comment without first making reference to a particular bugbear of ours which has again been tickled into frustration by the contents of this otherwise useful report. The report repeatedly refers to the Freedom of Information Act 2000 but makes no reference to its sister legislation the Environmental Information Regulations 2004 (even when stating that “Environmental organisations were significantly more likely to be very familiar with the Act than other organisations”). This is both surprising and disappointing. It is surprising particularly as, in more than one instance, the report refers to the ability of voluntary organisations to obtain information about planning decisions under the Act. In fact, as those familiar with the legislation will know, information about planning decisions will almost invariably be exempt from disclosure under the Freedom of Information Act 2000 and must instead be dealt with under the Environmental Information Regulations 2004. Enough said.

This survey paints a reasonably encouraging picture of the importance that voluntary and community organisations attach to the new rights to access information, and indicates some appreciation of the power (for good) latent in these laws.

Perhaps it is unsurprising that those most familiar with the laws were more likely to see them as useful and effective. This highlights (as does the report generally) the importance that training, awareness raising and information sharing has in getting organisations to use these new laws.

Friends of the Earth has done extensive work in providing training, materials and advice to community groups, individuals and other NGOs on the new laws. As a result of that training, other NGOs and local community groups have contacted us to let us know either of their successes in obtaining previously hidden information or to share their stories of (temporarily) thwarted requests for information – and their determination to appeal. It is pleasing to see that organisations are not prepared to take no

for an answer (although I remain extremely sceptical at the reported 21 percent of organisations that would be prepared to undertake litigation following a failed complaint to the Information Commissioner).

Our experience over the past eight months has certainly demonstrated that there remains an ingrained culture of secrecy in many public authorities and that there is a need for a cultural change from 'need to know' to 'right to know'. It is my view that it is only through making requests (and pursuing them in the face of initial refusals) that we will create the cultural change needed.

That said, and this is something that can be read between the lines of this report, there is also a need for a cultural change amongst community groups and NGOs. Too often when I ask colleagues why they do not make requests for information they say that it is for fear of harming their relations with public authorities with whom they need to work in the future. A freedom of information request is not a weapon and making a request for information is not an adversarial process (though it can become so) it is – or should be – a standard tool in the toolkit of all community groups, NGOs (and citizens), which allows us to access publicly held information (i.e. information held at our expense and on our behalf). It should be neither feared nor treated with the circumspection that might justifiably be reserved for, say, litigation.

These laws are very new and the journey has just begun. This survey is a useful snapshot of how we, as community and voluntary organisations, perceive them at this early stage. The challenge is now to work so that they become a universally accepted tool in our work, and that they are as effective in guaranteeing our rights to know as possible.

Finally, the report states that there would be value in developing a guide to the Act specifically for voluntary and community organisations and notes the need for training sessions specifically for such organisations. In relation to training it would be a gross oversight not to note the excellent training provided by the Campaign for Freedom of Information specifically for such groups (www.cfoi.org.uk). In terms of online resources some groups might find useful the Right to Know Handbook which we have produced specifically for community groups and which can be found at www.RightToKnowOnline.org together with our 'Information Request Generator'.

Julia Apostle – Lawyer, DLA Piper Rudnick Gray Cary UK LLP

Governments adopt freedom of information legislation for a number of specific reasons, but the overarching rationale for such laws is generally to strengthen a country's internal democratic processes through increasing transparency and accountability. Whether a given access law will succeed in this aim depends on a number of conditions, each of which must be satisfied. These are, generally, as follows: the freedom of information law in question must be a "good" law (e.g. not contain any unnecessary exemptions and the exemptions must be subject both to a harms test and a public interest test); there must be an effective appeals mechanism in place; public authorities must have access to sufficient resources to implement and comply with the law; and the public must be aware of the law and how it can be used.

There was an opportunity to comment on the quality of the UK Freedom of Information Act 2000 (FOIA) before it was adopted and eventually further opportunities will present themselves. The survey conducted by NCVO and Ashridge – and the results – reveals more about the last two criteria, namely allocated resources and public awareness.

The survey results regarding the number of appeals made under the FOIA indicate that many public authorities – and this is particularly true of the smaller authorities – are not responding to access requests appropriately and may still have as a starting point a presumption against disclosure. This interpretation is bolstered by our own experience and by the early decisions coming out of the Information Commissioner's Office, a significant number of which deal with failures on the part of public authorities to adhere to the procedural requirements set out in the Act. For instance, a number of authorities have failed to explain why a given exemption applies to a request, despite the very clear guidance and statutory obligation to provide applicants with a reasoned response when their request is refused.

Although not necessarily surprising, for those who were hoping that the government would embrace the new “sunshine” policy of openness, the large number of refusals must be disappointing.

The second significant revelation of the survey is that the public does not know enough about the FOIA and how it may be of benefit to them, despite widespread attention and use by the media. Voluntary sector organisations (i.e. NGOs) should be amongst the most informed about the FOIA, given their close ties to government, as revealed by the reliance of these organisations on public funds.

Apparently the government made a conscious decision not to launch a public information campaign before the Act came into full effect on 1 January this year, so that public authorities would not be inundated with requests. This is not necessarily unreasonable given early performance indicators, but if the Act is to be a success – if it is to result in a meaningful change of government culture – then the government should invest in public education.

In sum, freedom of information is like a chain that is only as strong as its weakest link. If public authorities are insufficiently funded and lack the necessary training to deal with the FOIA, and if the public does not know either that the law exists or how to use it, then the disclosure regime is not functioning. The Ashridge/NCVO survey results point to where the weak links are at present, and thus where future attention and efforts need to be focused.



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Please contact NCVO on 020 7713 6161 for more information.



INVESTOR IN PEOPLE



National Council for Voluntary Organisations

Regent's Wharf
8 All Saints Street
London N1 9RL

T: 020 7713 6161
F: 020 7713 6300
E: ncvo@ncvo-vol.org.uk
W: www.ncvo-vol.org.uk

Textphone: 0800 01 88 111

Need to know?

www.askNCVO.org.uk
HelpDesk: 0800 2 798 798
or helpdesk@askncvo.org.uk

Charity Registration: 225922

The paper used for this publication is sourced from sustainable forests.



Ashridge
Berkhamsted
Herts HP4 1NS

T: 01442 843491
F: 01442 8411181
E: matthew.gitsham@ashridge.org.uk
W: www.ashridge.org.uk

Charity Registration: 311096