

## Impact case study (REF3)

<b>Institution:</b> Birkbeck, University of London
<b>Unit of Assessment:</b> 19
<b>Title of case study:</b> Transparency and government: the effect and reform of openness laws
<b>Period when the underpinning research was undertaken:</b> 2010-2017
<b>Period when the claimed impact occurred:</b> 2013 – 2020
<b>Is this case study continued from a case study submitted in 2014?</b> N

### 1. Summary of the impact

Ben Worthy has had an impact on the effective implementation of Freedom of Information (FOI) legislation by providing robust systematic evidence on how FOI works in practice. His research challenges claims that FOI is detrimental to good governance. It draws attention to the diverse valuable uses of FOI at all levels of government, ranging from the smallest local governments to the devolved governments to central government. Combined with related work on the use of Open Data, Worthy has demonstrated that FOI and other openness reforms can promote more open cultures within institutions, while also drawing attention to areas where practice can be improved.

### 2. Underpinning research

The research underpinning this case study comprises a series of works on the impact of the Freedom of Information Act on various parts of UK government and, later, on the impact of Open Data experiments in the public sector. As a contested and innovative policy, the debate over FOI has been affected by overclaiming on the part of some advocates, countered by political resistance and equally strident criticism from opponents, often based on anecdotes about a biased sample of cases. Worthy and his collaborators have made a signal contribution to developing a systematic evidence base on the impact of FOI, using mixed quantitative and qualitative methods, including a survey experiment using FOI requests. Worthy's work has also enhanced understanding of FOI as part of a wider information landscape or ecology, by presenting FOI in the context of formal and informal practices affecting the use of data and dissemination of information both within organisations and externally.

Summing up the first decade of FOI in 2015, Worthy and Hazell (UCL) [REF1] provided a sober assessment of the effect of FOI on participation and democracy by systematically profiling requesters and the subjects of their requests. They found that FOI is used by a narrow group of people. However, they also found little evidence to support claims about disruptive and chilling effects claimed by critics, and they demonstrated that high profile cases produced a distorted image of the workings of FOI. Their evaluation relied on interviews, analysis of press articles, a random sample of FOI requests and a survey of requesters, as well as secondary sources.

Worthy's book on the introduction of FOI in the UK brought in a comparative element with chapters on five other countries [REF2]. This drew attention to diffusion processes and the possibility of cross-national learning and benchmarking, despite much contextual variation. It also highlighted the importance of sub-national and local governments as the frontline of FOI, receiving high volumes of requests. While FOI was often imposed on lower levels of government by central government, their responses allowed for experimentation to promote transparency, and could produce valuable demonstration effects.

Worthy has been closely involved with international academic and professional networks around FOI. He brought his understanding of diffusion across governments and recognition of the importance of local and regional contexts to his work for the Open Government Partnership (OGP), with specific implications for devolved governments in the UK, as described below.

A conceptual framework in which FOI was located in a wider information ecosystem informed Worthy's work the impact of FOI in local government [REF 3]. He showed that patterns of usage of FOI are very different at local compared with the central level, and also quite variable despite

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the common legislative framework in England. Local FOI is relatively more concerned with service delivery, including the accountability of private providers, and less concerned with forms of democratic accountability such as the disclosure of decision-making processes or the role played by individual actors.

FOI is one element within a disparate range of initiatives by public organisations to make detailed data available to the public. In his study of Open Data [REF4], Worthy assembled evidence of the scale of public engagement with these initiatives, and surveyed their impact in the eyes of the key groups involved. The study acknowledged divergent assessments on the part of respondents, but was able to demonstrate that the public scrutiny generated by Open Data was partial, inconsistent and sometimes perverse, not least because potential public auditors often lacked the necessary skills to interpret opaque data, particularly spending data.

Worthy's 2017 experimental research with John and Vannoni (KCL) [REF5] evaluated the effect of FOI at a local level by sending a straightforward request for information (specifically, an organisation chart) to 4,300 UK parish councils, labelling half of the requests as FOI requests and stating explicitly on the other half that they were not made under the FOI Act. The research showed that FOI requests were significantly more likely to receive a response. The striking findings of this experiment have been replicated in other studies, providing a simple demonstration that, despite the many complications and variations in its application, FOI legislation does lead to greater openness.

