How to excel at FOI Compliance

Practical advice for government agencies to improve response times for FOI requests

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Executive
summary

Responding to requests in a reasonable timeframe (usually within 20 working days) is a central tenet of freedom of information laws. However, despite the enormous efforts of government agencies, delays still arise too often and are the main complaint of requesters. Paradoxically, one of the principle culprits of these delays is one that was intended to improve productivity; namely,

technology and the way it (doesn't) categorize or store the information that public sector bodies hold.

This whitepaper explores why these delays arise and explains how public sector bodies can respond to Freedom Of Information (FOI) requests much more efficiently through some relatively simple changes in their processes.

"Delays still arise too often and are the main complaint of requesters"

Avoiding the risks
Slow FOI response

Failing to produce public records when requested by citizens, activists, pressure groups or the media can be highly damaging for local, federal and state governments. At best, it can create a sense of suspicion. At worst, it can result in a public relations nightmare, with great embarrassment for individuals and entire departments.
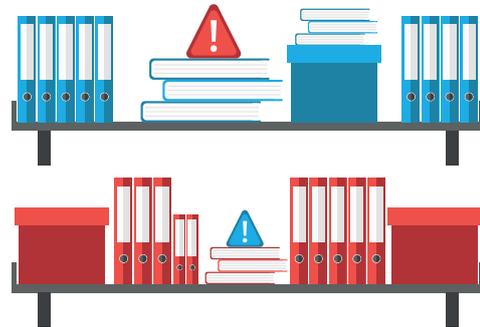
The Knight Foundation (a non-profit US group that focuses on journalism and freedom of information) recently surveyed[1] its members – journalists, academics and other experts in FOI – and discovered that government delays in responding to requests easily topped the list of troubling issues. The majority of respondents expressed their frustration about how long it took to receive a full response to requests, and many felt things were getting worse.

Another problem area highlighted by participants was the technology governments use. A full third described the government's technology as very or extremely problematic. In total, 80% of respondents described the technology as at least somewhat of a problem. If government technology is slow, undependable and inefficient, it is far from surprising that hard-pressed FOI officers struggle to respond to the endless deluge of requests.

A similar survey[2] conducted by the National Freedom of Information Coalition focused on how requesters perceived state and local government's responses to FOI requests. The results mirrored the Knight Foundation results.

35% of respondents said they were denied information because it was unclear who held the records.

37% of respondents said that requests were denied because records were not in a retrievable form.

1. 2017. Knight Foundation. Forecasting Freedom of Information.
Available online: https://knightfoundation.org/reports/forecasting-freedom-of-information
2. NFOIC. 2016. Troubling Trends from Biennial Open Government Survey.
Available online: http://www.nfoic.org/2015-biennial-open-Government-survey-results-troubling

Avoiding the risks
Slow FOI response

The report summarized the problems facing public institutions as follows:

> **"The survey also provides a glimpse into the challenges to public institutions and their officials to collect, organize and manage public records. Much of this challenge is coming from new digital forms of public records and how they are being created, classified and retrieved.**
>
> **States, in particular, also display a lack of consistency in administrative procedures to handle public information. Formal professional standards, increased education, and training of public records employees are lacking in most states. And the different branches of government are also in conflict when it comes to legal, economic and political requirements to manage public information in the digital age."**
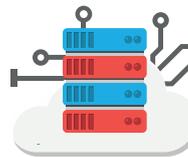
It is clear that managing information in the digital age is an enormous challenge. Government agencies therefore have three options:

Work existing employees harder

Hire more FOI employees

Work smarter

This whitepaper takes the position that the third option is the sensible route. Government agencies should tackle the challenges relating to FOI requests by using technology in a much smarter way. Even relatively small changes can make a tremendous impact, ensuring FOI staff can find content faster, compile reports more efficiently, and, ultimately, keep the citizenry satisfied that government is transparent and honest.

