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1. Introduction

Data Protection and Freedom of Information legislation in the United Kingdom is highly relevant to the information management field. Since the handling of personal information and confidential material is a common feature of archival and record-keeping work, a standardised set of laws which govern all bodies in the country regarding their use would be both beneficial and necessary for proper practice and implementation, particularly in the realm of accountability and best practice. Yet as both data protection and freedom of information laws have been implemented in practice, their introduction has posed new challenges for the field, largely regarding the costs of compliance and the ongoing tensions between access and confidentiality, both of which affect the core of information management principles. Thus, it is important to define the particulars of this legislation and how they affect archives and libraries in the United Kingdom. Only then can the vital role that both data protection and freedom of information laws play in providing trust and accountability to the public be fully understood as essential components of said regimes: a role of enough importance to override any concerns regarding their implementation.

2. Freedom of Information Act

The Freedom of Information Act, introduced to the United Kingdom in 2000, was implemented with the purpose of providing access to information held by public

authorities. It does so by ensuring that said authorities are obligated to publish certain information about their activities and by giving members of the public the right to request information from them (Information Commissioner's Office 2023). The Freedom of Information (Scotland) Act was introduced in 2002 to cover these same principles in Scotland (2015, 1). Together, these acts impose significant responsibility on public institutions regarding their information, specifically regarding access to said information. These responsibilities require any public body to know what information they hold, how to manage and retrieve their information, and to disseminate the requested information through a publication scheme (Shepherd, Stevenson, and Flinn 2009). Any individual can make a Freedom of Information request to any member of staff of a public institution, and must receive a reply within twenty working days. The two acts detail how the process is to be implemented, what constitutes a breach of the freedom of information processes, and any exemptions that exist.

3. Data Protection

Data protection regimes in the United Kingdom are based on the European Union Data Protection Act, 2016 (General Data Protection Regulation 2016). This Act regulates how personal information that identifies an individual is handled by institutions and covers core principles of privacy and rights to personal data through the definition and implementation of informed consent, right to access, and the right to data erasure, among others. The main purpose of data protection laws is to give affected persons greater control of how their identifying information is used and to protect their data from being misused by the institutions that hold it (Pedley 2019, 1). These principles were fully integrated into British law through the United Kingdom Data Protection Act, 2018. Under Data Protection regimes, any published information that contains identifying information must first ensure these identifiers are properly removed, through redaction or removal, and that a proper system is in place within the institution to ensure this process is followed correctly.

Freedom of Information laws and Data Protection regimes serve separate purposes with different aims. Indeed, with data protection focused primarily on protecting data from public view and freedom of information meant to ensure public access to

institutional information, the two acts can come into conflict (Birkinshaw 2010). Yet both freedom of information and data protection principles are of important relevance to how archives and libraries conduct best practice and how they are held accountable to public interests (Edward & McLeod 2004). It is in light of these effects on practice that the opportunities and challenges these regimes present to the field are explored.

4 Purposes of Legislations

4.1 Aims of Freedom of Information

Freedom of Information legislation was introduced with the aim of improving best practice on the part of major public institutions, and archives and records management play a central role in their implementation. It is through their services that these Acts can be enforced through the proper management and preservation of records, and it is here that the field is presented with an opportunity to improve and expand its policies on proper practice (Shepherd and Ennion 2007). These Acts introduced a standardised process of public interaction with an institution's records that served to organise a previously haphazard system (Shepherd, Stevenson, and Flinn, 2009 P?). Institutions must now provide full access to the information they hold and face repercussions for any failure to comply. Convolved and unorganised files serve to prevent proper access to the information they hold, whilst freedom of information regimes that follow legislation offer greater clarity and insight. This has served not only to highlight the importance of having a proper record-keeping system in place but also to provide an incentive for streamlined processes. A study by Elizabeth Shepherd, Alice Stevenson, and Andrew Flinn found that after the Act's implementation, city councils responded by creating processes to find information more efficiently, often by adopting better records management (Shepherd, Stevenson, and Flinn, 2011, 116). With an institution having only twenty working days to reply to any request, quick and efficient organisation of its information is of paramount importance, and provides a standard by which archives and libraries can measure their processes, thus resulting in better practices in the field.