**3. References to the research**

[REF1] Worthy, Ben and Hazell, Robert (2017) 'Disruptive, Dynamic and Democratic? Ten Years of Freedom of Information in the UK'. Parliamentary Affairs, 70 (1): 22-42 DOI: <https://doi.org/10.1093/pa/gsv069>

[REF2] Worthy, Ben (2017) 'The Politics of Freedom of Information: How and Why Governments Pass Laws That Threaten Their Power'. Manchester: MUP

[REF3] Worthy, B. (2013). "Some are More Open than Others": Comparing the Impact of the Freedom of Information Act 2000 on Local and Central Government in the UK. Journal of Comparative Policy Analysis: Research and Practice, 15(5), 395-414. DOI: <https://doi.org/10.1080/13876988.2013.836300>

[REF4] Worthy, Ben (2015) 'The Impact of Open Data in the UK: Complex, Unpredictable and Political', Public Administration 93 (3): 788-805 DOI: <https://doi.org/10.1111/padm.12166>

[REF5] John, Peter, Worthy, Ben and Vannoni, Matia (2017) 'Transparency at the parish pump: a field experiment to measure the effectiveness of freedom of information requests in England'. Journal of Public Administration Research and Theory, 27(3): 485-500. <https://doi.org/10.1093/jopart/muw063>

**4. Details of the impact**

The UK Freedom of Information Act (2000) and its sister legislation in Scotland (2002) secured the public right of access to information held by public authorities, setting out specific guidelines for requesting and reporting such information, and replacing voluntary and often unreliable ad hoc practices. Despite the strong belief of FOI's supporters and promoters that it enhances decision-making and improves accountability, FOI has been intensely and publicly criticised as expensive, an unnecessary drain on resources, and potentially perverse in encouraging public bodies to be less, not more open. Tony Blair in his memoirs described himself as a 'naive, foolish, irresponsible nincompoop' for introducing FOI legislation, while David Cameron created a Commission in the expectation that it would expose the failures of FOI. Worthy's research has contributed to the evidence base to counter these arguments, while also supporting initiatives to strengthen the commitment of central, devolved and local governments to promote openness in ways which facilitate accountability and potentially improve trust in effective government.

## 1. Strengthening FOI Legislation and Practice Across the Devolved Governments

Between 2013 and 2018 Worthy worked on behalf of the Open Government Partnership, as the UK's Independent Reporting Mechanism (IRM). The Open Government Partnership is an international initiative comprising civil societies, local and national government representatives and businesses formed 'to secure commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance'. Formed in 2011, it now covers 78 countries, representing a population of around 2,000,000,000 people (OGP, 'About us'). Each country appoints an individual as the IRM who assesses their own government's openness commitments and reports on how far these commitments have been implemented.

As the UK's IRM, Worthy's first report for the Open Government Partnership in 2015 (1) had a significant impact on the UK's commitment to openness. The Cabinet Office accepted his recommendation to increase engagement with devolved governments. This led to the devolved administrations publishing their own commitments for the first time as part of the UK's National Action Plan in December 2016. Worthy's recommendation was vital in securing these commitments from the Scottish Parliament and the Northern Ireland and Welsh Assemblies to strengthen FOI and ratify open governance practices (2).

Worthy's recommendation that the devolved bodies should be specifically included in the Government's national UK action plan directly led them to make separate commitments under the subsequent plan – a first and a highly important step in strengthening openness practices. As a result of these changes, the devolved governments have continued to publish action plans; Scotland is currently preparing its second action plan, while Wales and Northern Ireland are currently preparing new versions of their plans. The central UK and devolved government action plans commit their respective governments to clear, robust FOI policies, legislation and practice, further protecting and embedding FOI and open governance across the UK.

## 2. The development of FOI in the UK

### *Independent Commission*

In 2015, Prime Minister David Cameron set up an Independent Commission on FOI to investigate potential reforms to FOI legislation. FOI defenders within and outside Parliament believed that this was intended to pave the way for the restriction of FOI. David Davis MP called it a 'stitch-up' (*Daily Politics*, BBC Parliament, 8 September 2015), while Labour MP Tom Watson told *Buzzfeed News* that 'In announcing the commission, the government are really saying they're going to water down the act' (17 July 2015).