The technological barriers
Responding to FOI requests

Adapting how FOI laws are applied in the digital age is enormously challenging – if only because of the sheer quantity of data and the locations where they can now be stored. Take the experience of state governments in Minnesota and North Dakota. As reported in local news publication INFORUM, state and local government agencies have been struggling with what to include in their searches for data when they receive requests:

• **How long should they store emails?**

• **What email information does or doesn't need to be redacted? Should email addresses, for instance, be released?**

• **What can FOI staff do about public officials using their personal email addresses for public work?**

Even when FOI staff are motivated to release all information, they often run up against technological barriers in their search. These barriers tend to significantly delay searches, and mean FOI teams must extend the response period in order to find all relevant information. This can be costly, and may mean they have to ask the requester to pay a fee in order to complete the search. What's more, given the technological barriers they encounter in discovering information, FOI staff often do not feel entirely confident that they have responded to requests in full.
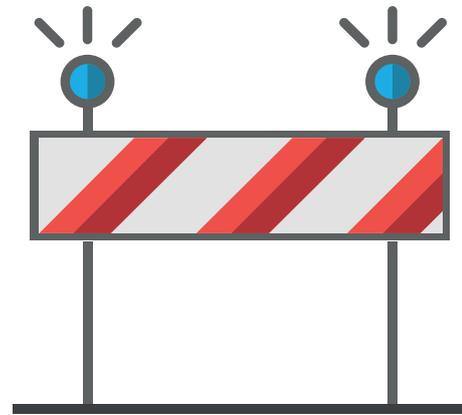
Let's explore two of the most common limitations:

1. Email

Very often, FOI requests are made in relation to communications between a government agency and staff or external parties. Journalists, activists, and other citizens want to understand how decisions were reached and email is very often used as a method of discussing decisions in government.

The problem with email: emails discussing important topics are typically not stored in a centralized location. Most often, they will remain in various users' inboxes, not treated as a document of record. This gives rise to multiple barriers to responding to an FOI request. The case manager may not know who participated in an email chain, or what was discussed. Even if crucial emails were stored in a central document library on a platform like SharePoint, often metadata won't have been attached – making it virtually impossible to find again.