Best practice serves to increase public trust. To successfully implement freedom of

information requests would require a system that is transparent and open. This can be done by pre-empting requests with a proper publication scheme and ensuring information is made available, despite any bad publicity, by a robust management system (Shepherd and Ennion 2007). Openness and transparency are a core pillar of freedom of information and serve to improve public interaction and accountability for both institutions and the information management sector (Pedley 2019, 189-190). Best practice in the archive or library in this context serves not only to improve processes for greater efficiency but also as a means for creating greater accountability. Freedom of Information laws confirm that public information does not belong to the government, but to the public itself (Hazell and Worthy 2010). How this standard plays out in practice is through a proper records management system, which is beneficial to both institutions and the wider public.

4.2 Purposes of Data Protection

Data Protection has similarly served to standardise the record-keeping processes regarding the privacy of data, that provide greater accountability. The Act made the laws pertaining to data protection consistent across both the European Union and the United Kingdom. It also created a single supervisory authority in both jurisdictions for organisations to interact with, both of which rendered compliance with a single set of standards easier (Pedley 2019, 134). This, in turn, caused organisations to create official systems and employ new mechanisms for regulating personal activity that did not exist before the Act's introduction (Davies 1997, 40). Standardisation offers greater efficiency for the information management field and new resources to use in practice that are fully in line with legal requirements. These systems serve to give the public greater control over their data. An organisation compliant with data protection standards regarding its documents demonstrate their trustworthiness to users (Pedley 2019, 134 & 140). By displaying to the public that their institutions are fully accountable and transparent regarding the use of their data, a good record-keeping process proves its value to its parent institution and provides greater opportunities to the wider field regarding new systems of practice.

4.3 Challenges in Information Request and Data Protection Practices

The carrying out of freedom of information requests, however, does not occur in a

vacuum and presents challenges to the field that must be considered. Compliance with standards as well as carrying out said requests takes time and effort on the part of institutions and incurs costs in both money and resources. The scale of the data that must be in line with legal standards, combined with a twenty-day deadline, makes compliance a difficult task, particularly for smaller institutions (Edward and McLeod 2004). Public authorities with an overload of requests face sanctions for failure, while the alternative is to invest resources that may be needed elsewhere. For archives and libraries dependent on external funding, the cost of freedom of information requests results in less funding for their own resources and systems. This mirrors the challenges faced in other freedom of information regimes, as the United States also reports a major backlog as an increasing problem in enforcing freedom of information requests (Koontz 2005, 18-19). This is further exacerbated by the fear of vexatious requests, as well as the meaningless and inappropriate use of the procedure that would require further time and resources (Information Commissioner's Office n.d.). With relevant requests already incurring costs for institutions, any potential costs incurred by vexatious requests are of concern to the field (Worthy 2008, 105). Whilst implementing freedom of information brings potential for increased efficiency in the long term, cash-poor bodies may not view potential long-term gain as worth the short-term cost of a proper freedom of information regime.

Changes wrought by freedom of information legislation also affect policy and decisions, particularly regarding confidentiality. Whilst openness and accountability on the part of public authorities are essential for freedom of information, the very fact that information is now accessible to the public affects the behaviour of those in charge of its creation (Hazell and Worthy 2010). Public figures who dislike increased access could potentially pivot to an internal and oral-focused approach to data management and a selective, or even neglectful, focus on any documents that would fall under freedom of information requirements (Shepherd, Stevenson, and Flinn 2011, 117-118). This could lead to what is known as the 'empty archive', where right of access leads not to increased accountability for public figures, but to a paucity of information in record form, leading to thin archives (Flinn and Jones 2009, 118-122; Sebina 2009). Such a scenario would put the future prospects of archives and libraries under threat due to a lack of material in need of preservation. This response to increased exposure on the part of public persons also extends into policy decisions,

particularly for those involved in government. If those in charge of government decision-making act in response to a desire to avoid freedom of information requirements, the conventions of civil service neutrality are called into question, eroding public trust instead of building it (Hazell, Worthy, Glover 2010, 134, 200, 218).