In the event, the changes recommended by the report were minimal (3). They were (as BBC News commented at the time) 'swayed by the evidence about how FOI actually works in practice' (<https://www.bbc.co.uk/news/uk-politics-35550967>). Worthy made a substantial contribution to this evidence, making representations through a meeting with the chair and providing written evidence drawing on his research (specifically REF3, as well as earlier research done at the UCL's Constitution Unit with Hazell and Glover) (4).

### *Scottish Parliament*

The Scottish Parliament's Public Audit and Post-Legislative Scrutiny Committee conducted an inquiry into the operation of the Freedom of Information (Scotland) Act, publishing a report in 2020 (5) which heavily cited Worthy's oral and written evidence, which in turn drew directly on his research [specifically REF3 and REF5]. Arguments and findings taken up by the Committee included the effect of greater openness on organisational culture (paragraph 49), the need to update practices of proactive disclosure to take advantage of new technology (paragraphs 109, 136), and the anchoring effect of deadlines (paragraph 223). Worthy's evidence influenced the report's recommendations that the law should be amended to cover more types of information (such as electronic communications) and that there should be a new statutory duty to publish certain types of information.

*Open Data*

In their 2014 report on the progress of the Government's Open Data agenda (6), the Public Administration Select Committee (PASC) cited Worthy's evidence, based on his 2013 paper [REF3] and his research for REF4, to describe the lack of an overall strategy and clear accountability mechanisms from the government on Open Data. In particular, the report described how the Government's vision of lay citizens - so-called 'armchair auditors' - holding their local authorities to account had failed, taking their account directly from Worthy's evidence to argue that the qualities and skills needed for a normal citizen to properly scrutinise local government are too rare for 'armchair auditors' to provide a realistic level of scrutiny (paragraphs 49, 54). PASC recommended that the Government should adopt a star-rating system for engagement of the public in holding the government to account, which departments should use for measuring engagement with their data releases and reporting to Parliament.

*Parish Councils*

Worthy's 2017 research on parish councils showed that requests for information labelled as FOI requests were significantly more likely to receive a response than requests that did not mention FOI [REF5]. The head of the UK Campaign for Freedom of Information described the Parish Council project as an 'elegant concept' with 'valuable results', while Toby Mendel, head of civil rights campaign group Article 19, called it 'immensely valuable'. Activists from Italy and Canada praised the results and Paul Gibbons – one of the foremost public commentators on FOI practice - commended Worthy's work in one assessment as 'helpful...in understanding the peculiar challenges that FOI presents within the lowest tier of government, [providing] important lessons about FOI and government in general' (7). 'The study has now been replicated in the Netherlands and Slovakia, with similar results. Worthy was a co-author of the Dutch study. One by-product of the UK study was that a number of parishes responded by publishing organisation charts, either online or on local noticeboards, and reviewing how open they are in their public meetings (8).

**5. Sources to corroborate the impact** (indicative maximum of 10 references)

1. Open Government Partnership: United Kingdom End-of-Term Report 2016-2018 (May 2019)
2. Testimonial: Cabinet Office Letter
3. Independent Commission on Freedom of Information Report, Cabinet Office (March 2016)
4. Worthy, B (2015) 'FOI Commission Evidence'  
<https://opendatastudy.files.wordpress.com/2015/11/foi-commission-submission-2015-ben-worthy.pdf>
5. Public Audit and Post-Legislative Scrutiny Committee (2020) Post-legislative scrutiny: Freedom of Information (Scotland) Act 2002.  
<https://sp-bpr-en-prod-cdnep.azureedge.net/published/PAPLS/2020/5/19/Post-legislative-scrutiny--Freedom-of-Information--Scotland--Act-2002/PAPLS052020R2.pdf>
6. Public Administration Committee (2014) Statistics and Open Data: Harvesting unused knowledge, empowering citizens and improving public services.  
<https://publications.parliament.uk/pa/cm201314/cmselect/cmpublicadm/564/56402.htm>
7. *FOI Man*, 'Parish Councils and FOI' (<https://www.foiman.com/archives/2427>); 'Small is not necessarily better when it comes to FOI' (<https://foiman.com/wp-content/uploads/2016/09/201607-parishcouncils.pdf>)
8. 'Minutes of the Ellerker Parish Council meeting held Thursday 25th February 2016 at 7.30pm, in the Village Hall', Ellerker Parish Council.