The technological barriers
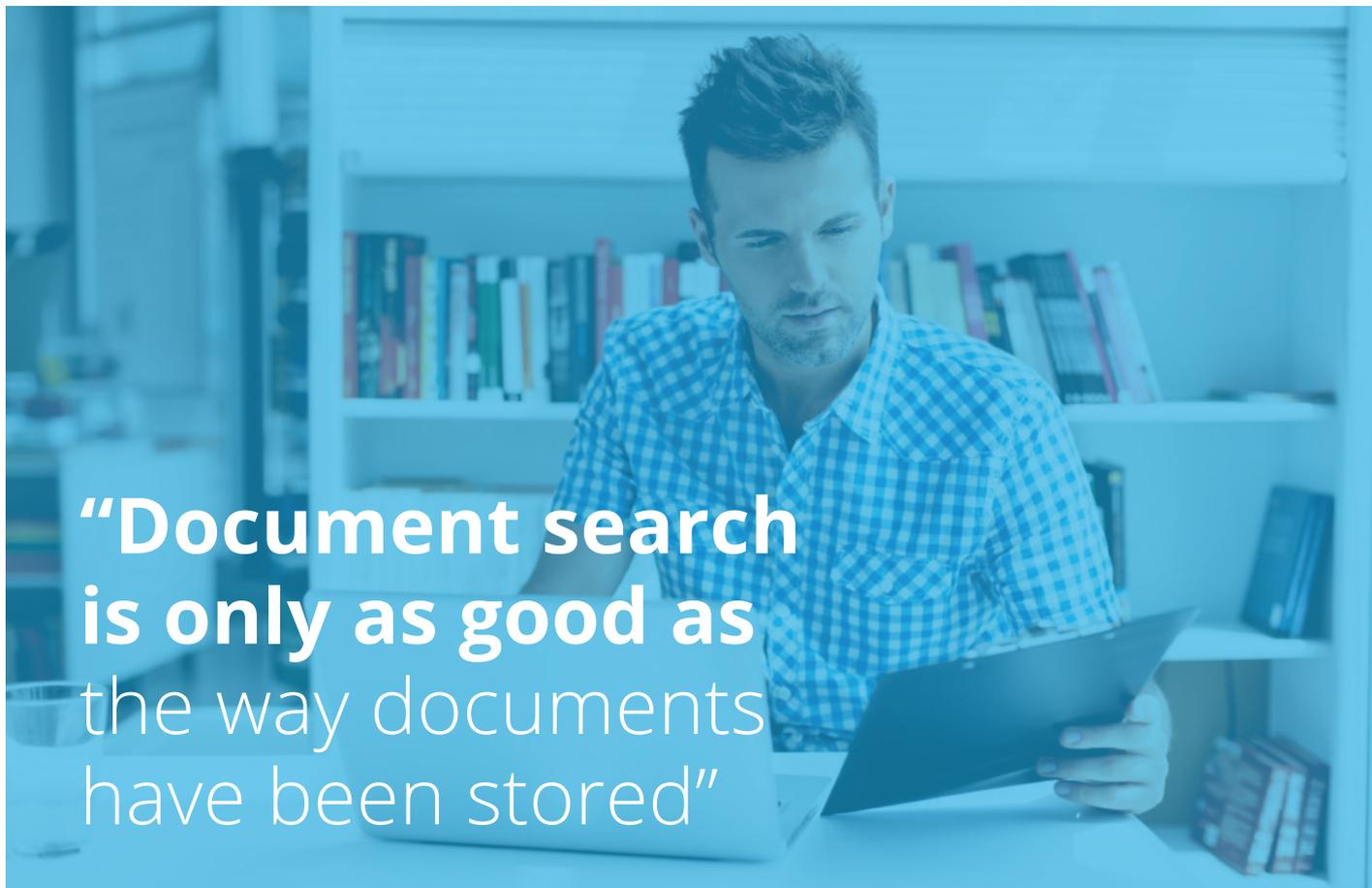## Responding to FOI requests

2. Document search

Many FOI requests pertain to accessing documents of record. Requesters want to see the final results of a project, read meeting minutes, or access internal memos. FOI officers therefore need to be able to rapidly find all relevant content on their systems.

The problem with document search: as with email, document search is only as good as the way documents have been stored. If employees have not correctly associated metadata with files or failed to store content in the right place, finding content again later becomes difficult. Document libraries can often become messy, so hunting through the system to find relevant content becomes time consuming and is unnecessarily manual.

Even small municipalities can receive thousands of FOI requests per year. When the answers to those requests are stored in a disorganized manner, or even in locations that FOI staff cannot access, their ability to stay on top of the requests is curtailed. Overcoming these technological barriers is therefore the first step in improving how government responds to FOI requests.

"**Document search is only as good as** the way documents have been stored"

The technological barriers
Responding to FOI requests

Problems with the current FOI process

In the majority of government departments at present, the process for dealing with FOI requests is problematic:

1. FOI staff receive a request, then respond to it, outlining what they understand the requester to mean, and giving them an outline of when the response will be compiled.

2. FOI staff then co-ordinate amongst themselves and relevant colleagues in other departments to collect the requested data.

3. The assigned individuals perform searches across all databases and content storage locations where information might be held.

4. If they do not have access to a certain file location, such as an email inbox or SharePoint site they do not have permission to access, they must chase colleagues to look for the data on their behalf.

5. Once the data is collected, the FOI staff must work with the legal team to decide what can be released, what will be redacted and what should be withheld.

6. The response is then compiled and sent to the requester.

Logical by itself, this process is held back by its manual nature:

- Acknowledgement emails are unnecessarily manual, requiring additional time to compile them.