Tensions between privacy and access are also acutely felt in matters concerning Data Protection. In particular, the practicalities of implementing the protection of privacy whilst still allowing for access to relevant information is a balancing act that proves to be a complicated process. Ensuring an ethical and proper implementation of data protection principles, primarily by hiring an impartial data protection officer and safeguarding privacy regardless of institutional interests, confirms transparency but often runs counter to the business interests of the involved parties. Furthermore, redaction and assessment require specific skill sets, and even small failures in ensuring privacy can lead to major legal and public repercussions for the offending party. Indeed, the additional time and resources needed for early appraisal and integration of data protection principles can hinder the use of source material by those interested in obtaining it (Iacovino and Todd 2007; Parry and Mauthner 2004, 139). Archives and libraries, therefore, must deal with an additional burden during their collection and preservation process to ensure that any identifiable information is properly protected, but often must do so in contexts where commercial interests run counter to their proper implementation (Davies 1997, 52). Questions regarding privacy will always need to be examined under data protection regimes, and thus will always be a flashpoint in the field regarding how archival institutions are run and how they handle their materials (Birkinshaw 2010). The fear that properly ensuring data-protection guidelines would lead to an unwieldy and burdensome practice for their institutions can lead to both users and practitioners partially or wholly ignoring data-protection principles (Davies 1997, 51-52). Data protection regimes, then, offer challenges and even threats to best practice due to their unforeseen influences on the actions and decisions of authorities, archivists, and the public at large, regarding the use of information.

Yet, despite real concerns about their impact on archival practice, both freedom of information and data protection regimes provide essential services that are necessary for proper work in the field. The role of proper record management and policies in providing the trust and transparency sought by this legislation emphasises the

the importance of best practice to the wider public, and thus garners greater support for their continued patronage (Shepherd, Stevenson and Flinn 2011, 120). As any accountability process requires access to additional means of obtaining information, archives and records management are well-suited to facilitate new avenues whilst ensuring all standards are being met (Hazell, Worthy and Glover 2010, 132). These standards of best practice are given legal support by legislation through the respective Information Commissioner's Offices, who have the authority to intervene in cases where public institutions are found to be failing to meet expected standards, and give greater impetus to local authorities to improve their own policies and systems, thus providing archives and libraries greater support (Shepherd, Stevenson and Flinn, 2009). Concerning their role in increasing trust and accountability, research by Sheila Edward and Julie McLeod points to an increase in awareness of standards among both the public and management due to freedom of information and data protection laws, whilst Patrick Birkinshaw reports a major increase in the public's confidence in public authorities (Edward and McLeod 2004; Birkinshaw 2010).

Freedom of information and data protection legislation also encourage institutions to implement better systems to meet their requirements. Adherence to good record management practices has proved to be the most efficient and cost-expedient avenue to compliance, and public authorities have responded by investing in it (Sebina 2009). Innovation in the field brought about by the need to meet legal standards provides new opportunities for information management and promises to mitigate any costs in their implementation.

Finally, potential threats to archives and record management, while important to consider, have proven thus far to have minimal effect in actual practice. Elizabeth Shepherd and Elizabeth Ennion found in their research shortly after the implementation of freedom of information that organisations coped well with the requests they received, despite the bulk of requests (Shepherd and Ennion 2007, P?).

Regarding the cost of scale and vexatious requests, Morag Cherry and David McMenemy found in their study of Scottish institutions that such requests made up a statistically insignificant part of the total, and argued that the negative perception of the problem was due mainly to media and officials over-stating the problem (Cherry and McMenemy 2013, 257, 265). Although dealing with any freedom of information

request will require time and resources; these costs have, thus far, not been disruptive enough to offset the benefits they provide. A similar argument is made by Neil Richards in regard to the tension between data privacy and access, stating that most of the laws put into practice regarding privacy have posed no serious burden to public debate, and that privacy and free speech are often essential to each other (Richards 2015, 187). In analysing freedom of information and data protection regimes, the results clearly favour the benefits they provide and show that the cost or threats they pose are manageable.

5. Conclusion

Freedom of information and data protection regimes exist to ensure trust and accountability on the part of public institutions. They do this primarily by ensuring best practices on the part of said institutions and by standardising processes and systems. It is here that archives and records management is brought to the fore as the vehicle through which both legislations operate. Though this position introduces potential costs and duties that could negatively affect archival institutions, their role in providing accountability in government, as well as the resources introduced in order to properly play this role, have proved to be far more beneficial than costly to the field.

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