- Emails sent to joint mailboxes often get dropped by team members assuming someone else will take ownership of the request.

- The search for information is almost entirely manual, depending on individual employees to perform due diligence and search everywhere.

- The process can break down at many stages when staff are overwhelmed with work or when colleagues fail to respond to requests for more information.

Improved technology
Revitalizing the FOI process

The way government deals with FOI requests is clearly facing serious challenges. There is greater interest, from the public, in government transparency than ever, and the number of FOI requests submitted is constantly rising. At the same time, government agencies around the world are being asked to do more with less and staffing shortages are a real problem. Finally, locating information in response to requests is hampered by the number of requests received and the manual and outdated way data is stored in government systems, as well as the way staff are forced to search for it.

FOI officers are widely viewed as diligent and committed to transparency, yet the problems they face can mean their responses to requests become delayed and the process of compiling answers becomes disorganized.

In and of itself, the process for dealing with FOI requests is more than adequate. However, many teams are struggling to respond to requests because of technological barriers which slow down their processes. Clearly, new technology is not the only solution, and needs to be implemented in a strategic manner, in conjunction with new working styles and training. But, by improving the way information is stored and managed within government, storing, searching for and assembling responses becomes much easier with the right technology.

In this section, we argue that by changing the way government organizations store content and use tools to search for information, the process of responding to FOI requests could be significantly improved.

Improved technology
Revitalizing the FOI process

Getting 'information management best practice' right

To be able to respond to an FOI request, FOI staff first need to be able to find information in a centralized, searchable location. Unfortunately, this is easier said than done. In many public sector organizations, the way information is managed is held back by a mixture of legacy IT, the continued use of paper archiving and the ad-hoc usage of various content management tools which have been added to the IT estate over time. FOI officers at municipal councils, for instance, will regularly have to perform their searches in paper archives, old local drives, hard disks on specific machines, various SharePoint libraries and a Dropbox account. What's more, many staff store important documents and emails of record inside their email accounts, which makes searching for and finding the requested information especially difficult.

The solution:

Simplification is essential here. In an ideal world, all information of record should be stored in a central location such as SharePoint. This is easier said than done. What can be achieved more easily is regular training and reminders to staff of the kinds of information that need to be stored in a central library. Of course, not every email or document needs to be stored in SharePoint, but if staff can learn to recognize what may later become subject to an FOI request and store it in the right place, the chances of finding the information become easier.

Improved technology
Revitalizing the FOI process

Make it easy to store information

Most staff in the public sector are well versed on the importance of FOI and the need to be transparent. However, when technology gets in the way – making it difficult to store key emails or documents in the right place – problems arise. When it takes too long to upload content to a SharePoint Site, for instance, employees under pressure may well make the (incorrect) assumption that no one will ever request to see their document anyway, and therefore leave it on their desk-top.

The solution:

It is essential that the organization makes it as easy as possible to store information that could come under the remit of the FOI. Using a tool like harmon.ie, which provides a sidebar where employees can drag and drop important emails directly from Outlook into SharePoint, while also automatically adding metadata, significantly boosts the chance of storing content correctly.

Improved technology
## Revitalize the FOI process

Automate as much as possible

Much of the process of responding to and completing an FOI response is repeated over and over again. Nonetheless, many public sector organizations continue to do these processes manually, meaning breakdowns are more likely to occur.

The solution:

Modern automation tools such as Nintex Workflows offer a highly-sophisticated way of automating many aspects of the FOI response process. These tools can be designed to produce automatic responses to FOI requests which FOI officers can quickly edit to ensure they contain the correct details. These tools can then carry out automatic searches of entire environments and also send reminder emails to participants in the search in order for the process to be completed more efficiently.

There is no 'silver bullet' solution to resolving the FOI challenge facing public sector organizations. However, by upgrading the way technology is used and deploying these solutions as part of a strategic change, government agencies can store and search for information and assemble responses to requests far more easily.
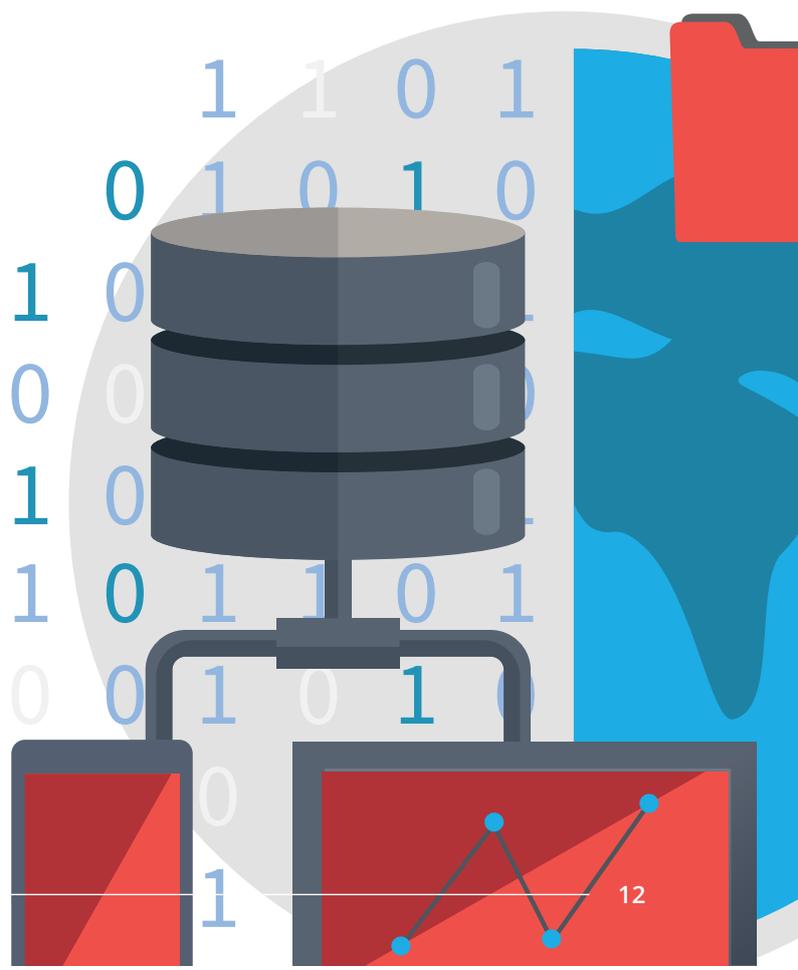
How to deliver excellence
FOI request process

When government agencies do not provide adequate responses to FOI requests, the potential for suspicions to arise becomes real. Media groups, activists and other pressure groups will likely ask why their response is so delayed or appears to be incomplete. Although in most cases these suspicions are unfounded, there is always the risk that the government agency is sued or the FOI request is referred to a higher body. If that organization completes a more thorough search of an agency or municipality's information archives and discovers information that should have been released, the repercussions can be enormous.

It is crucial, then, that government bodies can respond to FOI requests fast and FOI officers are able to search for content easily. Success here depends on improved information management practices across all organizations.

When this kind of improvement is combined with technology that facilitates the storage of records, or that ensures the response-assembly process is completed efficiently, FOI staff will be better prepared to respond to requests in the confidence that their searches and their responses are complete.

Contact us
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This whitepaper has shown how harmon.ie and other tools can support the public sector in improving how they respond to FOI requests. harmon.ie introduces an intuitive user experience that makes it significantly easier to store important emails and documents where they should be held so they can be found later. These kinds of tools can therefore play a major role in speeding up your department's responses to FOI requests.

To learn more about how harmon.ie can be used to facilitate information management best practice, contact us today.

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